

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4086 OF 2022

Rajendra Ramrao Kadam

VERSUS

The State of Maharashtra Through Its Secretary And Others

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Advocate for the Petitioner : Mr. Thombre Chandrakant V.

AGP for Respondents: Mrs. R.R. Tandale

Advocate for Respondent No.5 : Mr. S.S. Jadhavar

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CORAM : S.G. MEHARE, J.

DATED : JANUARY 03, 2024

PER COURT :-

1. Heard learned counsel for the petitioner.
2. The petitioner claims that he is the President of the Trust, which runs a High School at Lohara Taluka Lohara, District Osmanabad. Respondent no.5, who was the employee, had preferred an appeal before the Presiding Officer, School Tribunal, Solapur. The said appeal was registered bearing No.103 of 2020. In the said appeal, respondent no.1 was the President, High School Lohara, Taluka Lohara, District Osmanabad. The present petitioner had moved an application to add him as a party respondent to the said appeal on the ground that he is the President as per the change application No.483 of 2016 pending before the Assistant Charity Commissioner. Other two change reports bearing Nos.55 of 2015 and 46 of 2015 were also pending before the Assistant Charity Commissioner. Since

June 2016, all change reports have been pending. Since the change reports were pending legally, no management is in existence. The petitioner claimed that he was the President of the Society of respondent No. 1. However, the learned Presiding Officer, considering the appointment of the learned Administrator to look after the day-to-day affairs of respondent no.1, trust held that mere pending change applications do not satisfy the necessity of third party application as in appeal.

3. Learned counsel for the petitioner has vehemently argued that the learned Presiding Officer committed a grave error of law in not entertaining the petitioner's application to represent the trust. There were various illegalities committed in the appointment of the employees. He would submit that the petitioner is only the person taking care of the trust and preventing the illegalities in the appointment of staff. He is the person who is concerned about trust. Hence, he was the necessary party to the appeal.

4. Per contra, learned counsel for the respondents would submit that the petitioner has no locus to represent the trust – respondent no.1. Since there was a dispute between two groups, the Administrator was appointed, and he was taking care of the day-to-day business of the trust. Therefore, the order refusing the application is legally correct and proper.

5. Perused the impugned order. It is widespread in the trust that two groups fight and unnecessarily put the staff in trouble. The change reports are generally kept pending for years together. Every group claims that they are the trustees and manage the trust. It seems from the observations of the Presiding Officer that the Administrator was appointed to look after the day-to-day affairs of the trust – respondent no.1. The law is that every person whose right is involved in any litigation should get representation and should be a necessary party without whom Court could not decide the suit finally. Admittedly, when the application was filed, the Assistant Charity Commissioner had not accepted the change report of the petitioner that he was the President of the trust. To protect the interest of the trust, the Administrator was appointed. Therefore, the Presiding Officer, School Tribunal, Solapur, has correctly rejected the application for adding the petitioner as a party to the said appeal. There is no substance in the petition. Hence, the petition stands dismissed. No order as to costs.

(S.G. MEHARE, J.)