IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 8069 OF 2023
(Shri Ramdas Bhanudasji Karale Vs. Ramesh Pandurangji Doiphode & Anr.)
WITH WRIT PETITION NO. 2404 OF 2023
(Shri Govind Sukhdeorao Wankhede & Ors. Vs. Ramesh Pandurangji Doiphode & Ors.)
WITH WRIT PETITION NO. 5396 OF 2023
(Shri Ramdas Bhanudasji Karale Vs. Ramesh Pandurangji Doiphode & Ors.)
WITH WRIT PETITION NO. 8373 OF 2023
(Shri Govind Sukhdeorao Wankhede & Anr. Vs. Ramesh Pandurangji Doiphode & Anr.)
WITH WRIT PETITION NO. 8067 OF 2023
(Shri Ramdas Bhanudasji Karale Vs. Ramesh Pandurangji Doiphode & Anr.)
WITH WITH WRIT PETITION NO. 5714 OF 2024
(Shri Prabhakar Natthuji Bhande & Ors. Vs. Vinod Ganeshrao Patil & Ors.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Mr. P.S. Patil, Counsel for the petitioners.
Mr. K.P. Mahalle, Counsel for respondent no.1 in WP 8069/2023 and 8067/2023, for respondent no.8 in WP 2404/2024, for respondent nos. 1 to 6 in WP 5396/2023 and for respondent nos. 1, 2 and 4 to 15.
Mr. H.D. Futane, A.G.P. for the respondent/State.

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CORAM : ANIL L. PANSARE, J.
DECEMBER 2, 2024

A sorry state of affairs emerged during the course of hearing. As could be seen, in all, six petitions are pending before the Court of which Writ Petition No. 5714/2024 is the one that discloses the extent to which litigants can go to fulfill their desire to manage the affairs of an educational trust.

2] Let me state what transpired before filing Writ Petition No. 5714/2024.

3] The other five petitions were heard by this Court on couple of occasions and on 12/8/2024, following order came to be passed :

> *"WRIT PETITION NO. 2404/2023*
>
> *Shri K.P. Mahalle, learned Counsel, waives notice for respondent nos. 1 and 5.*
>
> *2] One of the contentions is that nine persons, who were not member of the Trust, have participated in the meeting/election dated 8/5/2016.*
>
> *3] This contention has been challenged by the respondents on the count that these nine persons have been inducted as Members and the finding of their legal induction has been decided by the Assistant Charity Commissioner in Enquiry No. 183/2015. This order has attained finality.*
>
> *4] In the light of above, it is necessary to go through the finding so recorded by the Assistant Charity Commissioner. The petitioners shall place on record copy of order in Enquiry No. 183/2015.*
>
> *5] List in the week commencing from 2/9/2024."*

4] As could be seen, one of the contentions that was raised by the petitioners was that nine persons, who were not member of the Trust, have participated in the meeting/election dated 8/5/2016. This contention was countered by the respondents' Counsel on the count that these nine persons have been inducted as Members and their induction has been found legal in the enquiry conducted by the Assistant Charity Commissioner, Amravati, being Enquiry No. 183/2015. It was also informed that the order passed by the Assistant Charity Commissioner has attained finality.

5] Accordingly, the petitioners were directed to place on record order passed by the Assistant Charity Commissioner in Enquiry No. 183/2015. The petitions were directed to be listed in the week commencing from 2/9/2024 and accordingly the petitions were listed on 3/9/2024 when following order came to be passed :

> *"Adjournment is sought by the learned Counsel for the petitioners on the count that Shri Jugalkishor Gilda, learned Senior Counsel, is not keeping well.*
>
> *2] This Court, vide order dated 12/8/2024, has directed the petitioners to place on record copy of order passed by the Assistant Charity Commissioner, Amravati, in Enquiry No. 183/2015.*
>
> *3] The learned Counsel for the petitioners submits that the order so passed was challenged before the Joint Charity Commissioner, Amravati, in Appeal No. 132/2022. The Joint Charity Commissioner has dismissed the appeal. In that sense, the order passed by the Assistant Charity Commissioner has attained finality.*
>
> *4] As such, the petitioners were directed to place on record copy of order passed by the Assistant Charity Commissioner, which they have not placed. The learned Counsel for the petitioners is seeking permission to place on record order passed by the Joint Charity Commissioner.*
>
> *5] The petitioners shall place on record copy of order passed by the Assistant Charity Commissioner as also the Joint Charity Commissioner.*
>
> *6] Stand over in the week commencing from 30/9/2024."*

6] Thus, the petitioners' Counsel sought adjournment on the count that arguing Counsel is not keeping well. It was re-affirmed, at the instance of the petitioners' Counsel, that the order passed by the Assistant Charity Commissioner in Enquiry No. 183/2015 has attained finality because challenge to the said order was dismissed by the Joint Charity Commissioner, Amravati in Appeal No. 132/2022. Accordingly, the petitioners were called upon to place on record copy of orders passed by the Assistant Charity Commissioner and the Joint Charity Commissioner. The petitions were directed to be listed in the week commencing from 30/9/2024.

7] The petitioners, in the meantime, i.e., on 23/9/2024 filed Writ Petition No. 5714/2024 with following prayers :

> *"(i) By an appropriate writ, order or direction quash and set aside Assistant Charity Commissioner-3, Amravati in paragraph 19 of the judgment and order dated 27.07.2022 (Annexure – P9) passed in Inquiry No. 183/2015.*
>
> *(ii) By an appropriate interim order, stay the effect, implementation and operation of the observations made by the Assistant Charity Commissioner-3, Amravati in paragraph 19 of the judgment and order dated 27.07.2022 (Annexure – P9) passed in Inquiry No. 183/2015."*

8] Thus, the petitioners are now challenging the finding rendered by the Assistant Charity Commissioner in paragraph 19 of its judgment dated 27/7/2022 passed in Enquiry No. 183/2015 and have also requested to stay the effect and operation of the observations made by the Assistant Charity Commissioner in paragraph 19 of the said judgment.

9] I have gone through paragraph 19 of the said judgment by which the Assistant Charity Commissioner has assigned reasons as to how and why membership of nine persons is valid and legal. The petitioners intend to challenge this finding in writ jurisdiction knowing fully well that this order was unsuccessfully tested before the Joint Charity Commissioner in Appeal No. 132/2022 and has attained finality and also knowing fully well that submissions to that effect were made before this Court in connected petitions, and in context therewith, the petitioners were directed to place on record copy of orders passed by the Assistant Charity Commissioner and the Joint Charity Commissioner.

10] Apart from the fact that this course is impermissible, what is annoying is that the petitioners in Writ Petition No. 5714/2024 have not disclosed about pendency of other five petitions in which identical issue is involved and further without disclosing the orders passed by this Court in these petitions.

11] Writ Petition No. 5714/2024 was accordingly listed before the Roster Judge (Coram : N.R. Borkar, J.) on 26/9/2024 when following order came to be passed :

> *"Issue notice to the respondents, returnable on 22nd October, 2024.*
>
> *2. Considering the short issue involved in the present petition, notice to indicate that the petition will be heard and disposed of finally at the stage of admission.*
>
> *3. In addition to the Court notice, service by private mode is permitted."*

12] Mr. K.P. Mahalle, learned Counsel for the respondents submits that a Counsel note was filed by the Counsel for the petitioners in Writ Petition No. 5714/2024 stating therein that the issue, which arises for consideration in Writ Petition No. 2404/2023, also arise for consideration in Writ Petition No. 5714/2024, and accordingly, a request was made to tag and hear Writ Petition No. 2404/2023 along with Writ Petition No. 5714/2024.

13] The Counsel note indicates couple of things, which again are disturbing. Firstly, the Counsel acknowledges that the issue involved in earlier petition and the subsequent petition is common. Thus, the petitioners were aware that the question involved in earlier petition and the subsequent petition was common but while filing subsequent petition, the petitioners have not disclosed the said fact. Further, the request is made to tag old petition with that of new petition, which usually is otherwise. Rather the petitioners, in all fairness, ought to have requested to tag Writ Petition No. 5714/2024 with pending petitions. The least that could have been done is to request to tag the petitions and list before either Court. Such is not the request here. This speaks volumes about intentions of the petitioners to remove and transmit the petitions from this Court to another Court.

14] It appears from the record that the Registry has accordingly put up a note before the learned Administrative Judge for seeking orders as to before which Bench these petitions should be listed, and to the misfortune of the petitioners, all the petitions were assigned to this Court. The petitioners have then changed the Counsel, who was then appearing for them.

15] Thus, an attempt was made to avoid this Bench, who has, in a way, heard the connected petitions partly and had passed certain orders, including directions to the petitioners to place on record copy of orders passed by the Assistant Charity Commissioner and the Joint Charity Commissioner. The petitioners have further made mischievous attempt to obtain orders from the Co-ordinate Bench in the subsequent petition without disclosing correct facts, rather by suppressing vital fact knowing fully well that the issue involved in the petitions is common.

16] In the backdrop of above, the Counsel for the petitioners was called upon to satisfy the Court as to how Writ Petition No. 5714/2024, as is filed, was maintainable, to which the learned Counsel has invited my attention to paragraph 6 of the petition, which reads thus :

> *"6. The petitioners submit that the petitioners were not intially inclined to challenge the judgment and order dated 16.03.2023 passed by the Joint Charity Commissioner, Amravati in Appeal No.132/2022. However, some of the petitioners sought advice of their counsel with respect to the findings recorded by the Assistant Charity Commissioner with respect to 9 new members while deciding Inquiry No.183/2015. The counsel for the petitioners advised them that even though the Assistant Charity Commissioner, Amravati had recorded findings in paragraph 19 of the judgment and order dated 27.07.2022 passed in Inquiry No.183/2015 without any jurisdiction and authority, it would be prudent and in the best interest of the petitioners that a challenge is*

> *laid to the said findings by means of a writ petition. The petitioners after taking into account the said advice of their counsel are filing the present writ petition without any unreasonable delay."*

17] Thus, it appears that some of the petitioners sought advice from their Counsel, and accordingly, the subsequent petition came to be filed. On the advice so given, I would say that the legal profession demands not just brilliance but a deep sense of responsibility. The advice lacks both. In any case, the aforesaid advice does not give license to the petitioners to suppress vital facts. That apart, the request to tag and hear old petition with new petition is also not justified, considering the fact that roster of Writ Petitions of odd and even years is assigned to two different Judges.

18] The petitioners, thus, carry a blame of polluting the judicial system or to state differently, they have abused the process of law to continue to control the affairs of the Trust. Such an attempt will have to nipped in the bud, and one of the ways to do so is to impose exemplary cost.

19] Accordingly, Writ Petition No. 5714/2024 is dismissed with cost of Rs.1,00,000/-, which the petitioners shall pay jointly and severally to the Trust, within three weeks from today failing which the Registry shall proceed to recover the amount as land revenue.

20] All other connected petitions be listed in the week commencing from 9/12/2024.

(ANIL L. PANSARE, J.)

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