

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

**CIVIL APPLICATION NO.9738 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019
WITH
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Uttamrao Rambhaji Shelke
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.5865 OF 2020
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Trust Shirdi
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.5495 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Shirdi
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.4579 OF 2020
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Uttamrao Rambhaji Shelke
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.5866 OF 2020
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Trust Shirdi
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.5799 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Trust Shirdi
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.5797 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Shirdi
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.5798 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Trust Shirdi
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.4672 OF 2021
IN**

PUBLIC INTEREST LITIGATION NO.120 OF 2019

Shri Saibaba Sansthan Shirdi
VERSUS
The State Of Maharashtra And Others

WITH
CIVIL APPLICATION NO.13038 OF 2019
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019

Uttamrao Rambhaji Shelke
VERSUS
The State Of Maharashtra And Others

WITH
CIVIL APPLICATION NO.4674 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019

Shri Saibaba Sansthan Shirdi
VERSUS
The State Of Maharashtra And Others

WITH
CIVIL APPLICATION NO.3190 OF 2021
IN
CIVIL APPLICATION NO.2168 OF 2021

Pramod Dnyandev Gondkar
VERSUS
Shri Sai Baba Sansthan Shirdi Through Chief Executive officer
And Others

Shri Chapalgaonkar Shailesh S., Advocate for the Applicant

WITH

**CIVIL APPLICATION NO.4764 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Uttamrao Rambhaji Shelke
VERSUS
The State Of Maharashtra And Others**

**WITH
CIVIL APPLICATION NO.4765 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Uttamrao Rambhaji Shelke
VERSUS
The State Of Maharashtra And Others**

**WITH
CIVIL APPLICATION NO.5496 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Shirdi
VERSUS
The State Of Maharashtra And Others**

**WITH
CIVIL APPLICATION NO.4686 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Shirdi
VERSUS
The State Of Maharashtra And Others**

**WITH
CIVIL APPLICATION NO.2165 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

Shri Saibaba Sansthan Shirdi

VERSUS

The State Of Maharashtra And Others

WITH

CIVIL APPLICATION NO.2169 OF 2021

IN

PUBLIC INTEREST LITIGATION NO.120 OF 2019

Shri Saibaba Sansthan Shirdi

VERSUS

The State Of Maharashtra And Others

WITH

CIVIL APPLICATION NO.4485 OF 2020

IN

PUBLIC INTEREST LITIGATION NO.120 OF 2019

Shri Saibaba Sansthan Trust

VERSUS

The State Of Maharashtra And Others

WITH

CIVIL APPLICATION NO.4415 OF 2020

IN

PUBLIC INTEREST LITIGATION NO.120 OF 2019

Shri Saibaba Sansthan Trust Shirdi

VERSUS

The State Of Maharashtra And Others

WITH

CIVIL APPLICATION NO.4453 OF 2020

IN

PUBLIC INTEREST LITIGATION NO.120 OF 2019

Shri Saibaba Sansthan Shirdi,

VERSUS

The State Of Maharashtra And Others

WITH

**CIVIL APPLICATION NO.2575 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Shirdi
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.2168 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Shirdi
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.4406 OF 2020
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Trust Shirdi
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.4454 OF 2020
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

**Shri Saibaba Sansthan Trust Shirdi,
VERSUS
The State Of Maharashtra And Others

**WITH
CIVIL APPLICATION NO.748 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.120 OF 2019**

Shri Saibaba Sansthan Shirdi

VERSUS

The State Of Maharashtra And Others

WITH

CIVIL APPLICATION NO.4409 OF 2020

IN

PUBLIC INTEREST LITIGATION NO.120 OF 2019

Shri Saibaba Sansthan Shirdi

VERSUS

The State Of Maharashtra And Others

Ms.Pradnya S. Talekar i/by Talekar and Associates, Advocate for
the Applicant/ PIL Petitioner.

Shri R.N.Dhorde, Senior Advocate, Special Counsel a/w Shri
D.R. Kale, Government Pleader, for respondent No.1/ State.

Shri A.S. Bajaj, Advocate for Shri Saibaba Sansthan Trust in all
matters.

Shri V.R. Dhorde, Advocate for respondent Nos.3 and 7.

Shri V.D. Hon, Senior Advocate h/f Shri A.V. Hon, Advocate for
respondent No.6

Shri Shailesh S. Chapalgaonkar, Advocate for the applicant in
CA/3190/2021.

CORAM : RAVINDRA V. GHUGE

&

S.G. MEHARE, JJ.

DATE :- 04th October, 2021

Per Court :-

1. We have extensively heard the learned advocate for
the applicant/ PIL petitioner, the learned Senior Advocate as a
Special Counsel for the State of Maharashtra and the learned
counsel for the respective sides.

2. The issue before us is as to whether, the Civil Application No.9738/2021 filed by the applicant/ PIL petitioner should be allowed so as to consider a cause of action against the appointment of a new part-committee by the State of Maharashtra vide the notification dated 16.09.2021 or whether, the applicant be at liberty to initiate a separate petition for challenging the said notification and the appointments made by the State Government to the Shri Saibaba Sansthan Shirdi.

3. On 21.09.2021, we had recorded the submissions of the learned counsel and we had also taken into account the fact that some of the newly appointed members of the committee had organized a felicitation function on occupying their respective positions without showing any respect to the learned Principal District Judge under whose chairmanship, this Court had formed an ad-hoc committee. After noting the submissions, we had passed the following order on 21.09.2021 :-

- “1. By this Civil Application, the PIL petitioner has sought leave to amend the pleadings in the PIL.*
- 2. The learned AGP on instructions and Shri Bajaj on instructions from respondent no.2 Sansthan seek time to file a reply and oppose the Civil Application.*
- 3. During the brief hearing on the Civil Application today, the learned Advocate for the petitioner points out paragraphs 12, 13 and 14*

of the order passed by this Court on 9th October, 2019, which reads as under :

“12. It may not be out of place to refer to the order dated 13th March, 2012, passed by this Court in Public Interest Litigation No. 18 of 2011, wherein this Court thought it fit to appoint a committee to supervise, monitor and look after the financial affairs of the Sansthan. The committee so constituted was consisting of the Principal District Judge, Ahmednagar, the Collector, Ahmednagar and the Chief Executive Officer of Shree Sai Baba Sansthan Trust, Shirdi.

13. We deem it appropriate to appoint ad hoc committee consisting of the Principal District Judge of Ahmednagar, the Chief Executive Officer of Shree Sai Baba Sansthan Trust, Shirdi, one delegatee, not below the rank of the Assistant Charity Commissioner, through the Charity Commissioner of State of Maharashtra and the Additional Commissioner, Nasik Division, Nasik.

14. We further direct that any major policy decision or financial decision, wherein the amount involved is more than Rs.50 lakhs be submitted to the said committee for its approval, except for routine expenses as referred to in the order dated 30th January, 2019 in Public Interest Litigation Nos. 152 of 2018 and 86 of 2018.”

4. The contention of the petitioner is that the State Government has appointed a new Managing Committee for the Sansthan vide Notification dated 16.09.2021 which is termed as the Managing Committee. The said Managing Committee has taken charge of their offices in the Sansthan on 17th September, 2021.
5. The learned AGP submits that firstly, he will have to take instructions on the Civil Application in view of the grave urgency expressed by the petitioner and secondly, once the charge has been taken by the new committee, this Court may refrain from passing

any orders.

6. *We have no doubts that the State Government is empowered to appoint the Managing Committee for Shree Sai Baba Sansthan, Shirdi. However, the peculiar circumstances in which we had passed an order on 9th October, 2019, especially the reproduced paragraphs 12, 13 and 14, would indicate that this Court had brought a Committee into existence to supervise, monitor and administer the Sansthan and its financial affairs. The learned Principal District Judge, Ahmednagar, the Collector, Ahmednagar, the Chief Executive Officer of the Sansthan, one delegatee of the Charity Commissioner, State of Maharashtra, not below the rank of an Assistant Charity Commissioner and the Additional Commissioner, Nasik Division, Nasik were members of the Committee that we had constituted. We had thus empowered the Committee to administer the Sansthan and the Committee was performing its functions under the orders of this Court passed in the PIL from time to time. When we had brought a committee into existence and had empowered it to function and administer the Sansthan, prima facie, no other Managing Committee could have dislodged the Committee that we had constituted, on the plea of the Government having declared the formation of the new Committee. In short, the new Committee could not have taken charge without obtaining orders from this Court as we would then be required to discharge the Committee that we had constituted.*
7. *The learned Advocate for the petitioner submits that a meeting has been arranged on 26th September, 2019 and there are certain issues on the agenda pertaining to huge financial transactions. We find from our order dated 9th October, 2019 that any expenditure beyond Rs.50 lakhs was to be submitted to the Committee and this Court has been issuing orders from time to time, approving certain expenditure.*

8. *Since the learned AGP seeks time, we are posting this matter on 23rd September, 2021 at 2.30 pm. Until then, the new Committee, which is alleged to have taken charge by dislodging the Committee that we had constituted, shall refrain from taking any policy decision, sanction expenditure and shall also refrain from making any appointments or inducting any new members, if any, until further orders.*
9. *Stand over to 23rd September, 2021 at 2.30 p.m.”*

4. We have considered the extensive submissions today on the Civil Application No.9738/2021. The interim arrangement that we had ordered in paragraph 8 (reproduced above), was continued until further orders since the learned Government Pleader had sought time on 23.09.2021 to file a reply to the Civil Application.

5. The PIL was filed in 2019 wherein, prayer clauses A to E were put forth as under :-

- “A) To direct the respondent No.1 to appoint the new Managing Committee of the Sansthan for the year 2019-2022, by issuing a writ of mandamus, or any other appropriate writ, order or direction as the case may be;*
- B) To appoint ad-hoc committee pursuant to the directions of this Hon’ble Court dated 13.03.2012 passed in PIL No.18 of 2021 on account of expiration of term of the Managing Committee of the Sansthan, pending hearing and final disposal of this petition;*
- C) To direct the Committee not to take major*

policy and financial decisions without prior permission of this Hon'ble Court, pending hearing and final disposal of the petition;

D) To direct the respondent no.1 to reconsider the major policy and financial decisions taken by the inadequate coram of the Managing Committee since February, 2019 at the earliest by issuing a writ of mandamus, or any other appropriate writ, order or direction as the case may be;

E) To appoint an administrator to manage the affairs of the Sansthan as per section 34(3) of the Act on the ground of incompetency of the Managing Committee to manage the affairs of the Sansthan and the term of Managing Committee had expired on 27.07.2019, by issuing a writ of mandamus, or any other appropriate writ, order or direction as the case may be;"

6. By the various orders passed by this Court and especially under the order dated 09.10.2019, an adhoc committee was appointed under the chairmanship of the learned Principal District Judge, Ahmednagar and we had directed the said committee to perform certain functions, which answered prayer clauses B to E put forth in the PIL. With such development, prayer clause A was to be considered as the petitioner had sought a direction to the State Government to appoint a new managing committee as per rules. Pursuant to the notification dated 16.09.2021, a new managing committee has been appointed

thereby, answering prayer clause A set out in the PIL petition. The PIL virtually stands worked out.

7. By this Civil Application, the petitioner has put forth a serious grievance as regards the constitution of the new committee. An extensive amendment has been sought to the PIL pointing out that the new committee could not have taken charge ex-parte showing utter disregard and disrespect to the order of this Court dated 09.10.2019 as well as the learned Principal District Judge, who was the chairperson of the committee. The amendment is sought so as to assail the notification dated 16.09.2021 and for seeking the continuance of the ad-hoc committee appointed by this Court.

8. The learned Senior Advocate and the learned counsel for the respondents opposed the civil application contending that if the petitioner desires to assail the notification constituting a new committee and/or the selection of individual members on the said committee for being de-hors the rules, the petitioner might as well file a new petition since this is an independent and a new cause of action.

9. The learned advocate for the petitioner submits that the petitioner would prefer a new petition keeping in view that

there are several gross illegalities in the notification dated 16.09.2021 as well as the choice of the members who are disqualified from being nominated on the committee. The candidates selected as members of the committee need to be placed under the scanner as the petitioner has noticed grave illegalities in their selection and nomination. The learned advocate, therefore, prays that the directions issued by this Court in paragraph 8 of the order dated 21.09.2021, which have been continued even till this date, could be continued for further period of three weeks.

10. The learned Senior Advocate submits that the State Government has declared its decision to open the temples/ shrines/ religious places/ places of worship, w.e.f. 07.10.2021. Within the limits of the guidelines as may be mandated by the State Government permitting the devotees from coming to the temple, the committee will have to take several decisions in order to ensure that the attendance of devotees is monitored so as to prevent any untoward situation. The CEO on the Sansthan is an IAS officer, who is a direct entrant in the service and with the assistance of such CEO, the committee should be granted certain liberties to ensure the smooth functioning of the Sansthan. It is,

therefore, submitted that the powers of the committee flowing from the Shri Saibaba Sansthan Trust (Shirdi) Act, 2004, need to be granted to these members. Presently, there are 12 members appointed out of a maximum of 17.

11. Considering the above, the Civil Application No.9738/2021 filed by the PIL petitioner, is disposed off with the following directions :-

- (a) The applicant/ petitioner is at liberty to prefer a proceeding as may be advised.
- (b) The directions issued by this Court in paragraph 8 of the order dated 21.09.2021 reproduced above, would continue only till 19.10.2021.
- (c) Subject to any orders passed by a Court in the litigation, if initiated by the petitioner or any other litigant, the newly appointed managing committee would officially take charge from the learned Principal District Judge, Ahmednagar, who is the chairman of the adhoc committee in force, on 19.10.2021 in between 05:00 pm to 6:30 pm.
- (d) Prior to 19.10.2021, the learned PDJ, Ahmednagar in coordination with the CEO of the Sansthan, shall

hold the meeting of the adhoc committee for ensuring the smooth opening of the temple on 07.10.2021 and monitor the same until 19.10.2021.

12. Considering the above, this PIL is disposed off. The amount of Rs.25,000/- deposited by the PIL petitioner would be returned to him.

13. The pending Civil Applications for seeking permission of this Court for various purposes, also stand disposed off, with the rider that all issues put forth in the Civil Applications may be taken up by the new committee after 19.10.2021, subject to there being no legal impediment.

kps (S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)