

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5593 OF 2024

Revaben Nagindas Foundation
through its Trustee- Mrs. Sharayu
Keshav Fanse

...Petitioner

V/s.

The State of Maharashtra through
its Secretary, Ministry of Home,
Mantralaya, Mumbai and Ors.

...Respondents

Mr. Yuvraj Narvankar *i/b. Mr. Aditya Gurave and Ms. Jayasthri Mane for the Petitioner.*

Mr. S.D. Rayrikar, AGP for Respondent Nos.1 and 2-State.

Mr. Rahul S. Kadam for Respondent No.3.

CORAM : SANDEEP V. MARNE, J.

Dated : 10 January 2025.

P.C. :

1) Petition challenges order dated 1 April 2024 passed by the learned Joint Charity Commissioner, Pune Region, Pune, rejecting the Application filed by the Petitioner at Exhibit 11, questioning the maintainability of Miscellaneous Application No.32 of 2023.

2) The Miscellaneous Application No.32 of 2023 has been filed by Respondent No.3 *inter alia* for initiation of enquiry against persons claiming to be trustees of the Petitioner-Trust, for appointment of administrator and for handing over charge of the Trust to the appointed person. In his Application, Respondent No.3 specifically pleaded in paragraphs 2 and 4 as under:-

(2) The Applicant submits that, the applicant is a member of the said trust as well as he is connected to the administration of the said trust hence he falls within the ambit of section 2(10) of MRT Act, 1950 therefore on that count the applicant has right to prefer present application before this Hon'ble authority in the interest of the said trust and to throw light on the legalities and misconducts done by the opponent.

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(4) The applicant is a person connected with the said trust since the year 2014 and actively participates in the administration of the said trust and it is also pertinent to note that, the applicant has deep knowledge of the misconduct and the misappropriation done by the opponents herein in the administration of the said trust. On that count the applicant has preferred an inquiry application no- 47/2021 previously before this Hon'ble authority and the same is pending before this Hon'ble authority for adjudication.

3) Contrary to the pleadings of Respondent No.3 that he is member of the Trust and has participated in the administration of the Trust in the past, an Application was filed by Petitioner - Mrs. Sharayu Keshav Fanse questioning the maintainability of the Miscellaneous Application No.32 of 2023 contending that Petitioner is not an interested person within the meaning of Section 2(10)(d) of the Maharashtra Public Trusts Act, 1950 (**MPT Act**) and praying for rejection of the Miscellaneous

Application on the ground that the same is not maintainable. In paragraphs 2 and 3 of her Application, the Petitioner pleaded as under:-

२) श्री. चंद्रकांत भारत बनसोडे हे सदर संस्थेचे सभासद देखिल नाहीत. ते महाराष्ट्र सार्वजनिक विश्वस्त व्यवस्था अधिनियम १९५० चे कलम २ (१०) (ड) प्रमाणे हितसंबंधी व्यक्ती (Interested Person) नाही. त्यामुळे त्यांना सदरचा अर्ज दाखल करण्याचा कोणताही अधिकार नाही.

३) श्री. चंद्रकांत भारत बनसोडे हे न्यास विरोधी काम करीत असून कायम न्यासाबद्दल तक्रारी करीत असून न्यासाचे दैनंदिन कामकाजात अडथळा निर्माण करण्याचा त्यांचा प्रयत्न असतो. ते सदरचे न्यासाचे शैक्षणिक संकुल बळकविण्यासाठी सदरचे खोटे अर्ज करून संस्थेची नाहक बदनामी करत आहेत. त्यांचा संस्थेशी काहीएक संबंध नाही. तसेच संस्थेने त्यांना कधीही सभासद करून घेतलेले नाही किंवा संस्थेच्या कोणत्याही कामकाजात सहभागी करून घेतलेले नाही.

4) Petitioner thus, filed Application at Exhibit-11 questioning maintainability of Miscellaneous Application No.32 of 2023 with a specific pleading that Respondent No.3 has never been admitted as a member of the Trust, he has absolutely no connection with the Trust and he has never participated in any of the activities of the Trust.

5) However, perusal of Change Report No.1171 of 2020 filed by the reporting Trustee-Mrs. Sharaya Keshav Fanse (Petitioner) sometime in September -2020 would show that the said Change Report was filed for the purpose of inclusion of Respondent No.3 as Trustee of the Trust for the period 2020 to 2025. Against the name of the Petitioner the word 'member' was written in the Change Report No.1171 of 2020. Mr. Narvankar, the learned

counsel appearing for the Petitioner would attempt to salvage the situation by submitting that Change Report No.1171 of 2020 was dismissed on 7 March 2022 and that therefore no cognizance of the said Change Report can be taken for holding that Respondent No.3 was either Trustee or member of the Trust.

6) In my view, Petitioner has made false averment on oath in her Application at Exhibit-11 that Respondent No.3 was never admitted as a member of the Trust, which averment is contrary to the statement made by her on affidavit in Change Report No.1171 of 2020 that Respondent No.3 was not only a member but Petitioner had requested for inclusion of his name as trustee of the Trust for the period 2020 to 2025.

7) Mr. Narvankar would attempt to submit that though Respondent No.3 was a member in the Trust, his membership has been terminated. However, no such averment was made in the Application at Exhibit-11, which contains false averment that Respondent No.3 was never admitted as a member of the Trust. Mr. Narvankar would further submit that mere alleged membership of Respondent No.3 does not make him 'person having interest' within the meaning of Section 2(10) of the MPT Act as membership becomes relevant only *qua* a society registered under the Societies Registration Act, 1860. Mr. Kadam, the learned counsel appearing for Respondent No.3 is quick enough to point out that Revaben Nagindas Foundation apart from being a Public Trust, is also a society registered

under the provisions of Societies Registration Act, 1860 and would invite my attention to certificate issued by the Registrar of Societies on 7 November 1996. Thus, even this claim sought to be raised on behalf of the Petitioner has turned out to be completely mischievous.

8) In the entire Petition, there is no pleading that Respondent No.3 was a member of the Trust in the past or that he was removed from membership of the Trust in any manner. I am therefore, not inclined to accept the ingenuity on the part of Mr. Narvankar in the oral submission sought to be advanced across the Bar that Respondent No.3 was removed from membership of the Trust. In fact, this Court takes adverse notice of conduct on the part of Petitioner in making false averment in Application at Exhibit-11 that Respondent No.3 was never admitted as a member of the Trust, which statement is found to be contrary to the Change Report verified by Petitioner herself showing Respondent No.3 not only as a member, but also sought to be made a trustee for the period 2020-2025.

9) Being a member of the Trust, Petitioner would fit into the definition of the term 'person having interest' under the provisions of Section 2(10)(d) of the MPT Act. Therefore, Miscellaneous Application No.32 of 2023 filed by him cannot be dismissed as non-maintainable. I, therefore, do not find any error on the part of the Joint Charity Commissioner, Pune, in rejecting the Application preferred by the Petitioner at Exhibit-

11. Filing of the present Petition is gross abuse of process of law. Petitioner has suppressed factual position in the present Petition. She has also made false statement on oath in Application at Exhibit-11. In that view of the matter, dismissal of the present Petition cannot be without consequence. For filing this baseless and mischievous Petition and for making false averments on oath, I am inclined to impose exemplary costs on the person filing the Petition in the name of the Trust. Petitioner - Mrs. Sharayu Keshav Fanse shall accordingly pay to Respondent No.3 costs of Rs.1,00,000/- within a period of four weeks from today.

10) Writ Petition is dismissed with costs as imposed above.

[SANDEEP V. MARNE, J.]