



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2164 OF 2020

Mohd Usman Gani Mohd Hasan & anotherPetitioners

VERSUS

Assistant Charity Commissioner Dhule
& othersRespondents

Mr. M. S. Shah, Advocate for the Petitioners.

Mrs. M. L. Sangeet, AGP for the State.

Mr. A. S. Deshpande, Advocate for Respondent Nos. 6 and 13, 10, 11,
14, 16 and 17.

CORAM : R. M. JOSHI, J.

DATE : 23rd SEPTEMBER, 2025.

PER COURT :

1. This Petition takes exception to the award passed by the Lok Adalat in Change Report No. 156/2013 dated 29.11.2013 and the order passed by the Joint Charity Commissioner rejecting revision application No. 8/2014 taking exception to the said order.

2. Petitioners claim that in the proceeding of Change Report No. 156/2013 filed by the Respondents, no notice was issued to them and that behind their back order came to be obtained on the basis of purported no objection recorded by them for allowing the change report. The order impugned is also challenged on the ground that in

view of the judgment of Division Bench of this Court in case of Rajabhau Raikar vs. Assistant Charity Commissioner, Pune, 2015(4) MhLJ 275, the change report cannot be disposed of even by consent and unless the enquiry as contemplated under Section 22 of the Maharashtra Public Trust act is conducted, the order in change report cannot sustain.

3. Learned counsel for Petitioners submits that the Petitioners have not received any notice of proceeding of Change Report No. 156/2013. He submits that affidavit is filed by Petitioner Mohd. Usman stating that he never signed any pursis on the basis of which order came to be passed by Lok Adalat on 29.11.2013. He, therefore submits that in view of this fact, the impugned order deserves to be set aside.

4. Learned counsel for contesting Respondents sought to support the impugned order. It is his contention by drawing attention of the Court to the award passed by the Lok Adalat that there was a satisfaction recorded by the Assistant Charity Commissioner in respect of enquiry conducted under Section 227 of

the Act. It is his submission that once such observations are made in the award, there is no reason to discard the same.

5. At the outset, this Court would like to refer to the judgment of the Division Bench of this Court in case of Rajabhau Raikar (supra) wherein it is held that the change report whether contested or not is to be decided after holding an enquiry in the manner provided in Rule 7 of the Bombay Public Trust Rules. It is further held that no change report can be accepted unless the Assistant Charity Commissioner or the Deputy Charity Commissioner, as the case may be, after holding enquiry comes to the conclusion that the change as reported has occurred. It is further held that the Lok Adalat has no power to make any adjudication by following the procedure which is required to be followed in case of trial of a suit. Consequently, it is held that the report cannot be allowed by Lok Adalat so also by consent of the parties.

6. In order to ascertain as to whether there was any enquiry done by the Assistant Charity Commissioner before award was passed by the Lok Adalat, the record of Change Report No. 156/2013

is perused. Perusal of the entire record does not indicate such enquiry being conducted or any satisfaction of the Assistant Charity Commissioner being recorded for acceptance of the change report. It is thus clear that the award passed by the Lok Adalat is not passed upon enquiry conducted by the Assistant Charity Commissioner. Consequently, the award passed by the Lok Adalat cannot sustain and the same stands set aside. It is clarified that the award has not been set aside on the ground sought to be made by the Petitioners that they were never served with notice in Change Report No. 156/2013 or that they never recorded no objection for the same.

7. Though the award passed by the Lok Adalat is set aside and the proceedings are relegated back to the Assistant Charity Commissioner for decision afresh in accordance with law, the Assistant Charity Commissioner is directed to conduct independent enquiry into the allegations made by the Petitioners in respect of non-receipt of notice as well as not signing of the pursis. On enquiry, if it is found that the statements made by the Petitioners are false, apart from initiating appropriate legal action, the proceedings of contempt of Court also be initiated against the Petitioners.

8. Since the Change Report is of the year 2013, the Assistant Charity Commissioner is directed to decide the same on merit within a period of six months from today.

9. At this stage, learned counsel for contesting Respondents seeks to maintain status quo. It would be open for the Respondents to make such request to the Assistant Charity Commissioner who shall pass appropriate order on merit.

10. Petition stands allowed in above terms.

(R. M. JOSHI)
Judge

dyb