

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11541 OF 2025

Vitthal Dhondappa Birajdar	]	
Age:59 years, Occ.: Agriculturist	]	
R/o- Salgar Burdruk, Tal. : Mangalvedha	]	
Dist.: Solapur	]	...Petitioner
	]	
Versus	]	
	]	
1. Ld. Joint Charity Commissioner Pune	]	
Division, Pune.	]	
Having office address at Survey No.45/2D	]	
B.S. Dhole Patil Road, Pune-411001	]	
(Opposite Wadia College)	]	
	]	
2. Ld. Deputy Charity Commissioner	]	
Solapur Region, Solapur.	]	
	]	
3. Ld. Assistant Charity Commissioner	]	
Solapur Region, Solapur	]	
	]	
4. Shikshan Prasarak Mandal	]	
Salgar Budruk, Tal.: Mangalvedha,	]	
Dist.: Solapur	]	
	]	
5. Sushil Jetyappa Mendgudali	]	
Age: 47 years, Occ.: Agriculturist	]	
R/o- Salgar Budruk, Tal.: Mangalvedha	]	
Dist.: Solapur	]	...Respondents

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Adv. Manoj A. Patil a/w Adv. Shubham R. Dhenge, Adv. Akash M. Murudkar, Kaustubh Rayrikar, and Adv. Ankita D. Mali, Advocate for the Petitioners.

Adv. S. S. Patwardhan a/w Adv. Raghvendra Kulkarni and Adv. Prasad B. Kulkarni, for Respondent Nos.4 and 5.

Mr. Jitendra P. Patil, learned AGP for the Respondent Nos.1 to 3-State.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 25th AUGUST, 2026.

JUDGMENT :

Rule. Rule is made returnable forthwith.

2. Heard both sides.

3. Petitioner is assailing the order dated 15.05.2025 passed in Miscellaneous Application No. 704 of 2025 in CR No. 695 of 2025 as well as the order dated 01.08.2025 passed in Miscellaneous Enquiry No. 826 of 2025 by the Respondent No.3 - Assistant Charity Commissioner. The petitioner is the opponent in Change Report Enquiry No. 695 of 2025 pending before the Respondent No. 3 - Assistant Charity Commissioner. The controversy between the parties pertains to the Respondent No. 4 - Trust which is registered under the Maharashtra Public Trusts Act, 1950 (hereinafter referred to as "Act" for sake of brevity and convenience).

4. The Respondent No. 5 is the reporting trustee of CR No. 695 of 2025 seeking approval of the election conducted for the period 2025 to 2028. Initially change report was filed before Respondent No. 2 - Deputy Charity Commissioner but later on it was transferred to Respondent No. 3 - Assistant Charity Commissioner. The Respondent No. 5 had taken out Miscellaneous Application No.704 of 2025 seeking

provisional approval. The application was allowed by impugned order dated 15.05.2025. Being aggrieved, petitioner preferred review bearing Miscellaneous Application No. 826 of 2025, which came to be rejected by another impugned order dated 01.08.2025. Both impugned orders are challenged predominantly on the ground of *coram non judice* and *mala fides*.

5. Undisputedly the roster of the matters in Pune division was fixed by the orders passed by Divisional Joint Registrar Pune. An office order No. 154 was issued on 03.06.2025 stipulating bifurcation of matter of public trusts in Solapur District between Respondent No. 2 - Deputy Charity Commissioner and Respondent No. 3 - Assistant Charity Commissioner, as per the registration number. Accordingly, matters of the Respondent No. 4 – Trust bearing registration number F-966 were assigned to the Respondent No. 2 - Deputy Charity Commissioner Solapur. In this backdrop, the submissions of the parties need to be appreciated.

6. Learned counsel for the petitioner, Mr. Manoj Patil, submits that both impugned orders are null and void for *coram non judice* as the Respondent No. 3 – Assistant Charity Commissioner had no jurisdiction to decide the applications. It is submitted that deliberately Change Report No. 695 of 2025 was transferred to the Respondent No. 3 to get the favorable orders. The petitioner had filed caveat before the

Respondent No. 2 - Deputy Charity Commissioner but *mala fide* impugned orders are obtained from the Respondent No. 3. It is further submitted that the Revision Application No. 31 of 2025 preferred by Mr. Vaman Kulkarni before Respondent No. 1 - Joint Charity Commissioner would not be an impediment for entertaining the present petition. It is vehemently contended that reply filed by Respondent No. 1 - Joint Charity Commissioner unequivocally supports the petitioner's case and reiterates as to how there was inherent lack of jurisdiction in passing the impugned orders. It is further contended that petitioner's Change Report No. 908 of 2025 has been filed before the Respondent No. 2, which is pending and is being entertained. Lastly it is contended that, the impugned order dated 15.05.2025 has caused grave prejudice and is against principles of natural justice.

7. Per contra learned counsel Mr. S. S. Patwardhan appearing for the Respondent No. 4 and 5 would bolster the submissions relying upon affidavit in reply. He would submit that no fault or mischief can be attributed to his clients for getting the change report listed before the Respondent No. 3. His clients did not choose the forum. It was initially filed by the Respondent No. 2 but transferred to the Respondent No. 3. It is submitted that it's not a case of *coram non judice* because Respondent No. 2 - Deputy Charity Commissioner as well as Respondent No. 3 -Assistant Charity Commissioner both were having jurisdiction. It

is brought to my notice that there are various disputes in the trust and on previous occasions by the judicial orders those were transferred to the Respondent No. 3 Assistant Charity Commissioner. My attention is adverted to those orders passed in MA No. 5 of 2023 and 18 of 2022.

8. Learned counsel further submits that review bearing MA No. 826 of 2025 was not tenable due to filing of revision No. 31 of 2025 by Mr. Kulkarni before Joint Charity Commissioner on identical grounds of objections. It is submitted that the petitioner had alternate remedy of either preferring appeal or revision against order dated 15.05.2025. My attention is adverted to provisions of Order XLVII and Section 114 of CPC. It is submitted that the interlocutory arrangement was required to be made vide order dated 15.05.2025 considering exigency of the administration of the trust.

9. I have considered rival submissions of the parties. It is necessary to consider following events, which are relevant to decide the controversy between the parties:

- i] CR No. 695 of 2025 was filed on 30.04.2025.
- ii] Above CR was transferred to Respondent No.3 on 06.05.2025.
- iii] Revision No. 31 of 2025 was filed on 22.05.2025.
- iv] Review MA No. 826 was filed on 11.06.2025.

10. The Respondent No. 1 was called upon to file affidavit in reply by

specific orders passed by this Court on 17.12.2025 so as to ascertain as to whom the matters were assigned. It is confirmed by the Respondent No. 1 that office order No. 154 was issued on 03.06.2025 and as per the roster fixed by the Respondent No. 1 the matters were bifurcated between Deputy Charity Commissioner and Assistant Charity Commissioner according to the registration numbers of the trust. It can be safely inferred that the Trust having registration No. F-966 was specifically assigned to Respondent No. 2.

11. The change report No. 695/2025 though filed before Respondent No. 2 - Deputy Charity Commissioner was rounded up and marked to Respondent No. 3 - Assistant Charity Commissioner. The Respondents have also not disputed that the jurisdiction to entertain the change reports of the Respondent No. 4 was with the Respondent No. 2 - Deputy Charity Commissioner. The Respondent No. 1 received a report from Respondent No. 2 - Deputy Charity Commissioner dated 20.06.2025 disclosing that as the previous change reports were assigned to the Respondent No. 3. Thus, there is no iota of doubt that the change report and the interim applications should not have been entertained by the Respondent No. 3 as those were assigned to the Respondent No. 2.

12. The interim application MA No. 704 of 2025 was considered by the Respondent No. 3 and provisionally approved vide order dated 15.05.2025. The petitioner sought review of the order by preferring MA

No. 826 of 2025, which was rejected on 01.08.2025 by the Respondent No. 3. The petitioner has challenged both orders before this Court. It needs to be emphasized that order dated 15.05.2025 has been independently challenged on the ground of lack of jurisdiction and nullity.

13. Considering the office report submitted by the Respondent No. 2 and affidavit in reply of the Respondent No. 1, I do not find that there is any deliberate attempt either on the part of the Respondent No. 4 and 5 or on part of any of the officers subordinate to Respondent Nos. 2 and 3 to transfer CR No. 695 of 2025 intentionally to the Respondent No. 3. Considering the previous record and orders passed in MA No. 18 of 2022 and 5 of 2023, the matter came to be transferred to the Respondent No. 3 in routine manner. I have gone through orders passed by Joint Charity Commissioner passed on 20.09.2022 in MA No. 18 of 2022 as well as 05.09.2023 in MA No. 5 of 2023 assigning the matters to the Respondent No. 3. But those were specific matters assigned to it and it was not the standing order of the Respondent No. 1 assigning all matters of the trust in question to the Respondent No. 3. The administrative order No. 154 dated 09.06.2023 would prevail and therefore marking the matter to the Respondent No. 3 was illegal and should not have been resorted to in casual routine manner.

14. As per Section 22 of the Act, the change report can be

entertained either by Deputy Charity Commissioner or Assistant Charity Commissioner. In the present case, the specific administration order fixing the roster was in force. There was no any other reason for the respondent No.3 to entertain the matters for the respondent No.4 Trust. The petitioner has made out a case of lack of jurisdiction in passing both the impugned orders. The fall out of above discussion is that the impugned orders are passed in violation of the administrative order and cannot be sustained.

15. The self imposed constraints upon exercise of jurisdiction under Article 227 of the Constitution of India would not deter this Court in entertaining present petition where first impugned order suffers from lack of jurisdiction and nullity.

16. Learned counsel Mr. S. S. Patwardhan adverted my attention to Order XLVII of CPC to buttress that once revision No. 31 of 2025 has been filed at the instance of Mr. Kulkarni, which is pending before Joint Charity Commissioner on the selfsame grounds of objection, the review preferred by the petitioner was not entertainable. This arguments would have been accepted had the petitioner not challenged the order dated 15.05.2025 in the present petition independently. I have already observed that present petition raises challenge to orders dated 15.05.2025 as well as 01.08.2025. Its a question of judicial discipline and concomitance which is at stake in this case.

17. Petitioner has also preferred CR No. 908 of 2025 which is pending before the Respondent No. 2 in respect of the tenure which is sought to be approved in CR No. 695 of 2025. However, the submission of the respondent that the change reported by the petitioner is afterthought would be subject to objective scrutiny. At this stage the conduct of the petitioner cannot be castigated for filing the change report belatedly.

18. The alternate remedy was available to the petitioner against order dated 15.05.2025, but in view of law laid down by Hon'ble Supreme Court in the case of *Whirlpool Corporation Versus Registrar of Trade Marks, Mumbai And Others*¹, this Court has jurisdiction to undertake the judicial review of the orders passed without jurisdiction and nullity. The petitioner has rightly relied in the matter of *Dr. (Smt.) Kuntesh Gupta Versus Management of Hindu Kanya Mahavidyalaya, Sitapur (U.P.) & Ors.*²

19. For the reasons stated above I pass following order:

::ORDER::

A. The order dated 15.05.2025 passed in MA No. 704/2025 is quashed and set aside and consequential order dated 01.08.2025 passed in MA No. 826/2025 is also quashed and set aside.

¹ (1998) 8 Supreme Court Cases 1

² (1987) 4 SCC 525.

B. CR No. 695 of 2025 as well as MA No. 704 of 2025 shall stand transferred to the Respondent No. 2 - Deputy Charity Commissioner.

C. The parties shall appear before the Respondent No. 2 - Deputy Charity Commissioner on **15.09.2026**.

D. The respondent No.2 – Deputy Charity Commissioner shall decide the change reports of both the parties and shall consider application for provisional approvals expeditiously after extending opportunity of hearing on their own merits.

20. Rule is made absolute in above terms.

[SHAILESH P. BRAHME, J.]