

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9123 OF 2022

Tukaram Narayan Bongarge
and another .. Petitioners

Versus

Shetkari Wachnalay Khudawadi
Through its Chairman and others .. Respondents

Shri Mahendra B. Kolpe, Advocate for the Petitioners.
Shri V. B. Deshmukh, Advocate for the Respondent Nos. 1 to 8.
Shri S. N. Morampalle, A.G.P. for the Respondent No. 9.

**CORAM : SHARMILA U. DESHMUKH, J.
DATE : 16TH FEBRUARY, 2023.**

FINAL ORDER :

. The petitioners are aggrieved partly by the order dated 30th May, 2022 passed by the Assistant Charity Commissioner imposing cost of Rs. 5,000/- on the petitioners and directing the reporting trustees to deposit amount of Rs. 50,000/- as expenditure of election programme.

2. The petitioners had preferred an application U/Sec. 41A of the Maharashtra Public Trust Act (for short "Trust Act") for directions to conduct elections of the trust. It was the case of the petitioners that the trust runs a library at village Khudawadi, which receives grant in aid from the State Government. The last elections were held in the year 2017 in respect of which change

report bearing Enquiry No. 721 of 2017 has been accepted. Subsequently, there was no election report filed by the trustees of the trust for the reason there was no election and there was vacancy in the position of trustees, as such petitioners filed application U/Sec. 41A of the Trust Act.

3. Mr. Deshmukh, learned counsel appears for the respondent Nos. 1 to 8 and files his vakalatnama.

4. Heard Mr. Kolpe, learned counsel appearing for the petitioners, Mr. Deshmukh, learned counsel appearing for the respondent Nos. 1 to 8 and the learned A. G. P. for the respondent No. 9.

5. Learned counsel for the petitioners appeals to this Court that, petitioners are the trustees who are running a library for agriculturists. He would submit that imposition of cost is unwarranted as the petitioners themselves have filed the application U/Sec. 41A of the Trust Act. There is absolutely no reasoning given for imposing cost.

6. The learned A. G. P. appears for the respondent No. 9/Assistant Charity Commissioner and submits that expenses are required for the purpose of conducting election. He would further submit that the order has been passed on the facts of the case.

7. Learned counsel appearing for respondent Nos. 1 to 8 supports the petitioners.

8. Considered the submissions of the respective parties.

9. It is specific case of the petitioners, which also finds place in the pleading that the trust runs farmers library at village Khudawadi and receives grant in aid from the State Government, which amount is not sufficient to meet the expenses of the Trust and there is no independent source of income. It is also pleaded that the yearly membership fees of the trust is Rs. 25/- only.

10. Considering present situation, it appears that, there is no income to the trust and the sole reliance is on the grant in aid received from the State Government. In the order dated 30th May, 2022, there is no reasoning given as to why the cost has been imposed upon the petitioners. Considering that election is in respect of a Trust running farmer's library the expenses of Rs. 50,000/- for conducting election programme appears to be excessive.

11. In the light of the above facts, the imposition of cost of Rs. 5,000/- is hereby quashed and set aside. Let the reporting trustees deposit an amount of Rs. 10,000/- (Rs. Ten thousands only) as expenditure of the election programme.

12. Writ petition stands allowed in above terms.

[SHARMILA U. DESHMUKH, J.]

bsb/Feb. 23