

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

**FIRST APPEAL NO.1778 OF 2013
WITH
CIVIL APPLICATION NO.4646 OF 2013**

Panchal Panchakroshi Shikshan Prasarak Mandal
Through Rajesh Krishnaji Sawant & Anr. .. Appellants/Applicants
Vs.
Vijay Bhaskar Sawant & Ors. .. Respondents

Mr.Amit Jamsandekar with Mr.Prabhakar M. Jadhav for the appellants/
applicants.

Mr.S.B. Shetye for the respondent nos.1 to 5 and 7 to 9.

**ALONG WITH
FIRST APPEAL NO.156 OF 2016**

Ashok Gangaram Sakre & Anr. .. Appellants
Vs.
Panchal Panchakroshi Shikshan Prasarak Mandal
Through Rajesh Krishnaji Sawant & Anr. .. Respondents

Mr.Veerdhaval Kakade i/by Mr.Raju M. Yamgar for the appellants.
Mr.S.B. Shetye for the respondent nos.3 to 7 and 9 to 14.
Mr.Yogesh Dabke, AGP for the respondent nos.17 to 19.

**CORAM : R.D.DHANUKA, J.
DATE : 5th December 2019**

P.C.:

. By consent of parties, both the first appeals are admitted on
the following question of law : -

(i) Whether under Section 22 of the Maharashtra Public Trusts Act, 1950, Charity Commissioner was empowered to accept or reject the change report filed under Section 22 and could have issued further directions so as to manage the affairs of trust.”

2. By these first appeals, the appellants have impugned the judgment and order dated 18th July 2013 passed by the learned Principal District Judge, Ratnagiri in Civil Misc. Application No.9 of 2013 arising out of the judgment and order dated 29th December 2012 passed by the Joint Charity Commissioner, Kolhapur in Appeal No.30 of 2012 arising out of the order dated 10th May 2012 passed by the Assistant Charity Commissioner, Ratnagiri in C.R. No.569 of 2011.

3. I have heard the learned counsel for the parties at great length in these first appeals. It is not in dispute that the tenure of the management committee of the trust in respect of which the change report was filed before the Charity Commissioner under Section 22 of the Maharashtra Public Trusts Act, 1950 has expired in the year 2015.

4. Though the learned Joint Charity Commissioner had dismissed the Appeal No.30 of 2012 filed by the trust had made various observations in respect of issue whether the election of trust was required to be conducted by way of secret ballot for the year 2011 to 2016 or not.

5. Learned counsel for the parties state that no reasons are required to be mentioned by this Court while disposing of these appeals. Statement made by the learned counsel for the parties is accepted.

6. In my view, the interest of justice would be met with if the following order is passed in substitution of the impugned orders passed by the authorities below :-

ORDER

- (i) The trust shall furnish a list of its members enrolled as on 7th August 2011 to the Assistant Charity Commissioner, Ratnagiri within a period of one week from today. The Assistant Charity Commissioner, Ratnagiri shall within a period of three months from today, call for the Annual General Meeting of the Trust in accordance with clause 11 of the constitution of Panchal Panchakroshi Shikshan Prasarak Mandal, Panchal for electing the President and 9 members of the governing council. The meeting shall not have any other agenda.
- (ii) Only the members enrolled as on 7th August 2011 shall be entitled to attend the meeting and vote for the election of the President and members of the governing council. No other member shall be entitled to attend the meeting and vote in the election. The Assistant Charity Commissioner, Ratnagiri shall ensure that the voting takes place only by way of secret ballot. It is made clear that the Assistant Charity Commissioner would be at liberty to depute an officer from his office to conduct the election.
- (iii) Such officer deputed by the Assistant Charity Commissioner shall

declare the results of the election in the Annual General Meeting and shall immediately hand over charge to the newly elected trustees. The newly elected trustees shall file a new change report in accordance with the provisions of the Maharashtra Public Trusts Act, 1950.

- (iv) In view of the above, the order dated 18th July 2013 passed by the learned Principal District Judge, Ratnagiri in Civil Misc. Application No.9 of 2013 is set aside.
- (v) The order dated 21st August 2013 passed in Writ Petition No.7575 of 2013 shall operate until the charge is handed over by such officer to the newly elected trustees.
- (vi) It is made clear that Shri Ashok Raghunath Sakre who was a member of the earlier Board of Trust is permitted to pay requisite charges if demanded by the office of the Assistant Charity Commissioner, Ratnagiri for conducting election pursuant to this order within two weeks from the date of such demand. It is also made clear that the newly elected trustees, on conducting such election, shall reimburse such charges paid by Shri Ashok Raghunath Sakre, if any, within four weeks from the date of taking charge of Trust without fail. The said Shri Ashok Raghunath Sakre shall produce proof of payment, if any, before the Assistant Charity Commissioner in presence of the newly elected trustees.

7. In view of the aforesaid order, this Court need not answer the substantial question of law formulated aforesaid. Both the first appeals are disposed of on aforesaid terms. In view of disposal of the first appeals, pending civil applications, if any, do not survive and are disposed of. No order as to costs. Parties as well as the authorities to act on the authenticated copy of this order.

R.D.DHANUKA, J.