

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 17336 OF 2024

Maharashtra Ayurvedic Medical
Practitioners Association, PTR

...Petitioner

V/s.

Dr. Jagdish Motiram Lambe And Ors.

...Respondents

Mr. Sanjeev Sawant *with Ms. Bhakti Wast i/b Mr. Abhishek Deshmukh for the Petitioner.*

Mr. Neel Pungliya *for Respondent No.1.*

Mr. Kedar B. Dighe, *Addl.G.P. with Ms. S. A. Prabhune, AGP for Respondent-State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 3 March 2025.

P.C. :

1) Rule. Rule is made returnable forthwith, with consent of the parties, the matter is taken up for hearing and disposal.

2) The Petition challenges order dated 3 October 2024 passed by the Joint Charity Commissioner, Greater Mumbai

Region, by which the Joint Charity Commissioner has proceeded to set aside the order dated 14 February 2023 passed by the Assistant Charity Commissioner and has thereby rejected the entire Change Report No. ACC-I/Hosp/1908/2015.

3) I have heard Mr. Sawant, the learned counsel appearing for the Petitioner and Mr. Pungliya, the learned counsel appearing for the Respondent No.1.

4) It appears that the Petitioner had filed Change Report No. ACC-I/Hosp/1908/2015 for deleting the names of ongoing managing committee members and for taking on record the names of new managing committee members of Maharashtra Ayurvedic Medical Practitioners Association. In the Change Report, an additional prayer was made for deletion of name of trustee Dr. Jagdish M. Lambe (Respondent No.1) alleging that he had tendered resignation. The Assistant Charity Commissioner proceeded to pass order dated 14 February 2023, operative portion of which reads thus :

ORDER

1. *Change report is partly allowed. Name of Dr. Animesh Anantkumar Karmalkar and Shri. Manojkumar Nanji Gohil be deleted and name of co-opted trustees i.e. Mr. Shrikant Manjrekar, Mr. Rajiv Shankar Mannadiar and Mr. Satish Jaysingarao Barge be entered in Schedule-I of the trust.*

2. *Change report is partly rejected to the extend of deletion of trustee namely Dr. Jagdish M. Lambe.*

3. *Schedule-I be amended accordingly.*

5) Thus, by order dated 14 February 2023, the Assistant Charity Commissioner partly allowed the Change Report and permitted deletion of names two outgoing trustees and permitted names of three co-opted trustees to be entered in Schedule-I. The Assistant Charity Commissioner rejected the prayer for deletion of name of the Respondent No.1 from Schedule-I.

6) Respondent No.1 was not aggrieved by the order dated 14 February 2023 passed by the Assistant Charity Commissioner and did not file any Appeal under provisions of Section 70 of the Maharashtra Public Trust Act, 1950 ("the Trust Act"). On the contrary, the Petitioner got aggrieved by part of order dated 14 February 2023 to the limited extent of the Assistant Charity Commissioner refusing to delete the name of the Respondent No.1 from Schedule-I and accordingly filed Appeal No. JCC/GMR/48/2023 before the Joint Charity Commissioner under the provisions of Section 70 of the Trust Act.

7) Instead of confining the Appeal preferred by the Petitioner only to the correctness of direction No.2 in the operative part of Assistant Charity Commissioner's order dated

14 February 2023, the Joint Charity Commissioner committed a gross jurisdictional error in entertaining the Appeal in respect of direction No.1 as well. As observed above, direction No.1 in the operative order dated 14 February 2023 was in favour of the Petitioner and the said direction was not challenged by Respondent No.1 in any manner. The Appeal filed before the Joint Charity Commissioner did not cover challenge to para 1 of operative part of the order. The Appeal was restricted only to direction No.2 in the operative order dated 14 February 2023.

8) The Appellate Authority overstepped its jurisdiction and proceeded to set aside the entire order dated 14 February 2023 passed by the Assistant Charity Commissioner. Thus, by filing Appeal under Section 70 of the Act to the limited extent of the non-deletion of name of the Respondent No.1 from Scheduled-I, the Petitioner has invited setting aside of the entire order dated 14 February 2023, part of which was clearly in its favour.

9) The Joint Charity Commissioner exercises statutory jurisdiction under Section 70 of the Trust Act, and therefore could not have been gone into the correctness of direction No.1 of operative part of order dated 14 February 2023. She could not have exercised suo moto power of deciding correctness of that part of order which was never challenged before her.

10) In my view therefore, the impugned order dated 3 October 2024 passed by the Joint Charity Commissioner suffers serious jurisdictional error warranting interference by this Court in exercise of jurisdiction under Article 227 of the Constitution of India.

11) The Petition accordingly succeeds and I proceed to pass the following order :

ORDER

- (i) Order dated 3 October 2024 passed by the Joint Charity Commissioner is set aside.
 - (ii) Appeal No. JCC/GMR/48/2023 is remanded on the file of Joint Charity Commissioner for being decided afresh by limiting its scope to direction No.2 in the operative part of the order dated 14 February 2023.
- 12) The remanded Appeal shall be decided on own merits without being influenced by any of the observations made by this Court in the present order.
- 13) With the above directions, the Petition is partly allowed and disposed of.
- 14) Rule is made partly absolute. No costs.

[SANDEEP V. MARNE, J.]