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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

43 WRIT PETITION NO. 6009 OF 2021

PUNYA SHLOK AHILYA DEVI SEVA SANGH AHMEDNAGAR THR ITS
SECRETARY AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

WITH

WRIT PETITION NO. 10302 OF 2021

BHARAT NAMDEV VITNOR AND OTHERS

VERSUS

THE DEPUTY CHARITY COMMISSIONER AND OTHERS

WITH

WRIT PETITION NO. 10657 OF 2024

RAMKRUSHNA ALIAS RAMKISAN DAMODHAR SHINDE

VERSUS

THE JOINT CHARITY COMMISSIONER II AND OTHERS

WITH

WRIT PETITION NO. 10660 OF 2024

RAMKRUSHNA ALIAS RAMKISAN DAMODHAR SHINDE AND
ANOTHER

VERSUS

THE JOINT CHARITY COMMISSIONER II AND OTHERS

WITH

WRIT PETITION NO. 10604 OF 2024

RAMKRUSHNA ALIAS RAMKISAN DAMODHAR SHINDE AND
ANOTHER

VERSUS

THE JOINT CHARITY COMMISSIONER II AND OTHERS

Ms.Rashmi Kulkarni h/f Mr.D.A.Bide a/w Ms.Namita Thole, Advocate
for the petitioners except WP No.10302/2021.

Mr.P.D.Bachate h/f Mr.A.D.Khot, Advocate for the petitioners.

Mr.M.K.Goyanka, AGP for the respondent/State.

(CORAM : MANGESH S. PATIL AND
PRAFULLA S. KHUBALKAR, JJ.)

DATE : DECEMBER 9, 2024

PER COURT :

1. Heard both the sides finally.
2. Though the petitioners are at logger heads in other respects, they are unanimous in putting up a challenge to the order passed by the Deputy Charity Commissioner, Ahmednagar in Suo Moto Inquiry Application No.1/2021, whereby in the exercise of administrative powers u/s 41-A of the Maharashtra Public Trusts Act, 1950, she has issued directions to the Inspector of her office to enroll life members in petitioner trust in accordance with the scheme and to conduct the elections thereafter for electing the Managing Committee. She has gone ahead to the extent of directing a notice to be published in the newspapers inviting applications from the individuals for becoming life members. She has thereafter issued certain consequential directions against the trustees for co-operating the Inspector and for filing the change report.

3. At the outset it is necessary to observe that the petitioners have unnecessarily made Deputy Charity Commissioner as a respondent when she has exercised the powers u/s 41-A. It is also uncalled for, to make her file an affidavit in reply which she has obliged. Be that as it may, one cannot lose sight of the fact that a Deputy Charity Commissioner exercises the powers under Section 41-A of the Maharashtra Public Trusts Act, 1950 in issuing the directions for the better administration on the administration side.

4. In our considered view, even if the Deputy Charity Commissioner has the powers u/s 41-A for issuing directions for the better administration, that would not confer her with unbridled power to the extent of even directing the Inspector of her office to enroll the members according to the scheme. This is what we have serious objection to. If the scheme is there and if some members including some life members are alive, it would have been appropriate that the Deputy Charity Commissioner issued certain directions to them including holding of the elections. Expecting the Inspector to publish a notice, inviting the public to apply for and enroll the life members, would not fit in the four corners of that provision. Those cannot be

said to have been for the better management rather it would create obstacles in better administration.

5. In the light of the above, the impugned order is liable to be quashed and set aside keeping open the avenue for the Deputy Charity Commissioner to issue fresh directions if she so desires, for the better management, except the one which we are setting aside.

6. Writ petitions are allowed. The impugned order is quashed and set aside making it clear that the Deputy Charity Commissioner may exercise her powers u/s 41-A and issue appropriate directions for better management except directing enrollment of the members.

7. To the extent of prayer clause 'D' in WP No.6009/2021, the learned Advocate seeks leave to withdraw the prayer, keeping open the avenue to challenge the report of the Inspector if and when the occasion arises. Leave granted.

8. Since the other 3 writ petitions, which have been clubbed pertain to the Single Judge, those petitions stand de-tagged and be

placed before the respective Courts.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)