

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9147 of 2024**

Rangrao Bapu Patil and anr. ... Petitioners

versus

The State of Maharashtra through the Deputy
Charity Commissioner and anr. Respondents

and

WRIT PETITION NO.9148 OF 2024

Rangrao Bapu Patil and anr. ... Petitioners

versus

The State of Maharashtra through the Deputy
Charity Commissioner and ors. Respondents

Mr.Nilesh Wabale i/b. Mr. Sukumar Ghanavat, Advocate for the
Petitioners.

Smt. Gauri Jadhav, "A" Panel Counsel for the State-Respondent No.1.

Mr. Sukand Kulkarni, Advocate for the Respondent No.2 in Writ Petition
No.9147 of 2024.

CORAM : R. M. JOSHI, J.

DATE : 7th AUGUST, 2024.

P.C. :

1. These petitions take exception to the common order passed by the Joint Charity Commissioner in Revision Application Nos.17 of 2019 and 18 of 2019 under Section 70-A of the Maharashtra Public Trust Act (for short "the Act").

2. The petitioners are the applicants in an application filed under Section 50A (3) of the Act for modification of the scheme. No doubt, now it is claimed by the petitioners that the said application has been filed by forging their signatures. It is pertinent to note that the objection has been raised in this regard after the death of the 3rd applicant – Krishna Bhujangra Sarnobat. It is the contention of the petitioners that the learned Deputy Charity Commissioner (for short “Dy.C.C.”) has exceeded his jurisdiction while passing the order on the application under Section 50A of the Act as according to him the application ought to have been moved under Section 47 for the appointment of the trustees. It is his further submission that the scheme of trust indicates that the minimum coram for meeting of executive trustees is five and since admittedly only three trustees were alive at the relevant time, no valid resolution could have been passed for conducting the election and also for addition of members.

3. Learned counsel for respondent No.2 opposed the said submission by drawing attention of this Court to order dated 19th August 2017 passed in Scheme Application No.40 of 2017 under Section 50A (3) of the Act. It is his submission that the order is only for modification of the scheme and, as such, has not been passed exceeding jurisdiction by the Dy.C.C.. It is his further submission that the issue as directed by this Court to the revisional authority to take into consideration the grievance made by the petitioners about forgery of their signatures on the

application, appropriate observations are made by the revisional authority by comparing admitted signatures of the petitioners on vakalatnama filed in different proceedings. It is his submission that since there is prima facie nothing on record to indicate that the original application under Section 50A of the Act was not filed by the petitioners, they are now precluded from raising any objection in this regard. Finally it is his submission that it is within the jurisdiction of the revisional authority under Section 70A to modify the order and to pass appropriate order in the interest of the trust.

4. There cannot be quarrel on the point that the provisions of the Act are meant to take care of proper functioning of Charitable Trusts and the interest of Trust should be paramount than the technicalities. Moreover, the facts and circumstances of the case in hand would also assume importance in determination of petition.

5. Order passed by this Court in Writ Petition No.9226 of 2022 dated 29th January 2024 indicates that the Joint Charity Commissioner (for short "Jt.C.C.") was called upon to decide the alleged issue of forgery of signatures of the applicants first before deciding the revision application. The order impugned passed by Jt.C.C. indicates that this issue has been adequately gone into by the said authority within its jurisdiction indicating that the signatures of the petitioners varied from time to time and only on the ground of difference in the signature on the application filed before the Dy. C.C., it cannot be held that it is a case of forgery. The authority has

also taken into consideration the proceedings filed before the criminal court in this regard, wherein the issue of forgery is subjudice. Having regard to the jurisdiction of Jt.C.C. while deciding revision, no more findings on the issue could have been recorded in impugned order. Having regard to the fact that the issue as to the commission of act of forgery is subjudice before Criminal Court, this Court finds no error committed by the revisional authority in recording the finding on prima facie consideration of record, to the effect that this cannot be said to be case of forgery.

5. As far as arguments advanced on behalf of the petitioners about challenge to the resolution passed by the committee consisting of three members is concerned, it is pertinent to note that the petitioners were the party to the said resolution. Pertinently, the objection to the said resolution has been raised at belated stage. As rightly observed by the Jt. C.C. that petitioner No.1 was the Vice President of the trust and hence, it is not possible to accept that he had no knowledge about the same.

6. Section 70A of the Act provides jurisdiction to the Jt.C.C. to examine the record and proceedings of the case before the Deputy Charity Commissioner or Assistant Charity Commissioner and it is also permissible for it to make a further inquiry and to pass order of annulment, reversion or modification of the order. The order passed by the revisional authority is certainly in the interest of the trust., when it is stated that the appointed trustees are looking after affairs of trust for long

period of time. Further, it was open for the Jt.C.C. to direct the family members not to be considered for the appointment of trustees in future. Jt.C.C.has observed that in order to ensure that the functioning of the trust is done in democratic manner, embargo is created for admitting family members. Unless any prejudice is shown to have been caused to petitioners by passing of such order, there is no reason to cause interference therein.

7. In the peculiar facts of this case, this Court does not find it appropriate to cause any interference in the impugned order. The petitions stand dismissed.

(R. M. JOSHI, J.)