IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14899 OF 2023.

Maharashtra Vidya Vikas Mandal
and Ors. ...Petitioners.

Versus

State of Maharashtra and Ors. ...Respondents.

Mr. R. V. Govilkar a/w. Mr. Mahesh D. Pol for the Petitioners.
Ms. M. S. Bane , AGP for Respondents-State.
Mr.Gauraj Shah a/w. Mr. Devang Raut, Ms. Reshma Chitnis Pottar i/b. M/s. Chitnis Vaithy & Co.

Coram : Sharmila U. Deshmukh, J.

Date : 19th July, 2024.

P. C. :

1. Heard.

2. By this petition, the challenge is to the order dated 19th October 2023 passed by the Joint Charity Commissioner to the extent that it directs the concerned Deputy Charity Commissioner to take charge of all the properties belonging to Maharashtra Vidya Vikas Mandal bearing P. T. R. No.F-931 (Mumbai) and to follow the appropriate procedure as laid down in Section 22(3A) of the Maharashtra Public Trusts Act, 1950 (M. P. T. Act)

3. The facts of the case are that in *suo moto* inquiry conducted by the Deputy Charity Commissioner in special drive for de-registration of defunct Trust under the orders of the Charity Commissioner dated 13th September 2017, it was found that the Petitioners-Trust had not filed any Change Report nor Audited Statements and by order of 27th December 2017, it de-registered the Trust from the date of the order.

4. The said order came to be challenged by way of an Appeal by the trustees before the Joint Charity Commissioner in Appeal No. 318/2018. By order dated 1st June 2018 the order of de-registration was set aside subject to the compliance of all the provisions within three months and upon payment of cost of Rs. 50,000/- in P.T.R. fund within 15 days.

5. The order of de-registration also came to be challenged by some persons interested under Section 70A of M.P.T. Act by way of Revision Application. By the impugned order dated 19th October 2023 the Revision Application was disposed of as not maintainable. However the Joint Charity Commissioner while disposing of the said Revision Application directed the concerned Assistant Charity Commissioner to take charge of all the properties belonging to Maharashtra Vidya Vikas Mandal.

6. Mr. Govilkar, learned Senior Advocate appearing for the Petitioners would point out that de-registration was set aside subject to compliance of certain conditions that is the filing of the Change Report and the Audited statements. He fairly concedes that there has been certain default and there was non-compliance of the order within stipulated period of three months. He points out that the Trust is running almost 11 schools in which about 5000 students are studying and 174 staff is employed. He submits that by the impugned judgment while holding that Revision Application is not maintainable at instance of Applicant's therein, the Joint Charity Commissioner has directed the Deputy Assistant Charity Commissioner to take charge of all the properties belonging to the Trust. He submits that if procedure under Section 22(3A) of M.P.T. Act is followed the same would result in disposal of the assets of the Trust and would lead to difficulty in placing the students, who are studying in those schools. He, on instructions, submits that within a period of four weeks from today there would be complete compliance of all the provisions of the Act, such as filing of the Change Report and filing of the Audited Statements as directed by order of 1st June 2018.

7. *Per contra,* Mr. Shah, learned counsel appearing for the Respondents would submit that despite sufficient opportunity being given, the Trust has failed to comply with the order of 1st June 2018 and it is clear that they are not in position to comply with the same. He submits that the Deputy Joint Charity Commissioner while holding that Revision Application was not maintainable had in fact directed the Inspector to ascertain the precise status of the Trust within one month from the date of communication of this order and direction was to take charge if it is found to have been relegated to the status of being de-registered. He submits that though the operative part of the order directs the Deputy Charity Commissioner to take charge the same has to be read along with the observations in the order which makes it clear that it is only after the status is verified by the Inspector that the charge is required to be taken by the Deputy/Assistant Charity Commissioner. He further submits that the provisions of Section 70A provides for such a course to be adopted while deciding the Revision Application.

8. To counter the submissions, Mr Govilkar would submit that Revision itself was not maintainable in view of the specific provisions of the M. P. T. Act which provides that where an Appeal has been preferred against the order, Revision is not maintainable. He however submits that considering the status of the schools which have been run by the Trust, time may be granted to comply with the order.

9. Considered the submissions and perused the record.

10. It is fairly conceded by the Petitioners that there has been default in compliance of the order passed on 1st June 2018 and despite an opportunity being given to comply with the provisions within a period of three months, even after a period of 6 years there is still no complete compliance of all the provisions. Even if that is so the fact remains that it not being disputed by learned AGP or learned counsel for the Respondents that the status which is set out in page 94 of the petition as regards 5000 students studying in the school and the employment of 174 staff members, an order of this nature directing the Deputy Charity Commissioner to take charge of all the Trust property and to follow appropriate procedure under Section 22(3A) of the M.P.T. Act which may also result into sale of the property of the Trust would not be in the interest of the beneficiaries of the Trust and more particularly the students studying in the school.

11. Considering the submission made that within a period of four weeks from today, the Petitioners would comply with all the provisions to the satisfaction of the Joint Charity Commissioner, in my view clause (iv) of the impugned order dated 19th October 2023 directing the Deputy Charity Commissioner to take charge of all the properties can be deferred for further period of six weeks. At this stage, this Court has not gone into validity of the said clause in order to give Petitioners an opportunity of complying with the order of 1st June 2018.

12. As the Respondents' grievance is that affairs of the Trust are not being carried out in the manner beneficial to the interest of the Trust, it is open for the Respondents to adopt appropriate proceedings as per the provisions of the M.P.T. Act to seek proper administration of the Trust and such Application has to be decided on its own merits.

13. In light of the above, the following order is passed:

i. Clause (iv) of the impugned order dated 19th October 2023 directing the Deputy/Assistant Charity Commissioner to take charge of all the properties belonging to Maharashtra Vidya Vikas Mandal , P.T.R. No.F-931 through the Inspector is deferred for a period of six weeks from today

ii. In event the Petitioners do not comply with the order of 1st June 2018 to the satisfaction of the Joint Charity Commissioner clause (iv) of the order dated 19th October 2023 will stand revived.

iii. In event any independent Application is filed by the Respondents for seeking proper administration of the Trust the same is to be decided *on its own merits and in accordance with law. All contentions of both parties are expressly kept open.*

14. At this stage, learned counsel appearing for the Petitioners submits that the Office of the Charity Commissioner does not accept the Audited Statements physically and the same are required to be submitted online, which Petitioners have tried to submit and was not accepted online. Liberty to the Petitioners to submit physical copies of the Audited Statements in the office of the Joint Charity Commissioner.

15. Petition is allowed in above terms. In view of disposal of petition, Interim/Civil Applications, if any, do not survive for consideration and stand disposed of.

[Sharmila U. Deshmukh, J.]