

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 WRIT PETITION NO.11617 OF 2022

SAMBHAJI GANGARAM MANJRAMKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

Mr. Irfan D. Maniyar, Advocate for the Petitioners.
Mr. S.N. Moranpalle, AGP for the Respondent Nos. 1 and 2-State.
Mr. V.D. Gunale, Advocate for the Respondent No.3.

CORAM : SHARMILA U. DESHMUKH, J.
DATED : FEBRUARY 03, 2023.

PER COURT :

1. The challenge in the petition is to the order dated 27.09.2022 passed in enquiry No.24 of 2013 whereby the petitioner's application for being impleaded as party in enquiry No.24 of 2013 came to be rejected.

2. The proceedings instituted are in respect of the trust known as "Matoshri Bhimai Shikshan Prasarak Mandal" Nanded. Without going into the previous litigation, for the present purpose suffice to state that there are two enquiries i.e. Enquiry No.24 of 2013 and Enquiry No.879 of 2016 instituted under the provisions of Section 50 of the Maharashtra Public Trusts Act, 1950 (for short, "the Trusts Act") preferred by two rival groups, which came to be

rejected and reached this Court in Writ Petition No.1848 of 2020. This Court by order dated 21.03.2022, remanded the matter to the Assistant Charity Commissioner to take the decision on the Enquiry Nos.24 of 2013 and 879 of 2016, after hearing the concerned parties, in accordance with law, on its own merits, within a period of three months from the date of receipt of this order. After the remand, the petitioners, who are applicants in Enquiry No 879 of 2016 have filed application under Section 73-A of the Trusts Act for being impleaded as party in enquiry No.24 of 2013.

3. Learned counsel for the petitioners submits that the petitioners have already filed Enquiry No.879 of 2016 and apparently are members of the trust and seek to submit scheme which is opposed by the respondents. He would further submit that being a person interested, he is entitled to be impleaded as a party in Enquiry No.24 of 2013 and his application came to be rejected on the ground that if the application is allowed, it would result in *de-novo* enquiry.

4. Per contra, the learned counsel for the respondents submits that although the enquiry was made time-bound by this Court, only for the purpose of protracting the decision in enquiry No.24 of 2013, the present application has been preferred. He would further submit that the father of the petitioner No.2 had earlier submitted the scheme in Enquiry No.24 of 2013 and

subsequently enrolled his son as a member of the trust and after a period of three years have filed a contrary scheme below Enquiry No.879 of 2016. He would further urge that the proceedings are likely to be delayed by impleadment of the petitioners.

5. Considered the rival submissions of the parties.

6. The issue in the present case is whether the petitioners can be permitted to participate in Enquiry No.24 of 2013. Admittedly, the petitioners are not strangers to the trust, inasmuch as in Enquiry No. 879 of 2016 has been preferred by the petitioners under the provisions of Section 50-A of the Trusts Act. After the remand, the Assistant Charity Commission has decided to conduct the enquiry by taking into consideration the previous evidence which has been led by the parties and after hearing the parties. I find from the impugned order dated 27.09.2022 that the Assistant Charity Commissioner in paragraph 7 of the order has observed in Enquiry No.24 of 2013, the petitioners can advance arguments in the matter and hence there is no need to implead the petitioners as party in Enquiry No.24 of 2013.

7. Considering the stand taken by the Assistant Charity Commissioner that while deciding both the enquiries afresh, no further evidence will be led, in my opinion, the petitioners can be permitted to participate in the Enquiry No. 24 of 2013, without being impleaded as a party with the permission to advance

arguments. It is made clear that the petitioners will not be permitted to lead any further evidence and on the basis of the evidence which is already on record, submissions can be advanced by the petitioners. This is for the reason that the Assistant Charity Commissioner has specified that no further evidence will be permitted to be led and the matter will be decided on the basis of the evidence already lead.

8. Writ Petition is allowed in the above terms by permitting the petitioners to advance submissions in Enquiry No.24 of 2013 on the basis of the evidence which is already led in Enquiry No.24 of 2013. Both the parties are put to notice that in view of the fact this Court had made the enquiry time-bound, the parties will co-operate with the enquiry and will not seek unnecessary adjournments.

9. Writ Petition is accordingly disposed in the above terms.

(SHARMILA U. DESHMUKH, J.)