

Prajakta Vartak

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

WRIT PETITION NO. 2990 OF 2022

Shri. Rajashri Shahu Chatrapati Shikshan
Prasarak Mandal through its President & Ors. ...Petitioners

Vs.

Shri. Sanjay Govindrao Kalikate & Ors. ...Respondents

Mr. Prashant Bhavake for the petitioner.

Mr. Bhooshan R. Mandlik a/w. Mr. S.S. Patwardhan for the respondent.

**CORAM : G.S. KULKARNI, J.
DATE : MARCH 02, 2023**

P.C.:

1. Heard Mr. Bhavake, learned counsel for the petitioners and Mr. Mandlik, learned counsel for respondent no.1. Mr. Mahadik states that he yet to obtain vakalatnama from the other respondents. Be that as it may, their presence may not be necessary taking into account the order this Court proposes to pass on the present petition.

2. This petition is filed assailing an order dated 14 February, 2022 passed by the learned Joint Charity Commissioner, Kolhapur Division, Kolhapur. The impugned order was passed on an appeal filed by the respondents assailing an order dated 06 August, 2021 passed by the Deputy Charity Commissioner allowing Change Report No. 436 of 2021.

The respondents' application for temporary injunction is allowed in terms of the impugned order.

3. Mr. Bhavake has raised an objection to the operative part of the order which directs the petitioners (respondents in the appeal) not to cause any interference or hindrance in the day-to-day work of the Teachers and employees of the Trust-Institution.

4. The change report in question (no. 436 of 2021) was filed by the petitioners in view of the recent elections of the trust which are stated to be held on 25 July, 2021. The change report came to be filed on 03 August, 2021, which according to Mr. Bhavake, came to be allowed in view of the consent of the respondents by their no objection dated Nil. It appears that considering such no objection, the Deputy Charity Commissioner passed an order dated 06 August, 2021 allowing the change report.

5. The respondents, being aggrieved by the order dated 06 August, 2021 passed by the Deputy Charity Commissioner, have approached the Joint Charity Commissioner in an appeal inter alia contending that there were no elections held as per law, as canvassed by the petitioners before the Deputy Charity Commissioner in obtaining the orders on the change

report. It is also his contention that there was no notice of such meeting being held and any notice being canvassed by the petitioners was a false assertion of the petitioners. It is submitted that copy of the 'no objection' which is relied upon by the petitioner, is false and fabricated document. Such document is annexed at page 34 of the paper-book. It is on such premise, it is stated that the appeal has been filed by the respondents. In such appeal, the respondents moved an application below Exhibit 5 praying for interim reliefs for stay of the order passed on the said change report. The learned Joint Charity Commissioner on 14 February, 2022 passed an ad-interim order on such application whereby the petitioners were directed to maintain status-quo and not to take any policy decision till further orders are passed. Thereafter by the impugned order, the application (Exhibit 5) has been allowed in the following terms:-

“(Official Translation of an operative part of the order, typewritten in Marathi)

ORDER

1. Injunction order passed on the date 03.09.2021 on Interim Application-Exhibit No.5 is confirmed until decision on appeal or until further order is passed.
2. The Respondent herein not to cause any interference or hindrance in the day-to-day work of the Teachers and employees in the said Trust-Institution and not to take any Policy decision as well.
3. No order as to costs.”

6. Mr. Bhavake, learned counsel for the petitioners would submit that paragraph 2 of the impugned order is causing serious prejudice to the petitioners as the functioning of the day-to-day affairs of the Trust-Institution is affected. He submits that for such reason, the impugned order is required to be quashed and set aside.

7. On the other hand, learned counsel for the respondents opposed the present writ petition. He has drawn the Court's attention to the averments as made in the memo of appeal. He submits that the impugned order does not require any interference of the Court and more particularly in the facts and circumstances of the case.

8. Having heard learned counsel for the parties and having perused the record as also the orders, in my opinion, it is appropriate that the appeal itself be decided by the Joint Charity Commissioner as expeditiously as possible.

9. It is informed by Mr. Bhavake that there are also other proceedings which are pending. The petitioners are permitted to also make an application for early hearing of the said proceedings. Considering the nature of the disputes, learned counsel for respondent no.1 also fairly states that the appeal can be disposed of.

10. In the above circumstances, the petition is disposed of by the following order:-

ORDER

- i. Liberty to the petitioners to move learned Joint Charity Commissioner for expeditious hearing of the appeal.
- ii. Let the appeal be decided as expeditiously as possible within a period of six months from today.
- iii. In the meantime, till the appeal is decided, the petitioners shall not take any policy decision. In so far as the following portion of paragraph (2) of the operative part of the impugned order is concerned, the same shall remain stayed till adjudication of the appeal:-

“2. The Respondent herein not to cause any interference or hindrance in the day-to-day work of the Teachers and employees in the said Trust-Institution and not to take any Policy decision as well.”
- iv. All contentions of the parties on merits of the pending proceedings are expressly kept open.
- v. Disposed of in the above terms. No costs.

[G.S. KULKARNI, J.]