

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2697 OF 2023

Faizul Ulum Education Society, Nanded
Through its Secretary
Mohammad Ismail Mohammad Amiruddin Petitioner

Versus

Abdul Gafur Khan S/o. Abdul Jabbar Kahn
and another Respondents

.....
Mr. Shivsamb N. Janakwade, Advocate for the Petitioner
Mrs. G.L. Deshpande, AGP for Respondent No.2
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 09th MARCH, 2023

ORDER :

1. Leave to add Assistant Charity Commissioner, Nanded as party respondent. Amendment to be carried out forthwith.

2. The petitioner is aggrieved by the order passed by the Assistant Charity Commissioner, Nanded in Inquiry No.9191 of 2018, thereby allowing the application below Exhibit-8, filed by the respondent, the petitioner has approached this Court under Article 227 of the Constitution of India.

3. By filing application below Exhibit-80, the respondent has sought a prayer to issue notice to Assistant Election Officer Ather Ali Khan in the Inquiry. By the impugned order, the said application is allowed by the Assistant Charity Commissioner on the ground that the said witness is a material witness in the matter, and hence, the application is allowed.

4 Learned advocate for the petitioner submits that the evidence of the petitioner is closed and the respondent's evidence is yet to begin. No witness list was given by the respondent, giving the name of Ather Ali Khan.. He, therefore, submits that there is serious procedural illegality in the matter, and the Assistant Charity Commissioner has ignored that aspect, and has erroneously allowed the application.

5. Learned Assistant Government Pleader, on the other hand, supports the impugned order. She submits that the Assistant Charity Commissioner has given fair opportunity to lead evidence to the respondent, which cannot be said to be procedural illegality.

6. Having heard both the sides and on going through the impugned order, this Court is of the considered view that there is no illegality or perversity in the order impugned in the

present petition. Merely because the witness summons is issued to the Assistant Election Officer that would not cause any prejudice to the petitioner as the petitioner will be entitled to cross-examine the said witness. Since by the impugned order, fair opportunity to lead evidence is given to the respondent, this Court is not inclined to interfere in the same.

7. The writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane