

Anand

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

WRIT PETITION NO. 13550 OF 2023

Mrs. Sanyogita Mahesh Joshi & ors. .Petitioners

Vs.

Mrs. Nivedita Bharadwaj & ors. .Respondents

Mr. R. D. Soni a/w. Mr. Sujay Gawade, Ms. Mudita Pawar &
Ms. Manasi Sawant & Ms. Akshika Thakur i/b. M/s. Shree & Co.,
Advocate, for the Petitioners

Mr. Aniesh S. Jadhav a/w. Mr. Rushikesh Kekane, Advocate, for
Respondent Nos. 1 & 2

Mr. P. G. Sawant, AGP, for Respondent Nos. 4 to 6 & 9 – State

CORAM : MADHAV J. JAMDAR, J.

DATE : 08.12.2023

P. C.

1. Heard Mr. Soni, learned Counsel appearing for the
Petitioners, Mr. Sawant, learned AGP appearing for Respondent
Nos. 4 to 6 & 9 and Mr. Jadhav, learned Counsel appearing for
Respondent Nos. 1 & 2.

2. Mr. Soni, learned counsel appearing for the
Petitioners states that all the Respondents are served and
affidavit of service is filed.

3. The Petitioners are the Trustees of Jeevan Vikas

Kendra, a charitable trust registered under the provisions of the Maharashtra Public Trusts Act, 1950 (hereinafter referred to as “**said Act**”). The Petitioners are challenging orders dated 07.09.2022 and 23.01.2023 passed by the learned Joint Charity Commissioner, Greater Mumbai Region, Mumbai in Application No. 981 of 2018.

4. By the impugned order dated 07.09.2022, the Inspector from the office of the Charity Commissioner has been appointed as a caretaker to administer the Trust till further orders. It is further directed that either parties, their representatives or party claiming under them shall not interfere with the administration of the Trust. It is further directed that except for day-to-day administration, no other policy decision shall be taken by the Inspector, and also that the Inspector to submit a detailed report about the total expenses & administration done by the Trustees.

5. The said Order dated 07.09.2022 passed by the learned Joint Charity Commissioner, Greater Mumbai Region, Mumbai is further modified by the impugned Order dated 23.01.2023, by which certain Trustees were assigned certain

duties.

6. It is the contention of Mr. Soni, learned Counsel appearing for the Petitioners that learned Joint Charity Commissioner has no jurisdiction to remove a legally elected Trust Board and divest the Trustees who work under a Trust Deed from the management of the Trust without following the procedure established by law & particularly the provisions of Section 41-D of the said Act. He further submits that the Petitioners - Trust is running a hospital by the name - 'Jeevan Vikas Kendra, Mumbai'. There are total 80 employees working in the said hospital. He further submits that the administrator i. e. Inspector is not an expert to run the hospital. Apart from that he rarely/seldom visits the hospital. Inexperience and lack of interest of the Inspector resulted in non-payment of staff salaries, electricity bills and vendor bills etc.

7. Mr. Soni, learned Counsel appearing for the Petitioners pointed out that the order dated 23.01.2023 passed by the learned Joint Charity Commissioner in Revision Application No. 64 of 2022, wherein it is specifically held that there is no necessity to stay the execution of the order dated

09.01.2017 passed in Change Report No. ACC/VII/3803/2017. It is specifically mentioned that if the stay is granted, same will affect day to day functioning of the said Trust.

8. Perusal of the affidavit-in-reply dated 07.12.2023 filed by the Joint Charity Commissioner shows that after the said Order dated 23.06.2022 passed by the Joint Charity Commissioner, on 07.09.2022 again learned Joint Charity Commissioner passed the impugned Order appointing 'Care Taker' i. e. the Inspector to administer day to day affairs of the Petitioner – Trust.

9. In the said affidavit-in-reply, it is clearly mentioned that the impugned Order dated 07.09.2022 has been passed without any written Application from either parties.

10. Mr. Jadhav, learned counsel appearing for Respondent Nos. 1 & 2 states that none of the parties have filed any Application seeking appointment of the Care Taker. Respondent No. 1 is the Applicant in Revision Application No. 64 of 2022 and the Respondent Nos. 1 & 2 have no objection for setting aside the impugned orders.

11. In view of the facts and circumstances, the impugned Orders dated 07.09.2022 and 23.01.2023 passed by the learned Joint Charity Commissioner, Greater Mumbai Region, Mumbai in Application No. 981 of 2018 are quashed & set aside.

12. It is clarified that as a result of the setting aside the aforesaid Orders, the Orders in operation will be the Orders dated 23.06.2022 and 29.06.2022.

13. It is further clarified that only Orders dated 07.09.2022 and 23.01.2023 are quashed & set aside and other Orders remain in operation.

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

(MADHAV J. JAMDAR, J.)