

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

956 WRIT PETITION NO.6196 OF 2021

SHIVRAM APPARAO SURYAWANSHI AND OTHERS

..PETITIONERS

VERSUS

THE ASSISTANT CHARITY COMMISSIONER-3 AND OTHERS

..RESPONDENTS

...

Mr. R. D. Biradar, Advocate for the Petitioners.

Mr. S. P. Tiwari, AGP for Respondents-State.

...

**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 20th APRIL, 2021.

PER COURT:-

1. The learned counsel for petitioners submits that the impugned order is passed without notice to petitioners. The petitioners are infact the Trustees. The collusive petition was filed before the Assistant Charity Commissioner purportedly under Section 41-A of the Maharashtra Public Trust Act, 1950 and directions are given to hold the elections. Some of the respondents are not members of the Trust.

2. According to the learned counsel the order obtained by fraud is nullity.

3. In that event, petitioners can approach the Authority passing the order.

4. In case, petitioners claimed to be real Trustees and they were not made parties before the Assistant Charity Commissioner, petitioners can bring this fact to the notice of the Assistant Charity Commissioner who has passed the impugned order. Naturally, the Assistant Charity Commissioner would consider the application on its own merits.

5. With these observations, we dispose of the writ petition. It is made clear that, we have not considered the merits of the contentions. The merits of the contentions are kept open. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE