

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION

CIVIL APPLICATION NO.4241 OF 2014
IN
FIRST APPEAL NO.1455 OF 2014
IN
APPLICATION NO.1 OF 2013

Shri Girish M. Rege ... Applicant

Shri Girish M. Rege ... Appellant

V/s.

Guruprasad M. Rege ... Respondent

Mr. Rajiv Patil, Senior Advocate with Akshay Shinde i/b. A. M. Kulkarni for the Applicant/ Appellant.

Mr. S. G. Aney, Senior Advocate with Deepa Chavan with V. P. Sawant i/b. Madekar & Co. for the Respondent No.1.

Mr. M. P. Rao with Prashant P. Cahvan i/b. M/s. Divekar & Co. for Respondent No.2.

Mr. Vijay Patil i/b. Prabhakar Jadhav for Respondent No.3.

Mr. P. S. Dani, Senior Advocate i/b. Navdeep Vora for Respondent No.4.

Mr. Kiran Bapat i/b. Prashant Raul for Respondent No.5.

Mr. A. Y. Sakhare, Senior Advocate with S. P. Kadam i/b. Amit Karkhanis for Respondent No.6.

CORAM: K.K. TATED, J.
DATED : MAY 8, 2015

PC. :

1. Heard the learned senior counsel for the respective parties. Though the other Respondents are served no one appeared for them.

2. This Application is preferred by the Appellant in First Appeal No.1455/2014, Applicant in Application No.1/2013 for stay of the order dated 20/11/2014 passed by the learned Charity Commissioner, Maharashtra State on Application under section 47 of the Maharashtra Public Trust Act (said Act) and for other reliefs which read thus:

“a. Pending the hearing and final disposal of the above Appeal this Hon'ble Court be pleased to stay the effect, execution and operation of the order dated 20th November 2014 passed in Application No.8 of 2014 passed by the learned Charity Commissioner, Maharashtra State to the extent it appoints following persons as trustees :

- i. Dr. Anand Shankarro Utture*
- ii. Mr. Makrand Bhonsle*
- iii. Mr. Rajesh Nadkarni*
- iv. Ms. Supriya Nair*

b. Pending the hearing and final disposal of the above Appeal Applicant be permitted along with the Headmaster of the respective sections of the School to operate Bank Account of the Trust bearing No. (i) 910010028123014 (ii) 910010026266984 (iii) 910010026265033 (iv) 910010026265127 of Axis Bank, Shivaji Park Branch belong to the Balmohan Vidyamandir Marathi Medium School.

c. Pending the hearing and final disposal of the above Appeal this Hon'ble Court be pleased to allow the Applicant to pay Gratuity amount to the employees of the Balmohan Vidyamandir Marathi Medium School from Gratuity Account No.20002858796 in Bank of Maharashtra, Gadkari Chowk, Branch.

d. Pending the hearing and final disposal of the above Appeal this Hon'ble Court be pleased to make appropriate arrangement for managing and administering the affairs of the Trust.

e. Pending the hearing and final disposal of the present Civil

Application this Hon'ble Court be pleased to restrain the Respondent Nos.1 and 2 as also the trustees appointed by the impugned order from calling any meeting of the Board of Trustees.

f. Pending the hearing and final disposal of the present Civil Application this Hon'ble Court be pleased to stay the effect, operation and execution of the impugned judgment and order dated 20th November 2014 passed in Application No.8 of 2014 passed by the learned Charity Commissioner, Maharashtra State to the extent it appoints following persons as trustees :

- v. Dr. Anand Shankarrao Utture*
- vi. Mr. Makarand Bhonsle*
- vii. Mr. Rajesh Nadkarni*
- viii. Ms. Supriya Nair*

g. Any other relief as maybe deemed fit and necessary by this Hon'ble Court.”

3. As per the scheme framed for management of the Trust i.e. Balmohan Vidyamandir, property shall vest in the Trustees and the number of Trustees should not be more than 9 and less than 5. At the relevant time, only three trustees had remained. Hence, the Applicant Guruprasad M. Rege filed Application No.1/2013 under section 47 of the said Act for appointment of new Trustees. Similarly, Mr. M. S. Rege and Girish M. Rege filed Application No.8/2013. During the course of trial the name of Dr. M. S. Rege was deleted from cause title of Application No.8/2013.

4. The Applicant filed Application under section 47 of the said Act for appointment of new Trustees, wherein, the Applicant made following prayers:

“a. This Hon'ble Authority be pleased to appoint anyone from (1) Smt. Basanti Roy (2) Smt. Vijaya Jayavant Chaudhary (3) Hon'ble Shri Eknath Thakur (4) Shri Madhukar Narayanrao Kokate, IAS (5) Prof. (Dr.) N. B. Pasalkar as the fifth trustee of the Balmohan Vidyamandir Trust and this Hon'ble Authority be further pleased to pass order regarding vesting of the trust properties in that persons.

b. in the alternative to prayer (a), if this Hon'ble Authority comes to the conclusion that this Hon'ble Authority has jurisdiction to appoint more than one Trustee, in that event this Hon'ble Authority may be pleased to appoint (1) Smt. Basanti Roy (2) Smt. Vijaya Jayavant Chaudhary (3) Hon'ble Shri Eknath Thakur (4) Shri Madhukar Narayanrao Kokate (5) Prof. (Dr.) N. B. Pasalkar as the trustees of Balmohan Vidyamandir Trust bearing P.T.R. No. E-1075 and this Hon'ble Authority be further pleased to pass order regarding vesting of the trust properties in the above mentioned persons.

c.....”

5. In the Application under section 47 of the said Act, the Charity Commissioner passed common order by consent of the parties below Exhibit-1 directing the parties to suggest names of six persons each for appointment as Trustees. Subsequently, the Charity Commissioner passed order dated 20/09/2014 below Exhibit 1 in Application under section 47 of the said Act stating that in case the parties do not come to the consensus to give name of at least one person to be appointed as a trustee till 22/09/2014, then in that event, the Charity Commissioner will issue a public notice calling the desirous persons from the public to act as Trustees of the Trust. Pursuant to the order dated 22/09/2014 passed by the learned Charity Commissioner, parties filed joint pursis stating they have no objection for appointment of six Trustees of Balmohan Vidya Mandir for filling up present vacancies in its Board.

6. Thereafter, each party suggested names of six persons to be appointed as a Trustee of Trust known as Balmohan Vidya Mandir. The Charity Commissioner interviewed in all 18 suggested persons on 29/09/2014, 30/09/2014, 01/10/2014 and 10/10/2014 and after interviews, gave an opportunity to each party to object for the names suggested by Guruprasad Rege, Girish Rege and Dattatray Rege. After considering the qualification of the candidates, their experience in education and related field, their status in the society, the Charity Commissioner by his order dated 20/11/2014 appointed following 6 candidates as Trustees of the said Trust out of the 18 persons suggested by the parties:

- a. Respondent No.3 Makrand Madhusudhan Bhonsale
- b. Respondent No.4 Rajesh S. Nadkarni
- c. Respondent No.5 Ms. Supriya Nair
- d. Respondent No. 6 Dr. Anant Shankarrao Utture
- e. Respondent No.7 Mr. Vasant Kalpande
- f. Respondent No.8 Vijay Khole

None of the parties objected to the appointment of those persons as trustees.

7. Thereafter their names appeared in the Schedule maintained by the office of the Charity Commissioner as Trustees of the said Trust.

8. Being aggrieved by the impugned order dated 20/11/2014

passed by the learned Charity Commissioner, Maharashtra State, the Applicant preferred the present First Appeal, which has been admitted on 25/02/2015.

9. In the present appeal, the Applicant preferred the present Civil Application for stay of the impugned order and for other reliefs as stated hereinabove.

10. The learned senior counsel for the Applicant submits that the impugned order passed by the learned Charity Commissioner dated 20/11/2014 under section 47 of the said Act itself is bad in law. He submits that the learned Charity Commissioner passed the impugned order without following due process of law. He submits that as per the provisions of section 47 of the said Act, a duty is cast upon the office of the Charity Commissioner to issue an advertisement in news papers calling for the Applications from public at large for appointment of Trustees. He submits that the Charity Commissioner has to interview each and every candidate and then decide to whom he wants to appoint as a Trustee in the interest of Trust. He submits that in the present proceedings, the Charity Commissioner called upon the Trustees to suggest the names of 6 candidates for filling up vacancies for the Trust. He submits that the Charity Commissioner, neither held any enquiry in detail as required under law nor issued any advertisement in news papers and called Applications from public at large and therefore, the impugned order requires to be stayed.

11. The learned senior counsel for the Applicant submits that

admittedly, on the date of filing of Application under section 47 of the said Act, there were only two vacancies to complete the minimum quorum of Trustees. He submits that as per the Trust Deed, there could be maximum 9 Trustees having quorum of minimum 5 Trustees. He submits that at the relevant time on the day of Application, there were vacancies of only 2 Trustees. He submits that as per section 47 of the said Act, the Charity Commissioner has to complete the minimum requirement only. He submits that in the present proceedings, the Charity Commissioner ought to have appointed only two trustees. Instead of doing so, the Charity Commissioner appointed 6 persons as Trustees which is contrary to the provisions of section 47 of the said Act. In support of this contention he relies on the judgment in the matter of *Gyandeo Tukaram Devre and ors. Ganpat Nathu Devre and Ors. 1994(4) BCR 172 (paragraph 5 to 8)*, *Avinash Ganpatrao Shegaonkar and Ors. Vs. Jayawant @ Babasaheb s/o. Vishwanath Uttarwar & Ors. 2010(4) Mh.L.J. 253 (paragraph 9 to 11)* and *Nawalchand Champalal Chaudhari & Anr. Vs. Joint Charity Commissioner, Nagpur & Anr. 2007(1) ALL MR 71*.

12. The learned senior counsel for the Applicant submits that this court, in the matter of *Gyandeo Tukaram Devre (supra)* held that the Charity Commissioner should appoint Trustees only to complete the minimum requirement. He further submits that this court, in the matter of *Avinash Ganpatrao Shegaonkar (supra)* held that at the time of appointment of Trustees as per section 47 of the said Act, it is a duty of the Charity Commissioner to issue an advertisement in news paper calling Applications from public at large. Moreover, he should

make an enquiry in detail while appointing new persons as Trustees of the Trust under section 47 of the said Act. He submits that in this authority, this court held that the enquiry can never be informal and it has, in fact, to be formal. The question is whether the Charity Commissioner is bound to consider the names suggested by the existing Trustees and bio-data of those candidates alone or some thing more is expected from him while taking the decision. He submits that in this authority, this court held that the Charity Commissioner should held a detailed enquiry in the form of trial only. He submits that this court in the matter of *Nawalchand Champalal Chaudhari (supra)* held that the Charity Commissioner must follow the procedure prescribed under section 47 of the said Act i.e. public notice in news paper for calling the Applications from public at large. He submits that this procedure is not followed by the Charity Commissioner before passing the impugned order. Hence, same requires to be stayed till hearing and final disposal of the present appeal.

13. The learned senior counsel for the Applicant further submits that pending hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to permit the Applicant along with Headmaster of the respective schools to operate bank accounts.

14. The learned senior counsel for the Applicant submits that as per the resolution dated 12/06/2010 passed by the Board of Trustees, it was decided that the Applicant to operate the bank account for Balmohan Vidya Mandir Marathi Medium Primary School with Mrs. Nirmala S. Palav, Head Mistress. He submits that the Respondents are,

with mala fide intention, obstructing the Applicant from smoothly managing the day-to-day functions of Balmohan Vidya Mandir Marathi Medium Primary School. He submits that the Respondents intimated the concerned bank that the Applicant can operate bank accounts jointly with Respondent Nos.1 and/or some other Trustees. He submits that the Respondents, on several occasions refused to sign cheques for payment of legal dues i.e. gratuity of ex-employees etc. Hence, this Hon'ble Court pleased to grant prayer clause (b) of the Civil Application.

15. The learned senior counsel for the Applicant submits that in the alternative, this Hon'ble Court be pleased to make an appropriate arrangement for management and administration of the affairs of the Trust, as the Respondents are creating problems in day-to-day management. On the basis of above submissions, the learned senior counsel for the Applicant submits that this Hon'ble Court be pleased to make this Civil Application absolute in terms of prayer clauses (a) to (c) or in terms of prayer clause (d). He submits that if the Civil Application is not allowed, irreparable loss and injury will be caused to the Applicant as well as the Trust.

16. On the other hand, the learned senior counsel for Respondent No.1 Mr. Aney, vehemently opposed the Civil Application. He submits that in view of prayer clause (a) of the Civil Application, the Application itself is not maintainable in law. He submits that, it is the case of the Applicant that the Charity Commissioner has not followed the procedure prescribed under section 47 of the said Act and

therefore, the appointments made by him are to be set aside. But, in prayer clause (a) of the Civil Application, the Applicant seeks stay of the effect, execution and operation of the impugned order only against newly appointed 4 Trustees i.e. Respondent Nos.3 to 6. There is no prayer against Respondent Nos.7 and 8 who are also newly appointed Trustees. On this ground itself the Civil Application requires to be dismissed.

17. The learned senior counsel for Respondent No.1 submits that the impugned order has been passed by the Charity Commissioner after following due process of law under section 47 of the said Act. He submits that all the parties filed consent pursis stating that they are ready and willing to provide 6 names each for consideration of the appointment of new Trustees. He submits that the Charity Commissioner, after interviewing all 18 persons whose names were submitted by the parties and after going through their bio-data, passed the impugned order. He submits that after giving consent, now the Applicant cannot raise an objection about legality of said order on the ground of procedure to be followed. He submits that in any case, the Charity Commissioner has taken a detailed interview, made enquiry and after considering their education, experience in the education field, status in the society and other requirements, appointed 6 Trustees of the said Trust.

18. The learned senior counsel for Respondent No.1 submits that the Applicant, intentionally has not made prayer clause (a) of the Civil Application against Respondent Nos.7 and 8 because they are

appointed by the Charity Commissioner from the list of the persons submitted by the Applicant. He further submits that all three decisions cited by the Applicant in support of his contention about the procedure to be followed under section 47 of the said Act for appointment of Trustees are not applicable to the facts of the present case. Whether, the Charity Commissioner can appoint only minimum Trustees or more, is not applicable in the facts and circumstances of the present case. He further submits that in the present proceedings, with the consent of all the parties, the Charity Commissioner passed the impugned order after following due process of law.

19. The learned senior counsel for Respondent No.1 submits that prayer clause (b) cannot be allowed. He submits that the Board of Trustees passed resolution dated 04/01/2014 about the way in which the trust bank accounts to be operated. The said resolution was passed after following due process of law which is not challenged by the Applicant either before this court or any other authority. Hence, prayer clause (b) is not maintainable.

20. The learned senior counsel for Respondent No.1 further submits that newly appointed Trustees started working and therefore at this stage, they cannot be restrained from acting as Trustees unless and until their names are removed from the list of Trusteeship of the said Trust.

21. The learned senior counsel for Respondent No.6 also vehemently opposed the Civil Application. He submits that as per clause 9(b) of

trust deed, a duty is cast upon the Board of Trustees to take immediate steps to fill up any vacancies caused on account of reasons mentioned in the Trust deed and in any case within 3 months of occurrence of each vacancies. He submits that for want of minimum number of Trustees, the Application under section 47 of the said Act was filed which was decided by the Charity Commissioner after following due process of law. He submits that the newly appointed Trustees are expert in their field having higher qualification and status in the society. He submits that in prayer clause (a) of the Civil Application, the Applicant has not challenged the appointment of two newly appointed Trustees. This itself shows that the procedure followed by the Charity Commissioner at the time of deciding the Application under section 47 of the said Act is as per law. Hence, there is no substance in the Civil Application.

22. The learned senior counsel for Respondent No.6 further submits that because of non cooperation from the Applicant, the Income Tax Department issued notice dated 17/02/2014 to the Charity Commissioner calling for the information of the Trust. Paragraph 3 of the said letter / order reads thus:

“3. During the course of assessment proceedings for A.Y.2008-09, 2009-10 and 2010-11, it is noted that the premises of the trust are illegally occupied by one of the Trustees, namely Shri Girish Rege, who is residing in the School Premises at Mumbai with his family. Shri Girish Rege's wife also has been allotted an office premises for her Investment business in the School premises belonging to the Trust.”

23. The learned senior counsel for Respondent No.6 submits that

bare reading of paragraph 3 of the said letter shows that the Applicant is misusing the Trust property and therefore the Income Tax Department denied tax exemption under section 11 of the Income Tax Act for the year 2008-2009, 2009-2010 and 2010-2011. On this ground also, the Applicant is not entitled to any relief from this court.

24. The learned senior counsel Mr. Dani for Respondent no.4 also vehemently opposed the Civil Application. He submits that prayer clause (a) cannot be granted because the Applicant has not challenged the appointment of 2 newly appointed Trustees i.e. Respondent Nos.7 and 8 which shows that the order passed by the Charity Commissioner is as per law. He submits that as per the Trust Deed, it is a duty of the Trustees to collect, receive, distribute, invest, dispose of, spend, convert or otherwise deal with the funds and property or properties of the Trust. He submits that to protect the trust property, it is necessary that the bank accounts are operated jointly by two Trustees. He further submits that as per clause 17 of the Trust Deed, the funds of the Trust to be invested and used in proper way. For this, it is necessary that the bank accounts are operated jointly by two Trustees.

25. The learned senior counsel for Respondent No.4 further submits that the order passed by the Charity Commissioner under section 47 of the said Act is as per law. There is no question of challenging the effect of the same, during pendency of the present appeal. He submits that the newly appointed Trustees are allowed to take charge in the Trust, therefore, their names appeared in the register maintained by the Charity Commissioner. They have already started attending several

meetings, taking decision etc. Hence, at this stage, if their appointments are stayed, irreparable loss and injury will be caused to the newly appointed Trustees as well as the Trust. He submits that more than 5000 students are studying in the schools run by the Trust and therefore, this court should not entertain the present Civil Application in the interest of Trust as well as the students taking education.

26. Mr. Patil, the learned counsel for Respondent No.3 also vehemently opposed the Civil Application. He submits that the newly appointed Trustees have already started functioning. He submits that the newly appointed Trustees cannot be restrained from acting as Trustee unless and until their appointment is set aside. He submits that though the present First Appeal is admitted by this court, that cannot prevent the new Trustees to act and take decision on behalf of the Trust.

27. Mr. Chavan, the learned counsel for Respondent No.2 also opposed the Civil Application. He submits that unless and until the newly appointed Trustees are removed by due process of law, there is no question of preventing them from acting and taking decision on behalf of the Trust. He submits that the Civil Application preferred by the Applicant be dismissed with costs.

28. Mr. Bapat, the learned counsel for Respondent No.5 vehemently opposed the Civil Application and submits that, in the entire Civil Application, the Applicant has not challenged the credential of the new

Trustees appointed by the Charity Commissioner. He submits that the Applicant has not disputed the qualification, experience and/or status of the newly appointed Trustees. He submits that as per clause 20 of the Trust Deed, it is a duty and responsibility of the Trustees to take all decisions in the interest of Trust activities. He further submits that he is adopting the arguments advanced by the learned senior counsel for the respective Respondents. He submits that there is no substance in the Civil Application. Same be dismissed with costs.

29. Heard the learned senior counsel and counsel for the respective parties. I have gone through the papers and proceedings placed on record.

30. It is to be noted that in the present Civil Application, the main issue involved is whether this court, at this stage, should stay the operation and execution of the impugned order passed by the learned Charity Commissioner under section 47 of the said Act.

31. It is to be noted that in the present proceedings, the way in which the Applicant claimed relief as per prayer clause (a), shows that the present Application cannot be entertained for staying the operation and implementation of the impugned order. In prayer clause (a), the Applicant seeks relief to stay the appointment of Respondent Nos.3 to 6 who were newly appointed Trustees. It is to be noted that by the present Civil Application, the Applicant is not seeking stay of the appointment of Respondent Nos.7 and 8. This means that the Applicant is accepting the impugned order passed by the Charity

Commissioner for appointment of Respondent Nos.7 and 8 and he is disputing the same for other Respondent i.e. Respondent Nos.3 to 6.

32. It is to be noted that in the present proceedings, all the parties, by consent provided 6 names each for appointment of Trustees. The Charity Commissioner interviewed each and every candidate. He has considered their bio-data, experience and status in the society and their experience in the interest of the Trust and then appointed them. This itself shows that the Charity Commissioner completed the enquiry in detail. Since the impugned order has been passed by the Charity Commissioner after due process of law and appointed new Trustees from the list provided by all the parties, I am of the opinion that on the facts and circumstances of the present case, the Charity Commissioner has followed procedure as prescribed under section 47 of the said Act.

33. So far as the case-law cited by the learned senior counsel for the Applicant in the matter of *Gyandeo Tukaram Devre (supra)* is concerned, in the said case, the Charity Commissioner appointed more Trustees than minimum without any consent from existing Trustees. Hence, the ratio laid down in the said case is not applicable in the facts and circumstances of the present case.

34. So far as the ratio laid down in the matter of *Avinash Ganpatrao Shegaonkar (supra)*, this court has taken a view that the Charity Commissioner should issue an advertisement in news papers calling for the Applications from public at large for appointment as Trustees. In the case in hand, all the parties, by consent, provided six

names each i.e. in all 18 persons. Those persons were interviewed by the Charity Commissioner and considering their bio-data, their experience and status in the society and appointed only 6 persons as Trustees. This itself shows that the Charity Commissioner has conducted a detailed enquiry in the present matter. Hence, this case-law is also not applicable in the facts and circumstances of the present case.

35. The view taken by this court (Nagpur Bench) in the matter of *Nawalchand Champalal Chaudhari (supra)* is not applicable in the facts and circumstances of the present case, since all the parties in the present matter provided the names of 6 persons by consent for consideration to be appointed as Trustees and from that list of 18 persons, the Charity Commissioner has appointed only 6 persons each as Trustees.

36. The procedure is a handmaid of justice and if the procedure followed is as per the consent of the parties and there has not been failure of justice, the order passed by the Authority cannot be set aside on objection by one of the consenting parties that there is deficiency in the procedure.

37. Considering these facts, I am of the opinion that the Applicant failed to prove that the Applicant is entitled to any relief as per prayer clause (a) of the Civil Application.

38. In respect of prayer clause (b), same cannot be entertained in

view of the resolution dated 04/01/2014 passed by the Board of Trustees. In that resolution the reasons are recorded why it is necessary to operate the bank account by two Trustees. The following extract of the said resolution makes it clear the necessity to authorize 2 Trustees to operate the bank account:

“It is seen that Shri Girish Rege had not informed or intimated to the Fellow Trustees, who are the Surviving or Continuing Trustees that Shri Girish Rege had deleted the authority for operating the bank Account granted by the Trust vide its resolution to Mrs. Nirmala Palav. Smt. Charushila Loke was authorized by Shri Girish Rege vide his letter to the Axis Bank dated June 3, 2013 to operate the Bank Account. This is an unprecedented case of a Trustee deleting a signatory authorized by the Trust and adding an employee as Authorized signatory to a Bank Account without informing fellow Trustees and getting the requisite mandate from the Trustees. Shri Girish Rege kept the Surviving or Continuing Trustees in dark on this issue. Shri Girish Rege is understood to have addressed a letter no.BMVM/TIC-M/2013-14-016 dated June 3, 2013 surreptitiously to the Bank for deleting the Authorized signatory Mrs. Nirmala Palav mandated by the Trust and adding Mrs. Charushila Loke vide the said letter dated June 3, 2013 as Authorized Signatory. This was done by Shri Girish Rege without informing fellow trustees and in face of the earlier Resolutions forwarded to the Bank giving operating instructions. These facts have emerged and have been brought to the notice of the surviving or continuing Trustees only in November – December 2013 and some only upon service of the Misc. Application No.8 of 2013. The Surviving or Continuing Trustees have noted with concern that there was absolutely no reason for Shri Girish Rege to have acted so surreptitiously and secretly. Shri Girish Rege is well aware that all his Fellow Trustees are responsible towards the Trust and the Trust Funds and that Funds of the Marathi Medium School, Shivaji Park, also constitute and are a part of Trust Funds. While on one hand as Trustees the Fellow Trustees are responsible towards Trust Funds but on the other hand the Fellow Trustees are kept in dark of these issues this is inconsistent and contrary to Law and Scheme dated May 31, 2010.

Shri Girish Rege also did not approach the Fellow Trustees for a mandate/authorization in respect of operating the said Bank Accounts.

It is in this context that the Trustees have also noted with great concern and grave apprehension certain actions/inactions of Shri Girish Rege in recent past. While presently not dealing with these actions/ inactions of Shri Girish Rege and without prejudice to any actions claims and/or contention that the Balmohan Vidyamandir Trust/ Trustees has/ will have against Shri Girish Rege and/or any other person, entity, agent, employee etc. for their actions/ inactions the Trustees have expressed anguish in respect of the following actions/inactions of Shri Girish Rege. The Trustees discussed the need to usher in transparency.”

39. Considering these facts, I am of the opinion that the Applicant failed to make out any case for allowing the Civil Application in terms of prayer clause (b) also.

40. In respect of prayer clause (d) of the Civil Application, the Charity Commissioner has already passed order under section 47 of the said Act and appointed new Trustees to manage the Trust. Hence, the said prayer cannot be granted.

41. So far as prayer clause (c) about payment of gratuity to the employees of Balmohan Vidya Mandir Primary School from A/c. No.2002858796 in the Bank of Maharashtra, Gadkari Chowk Branch is concerned, same cannot be considered in the present Civil Application. It is the duty of the Trustees to take appropriate decision according to law for payment of gratuity amount.

42. In view of the above mentioned facts and the circumstances, the

Civil Application, can not be allowed. It stands rejected.

43. In view of rejection of the present Civil Application, nothing survives in Civil Application No.294/2015 same stands rejected.

44. At this stage, the learned counsel for the Applicant seeks stay of the operation and implementation of this order for a period of 8 weeks.

45. Considering the facts and circumstances of the present case and as the Trustees are already appointed and they have already taken charge and acting as Trustees, I do not find any reason to stay this order. Request for stay is rejected.

(K.K. TATED, J.)