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

WRIT PETITION NO.4346 OF 2018

Shree Vishnu Sansthan, Rithpur (Riddhapur), through its Trustees **.Vs.** Shri Madhukar Ramkrushna Gaikwad and another

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

Shri C.A. Babrekar, Advocate for the petitioner.
Shri D.P. Thakre, A.G.P. for the respondent No.2/State.

CORAM : ANIL S. KILOR, J.
DATED : 21/04/2023

1. Heard.

2. The order dated 22.11.2017 passed by the Deputy Charity Commissioner and the application for adding the respondent No.1 as an objector to the scheme filed by the petitioner under Section 50-A of the Maharashtra Public Trust Act, 1950 (hereinafter referred to as “the Act of 1950”), is under challenge in this writ petition.

3. In the application moved by the respondent No.1 under Section 73-A of the Act of 1950 to add him as an objector to the scheme proceeding filed by the petitioners, states that he is resident of ‘Riddhapur’ and he regularly approached for prayer in a temple managed by the Vishnu Sansthan i.e. the petitioner No.1 and as such, he is

eligible to be a trustee of the trust. He, accordingly, states that he wants to participate in the scheme proceeding to bring the correct facts before the Joint Charity Commissioner while deciding the said application.

4. The learned counsel for the petitioners tried to impress upon this Court that the respondent No.1 has vested interest in the land owned by the trust and therefore, he cannot be a trustee of the trust. It is pointed out that the respondent No.1 has filed a separate scheme under Section 50 of the Act of 1950 along with the tenants of the trust which clearly shows that there is a conflict of interest.

5. From the submissions of the learned counsel for the petitioners, it appears that, he has mixed two distinct and separate points together, namely a person who is participating in a scheme proceeding as an objector and a person who is seeking as trustee.

6. As far as raising of objection is concerned, a person having interest in the trust can apply and raised an objection to the scheme. So far as trusteeship is concerned, that has to be considered by the Charity Commissioner after considering the credential and other necessary factors of the person at the time of finalization of the scheme.

7. Admittedly, yet the scheme is not finalized and if the respondent No.1 is permitted to participate in the scheme and to raise objection, no prejudice will be caused to any of the petitioners as the petitioners are not disputing that the respondent No.1 is not a person having interest in the trust.

8. As far as respondent No.1's credential and the other necessary factors to be considered to add him as trustee, the Charity Commissioner will consider at the relevant stage of the scheme and it is open for the petitioners to raise all appropriate objections if the Charity Commissioner intends to add respondent No.1 as trustee while finalizing of the scheme and the Charity Commissioner would consider it. However, this is a pre-mature stage to make any comment as regards the eligibility of the respondent No.1 to add him as a trustee. Accordingly, I do not find any merit in the present writ petition. Hence, the writ petition is **dismissed**.

JUDGE

Signed By:CHETAN LOPCHAND DHAKATE
Personal Assistant to the Hon'ble Judge
Signing Date:24.04.2023 18:16