

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9757 OF 2024

Bhartiya Kala Prasarani Sabha Throu.
Its Sec. PushkrajBhalchandra Pathak

...Petitioner

Versus

Ld. Assistant Charity Commissioner IV Pune And
Anr.

...Respondents

Mr. Atul Damle *a/w Adv. Neha Wadekar, for the Petitioner.*

Mr. B. B. Dahiphale, A.G.P., for the State.

Mr. Avinash H. Fatangare *a/w Adv. Sandesh V. Kate, for Respondent No.2.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 4, 2026

ORDER :

1. The challenge in this Petition is to an order dated May 17, 2024, by which the Learned Assistant Charity Commissioner has expressed the view that each of the Petitioners, as well as the two Respondents has questioned the locus of the other, and that the respective applications filed by them be taken on record. The same would be considered concurrently along with the hearing of the original Application filed by Respondent Nos. 1 and 2, the maintainability of which is challenged by the Petitioner.

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2. On hearing the parties, it is apparent that the fundamental grievance of the Petitioner is that the two Respondents were not members of the Trust as of March 1, 2018. However, it is seen that the application has been filed on August 23, 2018, by the Respondents, providing a list of members from whom seven individuals are sought to be appointed as trustees in the Application. It is also common ground that the two Respondents had been removed from their positions as trustees on October 17, 2018, i.e., after the Application was filed.

3. However, the Petitioner would point to judgement by the Learned Single Judge of this Court, passed on June 9, 2020, upholding the approval by the Charity Commissioner of a members' list which did not contain the names of the two Respondents. A Learned Single Judge dealt with the challenge in Writ Petition No. 7170 of 2019 and Writ Petition (St) No. 20906 of 2019 and did not interfere with the approved list of members, which did not contain the names of the two Respondents as members.

4. Be that as it may, while that list was dated March 1, 2018, the two Respondents had continued as trustees until October 17, 2018, when they were removed in exercise of powers under Section 41D. It is

also common ground that such removal is itself the subject matter of a stay order, in the First Appeal filed in the matter.

5. In these circumstances, when one examines the Impugned Order, what is apparent is that the Learned Assistant Charity Commissioner has granted himself time to examine mixed questions of fact that are presented by the parties keeping all objections of the rival parties open for adjudication and has decided to hear the same concurrently.

6. By itself, in my view this does not call for interference. It is however made clear that the Learned Assistant Charity Commissioner would need to deal with the Petitioner's specific contention that the removal of the Respondents from the basic membership list as of March 1, 2018, which has been upheld by the Learned Single Judge in the judgement dated June 9, 2020, should be appropriately considered in the course of such concurrent examination of the competing Applications.

7. With the aforesaid directions, and with no other interference in the Impugned Order, the Petition is *disposed of*.

8. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]