



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12072 OF 2024

Akhileshwardas Raghunathdas Shri Vaishnav

VERSUS

The State Of Maharashtra Through Its Principal Secretary And Others

Mr. Gaurav Deshpande h/f Mr. A. A. Kokad, Advocate for the petitioner
Mr. D. b. Bhange, AGP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 12th NOVEMBER, 2024

PER COURT :-

1. This petition takes exception to the order passed by Joint Charity Commissioner below Exhibit 24 in Revision No. 71/2024 (old Revision No. 57/2022) whereby application filed by the respondent for joining him as a party to the said proceeding came to be allowed.

2. The petitioner is the persons who has filed a change report to join himself as a trustee of Shri Ram Mandir (Shri Balaji Mandir), Parbhani. It is a registered trust under the Maharashtra Public Trusts Act (for short the 'Act') under registration No. A-191/Parbhani. The petitioner filed proceedings under Section 22 of the Act. The said change report came to be rejected by order dated 28/03/2022. Against the said rejection revision application came to be filed invoking such provisions of Section 70A of the Act. During the pendency of the said proceeding an

application was moved vide Exhibit 13 by respondent claiming himself to be person interested in the trust. The said application came to be allowed by impugned order, hence this petition.

3. Learned counsel for the petitioner has raised issue with regard to the right of the person interested to be joined as a party in the revision proceeding under Section 70A of the Act. It is the contention that though there is power with the Enquiry Officer under Section 73A of the Act to join the person interested as a party to the proceeding, such power is absent with the revisional authority under Section 70A. To support his submission he placed reliance on the judgment in case of ***Shri Satish Vasant Salpekar Vs. Ashwin Ghatate and Anr, 2018(1) ALL MR 250.***

4. There is no dispute about the fact that the trust is a temple trust. Section 2(10) of the Act defines person interested and in case of a temple trust the person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in that habit of partaking in the distribution of gifts thereof is said to be person having interest. The respondent herein has specifically come out with a case that he visits the temple. The definition of 2(10) of the Act is wide enough to cover the devotee who

visits the temple. Therefore, it can be safely said that the respondent is person interested in the trust.

5. In so far as submission made by the learned counsel for the petitioner with regard to the powers of Revisional Authority to join person interested as a third party to the revisional proceeding is concerned, it would be necessary to take into account provisions of Section 73A and 70A of the Act for the said purpose. Section 73A of the Act enables the Enquiry Officer to join the person having interest in the public trust as a party to such proceeding. Undiputedly, the proceedings herein are under Section 22 of the Act. The change report is an enquiry and therefore it was open for the Enquiry Officer to join person interested as party to this proceeding. Now question arises as to whether there is any embargo created by Section 70A of the Act from joining such person interested by the Revisional Authority before whom the order passed in the enquiry of the change report is taken exception to.

6. It would be relevant to refer to section 70A which reads thus:

70A. Charity Commissioner to call for and examine records and proceedings before Deputy or Assistant Charity Commissioner.--

(1)The Charity Commissioner may in any of the cases mentioned in section 70, either suo motu or on application call for and examine the record and proceedings of such case before any Deputy or Assistant

Charity Commissioner for the purpose of satisfying himself as to the correctness of any finding or order recorded or passed by the Deputy or Assistant Charity Commissioner and may either annul, reverse, modify or confirm the said finding or order or may direct the Deputy or Assistant Charity Commissioner to make further inquiry or take such additional evidence as he may think necessary or he may himself take such additional evidence: Provided that the Charity Commissioner shall not record or pass any orders without giving the party affected thereby an opportunity of being heard.

(2) Nothing in sub-section (1) shall entitle the Charity Commissioner to call for and examine the record of any case—

(a) during the period in which an appeal under section 70 can lie against any finding recorded by the Assistant or Deputy Charity Commissioner in such case, or

(b) in which an order has been passed either in an appeal made under section 70 or 71 or on an application under section 72.

7. Perusal of the aforesaid provision does not indicate any embargo being created for joining a person having an interest in the public trust as a party to such proceeding. Moreover, when in the original proceeding the person having interest in the public trust can be joined as a party and in absence of any embargo being created for joining him in the revisional proceedings, this Court is unable to concede to the submission made by the learned counsel for the petitioner that the Revisional Authority has no such power. It is therefore held that a person interested under Section 2(10) of the Act, can seek impleadment in revisional proceedings under Section 70A of the Act, wherein there is

challenge to any order passed under Section 22 of the Act.

8. The judgment relied upon by the learned counsel for the petitioner is concerned, paragraph 4 of the said judgment clearly indicates that therein the person who wanted to join himself as a party to the proceeding was not having interest in the trust at the relevant time. The facts of the said case and present case totally differs as such the said judgment would not come to aid of the petitioner in any manner.

9. Perusal of the impugned order indicates that learned Joint Charity Commissioner has rightly taken into consideration the facts as well as the provisions of Section 2(10) of the Act and since there is no perversity found in the said order, in exercise of the writ jurisdiction, no interference is caused. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

ssp