



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO. 3078 OF 2026

Dhanyakumar Santukrao Shivankar.

VERSUS

Dilip Dattappa Vasmatkar

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Advocate for Petitioner : Mr. S.S. Chillarge

CORAM : S. G. CHAPALGAONKAR, J.

Dated : March 24, 2026

ORDER :-

1. The petitioner impugns the order dated 19.1.2026 passed below Exhibit-37 in Appeal no.132 of 2024 pending before the learned Joint Charity Commissioner, Nanded Region, Nanded whereby application Exhibit-37 filed by the respondent is allowed and permission is granted to amend Exhibit 1 within a period of 14 days.

2. Respondent nos.1 and 2 filed change reports in inquiry no.351 of 2022. The A.C.C. by his order dated 21.6.2023 accepted the change report in inquiry 302 of 2022 and rejected the change report under inquiry no.351 of 2022. Aggrieved by order passed by the ACC in inquiry no.302 of 2022, respondent nos.1 and 2 preferred appeal bearing no.132 of 2024 before the Joint Charity Commissioner, at Nanded. The incoming

members of the Trust are not added as party. The petitioner raised objection stating that incoming trustees were not added as party in appeal. In response, respondent no.1 filed application below Exhibit-34 seeking permission to add the incoming trustees as party respondent nos.4 to 10 as per change report no.302 of 2022. The learned Joint Charity Commissioner allowed application Exhibit-37 permitting amendment, however, deferred decision on application Exhibit 40 filed by the petitioner whereby the objection as to non-joinder of necessary party was raised.

3. Mr. Chillarge, learned advocate appearing for the petitioner submits that petitioner had raised a specific objection as to non-joinder of necessary parties i.e. incoming trustees in appeal under section 70 of the Maharashtra Public Trusts Act, 1950. Without deciding said application, Joint Charity Commissioner decided application Exhibit-37 filed by the respondent and permitted amendment. He would submit that appeal was filed in the year 2024 without adding necessary parties. The petitioner had therefore filed an application below Exhibit 40 for rejection of appeal as not maintainable. It was obligatory on the part of learned Joint

Charity Commissioner to decide said application prior in time, instead of deciding application filed by respondent for addition of the parties. Mr. Chillarge, in support of his contentions relies upon observations of this Court in Writ Petition No.4307 of 2018 in case of **Dr. Ganesh Deokaranji Boob Vs. The Joint Charity Commissioner** decided on 20.7.2023 to contend that non-joinder of the necessary parties is fatal to the appeal.

4. I have considered submissions advanced on behalf of the petitioner.

5. Undisputedly, appeal no.132 of 2024 filed by the respondents against order passed in Inquiry Application no.302 of 2022 is pending. In said appeal, on 11.9.2024 the petitioner filed an application below Exhibit-40 raising objection of non-joinder of necessary parties and maintainability of the appeal.

6. It appears that respondent no.1 had already filed an application below Exhibit-37 seeking permission to amend the appeal and add the leftover trustees as parties in the appeal. The learned Joint Charity Commissioner allowed application of respondents and permitted to amend appeal and add left over trustees as party to the proceedings. Although, aforesaid order would take away the defense raised on behalf of petitioner

regarding non-joinder of necessary parties, it cannot be said that Joint Charity Commissioner is powerless to permit addition of parties, who were left over at the time of filing of the appeal.

7. Although, Mr. Chillarge, learned counsel relies upon observations of this Court in case of Dr. Ganesh (supra), in that case, objection to maintainability of the appeal was raised on the ground of non-joinder of necessary parties. In spite of such objection, learned Joint Charity Commissioner had decided application on merit and allowed the same. In this background, this court while entertaining writ petition against final order passed by the Joint Charity Commissioner held that order of the Joint Charity Commissioner is based on incorrect application of law. The Joint Charity Commissioner was wrong in observing that all the trustees were not necessary parties in application under section 70 of the Maharashtra Public Trusts Act.

8. In the present case, although there was defect at the time of filing appeal as all the trustees were not made parties, same is corrected by filing appropriate application for amendment, which has been allowed. Therefore, reliance of Mr. Chillarge on judgment in case of Ganesh Boob is irrelevant.

9. In light of aforesaid observations, this Court finds no merit in contention of petitioner. Needless to state that, objection as to limitation and maintainability of the appeal or effect of incorporating amendment regarding addition of other trustees after two years of filing the appeal can be considered by the Joint Charity Commissioner at the time of final decision in appeal. Such contentions are kept open to be raised before the Joint Charity Commissioner. With these observations, writ petition stands **rejected**.

(S. G. CHAPALGAONKAR, J.)

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