

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4609 OF 2025

Komal Nishant Patil ... Petitioner
Vs.
Sushant Vijaykumar Patil & others ... Respondents

Mr. Akshay Patil a/w. Mr. Dhaval Patil i/b. M/s. Ashar & Co. for Petitioner.
Mr. Anil Anturkar, Senior Advocate (through VC) a/w. Mr. Amol A. Gatne for Respondent No.1.
Mr. J. P. Patil, AGP for Respondent Nos.2 and 3-State.

CORAM : MANISH PITALE, J.
DATE : JUNE 25, 2025

P.C. :

- . Heard Mr. Patil, learned counsel for the petitioner.
2. By this petition, the petitioner has challenged concurrent orders passed by respondent Nos.2 and 3.
3. Respondent No.3, by the impugned order dated 03.05.2019 accepted the change report submitted by the reporting trustee, which pertained to removal of the petitioner as a trustee of the trust and another person being inducted in place of the petitioner.
4. The said order was challenged by way of an appeal before respondent No.2 - Joint Charity Commissioner. By the impugned order dated 05.02.2025, the respondent No.2 has dismissed the appeal, thereby confirming the order of the Assistant Charity Commissioner. The principal ground raised on behalf of the petitioner, in the present petition, is that the principles of natural justice were flagrantly violated by the respondent No.3, inasmuch as the statutory mandate under Section 22 of the Maharashtra Public Trusts Act, 1950 read with Rules 7

and 7A framed thereunder was not followed and the change report under Section 22 of the aforesaid Act was allowed by a cryptic order, simply recording that there was no objection raised to the reported change.

5. The learned counsel for the petitioner invited attention of this Court to the material on record to demonstrate the drastic consequences, which have fallen upon the petitioner by acceptance of the change report and in that light, he submitted that violation of principles of natural justice completely vitiates the impugned orders and therefore, the said orders deserve to be set aside.

6. Mr. Patil, learned AGP appearing for respondent Nos.2 and 3 could not demonstrate as to in what manner the statutory mandate was satisfied and therefore, the record itself makes it clear that the specific stipulations in Section 22 of the said Act were not followed.

7. Mr. Anturkar, learned senior counsel appearing for respondent No.1 submitted that even if the factual position, as claimed by the petitioner, was to be accepted, merely because an allegation of violation of principles of natural justice was made on behalf of the petitioner, that in itself, ought not to lead to setting aside of the impugned orders, for the reason that the petitioner must plead and prove prejudice suffered as a consequence of such violation of principles of natural justice. In that regard, reliance was placed on the judgement of the Supreme Court in the case of *Haryana Financial Corpn. Vs. Kailash Chandra Ahuja*, **(2008) 9 SCC 31**.

8. This Court has considered the rival submissions. Section 22 of the aforesaid Act specifically provides under *proviso* to sub-section (2) thereof that in case such a change is reported, the Assistant Charity Commissioner is expected to issue notice inviting objections to such a change within 30 days from the date of publication of such notice and if

no objections are received within the said period of 30 days, the change which can be initially provisionally accepted within 15 days becomes final and entry thereof is required to be taken in the register under Section 17 of the said Act. Rules 7 and 7A of the Rules framed under the said Act provide for the manner of inquiries and public notice before making certain inquiries. Both the Rules specifically apply to Section 22 of the said Act, which pertains to reporting change, which indeed is the subject matter of the present writ petition.

9. Rule 7 of the said Rules specifically prescribes that in the Greater Bombay region notice would have to be served in the manner prescribed for trial of suits under the Presidency Small Cause Courts Act, 1882 and elsewhere under the Provincial Small Cause Courts Act, 1887. Rule 7A(3) prescribes that a public notice for such inquiry would have to be given either by advertisement in one or more local newspapers or by beat of drums etc.

10. There is nothing to show that, in the present case, the said Rules were complied with, while undertaking the inquiry contemplated under Section 22 of the said Act and accepting the change reported by the reporting trustee. There is a clear and flagrant violation of the principles of natural justice and therefore, the petitioner is justified in raising serious grievance regarding the same. It has to be appreciated that the petitioner is met with the drastic consequence of being removed from trusteeship as a result of a change being accepted, and therefore, it is all the more necessary for the principles of natural justice, incorporated in the statutory scheme of the said Act and Rules, to be followed to the hilt.

11. As regards the judgement in the case of **Haryana Financial Corpn. Vs. Kailash Chandra Ahuja** (*supra*) relied upon by the learned senior counsel appearing for respondent No.1, the same is not applicable to the facts of the present case. It is to be noted that the observations

made in the said judgement are in the context of a domestic enquiry, wherein one of the grounds raised by the delinquent employee was that the principles of natural justice were violated as he was not supplied with a copy of the report of the enquiry officer. It is in such circumstances, that the Supreme Court observed that the delinquent employee was required to plead and prove that non-supply of such report did cause prejudice to him, resulting in miscarriage of justice. The facts, in the present case, are clearly distinguishable and therefore, on the short ground of violation of principles of natural justice, the petitioner has made out a clear case in his favour.

12. In view of the above, the writ petition is allowed in terms of prayer clause (a), which reads as follows:-

“(a) This Hon’ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, Order or direction under Article 227 of the Constitution of India calling for the records of Appeal No.70 of 2025 and after looking into the legality and propriety thereof, to quash and / or set aside the impugned order dated 5th February, 2025 passed by the Ld. Joint Charity Commissioner, Respondent No.2 and Order dated 3rd May 2019 passed by the Ld. Assistant Charity Commissioner, Respondent No.3.”

13. Pending applications, if any, also stand disposed of.

(MANISH PITALE, J.)

Minal Parab