

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

WRIT PETITION NO. 3512/2018

SHREE VISHNU SANSTHAN, RITHPUR AND OTHERS

VS

SHRI. SANTOSH RAVINDRA THAKARE AND OTHERS

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

Court's or Judge's Order

Mr. C.A. Babrekar, Advocate for the petitioners
Mr. D.P. Thakre, Additional Government Pleader for
respondent no. 3
Respondent nos. 1 and 2 are served.

CORAM : A. S. KILOR, J.

DATED : 06/06/2023

Heard.

2. The order dated 22.11.2017 passed by the Deputy Charity Commissioner and the application for adding the respondent Nos. 1 and 2 as objectors to the scheme filed by the petitioners 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 Nos. 1 and 2 under Section 73-A of the Act of 1950 to add

them as objectors to the scheme proceeding filed by the petitioners, states that they are resident of 'Riddhapur' and they regularly approached for prayer in a temple managed by the petitioner -Vishnu Sansthan and as such, they are eligible to be the trustees of the Trust. They, accordingly, state that they want 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 Nos. 1 and 2 have vested interest in the land owned by the Trust and therefore, they cannot be trustee of the Trust. It is pointed out that the respondent Nos. 1 and 2 have 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 Nos 1 and 2 are 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 Nos. 1 and 2 are not the persons having interest in the trust.

8. As far as respondent No. 1 and 2's credential and the other necessary factors to be considered to add them 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 Nos. 1 and 2 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 Nos. 1 and 2 to

add them as trustees. Accordingly, I do not find any merit in the present writ petition. Hence, the writ petition is **dismissed**.

JUDGE