

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2871 OF 2023

Jaykumar Dharmaraj Kokate and ors

— Vs. —

Hitesndrasingh Atmaramsingh Dongre and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.W.Deshpande, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 07/06/2023

1] Heard Mrs. Deshpande, learned counsel for the petitioner.

2] The petition challenges the order dated 29.11.22 (pg.20) passed by learned Joint Charity Commissioner, Amravati in revision, whereby the order dated 22.10.2010 passed by the Deputy Charity Commissioner, Amravati in proceedings under Section 22 of the Maharashtra Public Trust Act accepting the change report has been quashed and set aside and direction has been given to frame a scheme for the proper administration of the trust in terms of operative para 3 of the impugned judgment.

3] It is contended by Mrs. Deshpande, learned counsel for the petitioner that the petitioner have been managing the affairs of the trust since 2009, consequent to the meeting dated 15.05.2009 and therefore the rejection of the change report was incorrect.

4] It is material to note that the impugned judgment records that except for one, all the trustees of the trust had expired and the only trustee remaining Madhavrao Amrutrao Patil had suffered paralysis, as a result of which the villagers had conveyed the meeting and elected four persons as the trustees. It is not disputed that the mode of succession as recorded in schedule-I of the PTR registered is by election. In such circumstances, on account of the demise of the trustees, what was necessary was for the remaining trustee to have filed an application under the appropriate provision for filling in the vacancy, which has not been done and therefore, the course of action as adopted by the villagers as indicated above was clearly impermissible in law. Nothing has been placed on record to indicate that the statutory provisions as applicable have been complied with or for that matter, the provisions of the trust deed have been

adhered to, in light of which I am not inclined to interfere in the impugned judgment passed by the Joint Charity Commissioner, which clearly directs the framing of the scheme. The petition is therefore dismissed. No costs.

JUDGE

Rvjalit