

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2858 OF 2023

Geeta Ranjit Kapadia & Ors. ...Petitioners

V/s.

The Charity Commissioner & Anr. ...Respondents

Mr. Gauraj Shah i/by Ashni Desai for Petitioners.

Mr. P.G. Sawant, AGP for State.

CORAM: MADHAV J. JAMDAR, J.

DATE: 1st September 2023

P.C.:

1. Heard Mr. Shah, learned Counsel appearing for the Petitioners and Mr. Sawant, learned AGP appearing for Respondent Nos. 1 and 2.

2. The Petitioners, by the present Writ Petition filed under Article 227 of the Constitution of India are *inter alia* challenging legality and validity of the order dated 9th December 2022 passed by the learned Deputy Charity Commissioner, Public Trust Registration Office, Greater Mumbai Region, Mumbai passed in Miscellaneous Application No.ACC/V/69/2019. The said application was filed in consonance with the scheme of the Petitioner No.4-Trust. The Petitioner No.1 is the sole surviving Trustee and the Petitioner Nos. 2 and 3 are the proposed

Trustees.

3. It is the contention of Mr. Gauraj Shah, learned Counsel appearing for the Petitioners that the entire procedure for appointment of a new trustee has been followed including publication of public notice in three newspapers i.e. Business Standard (English), Aaple Mahanagar (Marathi) and Divya Bhaskar (Gujarati). He states that the impugned order has been passed on the assumption that the advertisement is not published in Gujarati newspaper.

4. It is further stated in paragraph 15 of the impugned order that "Clause No. 8 of the Scheme specifically provides for the appointment of the trustees from the Gujarati community only and therefore, it is mandatory for the Petitioner to publish a public notice in Gujarathi newspaper having wide circulation and preferably after getting the translation of the public notice from English to Gujarathi".

5. It appears that the fact that the notice has been published in Gujarati newspaper is not pointed out to the learned Charity Commissioner, who has passed the impugned order dated 9th December 2022.

6. It is the contention of Mr. Shah that the draft of the public notice was finalised by the Superintendent (J), Public Trust Registration Office, Greater Mumbai Region, Mumbai. Mr. Shah

states that if the direction would have been issued by the Deputy Charity Commissioner, then fresh notice could have been issued in Gujarathi newspaper. He submits that the draft was finalised by the Superintendent (J) and as per the said final draft, public notice was issued. He further submits that various directions issued by the Deputy Charity Commissioner are beyond the scope of inquiry under the Maharashtra Public Trusts Act, 1950.

7. Learned AGP has supported the impugned order.

8. However, perusal of the impugned order shows that the fact that the advertisement has been issued in Gujarathi newspaper is not brought to the notice of the learned Deputy Charity Commissioner. The submission of Mr. Shah is that if the learned Charity Commissioner directs to issue the notice in Gujarati language, then the Petitioners are ready to comply with the same.

9. In view of above submissions, the impugned judgment and order dated 9th December 2022 passed by the learned Deputy Charity Commissioner, Public Trust Registration office, Greater Mumbai, in Miscellaneous Application No. ACC/V/ 69/2019 is quashed and set aside. The said Miscellaneous Application is restored to the file of learned Deputy Charity Commissioner.

10. As the said Miscellaneous Application is pending since

2019, the learned Deputy Charity Commissioner is requested to dispose of the same expeditiously.

11. The Writ Petition is disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)

Note : This order is modified as per speaking to the minutes order dated 5th September 2023.