



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4827 OF 2022

Milind Gulabrao Khairnar

VERSUS

Shree Tuljabhavani Education Trust Thr Its Secretary
And Others

...

Mr. B. S. Deshmukh, Advocate for the Petitioner (VC)
Mr. V. R. Dhorde, Advocate for Respondent Nos. 1 to 9
Mr. S. N. Kendre, AGP for Respondent No. 10

WITH

WRIT PETITION NO. 689 OF 2022

Pankaj Suryabhan Patil

VERSUS

Shree Tuljabhavani Education Trust Through Its
Secretary And Others

...

Mr. B. S. Deshmukh, Advocate for the Petitioner (VC)
Mr. V. R. Dhorde, Advocate for Respondent Nos. 1 to 9

CORAM : R. M. JOSHI, J

DATE : MARCH 20, 2025

COMMON ORDER :

1. These Petitions take exception to the orders dated 18.11.2021 passed by the Joint Charity Commissioner, Nashik (for short 'JCC') in Appeal Nos. 1/2018 and 2/2018 whereby order passed by the Assistant Charity Commissioner, Dhule (for short 'ACC') in Change Report Nos. 681/2016 & 682/2016 dated 21.10.2016 came to be confirmed.

2. The facts, which lead to the filing of these Petitions, can be narrated in brief as under:

Petitioners claim themselves to be the members of the Respondent No. 1 Trust which is an educational institution. They also claim themselves to be elected as members of the Managing Committee for the period from 2014 to 2019. There is allegation that Respondent reported trustee viz Gulabrao Jayantrao Khairnar had filed an application under Section 22 of the Maharashtra Public Trust Act, 1950 (for short 'the Act') before the ACC being Change Report No. 682/2016. In the said report, it was contended that president of the Trust and three members have resigned from the post and they be deleted from the record. ACC accepted the change by observing that there is no objection raised to the change report. It is the contention of Petitioner herein that the said order came to be obtained by keeping the Petitioners as well as other concerned in dark. Since the ACC accepted the change report, the same was challenged by filing Appeal being Nos. 1/2018 and 2/2018 unsuccessfully. Hence, these Petitions.

3. Learned Counsel for the Petitioners submits that the ACC has passed order without conducting any enquiry and as such, order is not sustainable which ought to have been interfered with by the Appellate Authority. It is his further submission that the Appellate Authority has failed to take into consideration the fact that the notices were not served to Petitioners and concerned trustees.

4. Learned Counsel for contesting Respondents has drawn attention of the Court to the Appeal memo filed before the JCC wherein there is no claim with regard to passing of the order by the said authority without conducting any enquiry. He has further drawn attention of the Court to the orders passed by the ACC also JCC dealing with all issues.

5. Petitioners are seeking to take exception to the change report which was accepted on 21.10.2016. In the said order, it is observed by the ACC that in spite of service of notice to the Trustees and on the basis of the acknowledge at Exhs. 5 to 7, they were duly

served but remained absent and failed to raise any objection.

6. Apart from this, the order shows that the ACC has taken into consideration the notice of the meeting so also the minutes of meeting in which the relevant resolution no. 3 was taken. This Court, therefore, finds no substance in the contention of the learned Counsel for the Petitioners that the said order came to be passed without conducting any enquiry.

7. Apart from this, perusal of the Appeal memo filed before the JCC does not raise any specific plea in this regard. This Court, therefore, finds that it is not open for the Petitioners to raise such issue for the first time before this Court. Moreover, the finding of fact recorded by the Appellate Authority unless perverse cannot be interfered with in exercise of writ jurisdiction. Perusal of the impugned order and more particularly, observations made by the ACC with regard to the service of notice to the other Trustees coupled with acknowledgment on record leaves no doubt with orders are passed in accordance with evidence led

before the ACC.

8. In view of above discussion, this Court finds no substance in the Petitions. In the result, Petitions stand dismissed. Pending civil application(s), if any, stands disposed of.

(R. M. JOSHI, J.)