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33-WP-1285-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

33 WRIT PETITION NO. 1285 OF 2025

Balasaheb Narayan Rathod

VERSUS

The Joint Charity Commissioner Latur And Others

...

Mr. Vishwamber Digamberrao Gunale, Advocate for the Petitioner.

Mr. K. S. Patil, AGP for Respondent-State.

Mr. M. S. Kulkarni, Advocate for Respondent No.3.

CORAM : KISHORE C. SANT, J.

DATE : 6th FEBRUARY 2025

PC :-

1. At the outset, the learned Advocate Mr.Kulkarni appearing for Respondent No.3 raises an objections about the maintainability of the present writ petition before the learned Single Judge. He submits that an order challenged in this writ petition is passed on the application filed by the petitioner under Section 41A of the Bombay Public Trust Act, 1950 ("B.P.T. Act" for short) which is necessarily an administrative order as held by the Division Bench of this Court at Nagpur Bench. This Court at Nagpur Bench in a judgment of *Vanmala Manoharrao Kamdi and Ors.*

Vs. The Deputy Charity Commissioner, Nagpur Division Nagpur and Ors.¹ held that the order passed under Section 41A of the B.P.T. Act by the authorities is neither judicial nor quasi-judicial order but is an administrative order.

2. The learned Advocate Mr.Gunale appearing for Petitioner submits that the present order is not passed in independent proceeding under Section 41A of the B.P.T. Act, but is passed in an Appeal No.44 of 2024. The application though is styled as under Section 41A of the Act. It was, in fact, an application for interim arrangement pending the appeal before the Joint Charity Commissioner, Latur. He thus submits that, the writ petition is very much maintainable before the learned Single Judge. This Court has seen the applications. Both the applications are at Exh.05 and Exh.06 under Section 41A of the B.P. T. Act. The prayers in the application at page No.312 reads as under:

- “1. That, may kindly be allow this application and necessary directions may kindly be issued in favor of appellant for day to day administration and management of the trust Gunai Shikshan Prasarak mandal, Kaulkhed Tq. Udgir dist. Latur its P.T.R. No.F-12737/Latur till the disposal of all revisions and appeals.*
- 2. Any other legal and equitable relief may kindly be awarded in*

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favour of appellant.”

3. From the prayers, it is clearly seen that by way of interim relief, the direction was sought as regards day to day administration and management of the trust. Mr.Kulkarni also points out that, same order is also under challenge in Writ Petition No.1634 of 2025 which is moved before the Division Bench. This Court finds that the substance in the objection raised by the learned Advocate Mr.Kulkarni, the Division Bench of the Nagpur High Court in paragraph No.44 has held that, the order passed under Section 41A of the B.P T. Act is an administrative order.
4. Considering all above, the petitioner is at liberty to move before appropriate Court.
5. Remove from board.

[KISHORE C. SANT, J.]