

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

Writ Petition (WP) No. 99 of 2020

Shyam Namdeorao Borkar

Versus

Assistant Registrar, Washim 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 Suyash Agrawal, Advocate h/f Shri S.V.Sirpurkar,
Advocate for the petitioner.

Shri H.D.Dubey, AGP for the respondent no.1.

Shri Tejas Deshpande, Advocate and Shri Alpesh
Deshmukh, Advocate for the respondent no.2.

CORAM : ANIL S. KILOR, J.

DATED : 14th JUNE, 2023.

The Assistant Registrar of Societies, Washim vide impugned order dated 3rd June, 2017 refused to register the society of the petitioner namely Siddarth Chhatralaya Sanstha, Karanja (Walai), Tq. Karanja, Dist. Washim, on two grounds that firstly the property shown by the petitioner as a property of the proposed society infact recorded as the property of Dalitoddar and Seva Samaj Society, Karanja in its Schedule I maintained in the office of Joint Charity Commissioner and another ground that there is already

one society with the similar name (Siddharth Chhatralaya).

2. Feeling aggrieved of the same, the petitioner preferred an appeal under Section 70 of Maharashtra Public Trusts Act, 1950 before the Joint Charity Commissioner, Amravati in Appeal No.42 of 2017. The Joint Charity Commissioner, has maintained the order of the Assistant Registrar of Societies, Washim and dismissed the appeal vide impugned order dated 3rd September, 2019.

3. As far as first ground is concerned about the land, the respondent no.2 has filed a copy of Schedule-I which shows that the land in dispute shown as a property of the Dalitoddar and Seva Samaj Society, Karanja. At the same time the petitioner has come up with the order of the Additional Commissioner in a proceeding arising out of mutation entry, wherein the Additional Commissioner has directed to examine the documents as regards the status of the property in dispute.

4. In the above referred background, it can be said that there is a dispute about the ownership of the land. However, nothing is pointed out that the point of having a land by the Society is relevant for registration

of the Society. In the above referred backdrop, I am not going into the controversy as relates to the land.

5. However, from bare perusal of the impugned orders, it can be seen that the registration was refused on the ground that the Society with similar name is functioning. However, it has also come on the record that the said Society is not a registered society.

6. Section 3A of the Societies Registration Act, 1860 (in short referred as “Act, 1860”) is therefore relevant to refer at this Juncture which read thus:

“3-A. Prohibition against registration of societies with undesirable names.-No society shall be registered by a name which, in the opinion of the Registrar, is undesirable, being a name identical with, or which in the opinion of the Registrar, so nearly resembles the name by which any other existing society has been previously registered, as to be likely to deceive the public or members of either society or which, without the previous permission of the Government concerned, suggests or is calculated to suggest the patronage of that Government or connection with any body constituted by that Government or any local authority, or which may, subject to any rules made in that behalf, be deemed to be undesirable by the Registrar.”

7. The above referred Section 3-A of the Act, 1860, does not prohibit the Registrar of the Society to register the society even if another unregistered society with similar name is functioning in the area of the applicant society.

8. Thus, I am of the opinion that learned Registrar of Society has not considered the provision of

Section 3-A of the Societies Registration Act in right prospective.

9. In that view of the matter, I am of the opinion that the matter needs to be remanded back to the Assistant Registrar of Societies, Washim to decide the same after considering the scope of Section 3-A of the Societies Registration Act. Accordingly, I pass the following order.

- i. The writ petition is partly allowed.
- ii. The impugned order dated 3rd June, 2017 passed by the Assistant Registrar of Societies, Washim in Inquiry No. 797 of 2014 and impugned order dated 3rd September, 2019 passed by the joint Charity Commissioner, Amravati in Appeal No. 42 of 2017, are hereby quashed and set aside;
- iii. The matter is remanded back to the Assistant Registrar of Societies, Washim to take a decision afresh after considering the scope of Section 3-A of the Societies Registration Act.

[ANIL S. KILOR, J.]