IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1394 OF 2017

1. Sachin s/o Madhukarrao Mulay
age 50 years, occ. Business
r/o 'Sai Sharan' Gut No. 41,
Golwadi, Paithan Road,
Aurangabad
Tq. & Dist. Aurangabad.

2. Bhausaheb s/o Rangnath Thombre
age 65 years, occ. Agriculture
r/o Yeshwant Colony, Vaijapur
Tq. Vaijapur, Dist. Aurangabad. .. Appellants

Versus

1. Satish s/o Bhanudas Chavan
age 53 years, occ. Agriculture
r/o 9/10, 'Supriya', Jyoti Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

2. Mansingh s/o Balasaheb Pawar
agemajor, occ. Agriculture & business
r/o Ratnaprabha Motors, E-32
M.I.D.C., Chikalthana, Aurangabad.
Tq. & Dist. Aurangabad.

3. Meghraj s/o Baburao Adaskar
Deceased (deleted)

4. Chandrashekhar s/o venkatrao Rajurkar
age major, occ. Agriculture
r/o Hotel devidoot, Samarth Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

5. Prakash s/o Sundarrao Solunke
age major, occ. Agriculture and business
r/o Gajanan Nagar, Majalgaon, Tq. Majalgaon
Dist. Beed.

6. Nitin s/o Rajaram Thorat
age major, occ. Agirculture and business
r/o 15-B, S.B. Colony, Aurangabad.
Tq. & Dist. Aurangabad.

7. Amarsingh s/o Shivajirao Pandit
age major, occ. Agriculture and business
r/o Subhash Road, Beed
Tq. & Dist. Beed.

8. Dr. Avinash s/o Daulatrao Yelikar
age major, occ. Medical Practitioner
r/o 12, Uaday nagar, Samarth Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

9. Prabhakar s/o Manikrao Palodkar
age major, occ. Agriculture
r/o At Post Sillod, Tq. Sillod
Dist. Aurangabad.

10. Shaikh Ahmed Shaikh Chand } Dead as per Court order dated 10.04.19

11. Macchindra s/o Tatyasaheb Deshmukh
age major, occ. Agriculture and business
r/o Flat No. 303, Tapadiya Nagar
Silver Nest Colony, Shahanoor Miya
Dargah Road, Aurangabad.
Tq. & Dist. Aurangabad.

12. Mohanrao s/o vinayakrao Sawant
age major, occ. Agriculture and business
r/o 'Raghukul', New Osmanpura
Aurangabad.
Tq. & Dist. Aurangabad.

13. Anil s/o Sakharam Nakhate
age major, occ. Agriculture and business
r/o Sai Colony, Pathri, Tq. Pathri
Dist. Parbhani.

14. Abhijit s/o vijaykumar Awargaonkar
age major, occ. Agriculture and business
r/o Hotel Panchawati, Padampura
Aurangabad.

Tq. & Dist. Aurangabad.

15. Arjunrao s/o Laxmanrao Jaher Patil
age 60 years, occ. Agriculture and business
r/o Marathwada udyog Mandal Jalna Road
Beed Tq. & Dist. Beed.

16. Pandharinath s/o Gangadhar Pawar
age 70 years, occ. Retired
r/o Yashwant Colony, Vaijapur
Tq. Vaijapur,Dist. Aurangabad.

17. Vitthalrao s/o Pandurang Lahane
age 71 years, occ. Agriculture
r/o 'Gurukrupa' Mhada Colony
Near Shahnoor Miya Railway Gate
Shahnoorwadi, Aurangabad.
Tq. & Dist. Aurangabad.

18. Padmakar s/o Haribhau Mulay
age 72 years, occ. Agril
r/o "sahyadri' Rachanakar Colony
Aurangabad.

19. Vishwanathrao s/o Bhanudasrao Tupe Patil
age 55 years, occ. Business
r/o Sai Vrindavan, Behind Mahanubhav
Ashram, Pathan Road, Aurangabad.
Tq. & Dist. Aurangabad.

20. Madhukarrao s/o Haribhau Mulay
age 78 years, occ. Business
r/o 'Shivneri' Govind Nagar
Bansilal Nagar Station Road
Aurangabad.
Tq. & Dist. Aurangabad.

21. Vishwanath Jadhav (deceased)

22. Kiran s/o vishwanathrao Jadhav
age 46 years, occ. Agriculture
r/o 5-6-18, 'Vishwalata',
New Osmanpura, Aurangabad.
Tq. & Dist. Aurangabad.

23. Chandrashekhar s/o Sharad Shelar

age 45 years,occ. Agriculture
r/o 20, Revti Housing Society
Itkheda,Aurangabad.
Tq. & Dist. Aurangabad.

24. Laxmanrao S. Ubale
occ. Agriculture and business
r/o 'Janki' N-5, South Sawarkar Nagar
CIDCO, Aurangabad.
Tq. & Dist. Aurangabad.

25. Vijay s/o Sampatrao Borade
occ. Agriculture
r/o A-10, Plot No. 36, N-1
CIDCO, Aurangabad.
Tq. & Dist. Aurangabad.

26. Dr. Lav s/o Bhagwanrao Pansambhal
occ. Medical Practice
r/o near Rajuri Ves, Beed
Tq. & Dist. Beed.

27. The Marathwada Shikshan Prasarak Mandal
though is President
Deogiri College Campus, Station Road,
Aurangabad.
Tq. & Dist. Aurangabad.

28. The Deputy Charity Commissioner
Aurangabad.

29. The Joint Charity Commissioner
Aurangabad.

30. The Charity Commissioner
Maharashtra State, Mumbai
Annie Besant Road,
Woroli Naka, Mumbai. .. Respondents

Mr. V. J. Dhage, Advocate for appellants.
Mr. S. V. Hange, AGP for the State.
Mr. D. J Choudhari, Advocate for respondent No. 14.
Mr. R. S. Deshmukh, Senior Counsel instructed by Mr. D. R. Deshmukh, Advocate for respondents No. 17, 18 and 20.
Mr. V. D. Hon, Senior Counsel instructed by Mr. A. V. Hon, Advocate for respondent No. 24.

Mr. N. B. Khandare, Advocate for respondents No. 1, 7 and 27.
Mr. S. V. Adwant, Advocate for respondents No. 2, 4 to 6, 9, 13, 15, 17, 19 and 27.

WITH
FIRST APPEAL NO. 1210 OF 2017

1. Pandharinath s/o Gangadhar Pawar
age 66 years, occ. Retired
r/o Yashwant Colony, Vaijapur
Tq. Vaijapur,Dist. Aurangabad.

2. LaxmanS. Ubale
age 56 years, occ. Agriculture
r/o Janaki,N-5, South Savarkarnagar
CIDCO, Aurangabad. .. Appellants

Versus

1. Satish s/o Bhanudas Chavan
age 53 years, occ. Agriculture
r/o 9/10, 'Supriya', Jyoti Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

2. Mansingh s/o Balasaheb Pawar
agemajor, occ. Agriculture & business
r/o Ratnaprabha Motors, E-32
M.I.D.C., Chikalthana, Aurangabad.
Tq. & Dist. Aurangabad.

3. Chandrashekhar s/o venkatrao Rajurkar
age major, occ. Agriculture
r/o Hotel devidoot, Samarth Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

4. Prakash s/o Sundarrao Solunke
age major, occ. Agriculture and business
r/o Kesapuri Camp, Tq. Majalgaon
Dist. Beed.

5. Nitin s/o Rajaram Thorat
age major, occ. Agirculture and business
r/o 15-B, S.B. Colony, Aurangabad.

Tq. & Dist. Aurangabad.

6. Amarsingh s/o Shivajirao Pandit
age major, occ. Agriculture and business
r/o Subhash Road, Beed
Tq. & Dist. Beed.

7. Dr. Avinash s/o Daulatrao Yelikar
age major, occ. Medical Practitioner
r/o 12, Uaday nagar, Samarth Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

8. Prabhakar s/o Manikrao Palodkar
age major, occ. Agriculture
r/o At Post Sillod, Tq. Sillod
Dist. Aurangabad.

9. Shaikh Ahmed Shaikh Chand } Dead as per Court order dated 10.04.19

10. Macchindra s/o Tatyasaheb Deshmukh
age major, occ. Agriculture and business
r/o Flat No. 303, Tapadiya Nagar
Silver Nest Colony, Shahanoor Miya
Dargah Road, Aurangabad.
Tq. & Dist. Aurangabad.

11. Mohanrao s/o vinayakrao Sawant
age major, occ. Agriculture and business
r/o 'Raghukul', New Osmanpura
Aurangabad.
Tq. & Dist. Aurangabad.

12. Anil s/o Sakharam Nakhate
age major, occ. Agriculture and business
r/o Sai Colony, Pathri, Tq. Pathri
Dist. Parbhani.

13. Abhijit s/o vijaykumar Awargaonkar
age major, occ. Agriculture and business
r/o Hotel Panchawati, Padampura
Aurangabad.
Tq. & Dist. Aurangabad.

14. Arjunrao s/o Laxmanrao Jaher Patil

age 60 years, occ. Agriculture and business
r/o Marathwada udyog Mandal Jalna Road
Beed Tq. & Dist. Beed.

15. Sachin s/o Madhukarrao Mulay
age 41 years,occ. Business
r/o Saisharan, Gat No. 41, Golwadi
Pathan Road, Aurangabad.

16. Vitthalrao s/o Pandurang Lahane
age 71 years, occ. Agriculture
r/o 'Gurukrupa' Mhada Colony
Near Shahnoor Miya Railway Gate
Shahnoorwadi, Aurangabad.
Tq. & Dist. Aurangabad.

17. Padmakar s/o Haribhau Mulay
age 72 years, occ. Agril
r/o "sahyadri' Rachanakar Colony
Aurangabad.

18. Vishwanathrao s/o Bhanudasrao Tupe Patil
age 55 years, occ. Business
r/o Sai Vrindavan, Behind Mahanubhav
Ashram, Pathan Road, Aurangabad.
Tq. & Dist. Aurangabad.

19. Madhukarrao s/o Haribhau Mulay
age 78 years, occ. Business
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Bansilal Nagar Station Road
Aurangabad.
Tq. & Dist. Aurangabad.

20. Vishwanath Jadhav (deceased)

21. Kiran s/o vishwanathrao Jadhav
age 46 years, occ. Agriculture
r/o 5-6-18, 'Vishwalata',
New Osmanpura, Aurangabad.
Tq. & Dist. Aurangabad.

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age 45 years,occ. Agriculture
r/o 20, Revti Housing Society
Itkheda,Aurangabad.

Tq. & Dist. Aurangabad.

23. Bhausaheb s/o Rangnath Thombre
age 66 years, occ. Agriculture
r/o Yeshwant Colony, Vaijapur
Dist. Beed.

24. Vijay s/o Sampatrao Borade
occ. Agriculture
r/o A-10, Plot No. 36, N-1
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though is President
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Maharashtra State, Mumbai
Annie Besant Road,
Woroli Naka, Mumbai. .. Respondents

Mr. V. D. Hon, Senior Counsel instructed by Mr. A. V. Hon, Advocate for appellants.
Mr. S. V. Hange, AGP for the State.
Mr. N. B. Khandare, Advocate for respondents No. 1, 6 and 26.
Mr. S. V. Adwant, Advocate for respondent No. 8.
Mr. D.J. Choudhari, Advocate for respondent No. 13.
Mr. R. S. Deshmukh, Senior Counsel, instructed by Mr. D.R. Deshmukh, Advocate for respondents No. 16, 17 and 19.

WITH
FIRST APPEAL NO. 1053 OF 2017

1. Vithalrao s/o Pandurang Lahane
age 72 years, occ. Agri
r/o "Gurukrupa" MHAD Colony
Aurangabad.

2. Madhukarrao s/o Haribhau Mulay
age 80 years, occ. Business
r/o Shivneri, Govindnagar
Bansilalnagar, Aurangabad. .. Appellants

Versus

1. Satish s/o Bhanudas Chavan
age 53 years, occ. Agriculture
r/o 9/10, 'Supriya', Jyoti Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

2. Meghraj s/o Baburao Adaskar
Deceased (deleted)

3. Chandrashekhar s/o venkatrao Rajurkar
age major, occ. Agriculture
r/o Hotel devidoot, Samarth Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

4. Prakash s/o Sundarrao Solunke
age major, occ. Agriculture and business
r/o Gajanan Nagar, Majalgaon, Tq. Majalgaon
Dist. Beed.

5. Mansingh s/o Balasaheb Pawar
age 45 years, occ. Agriculture and business
r/o Ratnaprabha Motors
E-32, M.I.D.C. Chikalthana
Aurangabad, Tq. & Dist. Aurangabad.

6. Nitin s/o Rajaram Thorat
age major, occ. Agirculture and business
r/o 15-B, S.B. Colony, Aurangabad.
Tq. & Dist. Aurangabad.

7. Amarsingh s/o Shivajirao Pandit
age major, occ. Agriculture and business
r/o Subhash Road, Beed
Tq. & Dist. Beed.

8. Dr. Avinash s/o Daulatrao Yelikar
age major, occ. Medical Practitioner
r/o 12, Uaday nagar, Samarth Nagar
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Tq. & Dist. Aurangabad.

9. Prabhakar s/o Manikrao Palodkar
age major, occ. Agriculture
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age major, occ. Agriculture and business
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15. Arjunrao s/o Laxmanrao Jaher Patil
age 60 years, occ. Agriculture and business
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Beed Tq. & Dist. Beed.

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age 41 years, occ. Business
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17. Vitthalrao s/o Pandurang Lahane
age 71 years, occ. Agriculture
r/o 'Gurukrupa' Mhada Colony
Near Shahnoor Miya Railway Gate
Shahnoorwadi, Aurangabad.
Tq. & Dist. Aurangabad.

18. Pandharinath s/o Gangadhar Pawar
age 70 years, occ. Retired
r/o Yashwant Colony, Vaijapur
Tq. Vaijapur,Dist. Aurangabad.

19. Vishwanathrao s/o Bhanudasrao Tupe Patil
age 55 years, occ. Business
r/o Sai Vrindavan, Behind Mahanubhav
Ashram, Pathan Road, Aurangabad.
Tq. & Dist. Aurangabad.

20. Kiran s/o Vishwanathrao Jadhav
age 46 years, occ. Agriculture
r/o 5-6-18, 'Vishwalata'
Near Osmanpura, Aurangabad
Tq. & Dist. Aurangabad.

21. Chandrashekhar s/o Sharad Shelar
age 45 years, occ. Agriculture
r/o 20, Revti Housing Society
Itkheda, Aurangabad
Tq. & Dist. Aurangabad.

22. Bhausaheb s/o rAngnath Thombre
age 65 years, occ. Agri.
r/o yshwant Colony, Vaijapur
Tq. Vaijapur, Dist. Aurangabad.

23. Vijay s/o Sampatrao Borade
age 55 years, occ. Agriculture

r/o A-10, Plot No. 36, N-1
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Tq. & Dist. Aurangabad.

24. Dr. Lav s/o Bhagwanrao Pansambhal
occ. Medical Practice
r/o near Rajuri Ves, Beed
Tq. & Dist. Beed.

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Aurangabad.

28. The Charity Commissioner
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Annie Besant Road,
Woroli Naka, Mumbai. .. Respondents

Mr. R. S. Deshmukh, Senior Counsel instructed by Mr. D. R. Deshmukh, Advocate for appellants.
Mr. S. V. Hange, AGP for the State.
Mr. S. V. Adwant, Advocate for respondent No. 9.
Mr. D. J. Choudhari, Advocate for respondent No. 13.
Mr. V. D. Hon, Senior Counsel instructed by Mr. A. V. Hon, Advocate for respondent No. 25.
Mr. N. B. Khandare, Advocate for respondents No. 1, 7 and 26.

WITH
FIRST APPEAL NO. 1052 OF 2017

1. Shri kiran s/o Vishwanathrao Jadhav
age 46 years, oc. Agril.
r/o 5-6-18, 'Vishwalata'
New Osmanpura

Aurangabad.

2. Shri Chandrashekhar s/o Sharad Shelar
age 45 years, occ. Agril
r/o 20, RevtiHousing Society
Itkheda,Aurangabad. .. Appellants

Versus

1. Shri Satish s/o Bhanudas Chavan
age 53 years, occ. Agriculture
r/o 9/10, 'Supriya', Jyoti Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

2. Shri Mansingh s/o Balasaheb Pawar
agemajor, occ. Agriculture & business
r/o Ratnaprabha Motors, E-32
M.I.D.C., Chikalthana, Aurangabad.
Tq. & Dist. Aurangabad.

3. Shri Meghraj s/o Baburao Adaskar
Deceased (deleted)

4. Shri Chandrashekhar s/o venkatrao Rajurkar
age major, occ. Agriculture
r/o Hotel devidoot, Samarth Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

5. Shri Prakash s/o Sundarrao Solunke
age major, occ. Agriculture and business
r/o Gajanan Nagar, Majalgaon, Tq. Majalgaon
Dist. Beed.

6. Shri Nitin s/o Rajaram Thorat
age major, occ. Agirculture and business
r/o 15-B, S.B. Colony, Aurangabad.
Tq. & Dist. Aurangabad.

7. Shri Amarsingh s/o Shivajirao Pandit
age major, occ. Agriculture and business
r/o Subhash Road, Beed
Tq. & Dist. Beed.

8. Shri Dr. Avinash s/o Daulatrao Yelikar

age major, occ. Medical Practitioner
r/o 12, Uaday nagar, Samarth Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

9. Shri Prabhakar s/o Manikrao Palodkar
age major, occ. Agriculture
r/o At Post Sillod, Tq. Sillod
Dist. Aurangabad.

10. Shaikh Ahmed Shaikh Chand } Dead as per Court order dated 10.04.19

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age major, occ. Agriculture and business
r/o Flat No. 303, Tapadiya Nagar
Silver Nest Colony, Shahanoor Miya
Dargah Road, Aurangabad.
Tq. & Dist. Aurangabad.

12. Shri Mohanrao s/o vinayakrao Sawant
age major, occ. Agriculture and business
r/o 'Raghukul', New Osmanpura
Aurangabad.
Tq. & Dist. Aurangabad.

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age major, occ. Agriculture and business
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Dist. Parbhani.

14. Shri Abhijit s/o vijaykumar Awargaonkar
age major, occ. Agriculture and business
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Aurangabad.
Tq. & Dist. Aurangabad.

15. Shri Arjunrao s/o Laxmanrao Jaher Patil
age 60 years, occ. Agriculture and business
r/o Marathwada udyog Mandal Jalna Road
Beed Tq. & Dist. Beed.

16. Shri Sachin s/o Madhukarrao Mulay
age 40 years, occ. Business
r/o 'Sai Sharan' Gat No. 41,
Golwadi, Paithan Road

Aurangabad.

17. Shri Vitthalrao s/o Pandurang Lahane
age 71 years, occ. Agriculture
r/o 'Gurukrupa' Mhada Colony
Near Shahnoor Miya Railway Gate
Shahnoorwadi, Aurangabad.
Tq. & Dist. Aurangabad.

18. Shri Padmakarrao s/o Haribhau Mulay
age 72 years, occ. Agril
r/o "sahyadri' Rachanakar Colony
Aurangabad.

19. Shri Pandharinath s/o Gangadhar Pawar
age 70 years, occ. Retired
r/o Yeshwant Colony
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age 55 years, occ. Business
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age 46 years, occ. Agriculture
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Itkheda,Aurangabad.
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28. The Marathwada Shikshan Prasarak Mandal
though is President
Deogiri College Campus, Station Road,
Aurangabad.
Tq. & Dist. Aurangabad.

.. Respondents

Mr. P. D. Bachate and Mr. S. B. Kulkarni, Advocates for appellants.
Mr. S. V. Hange, AGP for the State.
Mr. S. V. Adwant, Advocate for respondents No. 9 and 10.
Mr. D. J. Choudhari, Advocate for respondent no. 14.
Mr. R. S. Deshmukh, Senior Counsel instructed by Mr. D. R. Deshmukh, Adovcate for respondents No. 17, 18 and 21.
Mr. N. B. Khandare, Advocate for respondents No. 1, 7 and 28.

WITH
FIRST APPEAL NO. 1054 OF 2017

Padmakarrao s/o Haribhau Mulay
age 72 years, occ. Business
r/o 'Sahyadri' Rachnakar Colony
Aurangabad. .. Appellant

Versus

1. Satish s/o Bhanudas Chavan
age 53 years, occ. Agriculture

r/o 9/10, 'Supriya', Jyoti Nagar
Aurangabad.
Tq. & Dist. Aurangabad.

2. Mansingh s/o Balasaheb Pawar
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Dist. Aurangabad.

10. Shaikh Ahmed Shaikh Chand } Dead as per Court

11. Macchindra s/o Tatyasaheb Deshmukh
age major, occ. Agriculture and business
r/o Flat No. 303, Tapadiya Nagar
Silver Nest Colony, Shahanoor Miya
Dargah Road, Aurangabad.
Tq. & Dist. Aurangabad.

12. Mohanrao s/o vinayakrao Sawant
age major, occ. Agriculture and business
r/o 'Raghukul', New Osmanpura
Aurangabad.
Tq. & Dist. Aurangabad.

13. Anil s/o Sakharam Nakhate
age major, occ. Agriculture and business
r/o Sai Colony, Pathri, Tq. Pathri
Dist. Parbhani.

14. Abhijit s/o vijaykumar Awargaonkar
age major, occ. Agriculture and business
r/o Hotel Panchawati, Padampura
Aurangabad.
Tq. & Dist. Aurangabad.

15. Arjunrao s/o Laxmanrao Jaher Patil
age 60 years, occ. Agriculture and business
r/o Marathwada udyog Mandal Jalna Road
Beed Tq. & Dist. Beed.

16. Sachin s/o Madhukarrao Mulay
age 41 years, occ. Business
r/o 'Sai Sharan' Gut No. 41
Golwadi, Paithan Road
Aurangabad, Tq. & Dist. Aurangabad.

17. Vitthalrao s/o Pandurang Lahane
age 71 years, occ. Agriculture
r/o 'Gurukrupa' Mhada Colony
Near Shahnoor Miya Railway Gate
Shahnoorwadi, Aurangabad.
Tq. & Dist. Aurangabad.

18. Pandharinath s/o Gangadhar Pawar
age 70 years, occ. Retired

r/o Yeshwant Colony, Vaijapur
Tq Vaijapur, Dist. Aurangabad.

19. Vishwanathrao s/o Bhanudasrao Tupe Patil
age 55 years, occ. Business
r/o Sai Vrindavan, Behind Mahanubhav
Ashram, Pathan Road, Aurangabad.
Tq. & Dist. Aurangabad.

20. Madhukarrao s/o Haribhau Mulay
age 78 years, occ. Business
r/o 'Shivneri' Govind Nagar
Bansilal Nagar Station Road
Aurangabad.
Tq. & Dist. Aurangabad.

21. Vishwanath Jadhav (deceased)

22. Kiran s/o vishwanathrao Jadhav
age 46 years, occ. Agriculture
r/o 5-6-18, 'Vishwalata',
New Osmanpura, Aurangabad.
Tq. & Dist. Aurangabad.

23. Chandrashekhar s/o Sharad Shelar
age 45 years,occ. Agriculture
r/o 20, Revti Housing Society
Itkheda,Aurangabad.
Tq. & Dist. Aurangabad.

24. Bhausaheb s/o Rangnath Thombre
age 65 years, occ. Agri
r/o Yeshwant Colony, Vaijapur
Tq. Vaijapur Dist. Aurangabad.

25. Vijay s/o Sampatrao Borade
occ. Agriculture
r/o A-10, Plot No. 36, N-1
CIDCO, Aurangabad.
Tq. & Dist. Aurangabad.

26. Dr. Lav s/o Bhagwanrao Pansambhal
occ. Medical Practice
r/o near Rajuri Ves, Beed
Tq. & Dist. Beed.

27. Laxmanrao S. Ubale
age 65 years, occ. Agriculture and business
r/o 'Janki' N-5
South Sawarkar Nagar, CIDCO
Aurangabad, Tq. & Dist. Aurangabad.

28. The Marathwada Shikshan Prasarak Mandal
though is President
Deogiri College Campus, Station Road,
Aurangabad.
Tq. & Dist. Aurangabad.

29. The Deputy Charity Commissioner
Aurangabad.

30. The Charity Commissioner
Maharashtra State, Mumbai
Annie Besant Road,
Woroli Naka, Mumbai. .. Respondents

Mr. R. S. Deshmukh, Senior Counsel instructed by Mr. D. R. Deshmukh, Advocate for appellants.
Mr. S. V. Hange, AGP for the State.
Mr. D. J. Choudhari, Advocate for respondent No. 14.
Mr. V. D. Hon, Senior Counsel instructed by Mr. A. V. Hon, Advocate for respondents No. 18 and 27.
Mr. N. B. Khandare, Advocate for respondents No. 1, 7 and 28.
Mr. S. V. Adwant, Advocate for respondents No. 2, 4 to 6, 8, 9, 13, 15, 17, 19, 20 and 25.

CORAM : R. M. JOSHI, J.
DATE : 7th FEBRUARY, 2024.

JUDGMENT :

1. These appeals take exception to common judgment and order dated 14th December, 2016, passed in MARJI No. 47/2016, 50/2016 and 53/2016 whereby the order dated 21st January, 2016 passed by the Charity Commissioner, Mumbai in Appeals No. 75/2015, 76/2015 and 81/2015 was confirmed. These appeals were

filed challenging judgment and order dated 16th June, 2015 passed by Deputy Charity Commissioner, Aurangabad in Enquiry Petition No. J-1/247/2013 whereby change report dated 12th July, 2013 filed by Satish Bhanudas Chavan was rejected.

2. Since common questions of fact and law are involved in these appeals, they are decided together.

3. Parties are referred to by their nominclature in First Appeal No. 1394/2017 for the sake of convenience.

4. Admit. Heard finally by consent of both sides.

5. Marathwada Shikshan Prasarak Mandal, Aurangabad is a public trust registered under the Societies Registration Act, 1860 and The Maharashtra Public Trusts Act, 1950. The last election of the Executive Council of the said Trust was held for the term of 2008-2013 which was to expire on 9th July, 2013. Appellants were elected in the said election. There are total 179 members in the General Body of the said Trust. On 18th June, 2013, the Executive Council of the Trust in its meeting decided to hold General Body

Meeting on 10th July, 2013 for election of office bearers and members of Executive Council of the said Trust. In the said meeting, advocates were appointed as Election Officer and Joint Election Officer in accordance with Section 9 of the relevant bye-laws. Some petitions were filed against their appointment. Hence, both of them decided not to act as Election Officer and Joint Election Officer and communicated their inability. As the Election Officer refused to conduct election, appellant No. 4 called a emergent meeting of Executive Council and as the members in the meeting were less than 7, the President i.e. respondent No. 17 suspended the meeting for half an hour and then conducted emergent meeting of Executive Council. Notice of cancellation of General Body Meeting on 10th July, 2013 was given to the members of the said Trust by respondent No. 20 through SMS and also by publication in the newspaper on 10th July, 2013. It is the case of appellants that contesting respondents inspite of having knowledge about cancellation of General Body Meeting, created a show of holding election and illegally declared themselves as elected unanimously. Pursuant to the alleged election, change report dated 12th July, 2013 was filed by respondent No. 1 being Enquiry Petition J-1/247/2013 before the Deputy Charity

Commissioner under Section 22 read with Section 17 of Maharashtra Public Trusts Act.

6. By order dated 16th June, 2015, the Deputy Charity Commissioner, Aurangabad, after conducting enquiry under Section 22 of the said Act, recorded findings in favour of appellants and rejected change report. Contesting respondents, being aggrieved by said judgment and order dated 16th June, 2015, preferred appeal bearing Appeal No. 75/2015, 76/2015 and 81/2015 before the Joint Charity Commissioner, Aurangabad. Pursuant to the order passed by this Court, the said appeals were heard by the Charity Commissioner, Mumbai. The Charity Commissioner allowed the appeals and accepted change report by passing judgment and order dated 21st January, 2016. The said order was assailed by filing applications bearing MARJI No. 47/2016, 50/2016 and 53/2016 under Section 72(2) of the said Act. The said applications came to be rejected by judgment and order dated 14th December, 2016. Being aggrieved by the said judgment and order passed by the District Judge as well as Charity Commissioner, Mumbai, these appeals are preferred.

7. Learned counsels for appellants made oral as well as written submissions. In substance, it is their contention that the Charity Commissioner as well as the District Judge have failed to take into consideration the fact that the secretary of the Trust had power to convene the meeting and in view of Section 21 of the General Clauses Act ('the Act' for short), such power deemed to have included power to cancel/call off meeting. By relying upon judgment of Hon'ble Apex Court in case of Jayantbhai Manubhai Patel & others vs. Arun Subodhbhai Mehta & others, **1989 AIR (SC) 1289**, it is sought to be argued that in identical situation the Hon'ble Apex Court has held that the person who convenes the meeting also has power to postpone or cancel the same. Taking the aid of Section 21 of the Act, it is sought to be contended that Section 19 of the bye-laws of the Trust provide for the secretary having power to convene the meeting and therefore, it is within his right to cancel the same. They also submitted that apart from the fact that the secretary had power to cancel the meeting, it was not within the power of the Vice-President of the Trust to convene meeting of General Body and therefore, in any case, the meeting held on 10th July, 2013 is not legal and valid and the business transacted therein is not in accordance with the rules. Objection is also sought to be raised with regard to

validity of General Body Meeting for same being not conducted by secretary and minutes not being recorded by him. In support of their submissions, they placed reliance on following judgments :-

(i) Hemant Shriram Patil vs. Nanded Waghala City Municipal Corporation & others
2004(4) Mh.L.J. 531.

(ii) Chandrashekhar s/o Rohidas Dusane & another vs. State of Maharashtra & others
2006(6) Mh.L.J. 820.

(iii) Jayantbhai Manubhai Patel & others vs. Arun Subodhbhai Mehta & others
1989 AIR (SC) 1289.

(iv) Ravindra Nanasaheb Deshmukh & another vs. Shankarrao Dashrath Ingle & others
2014(6) Mh.L.J.208

(v) Santosh s/o Shankarlal Agrawal vs. Purushottam s/o Jagannath Murme
2017(6) Mh.L.J. 888

(vi) Babu Varghese vs. Bar Council in Kerala
1999 AIR (SC) 1281

(vii) Avtar Singh and another vs. State of Punjab
2023 DGLS(SC) 303

(viii) Shivajirao Bhavanrao Patil & another vs. Shikshan Prasarak Mandal, Malshiras & others
2017(3) Mh.L.J. 644.

(ix) S. P. Chengalvaraya Naidu (dead) by LRs. vs. Jagannath (dead) by LRs & others
(1994) 1 Supreme Court Cases 1

8. Learned counsel for contesting respondents supported the impugned judgment and orders.

9. These appeals involve two questions of fact and law as to whether the secretary of the Trust has power to cancel the meeting convened with resolution passed by the Executive Council on 18th June, 2013 and whether the meeting convened and conducted on 10th July, 2013 is on the basis of resolution passed by the Executive Council or on call of the Vice President. So also as to whether appellants succeed in taking aid of Section 21 of the Act to substantiate their stand.

10. At the outset, it needs to be recorded that there cannot be dispute with regard to the proposition that any person having power to do something presupposes power to undo the same. Provisions of Section 21 of the Act and the judgments cited supra on behalf of appellants sufficiently demonstrate the same. Section 21 of said act reads thus :-

> **21. Power to issue, to include, power to add, to amend, vary or rescind, notification, orders, rules or bye-laws**.—

> Where, by any Act or Regulation, a power to issue notifications, orders, rules or bye-laws is conferred then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued.

In the light of this provision, it needs to be ascertained as to whether the secretary of the Trust herein had such power under the Memorandum of Association of Trust ('M.O.A.' for short).

11. In order to appreciate the contentions raised by both sides, the bye-laws (M.O.A.) of the Trust need to be considered which stipulates the rights and powers of various functionaries of Trust. Reliance is placed on Section 19 of M.O.A. on the basis of which, learned counsel for appellants contend that it is a right of the secretary to call meeting of General Body and therefore, right to calling of meeting includes right of calling off the meeting. It is also sought to be canvassed that the rights of the secretary include the right to make correspondence with the Government or people concerning the institution and to record minutes of the meeting of General Body as well Executive Council. It is contended that since

the General Body Meeting allegedly held on 10th July, 2013 has not been conducted by the secretary and proceedings are not done/recorded by him, the legality and validity of General Body is in cloud of doubt.

12. In this connection, it would be relevant to take into consideration the relevant M.O.A. as a whole and not in piece-meal so that true meaning thereto can be given with conjoint reading of all provisions/sections. All the rules and regulations (referred as sections in M.O.A.) of the Trust incorporated in the M.O.A. clearly show that secretary shall convene General Body Meeting but question arises whether he has any independent right to do so. Sections providing for such contingencies are reproduced below :-

> **Section 6(C)**: The secretary shall convene the general body meeting within 6 months from 31st March every year as per the resolution of the executive council and at the place and time specified in the resolution. This general body meeting shall pass the annual report, last year's income and expenditure and the budget prepared by the executive council.
>
> **Section 7(D)** : If 1/3 members having right to vote apply for calling general body meeting giving reasons, the general body meeting shall be called in a month and that

meeting shall consider only the issues mentioned in the application. The resolutions passed with a majority in such meeting will have to be implemented.

13. Aforesaid provisions clearly demonstrate that secretary is required to convene General Body meeting within six months from 31st March every year as per resolution of Executive Council and at the place and time specified in the resolution. This provision itself clearly indicates that the secretary had no inherent right to call any meeting and the General Body Meeting needs to be convened as per the resolution of the Executive Council. Apart from this, any special General Body Meeting is also required to be convened by the secretary only if 1/3rd members having right to vote requisition for calling such meeting as contemplated by Section 7(D) of the M.O.A. These two provisions make it clear that the secretary had no independent/inherent authority/power to convene Executive Council Meeting or General Body Meeting and in any case, General Body Meeting could not have been convened by the secretary in absence of resolution of the Executive Council or on request by 1/3rd members of the General Body having right to vote. In such circumstances, in the absence of any right to convene meeting, Section 21 of the Act would not come to the aid of the appellants.

14. Undisputedly, Section 21 of the Act meant to say that the person who is having power to do something presumably has power to undo it. Thus, from the aforestated material on record i.e. relevant sections of M.O.A. of the Trust, it cannot be said that the secretary had any power to convene General Body Meeting and hence he had no authority to call off the said meeting or even to postpone the same. Though it is sought to be contended that Executive Council in its meeting decided to cancel the elections but there is absolutely no evidence to support the same. Further, there is no support to such claim of appellants from the notice dated 9th July, 2013, published in the newspaper indicating that cancellation of General Body Meeting was pursuant to any resolution passed by Executive Council. Moreover, from the submissions made across the bar, this does not seem to be the case of appellants as well, since it is canvassed that secretary of Trust himself had power to call General Body Meeting and so possesses authority to cancel the same. Since notice published by secretary does not make mention of any subsequent resolution passed by Executive Council to cancel the General Body Meeting, such claim made by appellants is clearly an afterthought and an attempt to cover up the illegality.

15. With utmost respect to the judgments cited on behalf of the appellants, those judgments pertain to the statutory provisions empowering the secretary of Municipal Corporation to convene meeting and powers of the Mayor to convene/adjourn/postpone the meeting. Those statutory powers cannot be equated with the powers of secretary of present Trust. Having considered the M.O.A. in entirety and more particularly the provisions regarding calling of General Body Meeting, there cannot be iota of doubt to hold that secretary of Trust lacked any independent power to call General Body Meeting as the same vests with Executive Council and 1/3rd members, eligible to vote, as the case may be. Thus, these judgments would not help the appellants in any manner whatsoever in order to support their contentions. Hence, the circular published by secretary of cancellation of the General Body Meeting to be held on 10th July, 2013 was without any authority and as such was not binding on the General Body or any member of the Trust.

16. The next contention raised by appellants is regarding authority of the Vice President to convene General Body Meeting. Though such submissions are sought to be made across the bar, the

material evidence on record does not show that the meeting of 10th July, 2013 was ever convened by the Vice President. There is no dispute about the fact that a circular was published by the Vice President in the newspaper of 10th July, 2013. Perusal of said circular however shows that the Executive Council by passing resolution in meeting dated 18th June, 2013, has convened General Body Meeting on 10th July, 2013. It also refers to the inability shown by the advocates to act as Election Officers. The said circular further shows that the Executive Council has not taken any decision of cancellation of election or stay thereof. It is only stated that appropriate decision can be taken in this regard in the meeting. Needless to say that it was only an appeal asking the members to attend the said meeting at the relevant time as decided by the Executive Council. This clearly shows that no meeting was convened by the Vice President and as such this Court finds no substance in the contention of appellants raising objection to the validity of the General Body Meeting on this count.

17. As far as presiding over of the said meeting by Vice President is concerned, it is contention of appellants that where the President convenes the meeting, may be by virtue of Executive

Council resolution, in his absence, the meeting can not be conducted. The said argument runs contrary to the provisions of M.O.A. Section 7(e) provides that the President will preside over the General Body Meeting and in his absence, the General Body will elect Vice-President to preside over the meeting and in absence of both, the General Body shall elect by majority, member of Executive Council to preside over the meeting. This provision clearly empowers the General Body to appoint Vice-President to preside over the meeting of General Body and as such this Court finds no perversity in the resolution passed by the General Body in this regard.

18. It is also sought to be argued by learned counsel for appellants that the evidence of Election Officer indicates that on the date of the election, in the morning, he was contacted by one of the members, who was interested in getting elected, making request to him for acting as Election Officer. By taking thread of the said evidence, the Deputy Charity Commissioner has held that it was pre-conceived plan. It was also held that meeting is doubtful referring to videography of meeting. This Court finds that the said Authority without considering relevant provisions of M.O.A. and available record has reached to such findings. It is pertinent to note that the

M.O.A. of the Trust provides by Section 19 that the Election Officer is to be appointed by Executive Council and on the date of the General Body Meeting, election procedure is to be declared and performed. This provision indicates that no programme is required to be declared in advance. The appointment of Election Officer at eleventh hour also is permissible. Practically, any person likely to be appointed as Election Officer is required to be given a fair idea about it in advance. It is not permissible to jump to the conclusion that Election Officer is in collusion with respondents. The videography and head count is sought to be given undue importance as there is no evidence led to show members being deprived of attending/voting in General Body. Apart from this, there is nothing in the M.O.A. to show that the decision which can be taken by the Executive Council cannot be taken by the General Body. The General Body, as per the M.O.A. is the Supreme authority for Trust. There is evidence on record to show that appropriate resolution was passed for the purpose of appointed of Election Officer and he has conducted the election. Appellants were unable to show that the General Body had no right to appoint Election Officer to conduct valid election.

19. As regards challenge to the maintenance of minutes of General Body Meeting is concerned, the resolutions passed therein would more than sufficiently demonstrate the said power to conduct meeting and to record minutes has been duly conferred upon to the concerned by passing appropriate resolutions. Thus, this Court finds no merit in the challenge to the impugned order.

20. Having regard to the aforesaid discussion this Court finds no substance in challenge to the General Body as well as election on any ground sought to be raised by appellants. Resultantly, all the appeals stand dismissed as they sans merit.

21. Pending application, if any, does not survive and stands disposed of.

(R. M. JOSHI)
Judge

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