

(2002) 04 BOM CK 0032

In the Bombay High Court

Case No : Writ Petition No. 1662 of 2002

Madanrao Chavan

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 23-04-2002

Acts Referred:

Bombay Public Trusts Act, 1950 — Section 22, 22(1)

Citation : (2003) 1 BomCR 447 : (2002) 4 MhLj 872

Hon'ble Judges : D.G. Karnik, J

Bench : Single Bench

Advocate : R.S. Shinde, for the Appellant; M.L. Dharashive, A.G.P. for respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

D.G. Karnik, J.—Heard the learned counsel for respective parties.

2. The petitioner claims to be a trustee and Chairman of respondent No. 3 Trust. Respondent No. 4 was the Secretary of the Trust at the relevant time. Respondent No. 4 filed a change report on 30th April 2001 stating therein that new trustees/Managing Committee were elected unopposed in the general meeting held on 29th December 2000,

3. Under Sub-section (1) of Section 22 of the Bombay Public Trusts Act, 1948 (for short the Act) the change report is required to be filed within a period of 90 days of the occurrence of the change. This change report filed by respondent No. 4 was delayed by about a month.

4. Respondent No. 4 filed separate application for condonation of delay in filing of the change report. The application for condonation of delay was not filed along with the change report but was filed subsequently. The petitioner contends that application for condonation of delay should have been filed along with change report. There is no law which requires that application for condonation of delay must accompany the change report. The person applying for change report may

be under a bona fide impression that the change report is in time. It is only when the office raises an objection that the applicant may become aware that there is delay that he may need to file the delay condonation application and explain the delay.

5. The Assistant Charity Commissioner allowed the application for condonation of the delay. The petitioner challenges this order of condonation of delay. It is well settled that Court should be liberal in condoning the delay. It is not necessary to explain each day's delay. The learned Assistant Charity Commissioner has properly condoned the delay.

6. Another aspect must be borne in mind. The application for the condonation of delay in filing of a change report is different from an application for the condonation of delay in filing an appeal. Successful person in whose favour, the trial Court has passed an order claims that certain rights are accrued to him because of the order. In case of a change report u/s 22 rights of any persons are not affected. The persons who have ceased to be trustee cannot say they are continue to be trustees because new body has not filed the change report in time. Past trustees cannot claim extension of their term/tenure on account of failure of a newly elected body to file the change report in time. The delay in filing of a change report should therefore be condoned as a matter of course, unless there are special reasons not to do so.

7. No error is shown in the order of the Assistant Charity Commissioner in condoning the delay. Petition is rejected summarily.