



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2345/2023

Dr. Shruti Sakharam Sorte .Vs. Shammi Gaffar Sheikh and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. A. Jachak, Advocate for petitioner.

Mr. A. Parchure, Advocate for respondent No.1.

CORAM : ANIL L. PANSARE, J.

DATE : SEPTEMBER 12, 2024

Heard.

In the proceeding under Section 22 of the Maharashtra Public Trusts Act, 1950 (hereinafter referred to as the, "Act of 1950") respondent No.1 filed application to intervene in the inquiry. The Deputy Charity Commissioner has allowed the application by assigning the following reasons:

"11. He argued that, the applicant has not disputed the receipt of notice of election dt. 01.07.2022. In response to the notice, he was present in the election held on 23.07.2022. His active presence is established from the wording of the proceedings. From the wording of the proceedings, it is gathered that one of the members had requested the applicant to accept the post of President/Chairperson of the said meeting. However, he had refused to accept it and suggested the name of Sau. Vijaya Jachak. From the wording of the Resolution No. 1, it reveals that the applicant had suggested not to take election by secret ballots because only nine members had submitted their nomination and the Executive Committee consists of nine members. He has filed this application for intervention on 01.11.2022. While considering this application it is not necessary to go into the correctness or falsify of the case pending before this

authority as well as also not necessary to record findings on merits. It is admitted that the intervener/ applicant is the life member of the trust. Hence, under such circumstances, applicant can be allowed to intervene in the proceeding as an intervener. In view of the above discussion herein above...”

As could be seen, the Deputy Charity Commissioner has noted that in the meeting of election, respondent No.1 was not only present but participated. The Deputy Charity Commissioner has further observed that there is no dispute as regards applicant being life member of the Trust. The Deputy Charity Commissioner, in the facts and circumstances of the case, thought it proper to permit respondent No.1 to intervene in the inquiry.

This order has been challenged on the ground that merely because respondent No.1 is a member of the Trust, his application seeking intervention may not be allowed unless he demonstrates as to how his impleadment would assist the authority. In support, the petitioner's counsel has relied upon judgment passed by Coordinate Bench of this Court in **Shri Satish Vasant Salpekar Vs. Ashwin Ghatate and anr, 2018 (1) All MR 250.** The challenge was narrated in following words:

*“2. In all these petitions, the order dated 04.03.2017 passed by the learned Assistant Charity Commissioner, Nagpur, in different change reports, rejecting the applications filed by the petitioners under Section 73A of the Maharashtra Public Trusts Act, for being joined as intervenor, is under challenge. It has been held relying upon the decision of this Court in **Chetan Mehta vrs. State of Maharashtra and others, reported in 2008(6) ALLMR 189**, that the intervenors have not demonstrated*

as to how their impleadment would assist the authority in the determining the present change report. It further holds that merely because the intervenors are the trustees as on the date, it would be of no use to assist the enquiry on the change reports which were filed long back.”

Thus, the Assistant Charity Commissioner rejected the request of intervention on the ground that intervenors were not trustees when the change report was filed. They became trustees later on. In this context, it was held that the intervenors have not demonstrated as to how would they assist the authority. The Court then proceeds to note further contentions of the petitioner that the definition of, ‘Persons having interest’ in Section 2(1)(e) of the Act of 1950 read with Section 2(18), is wide enough to include even the persons who were not members of the Trust on the date of filing of change report. On facts before it, the Court held that merely because petitioner therein were appointed as trustees vide subsequent orders passed by learned Jt. Charity Commissioner, that would not make them persons having interest in the Trust for the purpose of change report filed prior to their appointment as trustees. Thus, the aforesaid judgment is based on the different set of facts. The intervenors became trustee subsequent to filing change report and were thus held to be not interested persons at the relevant time.

The basic requirement to consider a request for intervention is, whether person claiming intervention is an interested person in terms of Section 2(1)(e) read with Section 2(18) of the Act of 1950.

In the present case, there is no dispute that the respondent No.1 is/was life member, at least at the relevant time. That being so, he fits in the definition of interested persons. The Deputy Charity Commissioner thought it proper to take his assistance in the inquiry under Section 22 of the Act. There is nothing on record nor has the petitioner argued as to how his presence will cause any prejudice to the petitioner.

That being so, I am not inclined to interfere in the petition in writ jurisdiction. The writ petition is, therefore, dismissed. No order as to costs.

(Anil L. Pansare, J.)

Kahale