

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

WRIT PETITION NO.19412 OF 2024

Shivdas Dadasaheb Gurav and Anr.

...Petitioners

V/s.

The State of Maharashtra and Ors.

...Respondents

Mr. Amitkumar Pandey *for the Petitioners.*

Ms. Savita Prabhune, *AGP for Respondent No.1-State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 6 January 2025.

P.C. :

1) The Petition challenges judgment and order dated 5 June 2024 passed by the Joint Charity Commissioner-1, Maharashtra State, Mumbai, dismissing Revision Application No.260 of 2022 and confirming the order dated 15 February 2021 passed by the Assistant Charity Commissioner. By order dated 15 February 2021, the Assistant Charity Commissioner has accepted the Change Report filed by reporting trustees and has accordingly amended Schedule-I of the Trust by incorporating names of incoming trustees and deleting the names of outgoing trustees.

2) I have heard Mr. Pandey, the learned counsel appearing for the Petitioners and Ms. Prabhune the learned AGP for Respondent No. 1-State and have considered the submissions canvassed by them.

3) It must be observed at the very outset that the Revision Application was filed by Petitioner No.1 after considerable delay. The order accepting the Change Report passed by the Assistant Charity Commissioner was passed on 15 February 2021, whereas Petitioner No.1 filed Revision Application No.260 of 2022 after considerable delay on 14 December 2022. Furthermore, though the Revision Application was filed by Petitioner No.1 alone, the present Petition is also filed by Ms. Shilpa Gurav, who did not even challenge the order of the Assistant Charity Commissioner before the Joint Charity Commissioner.

4) Perusal of the findings recorded by the Joint Charity Commissioner in the impugned judgment and order would indicate that notices were issued by the Assistant Charity Commissioner to the Petitioners. Such notices were both personal as well as public notice. The learned counsel for Petitioners would seek to suggest that the notices issued by Assistant Charity Commissioner were never received by the Petitioners. However, perusal of memo of Revision Application before the Joint Charity Commissioner would indicate that no averment about non-receipt of notices issued by Assistant Charity Commissioner were raised in the said Revision memo. Therefore, Petitioners cannot be permitted to now improve upon their case and argue before this Court that they did not receive notices issued by the Assistant Charity Commissioner.

5) Mr. Pandey would then attempt to contend that notices were issued during Covid-19 period and that therefore Petitioners were prevented from appearing before the Assistant Charity Commissioner. Again, there is no averment in the memo of Revision Application that Petitioners were prevented from appearing before the Assistant

Charity Commissioner on account of Covid-19 Pandemic. Mr. Pandey would then seek to suggest that Petitioners were at their native place and therefore could not attend before the Assistant Charity Commissioner. This submission is again oral, unsupported by any averment in writing in the memo of Revision Application. In fact, the afterthought contention of inability to appear before the Assistant Charity Commissioner on account of Covid-19 Pandemic and Petitioners being at native place, run counter to the earlier submissions that Petitioners never received any notices from Assistant Charity Commissioner. I am therefore, not inclined to accept the contradictory stands adopted by Petitioners with regard to service of notice issued by the Assistant Charity Commissioner.

6) Mr. Pandey would then submit that it was incumbent on the part of the Assistant Charity Commissioner to conduct a judicial enquiry before accepting the Change Report. Reliance is placed by him on judgment of Nagpur Bench of this Court in ***Sandeep Ram Meghe & Ors. V/s. Pundlikrao Balaji Gohad (Dead) and Ors.***¹ However, in the present case, no dispute created before Assistant Charity Commissioner by any of the outgoing trustees. It appears that the reporting trustee submitted letter of no objection signed by four outgoing trustees. True it is that the said letter does not bear signature of the Petitioners. This appears to be the reason why Assistant Charity Commissioner issued notices to the Petitioners, who failed to appear before the Assistant Charity Commissioner. In absence of existence of any dispute before him, the Assistant Charity Commissioner has proceeded to accept the Change Report based on minutes of meeting held on 4 November 2020.

¹ 2014(1) ALL MR 106

7) Considering the above position, I am not inclined to entertain the present Petition. Order passed by the Joint Charity Commissioner is unexceptionable.

8) Writ Petition is accordingly rejected.

[SANDEEP V. MARNE, J.]