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

WRIT PETITION NO. 169 OF 2020

(DR. PURANCHANDRA KISAN MESHRAM..VS.. SANTOSH KASHINATH RAMTEKE & OTH.)

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

Shri Prashant Gode, Advocate for Petitioner.
Shri A.M. Gedam, Advocate for Respondent No.1
Shri Ambrish Joshi, A.G.P. for Respondent Nos.2 & 3.

CORAM : ANIL S. KILOR, J.
DATED : OCTOBER 11, 2023.

1. Heard.

2. The judgment and order dated 23/08/2019 passed by the Joint Charity Commissioner, Nagpur in Revision Application No.06 of 2019, dismissing the revision application, arising out of the order passed by the Assistant Charity Commissioner, dated 19/12/2003 under Section 70A of the Maharashtra Public Trusts Act, 1950 (hereinafter referred to as “the Act of 1950”) in Change Report Enquiry No.496/2003, is under challenge in this writ petition.

3. It is the case of the petitioner that by filing fabricated and forged documents the change report was filed under Section 22 of the Act of 1950 and without conducting any inquiry it was allowed by the Assistant Charity Commissioner vide order dated 19/12/2003. It is therefore, submitted that the revision was filed under

Section 70-A of the Act of 1950 before the Joint Charity Commissioner which came to be dismissed vide impugned order. The same is under challenge in this petition.

4. I have heard the learned counsel for the respective parties.

5. Shri Gode, learned counsel for the petitioner submits that the petitioner was President of the society and behind his back the change report was filed by forging his signature. It is submitted that though the change report in question was filed showing that the elections were held in the year 2000, as per the documents received from the Bank the elections were shown in the same, to be held in 2003. Thus, he submits that on the basis of the fabricated and forged documents and without holding any inquiry, as contemplated under Section 22 of the Act of 1950, the Assistant Charity Commissioner allowed the change report.

6. On the other hand, Shri Joshi the learned A.G.P. points out that while passing the order by the Assistant Charity Commissioner he has considered the complete record and on finding that there is no objection to the acceptance of the said change report, the change report was accepted. However, it cannot be said that without holding any inquiry the change report was accepted.

7. The learned counsel for the respondent No.1 opposed the present writ petition on the ground that the change report was accepted on 19/12/2003, whereas the revision was filed in the year 2019 i.e. after 16 years. It is submitted that, thus, it is clear that, the revision was not filed within the reasonable period and no justification has been offered by the petitioner for such an inordinate delay.

8. It is further submitted that after the change report was accepted, the rights were crystallized in favour of the trustees in whose favour the change report was accepted and therefore, at this stage, this Court may not interfere with the impugned order.

9. In light of the rival contentions of the parties, I have perused the record and the impugned judgment and orders.

10. Admittedly, the petitioner is the President of the trust viz. Lord Buddha's Sariputra Dyan Prasarak Shikshan Sanstha, Bramhapuri and on the basis of the change report in question he held the post of President continuously for last 16 years and he never objected to the acceptance of the change report by the Assistant Charity Commissioner, vide order dated 19/12/2003, during this period.

11. Though, it was argued by the learned counsel for the petitioner that no notice was issued to the petitioner before the change report in question was accepted. However, there is no such ground raised in the revision filed before the Joint Charity Commissioner by the petitioner.

12. As far as delay is concerned, the pleadings are vague and no sufficient reasons were given for such inordinate delay. The reasons which were given in the revision read thus :

> *"4. That, Non-applicant No.1 was not calling the regular meetings of the trust; therefore, the applicant requested the Non-applicant No.1 several times to call meetings of the trust; but, he did not fallow the instruction; therefore, recently the applicant came to know that Non-applicant No.1 has prepared false and fabricated documents and submitted some change report before the learned Assistant Charity Commissioner, Chandrapur; therefore, the applicant made an inquiry in the office of learned Assistant Charity Commissioner, Chandrapur at that time, applicant came to know that, change report No.496/2003 was filed by Non-applicant No.1 and without conducting the inquiry, the said change report was accepted on 19.12.2003, the said order is impugned herein. The applicant; therefore, obtained the certified copies of the documents filed along with the said change report and shocked to see that, the Non-applicant No.1 has absolutely prepared false and fabricated documents by showing the false signatures*

of the applicant in the proceeding and filed the said change report. The applicant; therefore, lodged a report with Police Station, Bramhapuri and Chandrapur against the respondents."

13. In the above referred circumstances, the Joint Charity Commissioner has recorded following findings while rejecting the revision application :

"On perusal of the contents of revision application and written submission filed by both counsels appearing on behalf of rival parties and from the record of change report question, it is seen that the applicant acted as President of the trust in question on the basis of acceptance of the impugned change report. It is seen that the applicant is challenging the impugned order after enjoying the powers of the President on the basis of impugned change report. Now, for the best reasons known to the applicant, he is challenging the impugned order after 15 years that shows that he is blowing hot and cold at the same time. It is true that there is no period of limitation for filing revision application; however, the applicant is expected to explain by convincing reasons for filing revision application after lapse of 15 years. I have already stated above that the applicant has enjoyed the post of the President for long period and now, he wants to set aside the impugned order. It is the contention of the Non-applicants that the applicant presided over the meetings in the capacity of President and signed the minutes of the meetings conducted from time to time. Now, he is challenging his position on false grounds that he did not sign the proceedings.

> *Considering this fact and unexplained delay on the part of the applicant in filing this revision application, I am unable to agree with the submission made by learned counsel appearing on behalf of applicant. Besides the above reason, the applicant is prohibited by principle of estoppel as he acted upon the impugned order for 15 years. I therefore, find no merit or substance in this revision application. I answer the point No.1 in affirmative and proceed to pass the following order. …"*

14. Thus, after considering the above referred observations, I do not find any perversity committed by the learned Joint Charity Commissioner in dismissing the revision application.

Accordingly, the Writ Petition is **dismissed**. No order as to costs.

JUDGE

RRaut..