



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1378 OF 2026

1. Moreswar Anant Chogale
2. Sachin Gopal Gaikar
3. Sunny Nankumar Kshirsagar
4. Shrikant Anant Virkud
5. Madhusudan Janardhan Bhatkar
6. Bhagyat Vijay Vani
7. Santosh Soun Pate
8. Vaibhav Vidhydar Pendse

...Petitioners

Versus

1. Rupesh Gaikwad
2. Vijay Sudan Todankar
3. Suraj Digpal Hatiskar
4. Pranav Anand Havre
5. Prashant Parshuram Bhagat
6. Vishwas Jagannath Gurav
7. Suresh Ramji Pate
8. Chintamani Pandurang Chogale
9. Rupesh Chandrakant Mudrale

...Respondents

WITH
WRIT PETITION (ST) NO. 3034 OF 2026

1. Kaushal Sadanand Wani
2. Gaurav Shrikant Shilkar
3. Siddhesh Jayant Kosabe
4. Pranav Kisan Todankar
5. Hitesh Chandrakant Chogle
6. Swapnil Suryakant Pate
7. Rajesh Vijay Pawar
8. Suraj Suresh Rane

...Petitioners

Versus

1. State of Maharashtra
2. Charity Commissioner, Mumbai.
3. Assistant Charity Commissioner, Alibag
4. Superintendent & Registrar Officer, Office of Registration of Public Trusts, Alibag
5. Shree Ganpati Dev Aani Poojechi

Nemnuk Trust, a Public Trust Registered
under provisions of Maharashtra Public
Trust Act, 1950

...Respondents

Mr. A. R. Gole, for the Petitioners in WP/1378/2026.
Mr. Santosh Jadhav, for the Petitioners WP(ST)/3034/2026.
Mr. Laxman Deshmukh, a/w Ranjana Todankar, for
respondent No.2 in WP/1378/2026.
Mr. Kedar Dighe, Addl. G.P. a/w A. C. Bhadang, AGP for the
State.

CORAM: N. J. JAMADAR, J.
Reserved On: 12th FEBRUARY, 2026
Pronounced On: 18th FEBRUARY, 2026

JUDGMENT:-

1. Rule. Rule made returnable forthwith and, with the consent of the learned Counsel for the parties, heard finally.
2. By these petitions under Article 227 of the Constitution of India, the petitioners primarily assail the rejection of their nomination forms for election to the office of the trustees of Shree Ganpati Dev Aani Poojechi Nemnuk Trust by respondent No.1, who has been appointed as an Election Officer by the orders of the Assistant Charity Commissioner, Alibag.
3. The background facts leading to these petitions can be stated as under:

3.1 Shree Ganpati Dev Aani Poojechi Nemnuk Trust (“the Trust”) is a public Trust registered under the provisions of the Maharashtra Public Trust Act, 1950 (“the Trust Act, 1950”). An application for settling a scheme of the Trust, being Scheme Application No.6/1999, was filed before the Assistant Charity Commissioner, Alibag. By an order dated 30th July 2002, the Assistant Charity Commissioner settled a scheme.

3.2 Balkrishna Ganesh Bapat and Mahesh Waman Pilankar filed another application under Section 50A(3) of the Trust Act, 1950 seeking modification in the scheme settled by order dated 30th July, 2002 for proper and effective management and administration of the affairs of the Trust. By an order dated 13th May, 2022, the learned Assistant Charity Commissioner allowed the said application and settled a scheme incorporated in the Annexure-A to the said judgment and order.

3.3 Being aggrieved, an appeal was preferred by Vijay Todankar and others, before the Charity Commissioner, Mumbai, under Section 70 of the Trust Act, 1950. By a judgment and order dated 15th November, 2022, the learned Charity Commissioner was persuaded to quash and set aside the aforesaid order settling the scheme, passed by the

Assistant Charity Commissioner, and remit the Scheme Application No.2/2022 back to the Assistant Charity Commissioner, Raigad, for a fresh inquiry and decision in accordance with law.

3.4 Pursuant to the aforesaid order, the learned Assistant Charity Commissioner, post inquiry, was again persuaded to allow the scheme application and settle the scheme with modifications to the scheme, as incorporated in the Annexure-A appended to the said judgment. The learned Assistant Charity Commissioner, *inter alia*, directed that five of the trustees namely; Mahesh Waman Pilankar, Nilesh Jayram Wani, Rajendra Baban Bhusane, Prakash Sadanand Bhatkar and Vijay Sadashiv Patwardhan would continue to be the trustees of the Trust till the decision of the suits instituted against the Trust. The learned Assistant Charity Commissioner also appointed the Superintendent, attached to the office of Assistant Charity Commissioner, as an Election Officer to hold the election within a period of three months and submit a report. The elected trustees were directed to report the change.

3.5 Pursuant to the aforesaid directions, respondent No.1 issued a public notice on 31st December, 2025 and declared

the election programme on 2nd January, 2026. On 9th January, 2026, respondent No.1 published election guidelines. Under election programme, notified by respondent No.1, the nomination forms were to distributed and submitted on 13th January, 2026, during 12 noon to 3 p.m. After scrutiny of the nomination forms, the list of valid nomination forms was to be published on 21st January, 2026. The election guidelines, *inter alia*, contained a clause that the election would be held for maximum eight posts of the trustees and on panel basis.

3.6 The petitioners in WP/1378/2026 formed “Suvarn Ganesh Vikas Panel” and the petitioners in WP(ST)/3034/2026 formed “Diveaagar Gaon Panel” and submitted the nomination forms.

3.7 The nomination forms of the members of Suvarn Ganesh Vikas Panel – the petitioners in WP/1378/2026 - were rejected by respondent No.1 on the grounds: (i) nomination forms were not filed within the stipulated time, (ii) the candidates had not submitted proof of being resident of Diveaagar for 15 years and (iii) the serial number of the proposer and seconder in the voter’s list, were not correctly mentioned.

3.5 The nomination forms of the members of Diveaagar Gaon Panel – the petitioners in WP(ST)/3034/2026, were also rejected on the ground that the nominations were not filed within the stipulated time. And the nomination forms of all the candidates were not accompanied by the information sheet containing complete information alongwith signatures of the proposer and seconder. In addition, nomination form of Mr. Gaurav Shilkar, petitioner No.2, was invalid for not filling in all the columns in the nomination form and for not mentioning the serial number of the proposer and seconder, in the voters list.

3.6 In contrast, the nomination forms of all the candidates representing Ashtvinayak Panel – respondent Nos.2 to 9, in WP/1378/2026, were accepted as valid.

3.7 Since the elections were to be held on panel basis and nomination forms of the candidates representing the Suvarn Ganesh Vikas Panel and Diveaagar Gaon Panel were rejected, the further election process became a formality.

3.8 The petitioners have, thus, invoked the writ jurisdiction taking a slew of exceptions to the rejection of their nomination forms and also the legality and propriety of the election process. The principal grievance of the petitioners is

that the election guidelines framed by the Election Officer were not in conformity with the settled scheme. The Election Officer conducted the election process in an arbitrary manner and in breach of fundamental principles of natural justice. The check list and the scrutiny forms were not notified in advance and, thus, the petitioners were gravely prejudiced. Though the petitioners, especially the petitioners in WP/1378/2026, had submitted the requisite proof of residence, yet, the Election Officer discarded the said documents and rejected the nomination forms on the ground of non-submission of proof of residence. An endeavour has been made to demonstrate that the election process was conducted in such fashion as to promote the interest of Ashtvinayak Panel. Instead of ensuring a fair and transparent election process, respondent No.1 has deprived the petitioners of opportunity to contest the election. The petitioners have, thus, prayed for setting aside the orders rejecting their nomination forms and a direction to the Election Officer to permit the petitioners to contest the elections.

4. Affidavits-in-reply have been filed by respondent No.1, Election Officer controverting each of the contentions in the

petitions. In substance, respondent No.1 claimed that the election process was conducted in accordance with scheme of the Trust, directions of the Assistant Charity Commissioner and the election programme and guidelines, which were notified well in advance. The petitioners have raised grievances only after their nomination forms were rejected. Therefore, the petitions deserve to be dismissed.

5. I have heard Mr. A. R. Gole, the learned Counsel for the Petitioners in WP/1378/2026, Mr. Jadhav, the learned Counsel for the petitioners in WP(ST)/3034/2026, Mr. Laxman Deshmukh, the learned for respondent No.2 in WP/1378/2026 and Mr. Kedar Dighe, the learned Addl. Government Pleader for the State, at some length. With the assistance of the learned Counsel for the parties, I have perused the material on record including the copies of the nomination forms submitted by the petitioners before the Election Officer.

6. Mr. Gole, the learned Counsel for the petitioners in WP/1378/2026, submitted that, first and foremost, the very short period of three hours for submitting nomination forms was *per se* an arbitrary and unreasonable. Secondly, the Election Officer introduced conditions in the election

guidelines, which were in derogation of the approved scheme of the Trust. For example, the election guideline No.25 provided for proof of 15 years residence at Diveaagar, contrary to clause (7) of the Scheme, which requires 25 years residence at Diveaagar. It was further submitted that respondent No.1 did not accept the proof of residence of the petitioners in WP/1378/2026, which the petitioners tendered in conformity with the election guidelines. Therefore, the rejection of the nomination forms of the petitioners by ascribing technical reasons of alleged delay and non-submission of proof of residence suffers from the vice of arbitrariness. In any event, the very object of the directions issued by the Assistant Charity Commissioner to hold the election would be defeated if the nomination forms of the panels other than the panel, of which respondent Nos.2 to 9 are the members, are rejected.

7. As a second limb of the submission, Mr. Gole sought to urge that elections were being held for the posts in excess of the posts for which the Assistant Charity Commissioner has directed the Election Officer to conduct the election. Banking upon the order passed by the Assistant Charity Commissioner on 15th October, 2025, Mr. Gole would urge

that the Assistant Charity Commissioner has approved a scheme in terms of which the maximum number of the Trustees was to be 13. Out of them five Trustees were to be permanent and a member of Mr. Ganesh Bapat's family was to be an *ex officio* Trustee. Thus, the elections were required to be held for seven Trustees only. Yet, the Election Officer declared the elections for eight posts of Trustees and accepted the nomination forms for those eight posts. On this count also, the entire election process stands vitiated, submitted Mr. Gole.

8. Mr. Jadhav, the learned Counsel for the petitioners in WP(ST)/3034/2026 supplemented the submissions of Mr. Gole. In addition, Mr. Jadhav would urge, the election process is vitiated as respondent No.1 failed to conclude the said process within a period of three months as directed by the Assistant Charity Commissioner by order dated 15th October, 2025. Mr. Jadhav would further urge that, respondent No.1 did not hold the election in a bipartisan manner. The nomination forms were rejected on a technical ground that the serial numbers in the voters list of the proposer and seconder were not mentioned. It was urged with a degree of vehemence that though respondent No.1

made endorsement as to time of the receipt of the nomination forms of Suvarn Ganesh Vikas Panel and Diveaagar Gaon Panel, yet, no such endorsement was made on the list of the election forms received from the members of Ashtvinayak Panel.

9. Mr. Jadhav would further urge that, eventually the purpose of free and fair election became a casualty. It is, therefore, necessary to allow all the candidates to contest the election. To this end, Mr. Jadhav placed reliance on a judgment of a learned Single Judge of this Court in the case of *Subhash Pandurang Bandiwadekar and ors. vs. State of Maharashtra (WP/648/2025, dtd.21/1/2025)*, another judgment of this Court in the case of *Avinash Shegaonkar vs. Ganpati Joshi, SA/501/2009, dtd.27/2/2014* and a judgment of Kerala High Court in the case of *Dr. Pragalb MR vs. Returning Officer, 2017 Supreme OnLine (KER) 16411*,

10. In contrast to this, Mr. Dighe, the learned Addl. Government Pleader, stoutly defended the fairness and integrity of the election process. It was forcefully submitted that the petitioners have raised objections only after their nomination forms were rejected. The election programme and the guidelines were notified well in advance. At no point of

time, the petitioners raised any objection to any of the clauses or timeline provided under the election programme and the guidelines. The timeline and conditions applied to all the candidates who wished to contest election. The petitioners, having failed to submit the nomination forms within the stipulated time, cannot be now heard to urge that the period of three hours was very short.

11. Secondly, Mr. Dighe would urge, at any rate, the dispute as to whether the nomination forms have been rightly accepted or rejected cannot be a subject matter for determination in writ jurisdiction. The petitioners have the remedy of agitating the legality and correctness of the rejection of their nomination forms in the proceedings which may be filed under Section 22 of the Trust Act, 1950. At this stage, when the election process has almost concluded, no interference is warranted in exercise of the writ jurisdiction, submitted Mr. Dighe.

12. To lend support to these submissions, Mr. Dighe placed reliance on a judgment of learned Single Judge of this Court in the case of *Shivaji Mule vs. Deputy Charity Commissioner, WP/2573/2023, decided on 6/11/2023*. Reliance was also sought to be placed on a Division Bench judgment of this

Court in the case of *Vinod Pundlikrao Chinchalkar vs. The State of Maharashtra, WP/14417/2025, dtd.2/12/2025.*

13. Mr. Dighe further submitted that the stand of the petitioners in WP/1378/2026 that they had submitted the proof of residence alongwith nomination forms is blatantly incorrect. Inviting the attention of the Court to the copies of the nomination forms, Mr. Dighe would urge the claim of the petitioners that they had submitted the proof of residence is demonstrably false. Parties who approach the Writ Court with such incorrect statements do not deserve any hearing much less relief, submitted Mr. Dighe.

14. Lastly, it was urged that the aspersions of partisan attitude qua Respondent No.1 are wholly unjustified. Banking upon record maintained by respondent No.1 and the endorsement made by respondent No.1 about the receipt of the nomination forms, Mr. Dighe would urge, the election process has been conducted by respondent No.1 with utmost fairness.

15. In the facts of the case, which have been adverted to above, rather elaborately, on purpose, the core issue as to whether this Court should interdict the election process, at this stage, in exercise of writ jurisdiction, that poses itself for

consideration, is required to be appreciated in two parts. First, the challenge to the rejection of nomination forms; for which the petitions have been primarily filed. Second, the larger issue of legality of the election process as such, which was sought to be urged by Mr. Gole, in particular.

16. On the first count, the inquiry would be rather objective and straightforward. As noted above, there is not much controversy over the fact that the election programme was notified by respondent No.1 on 2nd January, 2026 and the election guidelines were published on 9th January, 2026. Incontrovertibly, all the concerned were put to notice that the election would be held on panel basis, and the nomination forms were to be collected and submitted, within a period of three hours i.e. 12 noon to 3 p.m., on 13th January, 2026. Implications of such short period would be considered a little later.

17. The challenge to the rejection of the nomination forms, is required to be examined on the anvil as to whether the reasons for rejection of the nomination forms are borne out by objective material, *prima facie*. The principal objection was that, the nomination forms were not submitted by the petitioners within the stipulated time. From the copies of the

nomination forms, tendered for the perusal of the Court, it becomes evident that the Election Officer had made an endorsement about the receipt of time of the nomination forms submitted by the petitioners. For example, the nomination form of petitioner No.2 in WP(ST)/3034/2026 bears an endorsement that it was received at 3.30 pm. Likewise, the nomination forms of the petitioners in WP/1378/2026 were received at 4.20 pm.

18. Apart from the endorsement on the nomination forms, the Election Officer seems to have maintained a register of receipt of nomination forms panel-wise. The extract of the said register, annexed to the Affidavit-in-rejoinder filed on behalf of the petitioners in WP(ST)/3034/2026, indicates that the nomination forms of Diveaagar Gaon Panel members were received at 3.30 pm. and those of Suvarn Ganesh Vikas Panel were received at 4.20 pm.

19. Mr. Jadhav, the learned Counsel for the petitioners in WP(ST)/3034/2026 made an attempt to demonstrate that since no endorsement regarding the time of the receipt of the nomination forms of the Ashtvinayak Panel was made, the partisan attitude of respondent No.1 becomes evident.

20. I find it difficult to accede to this submission. At this stage and in this proceeding, this Court would not be justified in discarding the record maintained by the Election Officer. Respondent No.1 has, *prima facie*, made endorsement on the nomination forms as well as in the register of nomination forms received about the time of receipt of the nomination forms.

21. It is pertinent to note that in the affidavit-in-reply filed on behalf of respondent No.1, the events that transpired on the date of filing of nomination forms are specifically narrated and it is categorically mentioned that one of the members of the Ashtvinayak Panel raised objection against accepting the nomination forms beyond time in writing and, thus, the time of receipt of the nomination forms of the petitioners was mentioned. Therefore, the absence of endorsement at as to the time of the receipt of the nomination forms of Ashtvinayak Panel cannot be construed as an instance of deliberate action to the prejudice of the petitioners. It would be contextually relevant to note that, at the contemporaneous time, no objection was raised on behalf of the petitioners that the nomination forms of Ashtvinayak Panel were not filed within the stipulated time.

22. The material on record thus, *prima facie*, indicates that the action of respondent No.1 of rejection of the nomination forms, for having been filed beyond the stipulated period, is backed by the objective material on record. If it is the contention of the Petitioners that the record and endorsements are incorrect, then that is a matter for factual investigation. Such fact finding inquiry is neither warranted nor permissible in exercise of supervisory jurisdiction.

23. As regards the second ground of rejection of nomination forms for non-submission of proof of residence, the claim of the petitioners in WP/1378/2026 that they had submitted the proof of residence alongwith nomination forms is, *prima facie*, belied by the copies of the nomination forms, tendered for the perusal of the Court. When confronted with the situation, Mr. Gole attempted to salvage the position by canvassing a submission that though the petitioners had submitted proof of residence independently and within time, yet respondent No.1 declined to accept the same.

24. I am afraid to accede to the submission of Mr. Gole. It defies comprehension that when the proof of residence, which was an essential condition of eligibility, was required to be submitted alongwith nomination forms, the candidates would

run the risk of filing the nomination form, without proof of residence, and tender the same subsequently. Thus, such a submission does not commend itself and lends heft to the contention of respondent No.1 that the nomination forms submitted by the petitioners in WP/1378/2026 were not accompanied by proof of residence. At any rate, whether the proof of residence was subsequently tendered and that too within the stipulated period, enters in the arena of factual dispute and cannot be legitimately determined in these proceedings.

25. Certain allowance regarding not mentioning the correct serial number of the proposers and seconders, in the voters list, while filling in the nomination forms, may be given. However, had that been the only reason, different considerations would have come into play. The submission of nomination forms beyond the stipulated period, rendered the very effort of the the petitioners to contest the election abortive. Under no circumstances, the action of an Election Officer in rejecting the nomination forms submitted beyond the stipulated period can be faulted at.

26. This propels me to the consideration of the core submission on behalf of the petitioners that, the period of

three hours to file the nomination forms was too short. At the first blush, the submission appears attractive. However, on close scrutiny, in the considered view of this Court, the submission does not merit acceptance, especially while considering the challenge to the rejection of the nomination forms.

27. As noted above, the election programme was notified on 2nd January, 2026. None of the petitioners or any other person raised an objection to the election programme. On the contrary, the petitioners participated in the election process and filed the nomination forms. There is substance in the submission on behalf of the Respondents that the election programme and the guidelines was made uniformly applicable to all the candidates. Therefore, after having participated in the election process, the petitioners cannot be permitted to take a somersault and contend that the period was too short, especially after their nomination forms were rejected.

28. In the matter of selection, the principle is well recognized that, a person who consciously takes part in the process of selection, cannot, thereafter turn around and question the method of selection and its outcome. The same

analogy can be applied to the process of election. Having taken part in the election process, with full knowledge that the nomination forms were to be filled within the stipulated period and the process was governed by the election guidelines, it may not be permissible for the petitioners to now turn around and question the propriety of stipulation of short time for filing the nomination forms.

29. At this juncture, statutory regime under the Trust Act, 1950 regarding the change in the trustees or managing committee of the trust assumes importance. Under Section 22 of the Trust Act, 1950, when any change occurs in any of the entries recorded in the register kept under Section 17, the trustees shall within 90 days from the date of occurrence of such change, report such change to the jurisdictional Deputy or Assistant Charity Commissioner. Inquiry into such change, contemplated by Section 22 of the Trust Act, 1950, is a judicial inquiry. The scope of inquiry under Section 22 is not limited to the factum of change, as such, *de hors* the legality thereof. A change to be accepted by the Charity Commissioner and recorded in the Public Trust Register (PTR) must be such change which has been lawfully made and not merely a change which has, in fact, been made. In the

inquiry under Section 22, the Charity Commissioner is required to pose unto himself a question as to whether there has been a change *de jure* and not merely *de facto*. The change reported, therefore, must be legal one, in the sense that, it has been made in conformity with the Constitution and/or Rules regulating the mode of succession where the change is reported in the trustees/members of the managing committee of the trust.

30. Thus, the question of legality of election process, or for that matter, the improper acceptance or rejection of the nomination forms, would be a matter which clearly falls within the ambit of the inquiry envisaged by Section 22 of the Trust Act, 1950.

31. It is in the aforesaid context the import of the judgment of the learned Single Judge in the case of ***Shivaji Mule*** (supra) is required to be appreciated. The learned Single Judge, *inter alia*, observed as under:

“29.In the present case the election is of a trust which is to be regulated by bye-laws and/or the directions issued by the Charity Commissioner under the Act. The election process and the result are subject to the approval of the competent authority U/Sec. 22 of the Act. It is special feature of the administration of the trust under the

provisions of the Act that election comes within the purview of Section 22 of the Act. It is mandatory U/Sec. 22(1) of the Act to report the change to the Deputy or Assistant Charity Commissioner within 90 days. This is a sufficient safeguard provided by the statute. Therefore, any illegality in the process of election including the membership cannot go unnoticed. They are always decided in the scrutiny of Section 22 of the Act. The election programme has progressed to advance stage. The list of contesting candidates is to be published on 06.11.2023. Thereafter the proper voting is to be conducted on 26.11.2023 and result is also scheduled on the same day. Therefore, I answer point No. IV in the negative.”

32. In the case of *Subhash Bandiwadekar* (supra), on which reliance was placed by Mr. Jadhav, the question in controversy was materially distinct. In the context of the decision by the Election Officer regarding the validity of membership, this court enunciated that, the issue of validity of membership cannot be decided by the Election Officer while preparing the preliminary or final voters list. It is the duty of the Election Officer to include name of every single member in the voters list. This judgment, therefore, has no bearing on the facts of the case at hand.

33. The decisions in the cases of *Dr. Pragalb MR* (supra) and *Avinash Shegaonkar* (supra), also turned on the peculiar

facts of the respective cases and do not govern the controversy at hand.

34. The situation which thus obtains is that so far as the issue of improper rejection of the nomination forms of the petitioners, *prima facie*, the material on record does not appear to be such as to vitiate the integrity of the election process. The proper course for the petitioners would thus be to agitate the alleged improper rejection of their nomination forms in the proceedings which would be filed to report the change under Section 22 of the Trust Act, 1950. Therefore, this Court is not persuaded to exercise the extraordinary writ jurisdiction to interdict the election process, on the ground of improper rejection of nomination forms

35. On the aspect of the challenge to the election process on the ground that the Election Officer has exceeded the authority given by the Assistant Charity Commissioner by prescribing eligibility criteria beyond the approved scheme and holding election for more number of posts than directed to be filled in by election, the controversy seems to revolve around the question as to which of the schemes was the approved scheme as of the date of the order passed by the Assistant Charity Commissioner i.e. 15th October, 2025 :

whether the scheme settled by the Assistant Charity Commissioner by judgment and order dated 30th July, 2002 in Scheme Application No.6/1999 or the scheme which was settled by the Assistant Charity Commissioner by order dated 13th May, 2022 in Scheme Application No.2/2022 ?

36. As noted above, the scheme settled by the Assistant Charity Commissioner by order dated 13th May, 2022 in Scheme Application No.2/2022 was quashed and set aside by the Charity Commissioner in Appeal No.165/2022 by order dated 15th November, 2022. The necessary corollary and sequitur is that, the trust continued to be governed by the scheme which was settled and approved by the Assistant Charity Commissioner by judgment and order dated 30th July, 2002 in Scheme Application No.6/1999. In the said scheme dated 30th July, 2002, the eligibility criteria, under clause (7), was 15 years residence at Diveaagar. It also provided for a board of trustees of nine members; out of which one trustee, from the family of Mr. Ganesh Bapat, was to be *ex officio* and rest to be elected. In contrast, in the scheme settled under the order dated 13th May, 2022 (which was set aside by the Charity Commissioner), the eligibility

criteria was enhanced to 25 years residence at Diveaagar and the number of trustees was increased to 13.

37. In the scheme modified by the learned Assistant Charity Commissioner by the judgment and order dated 14th October, 2025, the Assistant Charity Commissioner observed that clauses (5) and (7) of the earlier scheme, which related to the number of trustees and eligibility to become a trustee of the trust, were retained.

38. There appears some lack of clarity in the judgment of the learned Assistant Charity Commissioner dated 15th October, 2025 in regard to the scheme which was considered as the then existing scheme. However, in view of the judgment of the Charity Commissioner in Appeal No.CC/165/2022 whereby the scheme settled by an order dated 13th May, 2022 was quashed and set aside, the scheme, that held the field was the one that was settled by the Assistant Charity Commissioner by order dated 30th July, 2002 in Scheme Application No.6/1999.

39. In this view of the matter and especially having regard to the fact that the objection to the election process on the ground that more trustees (eight) were sought to be elected was never raised; even in the instant petitions, the issue

cannot be determined in the abstract. Therefore, it would be appropriate to keep this issue as well open to be adjudicated during the proceeding under Section 22 of the Trust Act, 1950 while determining the legality and validity of the change that would be reported.

40. For the foregoing reasons, at this stage, when the election process is almost over, this Court is not inclined to interfere with the election. It would be open for the petitioners to raise all the contentions in the inquiry under Section 22 of the Trust Act, 1950. By way of abundant caution, this Court clarifies that the aforesaid consideration would not preclude the petitioners from challenging the legality and validity of the election on all available grounds, including the improper rejection of their nomination forms. Reserving the said liberty, the petitions deserve to be dismissed.

41. Hence, the following order:

: O R D E R :

- (i) The writ petitions stand dismissed.
- (ii) The interim order dated 6th February, 2026 stands vacated.

- (iii) When a change is reported to the Assistant Charity Commissioner on the basis of the election in question, the petitioners will be at liberty to raise all the contentions as available in law, including the improper rejection of their nomination forms, in the inquiry under Section 22 of the Public Trust Act, 1950.
- (iv) None of the observations in this judgment shall be construed as an expression of opinion on the grounds of objections to change that may be raised by the petitioners and the Charity Commissioner shall decide the change report proceeding on its own merits and in accordance with law, without being influenced by any of the observations hereinabove.
- (v) Subject to aforesaid clarification, rule stands discharged.

No costs.

[N. J. JAMADAR, J.]