



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12605 OF 2023

Govind Narayan Sarode And Others

VERSUS

The Joint Charity Commissioner Latur And Others

- Mr. K. J. Suryawanshi, Advocate for the Petitioners
- Mr. S. B. Jadhav, AGP for the Respondent Nos. 1 and 2/State
- Mr. N. L. Jadhav, Advocate for the Respondent Nos. 3 to 7

CORAM : R.M. JOSHI, J

DATE : NOVEMBER 25, 2024

PER COURT :

1. This Petition takes exception to the order dated 12.03.2017 passed by the learned Assistant Charity Commissioner, Beed (for short 'ACC') in an application under Section 22 of the Maharashtra Public Trust Act, 1950 (for short 'the Act') bearing Change Report No. 1408/2015, whereby application/change report came to be rejected. This order was carried in an Appeal bearing no. 18/2018 before the Joint Charity Commissioner (for short 'JCC') unsuccessfully.

2. Petitioners have reported the change about meeting dated 09.08.2015 in which elections of the office bearers of the Trust was conducted for a period of five years. The said change report was opposed by

the Respondents raising an objection with regard to the the enrollment of ten members in an meeting of Executing Committee held on 30.07.2012 (which should be in fact 03.08.2012). On this amongst other grounds, change report is opposed.

3. Learned ACC has gone into the issue about validity of enrollment of ten members in the said meeting and has held that as per the constitution of the Trust 7 days notice (including both days) is mandatory before conducting Executive Committee meeting. In this regard, it is further observed that while convening meeting dated 03.08.2012 (wrongly mentioned as 30.07.2012), no notice of 7 days was issued and as such, it is held that the said meeting is not in accordance with the constitution and resultantly, the members enrolled therein are not valid members. Since these 10 members also participated in the election, the said election was held to be not valid and ultimately it is held that the change report submitted by the Petitioners does not deserve acceptance. The JCC in the Appeal filed against the said order has observed that there was no quorum

available of the managing body to call the meeting and, therefore, the founder members had no right to take policy decisions for want of quorum. On this count, Appeal was dismissed.

4. Learned Counsel for the Petitioners has drawn attention of the Court to the order dated 30.07.2012 passed by the JCC in proceeding bearing no. 14/2009 under Section 22 of the Act recording that the settlement pursis filed at Exh. 18 and 20 suggesting the name of proposed members to be enrolled. It was directed by the JCC that meeting be convened on 03.08.2012 at 04.00 pm at Shrikhandesh Vidyalaya run by Sanstha under Chairmanship of Vice President Shri. Gulabrao Shinde, without further notice, for enrollment of new members as suggested in pursis Exh. 18 and 20. It is his submission that in view of the said order passed by the JCC, there was no reason for issuing any further notice. As such, it is his contention that the observations made by the ACC with regard to failure on the part of the Executive Committee to issue a 7 day's notice does not sustain. It is his further submission that the learned JCC without considering the said fact

has recorded altogether different finding with regard to the non-availability of the quorum to convey meeting. It is his submission that in the set of above facts as well as the orders passed by this Court in other proceedings in respect of trust, it is a fit case for relegating the proceeding back to the ACC for decision afresh.

5. Though learned Counsel for Respondents has not opposed the request for relegating back the matter to ACC for decision afresh, he however has drawn attention of the Court to the order passed by the JCC dated 26.02.2013 which according to him, indicates that the settlement arrived at between the parties since was not worked out/implemented, the parties were not permitted to take advantage of the same. It is his submission that the order dated 30.07.2012 has merged into this order and hence, there is no error committed by the ACC in rejecting the change report. It is his further submission that the ACC also ought to have been taken into consideration the other aspects of the matter which indicate that this is not a fit case for accepting change report of Petitioners.

6. Learned Counsel for Petitioners in response to this submission has drawn attention of the Court to the order dated 19.08.2013 passed in Writ Petition No. 5653/2013 whereby the order dated 26.02.2013 passed by the JCC came to be set aside.

7. Perusal of the record indicates that there are serious disputes between the parties with regard to the enrollment of new members of the trust. Admittedly the change report in question is in respect of the election of the office bearers of the Trust wherein disputed newly enrolled members have casted their vote. Thus, the issue about validity of the membership of these persons is in question and the same is required to be decided by the ACC. Though the ACC while passing impugned order has taken into consideration the issue about non issuance of 7 day's mandatory notice before convening the Executive Committee meeting but has not dealt with the order passed by the JCC dated 30.07.2012 which apparently did not require any fresh notice to be issued. Apart from this, as pointed out by learned JCC in his order that question for consideration also arose is about availability of quorum for conducting such

meeting. These amongst other aspects which were relevant for consideration are ignored by ACC. The Appellate Authority has also not given appropriate consideration to these issues and has not recorded any findings thereon.

8. Having regard to these facts, impugned orders are set aside. This is a fit case for relegating the proceedings bearing no. 1408/2015 to the ACC for decision afresh and it is relegated accordingly. It is clarified that all issues and contentions of the rival parties are specifically kept open. It is expected from the ACC to pass appropriate order after considering the evidence on record and also considering various orders passed by this Court passed from time to time in respect of present Trust.

9. Since the change report is pending for about 9 years now, the ACC is directed to decide the same expeditiously and in any case, within a period of 6 months from today.

10. Petition is disposed of in above terms.

(R.M. JOSHI, J.)