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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6930 OF 2019
WITH
WRIT PETITION NO. 1831 OF 2023**

Chandra R. Matta and ORs ... Petitioner

vs.

Joint Charity Commissioner, Mumbai and Ors ... Respondents

**WITH
INTERIM APPLICATION(ST) NO. 8317 OF 2024
IN
WRIT PETITION NO. 6930 OF 2019**

Pradeep R. Matta ... Applicant

IN THE MATTER BETWEEN

Chandra R. Matta and Ors ... Petitioners

vs.

Joint Charity Commissioner, Mumbai and Ors ... Respondents

Ms. Sonal a/w Mr. Satishkumar Chettiyar i/b Mr. Sagar Kasar for petitioners in both petitions.

Mr. Shaikh Nasir Masih for respondent nos. 2, 4 to 9, 12 and 13 in Writ Petition No. 1831 of 2023.

Ms. Deepa Pohuja i/b Law Associates for respondent nos. 5,6,7 and 9 in Writ Petition No. 6930 of 2019.

Ms. S. S. Bhende, AGP for the State.



CORAM : GAURI GODSE, J.

DATED : 19th MARCH 2024

P.C. :-

1. Yesterday the petitions were extensively argued. I had already dictated the order in Writ Petition No. 6930 of 2019, admitting the petition.

2. After the connected Writ Petition No. 1831 of 2023, was separately argued, learned counsels for the respondents had taken time to take instructions on whether the respective respondents were agreeable to withdraw the applications filed before the Assistant Joint Charity Commissioner and Joint Charity Commissioner which are the subject matter of challenge in the aforesaid petitions and take out appropriate proceedings in accordance with law for agitating their grievances.. Hence, the petitions were directed to be listed today. However, learned counsel for respondent nos. 5 to 9 in Writ Petition No. 6930 of 2019, submits that she had not taken time to take any such instructions and hence, the order dictated yesterday in Writ Petition No. 6930 of 2019, be maintained by which the petition was admitted and interim relief was not granted.



3. Hence, in Writ Petition No. 6930 of 2019, the following order which was dictated yesterday is passed:-

1. Heard.

2. Learned counsel for the petitioners on instructions submits that so far challenge to clause 1 of the operative part of the order is concerned, petitioners are not pressing the challenge. She submits that so far as clause 2 of the operative part of the impugned order is concerned, the same is beyond the scope and jurisdiction of Section 41E of the Maharashtra Public Trust Act. She further submits that though under sub-section 5 of Section 41E, an appeal is maintainable against a common order passed under Section 41E, the present petition would require consideration as the operative part in clause 2 of the impugned order is beyond the scope of Section 41E. She further submits that the directions issued against petitioner no. 1 restraining her from acting as Secretary of the Trust is contrary to the order dated 28th February 1991 passed by the Joint Charity Commissioner.

3. Learned counsel for respondent nos. 5 to 9 disputes the aforesaid submissions. She submits that the petitioners have committed perjury by inserting handwritten words in the Trust Deed which is for the first time produced before this Court. She submits that she has filed a separate application making a grievance concerning the same.

4. It appears that two groups are claiming to be members



of the elected body of the Trust and the respective change reports are still pending adjudication before the Assistant Charity Commissioner.

5. In view of the grounds of challenge raised on behalf of petitioners, the petition would require consideration.

6. Hence, **Rule.**

7. Ms. Pohuja, waives service for respondent nos. 5 to 9.

8. Since there is a serious dispute with regard to the membership/Trusteeship of petitioner no. 1 and various proceedings are pending before the Assistant Charity Commissioner including adjudication on the change reports filed by the rival groups, I do not see any reason to stay the implementation of the impugned order which has been in operation since 8th May 2019. Hence, no interim relief.

9. Interim Application St No. 8317 of 2024 filed by respondent no. 5 would be heard along with the writ petition.

WRIT PETITION NO. 1831 OF 2023

10. Arguable points raised in Writ Petition No. 1831 of 2023, hence the said petition would also require consideration.

11. Hence, Rule.

12. Mr. Masih, waives notice on behalf of Respondent Nos. 2, 4 to 9, 12 and 13.



13. By the impugned order dated 26th December 2022, direction was issued by the Joint Charity Commissioner for forwarding proceeding to the concerned Deputy Charity Commissioner for enquiry under Section 37 and to submit a report as per Section 39 and also proposed prosecution against opponents as per Section 83 of the Maharashtra Public Trust Act ('**Trust Act**'), if so required. The second order impugned in the petition is dated 3rd January 2023, by which directions are issued permitting Mr. Rahul Singh to continue as a signatory for the entire school administration apart from the direction given by this Court on 5th January 2022. Various other directions are issued by the said order including not to take any policy decision by anybody till the disposal of all the pending matters before any authority.

14. Learned counsel for the petitioner submits that the said orders are purportedly passed in an application by registering the proceedings on the letter of Pradeep Ramesh Matta and Manjit Singh Jodh Singh Abrol. She submits that the said directions are beyond the scope of section 41E and do not comply parameters of section 37. So far as the second impugned order dated 3rd January 2023 is concerned, the learned counsel for the petitioner submits that such an order passed under section 41E of the Trust Act is



again beyond the scope and ambit of section 41E. Considering the exhaustive directions issued by the impugned order, the petition would require consideration.

15. It is not in dispute that there are rival groups who are claiming to be elected managing committees of the trust. It is further not disputed that the respective change reports are pending before the concerned Deputy Charity Commissioner. Considering, the undisputed position that two rival groups are claiming elected managing committee of the trust and respective change reports are still pending adjudication, *prima facie*, I am of the view that the directions as issued by way of the impugned orders could not have been passed without there being an enquiry on the change reports. Even otherwise, directions issued by order dated 26th December 2022, *prima facie* do not appear to comply with the requirement of Section 37 read with Section 39 of the Trust Act. I am of the *prima facie* view that even the directions issued on 3rd January 2023, are beyond the scope of Section 41E. Hence, during the pendency of the petition, there will be interim relief in terms of prayer clause (c) which reads as under:

“Pending the hearing and final disposal of the present petition, this Hon’ble Court be pleased to stay the effect, operation and implementation of the aside Impugned Order



dated 26.12.2022 passed in Misc. Application No. 39 of 2022 and Impugned Order dated 03.01.2023 passed in Application No. 1186 of 2018 passed by the Ld JCC, Mumbai, and Impugned Order dated 26.12.2022 in Application 1209 of 2018.”

16. At this stage learned counsel appearing for respondent nos. 2, 4 to 9, 12 and 13, submits that the directions issued in the order dated 26th December 2022 are already implemented. Learned counsel for the petitioner disputes the said statement. Hence, it is clarified that in the event any action is taken pursuant to the impugned orders, further implementation of the order dated 26th December 2022, passed in Miscellaneous Application No. 39 of 2022 and the impugned order dated 3rd January 2023 passed in Application No. 1186 of 2018 shall remain stayed.

(GAURI GODSE, J.)