

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

**WRIT PETITION NO. 7242 OF 2023
WITH
INTERIM APPLICATION (ST) NO. 18161 OF 2023
WITH
INTERIM APPLICATION (ST) NO. 16271 OF 2023
IN
WRIT PETITION NO. 7242 OF 2023**

Pradeep Matta ...Petitioner(s)
Versus
The State Of Maharashtra And Ors. ...Respondent(s)

Mr. Mihir Desai, Senior Advocate a/w Adv. Dhiren Sinha a/w Adv. Raghav Taneja i/b Vidhi Partners for the Petitioner.

Mr. Mayur Khandeparkar a/w Animesh Singh for Respondent No.8.

Adv. Satishkumar C. a/w Adv. Chaitali Bhogle i/b Adv. Sagar Kasar for Respondent Nos. 4 and 5.

Ms. M.S. Srivastava, AGP for the State.

Respondent No.3 - Mr. Deepak Inder Ahuja in-person.

CORAM: N. R. BORKAR, J
DATED: 12 JULY, 2023

PC:-

1. By the impugned order, learned Charity Commissioner rejected the application filed by the petitioner seeking transfer of change reports pertaining to Sind Cosmopolitan Education Society from the file of respondent No.3/Deputy Charity Commissioner to

the file of any other Jurisdictional Assistant Charity Commissioner.

2. I have heard learned Senior Counsel for the petitioner and the contesting respondent in person.

3. I have perused the grounds mentioned in the transfer application and the remarks submitted by respondent No.3 which were called by the learned Charity Commissioner.

4. According to the petitioner, respondent No.3 has passed orders on the merits of the change reports without deciding the application for condonation of delay in filing the said change reports. According to him, at the time of filing of objections, the respondent No.3 had asked him to file application under Section 73 A of the Maharashtra Public Trust Act, whereas the objection filed by the respondent No.4 was directly taken on record. According to the petitioner, the respondent No.3 had reserved the order on the application filed by him for intervention and not passed the order for four years.

5. The respondent No.3 in her remarks has stated that the allegations made in the application are false and strict proof be called from the petitioner in that regard. Suffice it to say that the transfer proceedings are not the adversarial form of proceedings and thus such remarks ought not to have been submitted.

6. Be that as it may, the Hon'ble Supreme Court in **P. K. Ghose Vs. J. G. Rajput**¹ has observed:

“A basic postulate of the rule of law is that ‘justice should not only be done but it must also be seen to be done.’ If there be a basis which cannot be treated as unreasonable for a litigant to expect that this matter should not be heard by a particular judge and there is no compelling necessity, such as the absence of an alternative, it is appropriate that the learned judge should recuse himself from the Bench hearing that matter. This step is required to be taken by the learned judge not because he is likely to be influenced in any manner in doing justice in the cause, but because his hearing the matter is likely to give rise to a reasonable apprehension in the mind of the litigant that the mind of the learned judge, may be subconsciously, has been influenced by some extraneous factor in making the decision, particularly if it happens to be in favour of the opposite party. Credibility in the functioning of the justice delivery system and the reasonable perception of the affected parties are relevant considerations to ensure the continuance of public confidence in the credibility and impartiality of the judiciary. This is necessary not only for doing justice but also for ensuring that justice is seen to be done.”

7. Considering the overall facts and circumstances, learned Charity Commissioner shall withdraw the change reports viz. (1) Dy.CC/2117/008, (2) ACC (Hosp.)/4524 of 2012, (3) ACC/4373/2016, (4) DyCC/3832/2018, (5) DyCC/3833/2018, (6) DyCC/3834/2018, (7) ACC/I/2444/2019, (8) DyCC/5271/2016, (9) DyCC/6075/2019, (10) DyCC/6165/2019, (11) DyCC/4123/2019, (12) DyCC/3573/2018, (13) DyCC/2962/2021, (14) DyCC/437/2022, (15) DyCC/438/2022 and (16) DyCC/3766/2022, pending on the the file of respondent No.3 and

1 AIR 1996 SC 513

transfer to the file of any other Jurisdictional Assistant Charity Commissioner.

8. The Writ Petition is disposed of in the above terms.

9. The Interim Applications are disposed of.

(N. R. BORKAR,J.)