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

**FIRST APPEAL NO. 1157 OF 2019
WITH
CIVIL APPLICATION NO. 2974 OF 2019**

1. Ramchandra Dnyanu Patil
Age: 80 years, Occupation: Agriculture
Residing at Urun Islampur, Patilgalli,
Taluka Walva, District: Sangli.
2. Akaram Krishnaji Mane
Age: Adult, Occu: Pensioner
Residing at Shivnagar, Indira Colony,
Road No. 2, Urun Islampur,
Taluka Walva, District: Sangli.
3. Sadanand Jaysingh Patil,
Age: Adult, Occu: Agriculture
Residing at 1632/972 near Vidyaniketan School,
Rajaramnagar, Urun Islampur,
Taluka Walva, District: Sangli.
4. Anandrao Hindurao Patil,
Age: Adult, Occu: Agriculture
Residing at Urun Islampur,
Taluka Walva, District: Sangli.
5. Yashwantrao @ Balaso Dattatray Lokhande
Age: Adult, Occu: Service
Residing at DCC Bank Colony,
Hanuman Nagar Road, Islampur,
Taluka Walva, District: Sangli.
6. Shamrao Dyanu Patil,
Age: Adult, Occu: Agriculture
Residing at Patilgalli, Urun Islampur,
Taluka Walva, District: Sangli.
7. Shankarrao Mahipati Mohite
Age: Adult, Occu: Agriculture
Residing at Karad Tasgaon Road,
Bhavani Nagar, Walva, District Sangli.

8. Mahesh Mahadev Patil
Age: Adult, Occu: Agriculture
Residing at Patilgalli, Urun Islampur,
Taluka Walva, District: Sangli.
9. Prashant Ramchandra Patil
Age: Adult, Occu: Agriculture
Residing at Patilgalli, Urun Islampur,
Taluka Walva, District: Sangli.
10. Sachin Ramchandra Patil
Age: Adult, Occu: Agriculture
Residing at Patilgalli, Urun Islampur,
Taluka Walva, District: Sangli.
11. Shankarrao Dyanu Patil
Age: Adult, Occu: Agriculture
Residing at Patilgalli, Urun Islampur,
Taluka Walva, District: Sangli.
12. Adv. Shamrao Tukaram Patil
Age: Adult, Occu: Lawyer
Residing at Main Road, Yedenipani,
Taluka Walva, District: Sangli.
13. Raghunath Krishnaji Patil
Age: Adult, Occu: Agriculture
Residing at 610 Shri Samartha,
Sutarpeth, Taluka Walva,
District – Sangli.
14. Nitin Vishnupant Bagade
Age: Adult, Occu: Service
Residing at 1635/291,
Near Sumangal Janata School, Islampur,
Taluka Walva, District: Sangli.

... Appellants/
Applicants

Versus

1. Joint Charity Commissioner,
Kolhapur Region, Kolhapur.
2. Bhagwanrao Anandrao Salunkhe
Age: 70 years, Occu: Pensioner
Residing at Sambhuappa Mathanjik,

Urun Islampur, Taluka Walva,
District: Sangli.

3. Sangram Babanrao Patil
Age: 37 years, Occu: Business,
Residing at Urun Islampur, Taluka Walva,
District: Sangli.
4. Anirudhha Tukaram Patil
Age: 49 years, Occu: Service
Residing at jadhavgalli, Urun Islampur,
Taluka Walva, District: Sangli.
5. Vijaykumar Anandrao Mane
Age: 46 years, Occu: Service
Residing at Bahdurwadi, Khambegalli,
Islampur, Taluka Walva, District: Sangli.
6. Adv. Umakant Anna Shinde
Age: 33 years, Occu: Lawyer,
Residing at near Javdekar High School,
Urun Islampur, Taluka Walva, District: Sangli.
7. Adv. Ravindra Maruti Patil
Age: Adult, Occu: Lawyer & Agriculturist
Residing at Urun Islampur, Taluka Walva,
District: Sangli.
8. Chandrakant Baburao Patil
Since Deceased
9. Mahadev Maruti Patil (Since deceased)
Died on 16/6/2019 i.e. after the Judgment
and Order dated 10/6/2019.

... Respondents

.....
Mr. Pradeep J. Thorat along with Mr. Prabhanjan Gujar for Appellants/
Applicants.

Mr. A. R. Patil, Addl. Government Pleader, State, for the Respondent No.1.

Mr. Umesh H. Pawar, Advocates for the Respondent Nos.3, 4 and 6.

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CORAM : R.D. DHANUKA, J.

DATE : 5th FEBRUARY, 2020.

ORAL JUDGMENT :

. By this First Appeal, the appellants (original opponent nos.3 to 17) have impugned the order dated 10th June, 2019 passed by the learned Joint Charity Commissioner, Kolhapur in Inquiry Application No. 14/2017 thereby partly allowing the said application. Some of the relevant facts for the purpose of deciding this First Appeal are as under:-

2. On 31st January, 1966, the Maratha Shikshan Sanstha Trust hereinafter referred to as “the said Trust” for short) was registered under the Maharashtra Public Trust Act, 1950. The appellant no.1 claims to be a trustee of the said Trust. The appellants claim to be in the management of the said trust since 1971. It was the case of the respondent nos. 2 to 6 that the appellants had not complied with various provisions of the Trust Deed and had committed violation of the provisions of Maharashtra Public Trust Act, 1950. The appellants had also not filed Change Report for last several years. On 1st April, 2017, the respondent no.4 filed an application under the provisions of the Right to Information Act before the Assistant Charity Commissioner, seeking various information about the said Maratha Shikshan Sanstha.

3. The respondent no.4 received such information from the office of the

Charity Commissioner, Sangli and came to know that the PTR extract of the said Trust was torn and mutilated. The only Change Reports filed till the date of such information provided to the respondent nos.4 and 5 were filed during the period between 1968 and 1971. No Change Reports were pending for consideration. No audit reports were submitted by the Trust with the office of the Charity Commissioner since 2006.

4. On 2nd May, 2017, the respondent nos. 2 to 6 submitted an Inquiry Application No. 14 of 2017 under Section 47 of the Maharashtra Public Trust Act, before the learned Joint Charity Commissioner, Kolhapur for various reliefs including appointment of new trustees. On 13th May, 2018, the learned Joint Charity Commissioner, Kolhapur issued a public notice in Dainik LokMat (Sangli) inviting objections from public. On 20th June, 2017, the appellants and respondent nos. 7 to 9 filed two separate Intervention Application in the said Inquiry Application No. 14 of 2017. The appellants thereafter filed 4 Change Reports on 20th June, 2017 before the learned Assistant Charity Commissioner, Sangli bearing no. 1303 of 2017 to 1305 of 2017 together for the years 2010-2019. There was no Change Report filed by the appellants during the period of 1974-2010 till date before the Assistant Charity Commissioner under Section 22 of the Maharashtra Public Trust Act, 1950.

5. On 24th November, 2017, the learned Assistant Charity Commissioner

conducted an enquiry and submitted report pointing out various breaches on the part of the appellants before the Joint Charity Commissioner. On 1st February, 2018, the respondent nos.2 to 6 filed application for visiting the Trust properties for visualizing deteriorating condition of the said Trust and its school. On 9th February, 2018, the learned Joint Charity Commissioner himself visited the said Trust and found that no record of Trust was available with the appellants for inspection. On 2nd April, 2018, the appellants filed Transfer Application No. 268 of 2018 before the Charity Commissioner, Mumbai for seeking transfer of Inquiry Application No. 14 of 2017. On 3rd May, 2018, the learned Joint Charity Commissioner, Kolhapur appointed Shri Rajesh Dudhale, Inspector from the Charity Office, Sangli as a caretaker of the said Trust. On 8th June, 2018, the learned Joint Charity Commissioner, rejected the transfer application filed by the appellants.

6. On 6th June, 2018, the appellants filed a Writ Petition bearing No. 7362 of 2018 before this Court impugning the order dated 3rd May, 2018 thereby appointing the said inspector as a caretaker of the said Trust. On 18th December, 2018, this Court dismissed the said Writ Petition No. 7362 of 2018. On 25th January, 2019, the Hon'ble Supreme Court dismissed the Special Leave Petition bearing No. 1494 of 2019 and confirmed the order passed by this Court. Evidence of both the parties was thereafter completed before the learned Joint Charity Commissioner. On 10th June, 2019, the learned Joint Charity Commissioner allowed the Inquiry Application No. 14

of 2017 partly and appointed total 18 persons as the trustees “of the said Trust” including the respondent nos. 2 to 6 and other persons in the Trust. The Joint Charity Commissioner also appointed some of the trustees which according to the appellants were already acting as a trustees by the said impugned order dated 10th June, 2019.

7. It is the case of the respondent nos. 3, 4 and 6 that on 26th June, 2019, as per the constitution of the said Trust and the order passed by the learned Joint Charity Commissioner, the Secretary of the Trust was appointed. On 13th July, 2019, president and two vice-president of the Trust were appointed. On 17th July, 2019, this Court passed a detailed order refusing to grant any *ad-interim* relief in favour of the appellants in this First Appeal. On 26th July, 2019, the Secretary of the Trust submitted the Change Reports Nos. 816 of 2019 and 817 of 2019 before the Assistant Charity Commissioner, Sangli. Those Change Reports are pending for consideration.

8. Mr. Thorat, learned counsel for the appellants invited my attention to some of the annexures to the appeal memo, inquiry application filed by the respondent nos. 3 to 6 before the Joint Charity Commissioner and would submit that when the said Inquiry Application was filed by the respondent nos. 3 to 6, the appellants who were the trustees of the said Trust were already in office. The said Inquiry Application was filed by the respondent nos. 3 to 6 who were not interested in the affairs of the Trust at all and had

filed the said application with malafide intention. One of the applicant was a teacher and was appointed by the then trustees.

9. It is submitted by the learned counsel for the appellants that since the trustees were already appointed and were in place on the date of filing of such Inquiry Application, conditions of Section 47 of the Maharashtra Public Trust Act, 1950 were not satisfied and thus the said Inquiry Application itself was not maintainable. The learned Joint Charity Commissioner thus could not have displaced the existing trustees by the impugned order and could not have appointed new trustees by the impugned order. In support of this submission, learned counsel invited my attention to some of the averments made in the said Inquiry Application filed by the respondent nos. 3 to 6.

10. It is submitted by the learned counsel for the appellants that prior to the date of passing of the impugned order on 10th June, 2019, the said Trust had already held Annual General Meeting on 15th May, 2019 and had already appointed new trustees. The appellants had also filed the Change Reports, reporting such changes in the management of the Trust. The Joint Charity Commissioner thus could not have appointed new trustees when the new trustees were already appointed by the Trust prior to the date of such impugned order.

11. Mr. Umesh H. Pawar, learned counsel for the respondent nos.3, 4 and 6, on the other hand submits that though the Trust was registered on 31st January, 1966 and as per the constitution of the Trust, the tenure of any officers including trustees of the Trust was only 3 years, during the period between 1966 and 2017, the trustees had filed only 5 Change Reports during the period between 1968 and 1971. None of the Change Reports were pending for consideration before the Joint Charity Commissioner. The trustees had also not filed any audit report with the Charity Commissioner since 2006. The trustees had also not recovered the rent in respect of the Trust property.

12. Learned counsel invited my attention to the order dated 18th December, 2019 passed by this Court in Writ Petition No. 7362 of 2018 and submits that this Court has dismissed the said writ petition filed by the Ramchandra D. Patil after recording various observations and *prima-facie* findings against the appellant no.1. The Special Leave Petition filed against the said order was dismissed. Learned counsel for the respondent nos. 3, 4 and 6 submits that by a detailed order dated 17th July, 2019 passed by this Court, this Court has already rejected the *ad-interim* relief in favour of the appellants. He submits that the audit reports of the year 2006-2017 have been belatedly submitted on 28th June, 2017 by the appellants only after Inquiry Application was filed by the respondent nos. 2 to 6 before the Joint Charity Commissioner. The Change Reports for the year 2010-2019 were

filed only on 20th June, 2017 after filing the said Inquiry Application filed by the respondent nos. 2 to 6.

13. It is submitted by the learned counsel that the impugned order has been already implemented by the respondent nos. 3 to 6. The newly elected Council has conducted 8 meetings after constitution of the Trust in implementation of the impugned order for transacting the business of the education institution and betterment of educational quality run by the Trust. It is submitted by the learned counsel that the Inquiry Application filed by his clients was maintainable under Section 47 of the Maharashtra Public Trust Act, 1950 and has been rightly entertained by the learned Joint Charity Commissioner.

14. Mr. Thorat, learned counsel for the appellants could not dispute that prior to 20th June, 2017, the last Change Report was filed in respect of the said Trust on 28th August, 1971. No Change Reports were filed between 1971 and 2017. He also could not dispute that the audit reports were filed by the so called trustees only on 28th June, 2017 for the year 2006-2017 together. The audit reports for the year 2000-2006 were submitted on 18th September, 2006. The audit reports of the years 1970 to 1999 are outstanding. There was no legal governing council elected after 1974 in the said Trust. The learned counsel also could not dispute that Change Reports for the tenure of 2010-2019 was filed by the appellants only on 20th June,

2017 i.e. after filing of the said Inquiry Application by the respondent nos. 3 to 6 under Section 47 of the Maharashtra Public Trust Act, 1950.

15. The only submission of the learned counsel for the appellants is that since the appellants were already in place as trustees of the said Trust prior to the date of filing the said Inquiry Application by the respondent nos.3 to 6 on 2nd May, 2017, the application under Section 47 of the Maharashtra Public Trust Act, 1950 was not maintainable for appointment of trustees.

16. Mr. Thorat, learned counsel for the appellants could not point out any documents on record in support of the submission that the appellants were appointed as trustees from time to time in accordance with the provisions of the constitution of the Trust at the interval of every 3 years, prior to the date of filing Inquiry Application by the respondent nos.3 to 6 under Section 47 of the Maharashtra Public Trust Act, 1950. Admittedly, the Change Reports for the year 2010-2019 were filed only on 20th June, 2017 i.e. after filing of the said Inquiry Application No. 14 of 2017 by the respondent nos. 3 to 6.

17. Under Section 47 of the Maharashtra Public Trust Act, 1950 new trustees can be appointed if existing trustees are unable to administer the Trust and its property. In my view, there is thus no substance in the submission made by the learned counsel for the appellants that conditions of Section 47 of the Maharashtra Public Trust Act, 1950 were not satisfied in

the facts of this case and thus the said Inquiry Application could not have allowed by the learned Joint Charity Commissioner.

18. The respondent nos. 3 to 6 have already implemented the order passed by the learned Joint Charity Commissioner by appointing various members on the Board of Trust and have already conducted several meetings. The original records of the Trust, after the date of passing of the impugned order showing the conduct of such meetings by the trustees appointed by the learned Joint Charity Commissioner were produced before this Court. After considering the original record produced by the respondent nos. 3 to 6, this Court had refused to grant any *ad-interim* relief in favour of the appellants.

19. It is not in dispute that the learned Joint Charity Commissioner had already appointed Shri Rajesh Dudhale, Inspector of Office of Charity Commissioner, Sangli as a caretaker of the said Trust by order dated 3rd May, 2018. By a detailed judgment dated 6th June, 2018 passed by this Court impugning the said order dated 3rd May, 2018, this Court dismissed the said Writ Petition No. 7362 of 2018 filed by the appellant no.1. This Court also rejected the contention raised by the appellants based on Section 47 of the Maharashtra Public Trust Act, 1950 in the said order. This Court observed that there was no proper administration of the Trust. School premises is in dilapidated condition which may cause endanger to the life of the students.

20. There was no school committee for the administration of the school. The pre-primary school Janta Ananddaya Bal Wadi was already closed down. Various litigation were filed by the staff members. As per the record of the office since 1974, there was no legal trustee to the Trust. Audit reports for the year 1972 and 1974 to 1999 were not submitted. The petitioner in the said writ petition was not in a position to demonstrate that the trustee had submitted the Change Reports from 1974-2009. This Court *prima-facie* observed that the trustees were managing the affairs of the Trust had failed in discharging their duties. This Court made it clear that the observations made therein were *prima-facie* and tentative for the purpose of testing validity of the impugned order.

21. Mr.Thorat, learned counsel appearing for the appellants could not dispute before this Court the correctness of the *prima-facie* observations made by this Court in the said order. Special Leave Petition against the said order filed by the appellants came to be dismissed. In the facts of the circumstances of this Court, the learned Joint Charity Commissioner was fully justified in passing the impugned order after recording various findings against the appellants by exercising powers under Section 47 of the Maharashtra Public Trust Act, 1950.

22. I do not find any infirmity in the findings rendered and the conclusion

drawn in the impugned order passed by the learned Joint Charity Commissioner. The First Appeal is devoid of its merit and is accordingly dismissed.

23. In view of the disposal of the First Appeal, Civil Application No. 2974 of 2019 does not survive and is accordingly dismissed.

(R.D. DHANUKA, J.)