IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6268 OF 2019

Anand S/o Sheshrao Bharose,
Age : 41 Years, Occu. : Agril.,
R/o Rani Laxmibai Road,
Parbhani, Tq. & Dist. Parbhani. .. Petitioner

Versus

1. Dr. Vedprakash Kashirao Patil,
Age : 72 Years, Occu. : Pensioner,
R/o Mohini Building, Shivaji Nagar,
Parbhani, Tq. & Dist. Parbhani.

2. Bhimrao Gnyanoji Nirval,
Age : 83 Years, Occu. : Pensioner,
R/o Rajarshi Shahu Nagar,
Parbhani, Tq. & Dist. Parbhani.

3. Shivaji Narayanrao Kakade,
Age : 73 Years, Occu. : Pensioner,
R/o Krushi Sarthi Nagar,
Parbhani, Tq. & Dist. Parbhani.

4. Vitthal Govindrao Bhosle,
Age : 73 Years, Occu. ; Pensioner,
R/o Near Tsahalis Offic, Udgir,
Tq. Udgir, Dist. Latur.

5. Uttamrao Abaji Bharose,
Age : 52 Years, Occu. : Agril.,

6. Mahadev Dagdaji Kaste,
Age : 50 Years, Occu. : Agril.,

7. Dnyanoba Narayan Jawale,
Age : 54 Years, Occu. : Agril.,

8. Rajendra Gulabrao Adhav,
Age : 50 Years, Occu. : Agril.,

9. Prabhakar Abhaji Gaikwad,
Age : 56 Years, Occu. : Agril.,

10. Sopan Dattarao Chavan,
Age : 60 Years, Occu. : Agril.,

11. Vasant Tikaram Bharose,
Age : 51 Years, Occu. : Agril.,

12. Suresh Uttamrao Adhav,
Age : 53 Years, Occu. : Agril.,

13. Rajabhau Vishwanathrao More,
Age : 59 Years, Occu. : Agril.,

No. 5 to 13 R/o Parbhani,
Tq. & Dist. Parbhani. .. Respondents

WITH
WRIT PETITION NO. 6314 OF 2019

1. Uttamrao S/o Abaji Bharose,
Age : 50 Years, Occu. : Agril. & Service,
R/o Yerldarkar Colony, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

2. Mahadeo S/o Dagdoji Kaste,
Age : 55 Years, Occu. : Agril. & Service,
R/o Mauli Nagar, Vasmat Road,
Parbhani, Tq. & Dist. Parbhani.

3. Dnyanoba S/o Narayanrao Jawale,
Age : 59 Years, Occu. : Agril. & Pensioner,
R/o Shrikrushna Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

4. Rajendra S/o Gulabrao Adhav,
Age : 45 Years, Occu. : Agril. & Service,
R/o Shrikrushna Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

5. Prabhakar S/o Abhaji Gaikwad,
Age : 44 Years, Occu. : Agril. & Service,
R/o Rachana Nagar, Karegaon

Road, Parbhani, Tq. & Dist. Parbhani.

6. Sopan S/o Dattarao Chavan,
Age : 45 Years, Occu. : Agril. & Service,
R/o Yeshvant Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

7. Vasant S/o Tikaram Bharose,
Age : 48 Years, Occu. : Agril. & Service,
R/o Rachana Nagar, Karegaon
Road, Parbhani, Tq. & Dist. Parbhani.

8. Suresh Uttamrao Adhav,
Age : 47 Years, Occu. : Agril. & Service,
R/o Yeshvant Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

9. Rajabhau S/o Vishwanathrao More,
Age : 43 Years, Occu. : Agril. & Service,
R/o Mathura Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani. .. Petitioners

Versus

1. Dr. Vedprakash Kashirao Patil,
Age : 72 Years, Occu. : Pensioner,
R/o Mohini Building, Shivaji Nagar,
Parbhani, Tq. & Dist. Parbhani.

2. Bhimrao Gnyanoji Nirval,
Age : 83 Years, Occu. : Pensioner,
R/o Rajarshi Shahu Nagar,
Parbhani, Tq. & Dist. Parbhani.

3. Anand S/o Sheshrao Bharose,
Age : 45 Years, Occu. : Agril.,
R/o Nari Laxmibai Road,
Parbhani, Tq. & Dist. Parbhani. .. Respondents

WITH
WRIT PETITION NO. 6331 OF 2019

Anand S/o Sheshrao Bharose,
Age : 41 Years, Occu. : Agril.,

R/o Rani Laxmibai Road,
Parbhani, Tq. & Dist. Parbhani. .. Petitioner

Versus

1. Dr. Vedprakash Kashirao Patil,
Age : 72 Years, Occu. : Pensioner,
R/o Mohini Building, Shivaji Nagar,
Parbhani, Tq. & Dist. Parbhani.

2. Bhimrao Gnyanoji Nirval,
Age : 83 Years, Occu. : Pensioner,
R/o Rajarshi Shahu Nagar,
Parbhani, Tq. & Dist. Parbhani.

3. Shivaji Narayanrao Kakade,
Age : 73 Years, Occu. : Pensioner,
R/o Krushi Sarthi Nagar,
Parbhani, Tq. & Dist. Parbhani.

4. Vitthal Govindrao Bhosle,
Age : 73 Years, Occu. ; Pensioner,
R/o Near Tsahalis Offic, Udgir,
Tq. Udgir, Dist. Latur. .. Respondents

WITH
WRIT PETITION NO. 6355 OF 2019

Anand S/o Sheshrao Bharose,
Age : 41 Years, Occu. : Agril.,
R/o Rani Laxmibai Road,
Parbhani, Tq. & Dist. Parbhani. .. Petitioner

Versus

1. Dr. Vedprakash Kashirao Patil,
Age : 72 Years, Occu. : Pensioner,
R/o Mohini Building, Shivaji Nagar,
Parbhani, Tq. & Dist. Parbhani.

2. Bhimrao Gnyanoji Nirval,
Age : 83 Years, Occu. : Pensioner,
R/o Rajarshi Shahu Nagar,
Parbhani, Tq. & Dist. Parbhani.

3. Shivaji Narayanrao Kakade,
Age : 73 Years, Occu. : Pensioner,
R/o Krushi Sarthi Nagar,
Parbhani, Tq. & Dist. Parbhani.

4. Vitthal Govindrao Bhosle,
Age : 73 Years, Occu. ; Pensioner,
R/o Near Tsahalis Offic, Udgir,
Tq. Udgir, Dist. Latur. .. Respondents

WITH
WRIT PETITION NO. 6352 OF 2019

1. Kambale B. E.
Age : 62 Years, Occu. : Retired,
Ramabai Ambedkar Nagar,
Parbhani.

2. Khating R. L.,
Age : 58 Years, Occu. : Service,
Shrihar Nagar, Basmat Road,
Parbhani.

3. Sonwane B. S.,
Age : 64 Years, Occu. : Retired,
Sanjivani Nagar, Pathri Road,
Parbhani.

4. Narale N. K.,
Age : 57 Years, Occu. : Service,
Lockmanya Nagar, Parbhani.

5. Babarao Bharose,
Age : 70 Years, Occu. : Agril.,
Maharani Laxmibai Road,
Parbhani.

6. Manikrao Narhoji Khule
Age : 72, Occu. : Agril.,
At.- Rahati, Post – Asola,
Tq. & Dist. Parbhani.

7. Bobade V. D.

Age : 54, Occu. : Service,
Shrikrishna Nagar,
Basmat Road, Parbhani.

8. Bhalerao S. V.
Age : 70, Occu. : Agril.,
At.- Rahati, Post – Asola,
Tq. & Dist. Parbhani.

9. Khandare K. K.
Age : 65, Occu. : Retired,
Shikshak Colony, Purna,
Dist- Parbhani.

10. Aher P. N.
Age : 62, Occu. : Retired,
Yashwant Nagar, Basmat Road,
Parbhani.

11. Dake P. N.
Age : 62, Occu. : Retired,
Yashwant Nagar, Parbhani.

12. Shrimati Surve V. P.
Age : 63, Occu. : Retired,
Shivram nagar, Parbhani.

13. Shrimati Shiradkar M. N.
Age : 62, Occu. : Retired,
Ramkrishna nagar, Parbhani.

14. Gaikwad D. A.
Age : 52, Occu. : Service,
Rachana nagar, Karegaon road,
Parbhani.

15. Shinde V. M.,
Age : 53, Occu. : Service,
Yashwant nagar, Basmat road,
Parbhani.

16. Magar D. K.,
Age : 55, Occu. : Service,
Shantin Niketan Colony,
Parbhani.

17. Magar B. S.,
Age : 54, Occu. : Service,
Khaja Colony, Parbhani.

18. Kharat R. D.,
Age : 52, Occu. : Service & Agril.,
Sanjivani nagar, Pathri road,
Parbhani.

19. Patange S. J.
Age : 50, Occu. : Service,
Rachana nagar, Karegaon road,
Parbhani.

20. Bhalerao P. V.
Age : 58, Occu. : Service,
Rachana nagar, Parbhani.

21. Bhusare G. K.,
Age : 58, Occu. : Service & Agril.,
At Post – Navki, Tq. Purna,
Dist -Parbhani.

22. Vairagar Anant Sheshrao,
Age : 51, Occu. : Service,
Yashwant nagar, Parbhani.

23. Kashte Rameshwar Santaramji,
Age : 72, Occu. : Agril.,
At Post – Rohina, Tq. Selu,
Dist -Parbhani.

24. Ankush Ramrao Khule,
Age : 50, Occu. : Service and Agril.,
At.- Rahati, Post – Asola,
Tq. & Dist. Parbhani.

25. Rangnath Kashinathrao Bhalerao,
Age : 49, Occu. : Service and Agril.,
At.- Rahati, Post – Asola,
Tq. & Dist. Parbhani.

26. Vyankatrao Gunaji Bhosale,
Age : 68, Occu. : Agril.,

At.- Suhagan, Post – Hayat nagar,
Tq. Purna, Dist. Parbhani.

27. Balaji Meghaji Bhosale,
Age : 65, Occu. : Agril.,
At.- Suhagan, Post – Hayat nagar,
Tq. Purna, Dist. Parbhani.

28. Vishwanath Rambhau More,
Age : 72, Occu. : Agril.,
At – Pimpalgaon (Sayyadmiya),
Post Pedgaon, Tq. & Dist. Parbhani.

29. Vilas Sahebrao Bhalerao,
Age : 48, Occu. : Service,
Yashwant Nagar, Parbhani.

30. Ghongade P. S.
Age : 51, Occu. : Service,
Sharda Nagar, Parbhani.

31. Dattrao Bapurao Kadam,
Age : 76, Occu. : Agril.,
New Mondha, Parbhani.

32. Balasaheb Bapurao Bharose,
Age : 56, Occu. : Service & Agril.
Yashwant Nagar, Parbhani.

33. Khule R. N.
Age : 56, Occu. : Service and Agril.,
At.- Rahati, Post – Asola,
Tq. & Dist. Parbhani.

34. Karke A. S.,
Age : 54, Occu. : Service,
Rachana Nagar, Parbhani.

35. Chavan Urmila Namdevrao,
Age : 42, Occu. : Housework,
Sanjiwani Nagar, Pathari Road,
Parbhani.

36. Kadam A. D.
Age : 52, Occu. : Service and Agril,

At Post – Arvi, Tq. & Dist. Parbhani.

37. Shrimati. Laxmibai Munjaji Talekar
Age : 64, Occu. : Housework
Shrikrishna Nagar, Basmat Road,
Parbhani.

38. Honajirao Kishanrao Jawale,
Age : 62, Occu. : Retired
Shivram Nagar, Parbhani.

39. Rukhamin Anantrao Vairagar
Age : 42, Occu. : Housework
Yashwant Nagar, Parbhani.

40. Rajashri Dnyanoba Jawale,
Age : 52, Occu. : Housework
Shrikrishna Nagar, Parbhani.

41. Magar Ashroba Keshavrao
Age : 68, Occu. : Agril
At Post – Gogalgaon, Tq. - Selu,
Dist.- Parbhani.

42. Sushma Narayanrao Magar,
Age : 42, Occu. : Housework,
Station Road, Selu,
Dist – Parbhani.

43. Chavan Vishnu Dattrao,
Age : 51, Occu. : Agril
At Post – Nagangaon, Post – Vassa,
Tq. - Jintur, Dist – Parbhani.

44. Kharat Sahebrao Dagdoji,
Age : 69, Occu. : Agril.,
At – Degaon, Post – Bori,
Tq-Jintur, Dist – Parbhani

45. Keshvrao Dattrao Bhusare,
Age : 74, Occu. : Agril
At Post- Navki, Tq- Purna,
Dist – Parbhani.

46. Champat Narayan Bhusare,
Age : 74, Occu. : Service and Agril
At Post- Navki, Tq- Purna,
Dist – Parbhani.

47. Usha Rameshwar Kashte
Age : 44, Occu. : Housework,
At Post – Rohina, Tq – Selu,
Dist – Parbhani

48. Ashok Ramrao Bobade
Age : 44, Occu. : Agril
At Post – Takali (Bo.),
Tq & Dist – Parbhani

49. Vishwanath Amrutrao Chavan
Age : 62, Occu. : Retired and Agril
At Post – Nagangaon, Post – Vassa,
Tq. - Jintur, Dist – Parbhani.

50. Edake A. S.,
Age : 62, Occu. : Retired,
Ramkrishna Nagar, Parbhani

51. Vairagar Bhaskar Rangnath
Age : 65, Occu. : Agril
At – Tadpangari, Post – Singnapur
Tq. & Dist – Parbhani.

52. Gore P. S.
Age : 48, Occu. : Service,
At Post – Umri, Tq & Dist - Parbhani.

53. Shelke B. K.
Age : 54, Occu. : Service
Yashwant Nagar, Basmat Road,
Parbhani.

54. Kadam D. M.
Age : 49, Occu. : Service
Yashwant Nagar, Parbhani.

55. Jogdand B. U.
Age : 48, Occu. : Service
At Post – Singnapur,

Tq. & Dist – Parbhani

56. Rukhmini Laxmanrao Jawale,
Age : 47, Occu. : Housework
Ramkrishna Nagar, Parbhani.

57. Jayshri Satishrao Shinde
Age : 46, Occu. : Housework
Shivaji Nagar, Parbhani.

58. Radha Vijaykumar Shinde
Age : 46, Occu. : Housework
Yashwant Nagar, Parbhani.

59. Pralhad Santramji Kashte,
Age : 57, Occu. : Agril.,
At Post – Rohina, Tq – Selu,
Dist – Parbhani

60. Sunita Shivajirao Jadhav,
Age : 48, Occu. : Housework
Shivram Nagar, Parbhani.

61. Vitthal Keshavrao Bhusare,
Age : 48, Occu. : Service
Yashwant Nagar, Parbhani.

62. Shivaji Ramrao Bobade
Age : 70, Occu. : Agril
At Post – Takali (Bo),
Tq & Dist – Parbhani

63. Laxmanrao Narayanrao Jawale,
Age : 55, Occu. : Service
Ramkrishna Nagar, Parbhani.

64. Keshavrao Santoba Vairagar,
Age : 67, Occu. : Agril
At – Tadpangari, Post – Singnapur
Tq. & Dist – Parbhani.

65. Tejaswini Sadashivrao Shinde
Age : 49, Occu. : Housework
Kalyan Nagar, Parbhani.

66. Pandit Dagduji Kharat
Age : 70, Occu. : Agril.
At – Degaon, Post – Bori,
Tq- Jintur, Dist – Parbhani

67. Anil Sundarrao Magar,
Age : 57, Occu. : Agril,
At Post – Gogalgaon, Tq – Selu,
Dist – Parbhani

68. Vasant Babarao Kharwade,
Age : 70, Occu. : Agril
At – Kinhola, Post – Pedgaon,
Tq & Dist – Parbhani.

69. Dnyanoba Ganpatrao Poul
Age : 62, Occu. : Agril
At Post – Pimpari, Tq- Parli,
Dist. Beed

70. Chavhan Kondiram Amrutrao,
Age : 58, Occu. : Agril
At Post – Nagangaon, Post – Vassa,
Tq. - Jintur, Dist – Parbhani.

71. Viragar (Pangarkar) Sheshrao Rangnath
Age : 60, Occu. : Agril
At – Tadpangari, Post – Singnapur
Tq. & Dist – Parbhani.

72. Maske Tukaram Kishanrao
Age : 68, Occu. : Agril
At – Repa, Post – Bhogaon,
Tq. - Jintur, Dist – Parbhani

73. Sanjay Sahebrao Kadam
Age : 48, Occu. : Agril
At Post – Arvi, Tq & Dist – Parbhani

74. Suvarna Kishanrao Jawale
Age : 48, Occu. : Housework
At Post – Asola, Tq & Dist – Parbhani

75. Rajebhau Bhagwan Sase
Age : 59, Occu. : Agril

At – Pachegaon, Post – Bhogaon,
Tq. - Jintur, Dist – Parbhani

76. Shrimati Gitabai Dhondiramji Bobade
Age : 68, Occu. : Agril
At – Tadpangari, Post – Singnapur
Tq. & Dist – Parbhani.

77. Ramchandra Nivruti Tapare
Age : 68, Occu. : Agril
At – Pimpalgaon (Sayyadmiya)
Post – Pedgaon, Tq & Dist – Parbhani

78. Dwarkadas Bhujangrao Kharwade,
Age : 70, Occu. : Agril
At – Kinhola, Post – Pedgaon,
Tq & Dist – Parbhani

79. Suresh Sahebrao Kadam,
Age : 59, Occu. : Agril
At Post – Arvi, Tq & Dist – Parbhani

80. Munjaji Shankarrao Maske,
Age : 62, Occu. : Agril
At – Repa, Post – Bhgaon,
Tq – Jintur, Dist – Parbhani

81. Rajendra Ramrao Kharat,
At – Degaon, Post – Bori,
Tq – Jintur, Dist – Parbhani

82. Garkar Trimbakrao Bapurao,
Age : 68, Occu. : Retired,
Yashwant Nagar, Parbhani

83. Adhav Gulabrao Shyamrao,
Age : 72, Occu. : Agril
At Post – Banegaon,
Tq – Pathari, Dist – Parbhani

84. Ramrao Munjajirao Bobade
Age : 70, Occu. : Agril
At Post – Takali (Bo),
Tq & Dist Parbhani

85. Shahu Ramrao Bobade,
Age : 48, Occu. : Agril
At Post – Takali (Bo),
Tq & Dist Parbhani

86. Pralhad Kishanrao Maske
Age : 68, Occu. : Agril
At – Repa, Post – Bhgaon,
Tq – Jintur, Dist – Parbhani

87. Bhagwan Eknathrao Sase
Age : 66, Occu. : Agril
At – Pachegaon, Post – Bhogaon,
Tq - Jintur, Dist – Parbhani

88. Dnyanoba Bhujangrao Kharwade
Age : 70, Occu. : Agril
At – Kinhola, Post – Pedgaon,
Tq & Dist – Parbhani

89. Laxman Dyanoba Poul
Age : 42, Occu. : Service,
Shrikrishna Nagar, Parbhani

90. Rukhamini Gopalrao Bhusare,
Age : 43, Occu. : Housework,
At Post – Navki, Tq. Purna,
Dist -Parbhani.

91. Rama Digambar Kadam,
Age : 59, Occu. : Agril
At Post – Arvi, Tq & Dist – Parbhani

92. Vishwanath Ramkishan Kadam,
Age : 58, Occu. : Service & Agril
At Post – Arvi, Tq & Dist – Parbhani

93. Shrimat. Suryakanta Munjaji Shinde,
Age : 72, Occu. : Housework,
Khanapur Nagar, Parbhani

94. Mahananda Madhukar Kashte,
Age : 47, Occu. : Housework,
At Post – Rohina, Tq – Selu,
Dist – Parbhani

95. Bhagwan Rangnath Vairagar,
Age : 58, Occu. : Service
At – Tadpangari, Post – Singnapur
Tq. & Dist – Parbhani.

96. Manohar Rustumrao Vairagar,
Age : 60, Occu. : Service
At – Tadpangari, Post – Singnapur
Tq. & Dist – Parbhani.

97. Santosh Jankiram Kadam,
Age : 42, Occu. : Service
Rachana Nagar, Parbhani.

98. Dadarao Panditrao Kharat,
Age : 68, Occu. : Agril
At – Degaon, Post – Bori,
Tq – Jintur, Dist – Parbhani

99. Maske Govind Baliram,
Age : 63, Occu. : Agril
At – Repa, Post – Bhgaon,
Tq – Jintur, Dist – Parbhani

100. Ramesh Balwantrao Shinde,
Age : 50, Occu. : Service
Mauli Nagar, Basmat Road,
Parbhani. .. Petitioners

Versus

1. Dr. Vedprakash Kashirao Patil,
Age : 72 Years, Occu. : Pensioner,
R/o Mohini Building, Shivaji Nagar,
Parbhani, Tq. & Dist. Parbhani.

2. Bhimrao Gnyanoji Nirval,
Age : 83 Years, Occu. : Pensioner,
R/o Rajarshi Shahu Nagar,
Parbhani, Tq. & Dist. Parbhani.

3. Shivaji Narayanrao Kakade,
Age : 73 Years, Occu. : Pensioner,
R/o Krushi Sarthi Nagar,

Parbhani, Tq. & Dist. Parbhani.

4. Vitthal Govindrao Bhosle,
Age : 73 Years, Occu. ; Pensioner,
R/o Near Tsahalis Offic, Udgir,
Tq. Udgir, Dist. Latur.

5. Uttamrao Abaji Bharose,
Age : 52 Years, Occu. : Agril.,

6. Mahadev Dagdaji Kaste,
Age : 50 Years, Occu. : Agril.,

7. Dnyanoba Narayan Jawale,
Age : 54 Years, Occu. : Agril.,

8. Rajendra Gulabrao Adhav,
Age : 50 Years, Occu. : Agril.,

9. Prabhakar Abhaji Gaikwad,
Age : 56 Years, Occu. : Agril.,

10. Sopan Dattarao Chavan,
Age : 60 Years, Occu. : Agril.,

11. Vasant Tikaram Bharose,
Age : 51 Years, Occu. : Agril.,

12. Suresh Uttamrao Adhav,
Age : 53 Years, Occu. : Agril.,

13. Rajabhau Vishwanathrao More,
Age : 59 Years, Occu. : Agril.,

No. 5 to 13 R/o Parbhani,
Tq. & Dist. Parbhani.

14. Anand Sheshrao Bharose,
Age : 41 Years, Occu. : Agril.,
R/o Parbhani Tq. & Dist. Parbhani.

15. Assistant Charity Commissioner,
Parbhani, Tq. & Dist. Parbhani.

16. Joint Charity Commissioner,

Baba Petrol Pump, Aurangabad. .. Respondents

WITH
WRIT PETITION NO. 7866 OF 2019

Dr. Vedprakash S/o Kashirao Patil,
Age : 78 Years, Occu. : Retired
Vice Chairman R/o Shivaji Nagar,
Parbhani, Taluka and Dist. Parbhani. .. Petitioner

Versus

1. Anand Sheshrao Bharose,
Age : 48 Years, Occu. : Agril.,
R/o Rani Laxmibai Road,
Parbhani Tq. & Dist. Parbhani.

2. Uttamrao S/o Abaji Bharose,
Age : 50 Years, Occu. : Agril. & Service,
R/o Saldar Colony, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

3. Mahadeo S/o Dagdoji Kaste,
Age : 55 Years, Occu. : Agril. & Service,
R/o Mauli Nagar, Vasmat Road,
Parbhani, Tq. & Dist. Parbhani.

4. Dnyanoba S/o Narayanrao Javle,
Age : 59 Years, Occu. : Agril. & Pensioner,
R/o Shrikrushna Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

5. Rajendra S/o Gulabrao Adhav,
Age : 45 Years, Occu. : Agril. & Service,
R/o As above.

6. Prabhakar S/o Abhaji Gaikwad,
Age : 45 Years, Occu. : Agril. & Service,
R/o Rachana Nagar, Karegaon
Road, Parbhani, Tq. & Dist. Parbhani.

7. Sopan S/o Dattarao Chavan,
Age : 45 Years, Occu. : Agril. & Service,
R/o Yeshvant Nagar, Vasmat

Road, Parbhani, Tq. & Dist. Parbhani.

8. Vasant S/o Tikaram Bharose,
Age : 48 Years, Occu. : Agril. & Service,
R/o Rachana Nagar, Karegaon
Road, Parbhani, Tq. & Dist. Parbhani.

9. Suresh Uttamrao Adhav,
Age : 47 Years, Occu. : Agril. & Service,
R/o Yeshvant Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

10. Rajabhau S/o Vishwanathrao More,
Age : 43 Years, Occu. : Agril. & Service,
R/o Mathura Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

11. Dr. Bhimrao Gyanoba Nirval,
Age : 77 years, Occu. : Pensioner,
R/o Rajashree Shahu Nagar,
Parbhani, Tq. & Dist. Parbhani. .. Respondents

WITH
WRIT PETITION NO. 7865 OF 2019

Dr. Vedprakash S/o Kashirao Patil,
Age : 78 Years, Occu. : Retired
Vice Chancellor,
R/o Shivaji Nagar,Parbhani,
Taluka and Dist. Parbhani. .. Petitioner

Versus

1. Anand Sheshrao Bharose,
Age : 48 Years, Occu. : Agril.,
R/o Rani Laxmibai Road,
Parbhani Tq. & Dist. Parbhani.

2. Uttamrao S/o Abaji Bharose,
Age : 50 Years, Occu. : Agril. & Service,
R/o Saldar Colony, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

3. Mahadeo S/o Dagdoji Kaste,
Age : 55 Years, Occu. : Agril. & Service,

R/o Mauli Nagar, Vasmat Road,
Parbhani, Tq. & Dist. Parbhani.

4. Dnyanoba S/o Narayanrao Javle,
Age : 59 Years, Occu. : Agril. & Pensioner,
R/o Shrikrushna Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

5. Rajendra S/o Gulabrao Adhav,
Age : 45 Years, Occu. : Agril. & Service,
R/o As above.

6. Prabhakar S/o Abhaji Gaikwad,
Age : 45 Years, Occu. : Agril. & Service,
R/o Rachana Nagar, Karegaon
Road, Parbhani, Tq. & Dist. Parbhani.

7. Sopan S/o Dattarao Chavan,
Age : 45 Years, Occu. : Agril. & Service,
R/o Yeshvant Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

8. Vasant S/o Tikaram Bharose,
Age : 48 Years, Occu. : Agril. & Service,
R/o Rachana Nagar, Karegaon
Road, Parbhani, Tq. & Dist. Parbhani.

9. Suresh Uttamrao Adhav,
Age : 47 Years, Occu. : Agril. & Service,
R/o Yeshvant Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

10. Rajabhau S/o Vishwanathrao More,
Age : 43 Years, Occu. : Agril. & Service,
R/o Mathura Nagar, Vasmat
Road, Parbhani, Tq. & Dist. Parbhani.

11. Dr. Bhimrao Gyanoba Nirval,
Age : 77 years, Occu. : Pensioner,
R/o Rajashree Shahu Nagar,
Parbhani, Tq. & Dist. Parbhani. .. Respondents

WITH
WRIT PETITION NO. 3268 OF 2021

Dr. Vedprakash Kashirao Patil,
Age : 78 Years, Occu. : Retired
Vice Chancellor,
R/o Shivaji Nagar,Parbhani,
Taluka and Dist. Parbhani. .. Petitioner

Versus

1. Anand Sheshrao Bharose,
Age : 48 Years, Occu. : Agril.,
R/o Rani Laxmibai Road,
Parbhani Tq. & Dist. Parbhani.

2. Dr. Bhimrao Gyanoba Nirval,
Age : 77 years, Occu. : Pensioner,
R/o Rajashi Shahu Nagar,
Parbhani, Tq. & Dist. Parbhani.

3. Shivaji Narayanrao Kakde,
Age : 73 years, Occu. : Pensioner,
R/o Krushi Sarthi Nagar, Parbhani,
Tq. & Dist. Parbhani. .. Respondents

APPEARANCES

WRIT PETITION NO. 6268 OF 2019

Shri R. N. Dhorde, Senior Advocate i/by Shri Vikram S. Kadam, Advocate for the Petitioner.
Shri V. D. Sapkal, Senior Advocate i/by Shri Meghraj R. Choudhary, Advocate for the Respondent No. 1.
Shri S. V. Adwant and Ms. Neha Kamble, Advocates for the Respondent No. 2.
Shri N. B. Khandare, Advocate for the Respondent No. 4.
Shri Rajendra S. Deshmukh, Senior Advocate i/by Shri Sudhir K. Chavan, Advocate for Respondent Nos. 5 to 13.

WITH
WRIT PETITION NO. 6314 OF 2019

Shri Rajendra S. Deshmukh, Senior Advocate i/by Shri Sudhir K. Chavan, Advocate for Petitioners.

Shri D. J. Choudhary and Shri Meghraj R. Choudhary,
Advocates for the Respondent No. 1.
Shri S. V. Adwant, Advocate for the Respondent No. 2.
Shri Vikram S. Kadam, Advocate for the Respondent No. 3.

WITH
WRIT PETITION NO. 6331 OF 2019

Shri R. N. Dhorde, Senior Advocate i/by Shri Vikram S. Kadam,
Advocate for the Petitioner.
Shri D. J. Choudhary and Shri Meghraj R. Choudhary,
Advocates for the Respondent Nos. 1 and 3.
Shri S. V. Adwant, Advocate for the Respondent No. 2.
Shri N. B. Khandare, Advocate for the Respondent No. 4.

WITH
WRIT PETITION NO. 6355 OF 2019

Shri R. N. Dhorde, Senior Advocate i/by Shri Vikram S. Kadam,
Advocate for the Petitioner.
Shri D. J. Choudhary and Shri Meghraj R. Choudhary,
Advocates for the Respondent Nos. 1 and 3.
Shri S. V. Adwant, Advocate for the Respondent No. 2.
Shri N. B. Khandare, Advocate for the Respondent No. 4.

WITH
WRIT PETITION NO. 6352 OF 2019

Shri Rajendra L. Kute, Advocate for the Petitioners.
Shri D. J. Choudhary and Shri Meghraj R. Choudhary,
Advocates for the Respondent No. 1.
Shri Sudhir K. Chavan, Advocate for Respondent Nos. 5 to 13.
Shri Vikram S. Kadam, Advocate for the Respondent No. 14.

WITH
WRIT PETITION NO. 7866 OF 2019

Shri Khandare N. B., Advocate for the Petitioner.
Shri Vikram S. Kadam, Advocate for the Respondent No. 1.
Shri S. V. Adwant, Advocate for the Respondent No. 3.

WITH
WRIT PETITION NO. 7865 OF 2019

Shri Choudhary D. J., Advocate for the Petitioner.

Shri Vikram S. Kadam, Advocate for the Respondent No. 1.
Shri Sudhir K. Chavan, Advocate for the Respondent Nos. 2 to 10.

WITH
WRIT PETITION NO. 3268 OF 2021

Shri Choudhary D. J., Advocate for the Petitioner.
Shri Vikram S. Kadam, Advocate for the Respondent No. 1.
Shri S. V. Adwant, Advocate for the Respondent No. 3.

CORAM : SANDEEP V. MARNE, J.

CLOSED FOR JUDGMENT ON : 13.12.2022
JUDGMENT PRONOUNCED ON : 21.12.2022

JUDGMENT :-

. Rule. Rule is made returnable forthwith. With the consent of parties taken up for final hearing.

A. PROLOGUE

2. Sanjivani Education Society, a registered trust under the provisions of the Maharashtra Public Trust Act, 1950 (for the sake of brevity hereinafter referred as to the 'Trust Act') in the year 1979, has established total 31 educational institutions in Parbhani district consisting of twenty five primary and secondary schools, four junior colleges, one senior college and one military school. The trust, established with a noble objective of making available educational facilities amongst the members of public in the year 1979, has now embroiled itself into serious disputes relating to control over its management and affairs. As of today, there are two rival groups who are asserting rights to manage and control affairs of the trust. One of the groups was

led by late Shri Sheshrao D. Bharose, the founder Chairman of the trust and since he is no more, his son Shri Anand S. Bharose now leads this group (for the sake of convenience this group is referred in the present judgment as 'Bharose Group'). The other group consists of three surviving founder trustees viz Dr. Vedprakash Kashirao Patil, Shri Vitthal Govindrao Bhosale and Shri Shivaji Narayanrao Kakde (for the sake of convenience this group is referred in the present judgment as 'Patil Group').

B. THE CHALLENGE

3. The subject matter of challenge in this group of petitions is the judgment and order dated 07th May, 2019 passed by the Joint Charity Commissioner, Aurangabad (for short "J.C.C.") thereby confirming the judgment and order dated 29th April, 2017 passed by the Assistant Charity Commissioner, Parbhani (for short "A.C.C."). Numerous Change Reports have been decided as a result of these orders of the JCC and ACC, the lead Change Report Enquiry being No. 190/2010. Patil Group has emerged victorious in the bitter battle for control of the Trust, with the J.C.C. directing the Patil Group to take necessary steps for formation of various bodies to constitute governing council, which is directed to act as the legal body of the trust.

C. FACTUAL MATRIX :

4. Sanjivani Education Society came to be registered under the provisions of the Trust Act in the year 1979. The trust had eight founder members as under:

Sr. No.	Name of the Member	Position
1.	Shri S. D. Bharose	Chairman

2.	Dr. V. K. Patil	Vice Chairman
3.	Shri D. A. Solunke	Secretary
4.	Shri V. G. Bhosale	Joint Secretary
5.	Shri Raghubai Patel	Member
6.	Shri B. G. Nirwal	Member
7.	Mrs. Sarnaik	Member
8.	Shri S. N. Kakde	Member

5. The transitory governing council under the Chairmanship of Shri Sheshrao D. Bharose was looking after the entire administration of the trust as a Governing Council. The tenure of the transitory governing council as per the constitution of the trust was three years and it appears that no further elections were held to constitute the governing council after the year 1982.

6. In the year 2003, Chang Report Enquiry No. 527 of 2003 came to be filed before the A.C.C., Parbhani by the founder Secretary Shri Dalpatrao Solanke on the basis of alleged general body meeting dated 02.11.2003 electing managing committee for the period 2003 to 2006. In that change report, Chairman Shri Sheshrao D. Bharose filed an application along with list of 25 persons claiming that they were admitted as members of the trust. The application was objected by Secretary Shri Dalpatrao A. Solanke. For undisclosed reasons, the Chairman Shri Sheshrao D. Bharose sought to withdraw the said application. In the meantime, several persons claiming to be members, patrons and donors filed applications for adding them as party opponents to the Change Report, most of whom were allowed to be impleaded. The A.C.C. Parbhani was however pleased to reject the change report by judgment and order dated 03.04.2010. Aggrieved by the decision of the A.C.C., several appeals came to

be filed before the J.C.C. Aurangabad by the founder Secretary Shri Dalpat Solanke as well as by persons claiming to be members of the trust. By judgment and order dated 02nd March, 2017, the J.C.C. rejected the appeal filed by the founder Secretary Shri Dalpat Solanke and partly allowed appeals filed by persons claiming to be members and reversed the findings of the A.C.C. that they were illegal members. Liberty was granted to such persons to prove their membership in pending change reports. The details of such pending change reports are being discussed hereinbelow.

7. While the proceedings in respect of Change Report Enquiry No. 527 of 2003 were pending before the A.C.C. and J. C. C., the founder President Shri Sheshrao D. Bharose passed away on 31.10.2009. Another founder member Dr. B. G. Nirval, who at that time was part of Bharose group, allegedly held elections for constitution of new governing council by including names of 157 members in the voters' list. These 157 members are described as patrons, donors and subscribers, who were allegedly admitted to the membership of the Trust from time to time during the years 1979 to 2003. Dr. B. G. Nirval filed Change Report Enquiry No. 190 of 2010 before the A.C.C. Parbhani for reporting change in the governing council based on results of such elections for the period 2010 to 2013. The Change Report Enquiry No. 893 of 2012 was also filed for reporting resignation and filling up vacancy and Change Report Enquiry No. 308 of 2013 was filed to report result of elections to the governing council for the period 2013-2016. The rival Patil group also filed Change Report Enquiry No. 68 of 2010 for reporting change pursuant to their own elections to the governing council for the period 2006-2009,

Change Report Enquiry No. 69 of 2010 for the period 2009-2012 and Change Report Enquiry No. 615 of 2013 for reporting change pursuant to elections for the period 2012-2015.

8. After filing of Change Report Enquiry No. 190 of 2010 for reporting change of constitution of new governing council subsequent to death of Shri Sheshrao D. Bharose on the basis of elections conducted by Dr. B. G. Nirval, he abruptly took a *volte face* and switched over to Patil group in the year 2011. Dr. B. G. Nirval accordingly filed a pursis dated 18.08.2011 for withdrawal of Change Report Enquiry No. 190 of 2010. Apprehending that the Change Report Enquiry No. 190 of 2010 would be disposed of as withdrawn on account of pursis filed by reporting trustee Dr. B. G. Nirval, Shri Anand S. Bharose filed an application for his own impleadment as reporting trustee in the change report. By order dated 30.08.2014, A.C.C. rejected the pursis filed by Dr. B. G. Nirval observing that there is no provision under the Trust Act for withdrawal of change report filed U/Sec. 22 of the Trust Act. The application filed by Anand S. Bharose was allowed impleading him as party in the Change Report Enquiry No. 190 of 2010.

9. This is how the proceedings in Change Report Enquiry No. 190 of 2010 proceeded ahead after Dr. B. G. Nirval switching over to Patil group. In the meantime, the founder Secretary Shri Dalpat Solanke also expired in the year 2014. This left with only four surviving founder trustees namely Dr. V. K. Patil, Shri V. G. Bhosale, Shri Dr. B. G. Nirval and Shri S. N. Kakde.

10. In the meantime, certain developments took place with regard to production of records of the trust. Barose Group claimed that Patil Group was in custody of the entire records of the Trust. This allegation was possibly attributable to the Order dated 19.05.2010 passed by ACC in proceedings U/Sec. 41A of the Trust Act directing Patil group to look after day today administration and management of the trust. On 16.04.2016, Shri Anand S. Bharose filed an application seeking directions for production of original records by Patil group, which met with an objection by Patil group. Alleging that Patil group was deliberately withholding the documents, an application was filed by Anand S. Bharose on 25.04.2016 stating that as per the constitution of the trust, the original records were in possession of the Secretary and on account of death of most of the founder trustees and due to the existence of disputes, it was not possible to produce the original records of the trust. It was further averred that before conducting elections to the governing council in the year 2010, Dr. B. G. Nirval had handed over copies of some of the documents to Anand S. Bharose. Therefore, permission was sought to produce true copies of such documents as secondary evidence in Change Report Enquiry No. 190 of 2010. Application was resisted by Patil group including by Dr. B. G. Nirval. By order dated 17.05.2016, the A.C.C. Parbhani was pleased to reject the application for permission to lead secondary evidence. Writ Petition No. 5841 of 2016 filed by Anand S. Bharose challenging the decision of the A.C.C. came to be dismissed with liberty to him to adduce other evidence on 23.06.2016. However, when Anand S. Bharose wwasin the witness box for his examination-in-chief before the A.C.C. on 10.10.2016, he suddenly produced several original documents

inter alia comprising of resolution book, register of notices, cash book and ledger book, etc. The source of sudden production of such original records was shown as discovery thereof by the Head Master of Sant Tukaram Vidya Mandir, Parbhani and handing over the same to the President of the trust vide letter dated 15.10.2016. This is how several documents claimed to be original records of the trust, hitherto unavailable, got suddenly introduced in the proceedings on 10.10.2016.

11. Bharose group examined seven witnesses namely Anand Sheshrao Bharose, Santosh Trimbak Garkar, Shivaji Bajirao Aaher, Namdev Dattarao Chavan, Dnyanoba Narayan Jawale, Vithal Ramkisan Kadam and C. Venugopalrao. For opposing change report, Patil group examined three witnesses namely Dr. Vedprakash Kashirao Patil, Shivaji Narayanrao Kakde and Vithalrao Govidnrao Bhosale.

12. After considering the rival contentions, the A.C.C. Parbhani passed judgment and order dated 29th April, 2017 and rejected Change Report Enquiry No. 190 of 2010. Also rejected were Change Report Enquiry No 68 of 2010, Change Report Enquiry No. 69 of 2010, Change Report Enquiry No. 615 of 2013, C. R. E. No. 93 of 2013 and C. R. E. No. 308 of 2013. The A.C.C. essentially refused to rely upon the original records produced by Bharose group in support of admission of 157 members to the trust and on that count, rejected Change Report Enquiry No. 190 of 2010.

13. Aggrieved by the judgment and order dated 29.04.2017, passed by the A.C.C. Parbhani, Bharose group filed appeals

before the J.C.C. Aurangabad bearing Appeal No. 162 of 2017 in C. R. E. No. 190 of 2010, Appeal No. 163 of 2017 in C. R. E. No. 893 of 2012, Appeal No. 146 of 2017 in C. R. E. No. 308 of 2013. Patil group also filed appeals bearing Appeal No. 108 of 2017, Appeal No. 145 of 2017 and Appeal No. 146 of 2017 before the J.C.C. On an application being made by Bharose group, J.C.C. allowed leading of additional evidence in the form of a gift deed.

14. The J. C. C. proceeded to hear all the appeals together and delivered common judgment and order dated 7th May, 2019 dismissing all the appeals filed by the Bharose group as well as Patil group. The J.C.C. further directed the founder members Shri Vedprakash Kashirao Patil, Shri Dr. B. G. Nirwal, Shri V. G. Bhosale and Shri S. N. Kakde to take necessary steps for formation of various bodies to constitute governing council. The governing council so constituted is directed to take necessary steps for calling general body meeting for election of regular governing council. The regular governing council so elected is directed to act as legal body of the trust. The A. C. C. Parbhani is directed to ensure compliance of the directions issued by the J. C. C. and in the event of any default, he is granted liberty to take steps under Section 41A of the Trust Act.

15. When some of the present petitions came up before this Court on 04.06.2019, this Court stayed implementation of the directions of the J.C.C. That interim order was continued from time to time. Despite stay to the directions of the J.C.C. by this Court vide interim order dated 04.06.2019, both Patil group as well as Bharose group conducted elections to the governing council and filed Change Report Enquiry No. 08 of 2021 and

Change Report Enquiry No. 79 of 2021 respectively. Not only this, both groups filed applications under sub Section 2 of Section 22 of the Trust Act for provisional acceptance of their respective changes. The A.C.C. Parbhani provisionally accepted the change reported by Patil group by his order dated 11.01.2021, while rejected the application for provisional acceptance of change filed by Bharose group by order dated 12.02.2021. The provisional acceptance of change dated 11.01.2021 passed in favour of Patil group became subject matter of challenge before this Court in Writ Petition No. 10498 of 2021 and Writ Petition No. 3788 of 2021 filed by Bharose group. Those petitions were initially disposed of by this Court vide judgment and order dated 18.11.2021 holding that petitioners therein had alternate remedy of filing revision under Section 70-A of the Trust Act. The Supreme Court by its order dated 22.07.2022, however directed this Court to decide those writ petitions as the present petitions also remained pending before this Court. By judgment and order dated 02.12.2022, this Court has allowed both the writ petitions by setting aside order dated 11.01.2021 passed by the A.C.C. provisionally accepting the change report of Patil group, with a further directions to list the present petitions for hearing.

16. In above backdrop, I have proceeded to hear the present petitions.

D. Submissions

17. Counsels appearing for rival groups have made elaborate submissions in support of their respective submissions, summary of which is as under:

D.1 SUBMISSIONS OF MR. DHORDE (BHAROSE GROUP)

18. Appearing for petitioners Mr. R. N. Dhorde, the learned senior advocate would contend that the A.C.C. has erroneously ignored voluminous evidence in the form of original records of the trust submitted in proof of admission of 157 members from time to time by the trust. He has taken me through the evidence of Shri Namdev Dattrao Chavan, witness examined by Bharose group to demonstrate that the entire original record was proved by his deposition. That Shri Chavan was employee of the trust from 1986 to 1990 and accordingly identified signatures of the then President and Secretary of the trust on various resolutions, registers, etc. Mr. Dhorde would therefore contend that since the entire original records produced by Bharose group was proved by the direct evidence of Shri Namdev D. Chavan identifying signatures of the authors of those documents, the A.C.C. ought to have admitted and read entire original records into evidence. Mr. Dhorde would contend that consequently admission of 157 members into the trust from time to time would be proved. He would further submit that those 157 members are patrons and donors of the trust who have supported the trust, worked for its betterment and donated money as well as properties to the trust. Mr. Dhorde would further contend that the surviving founder members of Patil group did not look after the affairs of the trust from 1979 till 2003. He has taken me through the evidence of founder members Shri Vedprakash K. Patil, Shri Vitthal G. Bhosale and Shri Shivaji N. Kakade to demonstrate that they were not aware of any developments of the trust during long period from 1979 to 2003. Mr. Dhorde would contend that during that period, Sanjivani Education Society established as many as

31 educational institutions and the same could not have been possible without holding meetings of the trust and without newly admitted members participating in the affairs of the trust. He would submit that various properties of the trust, on which such educational institutions are established, have been donated by various patrons and donors, who were admitted as members of the trust and participated in its affairs. Mr. Dhorde would take me through the findings recorded by the J.C.C. in his judgment with regard to the evidence of the Chartered Accountant with regard to the audit reports. He would submit that the J.C.C. has arrived at conclusion that the audit reports submitted by Bharose group have been properly proved. Inviting my attention to some of the audit reports, Mr. Dhorde would contend that the audit reports certified that the meetings of the trust were conducted from time to time. Mr. Dhorde would contend that once the audit reports are admitted in evidence and those reports certify conducting of meetings of the trust, the J.C.C. ought to have accepted other records relating to conducting of meetings of the trust and admission of new members as well.

19. Mr. Dhorde would further contend that Dr. B. G. Nirval had properly conducted elections to the governing council of the trust in the year 2010 by adding names of 157 members in the voters list. That Dr. Nirval is a signatory to most of the resolutions and documents produced before the A.C.C. On account of switching over to Patil group he deliberately avoided to step into the witness boxin the proceedings before the A.C.C. That if he was not to switch sides and had remained loyal to Bharose group, all the original documents could easily been proved by Dr. B. G. Nirval himself. He would submit that on

account of his staying behind the curtains, the documents were required to be proved by the evidence of Shri Namdev D. Chavan, who has identified signatures of the signatories to the resolutions. Mr. Dhorde would contend that three surviving founder members of Patil group now assisted by Dr. B. G. Nirval are attempting to take over the affairs and the trust activities which have been built over by the efforts of founder President Sheshrao Bharose.

20. In support of his contentions Mr. Dhorde, learned senior advocate would rely upon following judgments:

I. Vinodkumar M. Malavia and others Vs. Maganlal Mangaldas Gameti and others reported in (2013) 15 SCC 394.

II. Thimmappa Rai Vs. Ramanna Rai and others reported in (2007) 14 SCC 63.

III. Order of this Court in Sambappa Trimbakappa Girwalkar Vs. Deputy Charity Commissioner and others in Writ Petition No. 8593 of 2018 with other connected matters decided on 22.02.2019 and order of the Apex Court dismissing SLP dated 22.02.2019 in SLP (C) No. 8089 of 2019.

IV. Achutananda Baidya Vs. Prafullya Kumar Gayen and others reported in (1997) 5 SCC 76.

D. 2 SUBMISSIONS OF MR. DESHMUKH (BHAROSE GROUP)

21. Mr. Deshmukh, the learned senior advocate has appeared in Writ Petition No. 6314 of 2019 on behalf of nine members who claim to be admitted in the trust by Bharose group in their

capacity as patrons and donors. He would submit that such members have been validly admitted as members of the trust by various resolutions adopted by the governing council. By way of illustration, he would rely upon minutes of meeting held on 25.12.1983, Agenda No. 2 of which wascabout consideration of applications for membership of three members. By that resolution, three members viz Shri D. N. Javale, Shri K. D. Bharose and Shri K. N. Sayyed came to be admitted as members of the trust. Referring to minutes of one of the meetings, Mr. Deshmukh would contend that governing council resolved vide Agenda No. 3 to set up two new schools, one at Agricultural College Campus (Marathi medium standard I and II) and the other at Shri Kshetra Tridhara, Tq. and Dist. Parbhani (secondary Standard VIII). Mr. Deshmukh would submit that in pursuance of those resolutions, such schools have actually been established. That if activities such as setting up new schools have come into reality through such resolutions, there is no reason why those resolutions could be selectively ignored for establishing admission of new members. Mr. Deshmukh would also invite my attention to one of the audit reports for the year ending 31.05.1985, in which the auditor has certified that meetings of the trust are held regularly and minute books of the proceedings of the meeting were maintained. He would therefore submit that since the audit reports are admitted in the evidence on account of order passed by the J.C.C., the conduct of meetings and recording of resolutions therein cannot be questioned. Mr. Deshmukh would invite my attention to the application dated 20.04.2016 filed by Bharose group before the A.C.C. for summoning Dr. B. G. Nirval as a witness and that Patil group opposed such application and prevented Dr. Nirval from being examined as witness. That Bharose group has rightly relied upon evidence of Shri Namdev Chavan as Bharose group was left with no alternative on account of switching over sides by Dr. B. G. Nirval. Mr. Deshmukh would therefore contend that Dr. Nirval was deliberately kept away from the entire litigation by the Patil group to avoid his cross examination.

22. Referring to evidence of Shri V. K. Patil, Mr. Deshmukh would draw my attention to his admission that there was a compromise between Dr. B. G. Nirval and Shri V. K. Patil, in pursuance of which, Dr. Nirval's son Shri Mahendrakumar Bhimrao Nirval came to be admitted as member of the trust. Mr. Deshmukh would therefore contend that Dr. Nirval switched sides in order to ensure membership in the trust to his son. Mr. Deshmukh would pray for setting aside the orders passed by the A.C.C. and J.C.C. and to allow Change Report Enquiry No. 190 of 2010 as well as Change Report Enquiry No 68 of 2010 and Change Report Enquiry No. 69 of 2010.

D. 3 SUBMISSIONS OF MR. KUTE (BHAROSE GROUP)

23. Mr. Kute, learned counsel appearing for petitioners in Writ Petition No. 6352 of 2019 would submit that the A.C.C. did not issue notice to any of the 157 members of the trust on account of which they could neither participate in the proceedings before A.C.C., nor lead evidence in support of various documents of membership. Inviting my attention to para 45 of the judgment and order dated 02.03.2017 passed by the J.C.C. in relation to Change Report Enquiry No. 527 of 2003, Mr. Kute would submit that the J.C.C. has held that the entire business of the trust

transacted by the transitory governing council is required to be recognized. He would also invite my attention to para 149 of the order of the A.C.C. in the present proceedings, in which again it has been specifically held that business transacted by transitory governing council till 2003 has to be recognized. Mr. Kute would therefore submit that in the light of these findings recorded in the earlier as well as present round of litigation, the sanctity of the decisions taken by the transitory governing council is required to be maintained and, therefore, all the members admitted by the transitory governing council are required to be treated as valid members.

24. Mr. Kute would further submit that Patil group had claimed possession of entire documents of the trust and, therefore, Bharose group had no option but to submit an application for leading secondary evidence. He would submit that even though application for leading secondary evidence was rejected by A.C.C., this Court while disposing of writ petition has permitted Bharose group to lead such evidence as may be necessary in Writ Petition No. 5841 of 2016. He would submit that original records of the trust have been discovered by the Head Master, who has been examined as witness in the proceedings. Similarly the Vice President Shri Namdev Chavan has also been examined, who has recognized the signatures of the trustees. He would therefore submit that the entire record produced by Bharose group ought to have been admitted in evidence by A.C.C. and J.C.C.

25. Mr. Kute would further contend that Dr. B. G. Nirval deliberately stayed way from the proceedings before A.C.C.,

though Change Report Enquiry No. 190 of 2010 was filed by Dr. Nirval himself. Since Dr. Nirval is signatory to most of the documents produced by Bharose group and since application for examining him was opposed by Patil group, A.C.C. and J.C.C. ought to have drawn adverse inference from such conduct of Dr. Nirval. In support of this contention Mr. Kute would rely upon judgment of the Apex Court in the case of **Gopal Krishnaji Ketkar Vs. Mohamed Haji Latif and others** reported in *AIR 1968 SC 1413*, in which it is held that if a party in possession of best evidence which would throw light on the issue in controversy withholds it, the Court is required to draw an adverse inference against him notwithstanding that onus of proof does not lie on him. He would also rely upon judgment of the Apex Court in the case of **Vidhyadhar Vs. Manikrao and another** reported in ***AIR 1999 SC 1441***, in which it is held that party to suit not entering into witness box gives rise to an inference adverse against him.

26. Mr. Kute would further contend that Dr. B. G. Nirval filed written statement dated 11.01.2010 in Trust Suit No. 01 of 2009 filed by Dr. V. K. Patil admitting that '*however, it is submitted that the respondent Nos. 1 to 3 are the members of general body of the said trust and along with other members and as per coram laid down by the rules and regulations laid down by the trust, they have authority to act as office bearers.*' Mr. Kute would therefore submit that there was express admission by Dr. Nirval about 'admission of other members' to the trust in the said written statement. Mr. Kute would therefore submit that such an admission given by Dr. B. G. Nirval ought to have been taken into consideration by the A.C.C. and J.C.C. for upholding admission of members by Bhorse group. In support of this

contention Mr. Kute would rely upon the judgment of the Apex Court in the case of **Thimmappa Rai Vs. Ramanna Rai and others** reported in ***2007 AIR SCW 3271***, in which it is held that admission made by a party in earlier proceedings can be taken note of by Civil Court.

D. 4 SUBMISSIONS OF MR. V. D. SAPKAL (PATIL GROUP)

27. Mr. Sapkal, the learned senior advocate appearing for the Patil group would first question maintainability of Writ Petition No. 6352 of 2019 submitting that petitioners therein were not parties either before the A.C.C. or J.C.C. and have directly filed writ petition before this Court challenging their orders, which is impermissible in law. So far as Writ Petition No. 6268 of 2019 is concerned, Mr. Sapkal would contend that this Court's jurisdiction under Article 227 of the Constitution of India is limited and in absence of any jurisdictional error being committed by the A.C.C. and J.C.C., this Court would not be justified in interfering therein. He submits that the findings recorded by the A.C.C. and J.C.C. are concurrent and that is yet another reason why this Court would be loath in interfering those findings.

28. Inviting my attention to the trust deed, Mr. Sapkal would contend that as per the constitution of the trust, quorum for eight trustees for transacting business of the trust is only two and since three surviving founder trustees are available to manage the affairs of the trust, they should be permitted to conduct the business of the trust. Mr. Sapkal would contend that since inception Shri Sheshrao D. Bharose unilaterally conducted

the affairs of the trust without forming any committees and without holding any elections. Inviting my attention to the Change Report Enquiry No. 527 of 2003 and the order passed by the A.C.C. therein on 03rd April, 2010, Mr. Sapkal would contend that Shri Sheshrao Bharose had filed application along with list of 25 members 18.11.2003. Mr. Sapkal would contend that if indeed 157 members were actually or validly admitted to the trust between 1979 to 2003 as contended by Bharose group, how Shri Sheshrao Bharose could have submitted list of only 25 members on 18.11.2003 ? From this conduct of Shri Shehshrao Bharose, Mr. Sapkal would draw an inference that the theory of admission of 157 members to the trust is sham. Mr. Sapkal would further submit that Shri Sheshrao Bharose sought to withdraw the application submitting list of 25 members on 22.11.2003 without citing any reason and that such withdrawal was rejected by the A.C.C. by issuing notices to 25 members, out of whom only 19 appeared before the A.C.C. Mr. Sapkal would take me through the list of those 25 members in support of his contention that most of them were relatives of Shri Sheshrao Bharose including his wife Smt. Kasturibai Sheshrao Bharose and son Shri Anand Sheshrao Bharose. Mr. Sapkal would therefore contend that by keeping the founder members of the trust in dark, Shri Sheshrao Bharose was managing the affairs of the trust as per his whims and fancies.

29. Inviting my attention to para 12 of the order passed by the A.C.C. dated 03rd April, 2010 in Change Report Enquiry No. 527 of 2003, Mr. Sapkal would submit that a finding is recorded by the A.C.C. that, '*they had failed to produce cogent evidence to prove their membership'*. Mr. Sapkal would then invite my

attention to the order passed by the J.C.C. in appeals filed in Change Report Enquiry No. 527 of 2003, by which the J.C.C. set aside the findings of the A.C.C. with regard to proof of membership and recorded a finding that opportunity needs to be given to the members to prove their membership. Mr. Sapkal would submit that despite the J.C.C. granting an opportunity to the members to prove their membership in pending change reports, including Change Report Enquiry No. 190 of 2010, the members failed to appear before the A.C.C. and to prove their membership.

30. Mr. Sapkal then took me through the evidence of Shri Anand Bharose recorded on 05-10-2016 before the A.C.C., in which he sought time to produce various documents and on the next date on 10.10.2016 Shri Anand Bharose suddenly produced voluminous original documents during the course of his examination in chief. Mr. Sapkal would submit that before 10.10.2016, the line of defence adopted by Bharose group was that they were not in possession of original records and they should be granted opportunity to lead secondary evidence. That they unsuccessfully fought upto this court for production of secondary evidence upto 23.06.2016. However, Shri Anand Bharose who was fighting aggressively for production of secondary evidence till June 2016, suddenly came into possession of original records of the trust on 10.10.2016. Mr. Sapkal would therefore contend that records produced by Shri Anand Bharose on 10.10.2016 is bogus. Mr. Sapkal would contend that from letter dated 15-10-2016 of the Head Master, the records were allegedly traced and handed over by Head Master on 15-10-2016, whereas the same was produced by Mr. Sand Bharose in

examination-in-chief on 10-10-2016, thereby demonstrating that the theory of discovery of records on 15-10-2016 is utterly false.

31. Mr. Sapkal would then invite my attention to the application filed by Patil group for seeking permission of the A.C.C. to manage day today affairs of the trust as well as order passed by the A.C.C. thereon on 19.05.2010, by which Patil group was directed to look after day today affairs of the trust. In that order the A.C.C. has recorded findings that since inception of the trust, no elections had taken place till the year 2003. Mr. Sapkal would submit that order dated 19.05.2010 has been upheld by this Court. He would further submit that after Patil group was directed to look after day today affairs of the trust vide order dated 19.05.2010 and since they were actually looking after day today affairs of the trust, it was impossible for Bharose group to get custody of any of the original records of the trust in the year 2016. This according to Mr. Sapkal is yet another reason to believe that records produced by Bharose group are fabricated.

32. In support of his contentions Mr. Sapkal would rely upon judgment of the Bombay High Court in the case of **Madholal Sindhu Vs. Asian Assurance Company Ltd. and others** reported in ***1954 AIR (Bom.) 305*** and in the case of **Om Prakash Berlia and another Vs. Unit Trust of India and others** reported in *1983 AIR(Bom.) 1*.

D. 5 SUBMISSIONS OF MR. ADWANT (PATIL GROUP)

33. Mr. Adwant, the learned counsel appearing for Patil group in some of the petitions would submit that the jurisdiction of this Court under Article 227 of the Constitution of India over orders

passed by the A.C.C. and J.C.C. is extremely limited and in absence of any perversity being noticed in those orders, this Court would be loath to interfere. In support of this contention Mr. Adwant has relied upon following judgments.

A. Smt. M. M. Amonkar and others Vs. Dr. S. A. Johari reported in (1984) 2 SCC 354.

B. Savita Chemicals (P) Ltd. Vs. Dyes and Chemical Workers' Union reported in (1999) 2 SCC 143.

C. Surya Dev Rai Vs. Ram Chander Rai and others reported in (2003) 6 SCC 675.

D. Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil reported in (2010) 8 SCC 329.

E. Jai Singh and others Vs. Municipal Corporation of Delhi and others reported in (2010) 9 SCC 385.

E. Abdul Razak (Dead) Through L.Rs. Vs. Mangesh Rajaram Wagle and others reported in (2010) 2 SCC 432.

F. Sovana Dey Vs. Tapaban Dey reported in 2022 SCC Online Cal 2301.

34. Mr. Adwant would further contend that the A.C.C. has already decided proceedings U/Sec. 41A of the Trust Act on 19.05.2010 directing Patil group to look after day today administration and management of the trust and that said order is valid and in force till today without being disturbed in any manner. He would further submit that the tenure of the first body of the trust to come to an end on 17.12.1982 as per Clause 8 of the scheme of the trust and since no new body was appointed, the original body continued to remain as adhoc body, which has no right to take policy decision of enrollment of any members in

the trust. Therefore, no member admitted by Bharose group by way of surreptitious act would gain any right of membership.

35. Mr. Adwant would further contend that in the meeting alleged to have been conducted on 22.12.2009 on a requisition of 157 members, the founder members were shown as absent, which speaks volumes about their sharp practice so to cause harm to the rights of the founder members. Mr. Adwant would highlight the manner in which alleged original records of the trusts were produced by Shri Anand S. Bharose on 10.10.2016.

36. Mr. Adwant would further contend that the findings recorded by the A.C.C. and J.C.C. are concurrent in nature. He would further submit that the so called original records were not proved by the Bharose group by rule of evidence and have rightly been ignored by the A.C.C. and J.C.C. In support of his contentions of rule of evidence, Mr. Adwant has relied upon following decisions.

a. Om Prakash Berila Vs. Union Trust reported in 1982 SCC Online Bom. 148.
b. Bank of India Vs. Alliboy Mohammed reported in 2008 SCC Online Bom 91.
c. Bank of Baroda Vs. Shree Moti Industries reported in 2009 (1) Mh. L. J. 282.
d. J. M. Construction Vs. Shamrock Impex reported in 2020 (1) Mh.L.J. 684.
e. State of Bombay Vs. Purushottam Jog Naik reported in AIR 1952 SC 317.

f. Barium Chemicals Ltd. and another Vs. Company Law Board and others reported in AIR 1967 SC 295.

g. Sait Tarajee Khimchand and others Vs. Yelamarti Satyam and others reported in AIR 1971 SC 1865.

h. M/s Sanjay Cotton Co. Partnership Firm, Akola Vs. M/s Omprakash Shioprakash and another reported in AIR 1973 Bom. 40.

i. Ramji Dayawala and Sons (P) Ltd. Vs. Invest Import reported in AIR 1981 SC 2085.

j. Narbada Devi Gupta Vs. Birendra Kumar Jaiswal and another reported in (2003) 8 SCC 745.

k. Bhimappa and others Vs. Allisab and others reported in AIR 2006 Kant 231.

l. Oriental Insurance Company Ltd. Vs. Premlata Shukla and others reported in (2007) 13 SCC 476.

m. Vithalrao Kharpade Vs. Motiram Narsingrao Birajdar reported in 2010 (1) Mh.L.J. 977.

D. 6 SUBMISSIONS OF MR. CHOUDHARI (PATIL GROUP)

37. Mr. Choudhari, the learned cousnel appearing for Patil group in some of the petitions has submitted that as per constitution of the trust, the tenure of the committee was valid only for three years from 1979 to 1982 and that therefore only those members admitted during that period could be treated as valid ones. He would submit that therefore any member admitted after the year 1982, cannot become valid member of the trust. In support of his contention Mr. Choudhari would rely upon judgment of this Court in the case of **Sandeep Ram Meghe and others Vs. Pundlikrao Balaji Gohad and others** reported in *MANU/MH/0685/2013*.

E. Reasons And Analysis

38. After considering factual background narrated hereinabove and lengthy submissions advanced by the learned counsels appearing for the parties, it is clear that the entire controversy revolves around only one aspect, namely the admission of membership of 157 persons to the trust by Bharose group. If admission of such 157 members by Bharose group is held to be valid, Bharose group automatically succeeds in Change Report Enquiry No. 190 of 2010 and they will take control over the affairs of the trust. Such a decision in favour of Bharose group in Change Report Enquiry No. 190 of 2010 would also have effect on various other subsequent change reports filed by the rival parties. If on the other hand, admission of such 157 new members to the trust by Bharose group is held to be invalid (as held by A.C.C. and J.C.C.), the same would result in dismissal of Change Report Enquiry No. 190 of 2010 and also all other change reports. In that case, the directions issued by the J.C.C. for constitution of new governing council by Patil group will have to be implemented. Therefore, it would be necessary to decide the issue of admission of 157 members to the trust by Bharose group.

39. As observed above during 1979 to 2003, there appears to be no participation by the trustees belonging to Patil group in the affairs and activities of the trust. Shri Sheshrao D. Bharose (possibly assisted by Dr. B. G. Nirval) was managing the affairs of the trust. The trustees belonging to Patil group (except Dr. B. G. Nirval) admittedly did not take part in any of the meetings of the trust, nor took any decision about the trust during this

prolonged period from 1979 to 2003. In fact, Patil group contends that no meetings of the trust were ever conducted, nor they were issued notices at any point of time to attend any meeting of the trust during this period from 1979 to 2003.

40. On the contrary, Bharose group claims that meetings of the trust were conducted from time to time during the period from 1979 to 2003 and despite issuance of notices to other trustees (belonging to Patil group), they chose not to remain present for such meetings. As strenuously submitted by Mr. Dhorde, the trustees belonging to Patil group were employed outside Parbhani and were busy in their own service/occupation and did not bother to participate in any of the activities of the trust. In support of his contention Mr. Dhorde has taken me through the evidence of Mr. Vedprakash K. Patil, Mr. Vitthal G. Bhosale and Mr. Shivaji N. Kakde to demonstrate that they were not aware of basic activities undertaken by the trust as well as various educational institutions set up during the period from 1979 to 2003. Based on this evidence, an inference is sought to be drawn by Bharose group to the effect that trustees belonging to Patil group were never interested in participating in the affairs of the trust. There can be no denial to the fact that the trust undertook various activities and expanded its operations during this period of 1979 to 2003. As observed abovem as many as 31 educational institutions came to be set up by the trust during this period from 1979 to 2003. Therefore, it cannot be contended by any stretch of imagination that Shri Sheshrao Bharose did not conduct any activity of the trust during that period. The only issue is about manner in which such activities were conducted and whether the same conforms to the Constitution of the trust.

There also appears to be no manner of doubt that several persons have contributed to the trust by offering donations as well as their services for expansion of the activities of the trust. Bharose group claims that on account of the donations and services offered by such patrons and donors, whose donations and activities contributed to the expansion activities of the trust, they came to be admitted as members of the trust from time to time. It also appears that all 157 members have not been admitted to the trust in one stroke, they claim to have been admitted by Bharose group in smaller batches from time to time. Mr. Dhorde in this connection has contended that if there was any ill intention on the part of Bharose group, such members could have been admitted in one group. He has submitted that the very fact of admission of such members in smaller batches over the period of time would lead to a presumption about valid admissions of such members.

41. From the chronology of events leading to passing of the impugned judgment and order by the J.C.C., it is apparent that two parallel proceedings have progressed with regard to issue of control over the affairs of the trust. From the chronology, it appears that between 1979 to 2003, there was no challenge to the authority of Shri Sheshrao D. Bharose. The disputes appear to have surfaced from the year 2003 onwards. By the year 2003, it appears that following founder members of the trust were surviving:

(i) Sheshrao D. Bharose, Chairman,

(ii) Dr. V. K. Patil, Vice Chairman,

(iii) Dalpat A. Solunke, Secretary,

(iv) V. G. Bhosle, Joint Secretary,

(v) Dr. B. G. Nirval, Member,

(vi) S. N. Kakde, Member.

42. It appears that Secretary Mr. Dalpat Solunke along with Dr. V. K. Patil, Shri V. G. Bhosale and Shri S. N. Kakde conducted elections of the governing council for the years 2003 to 2006 and reporting trustee Shri Dalpat Solunke filed Change Report Enquiry No. 527 of 2003. In Change Report Enquiry No. 527 of 2003 also, the issue of admission of new members by Bharose group was involved. The issue of Shri Sheshrao D. Bharose filing list of 25 members in Change Report Enquiry No. 527 of 2003 and later withdrawing it is being dealt with separately in this judgment. The proceedings in Change Report Enquiry No. 527 of 2003 have ultimately been concluded by order of the J.C.C. dated 02.03.2017, by which Change Report Enquiry No. 527 of 2003 has been dismissed. The J.C.C. has however, granted liberty to the new members to establish their membership in various pending change reports, primarily including Change Report Enquiry No. 190 of 2010.

43. During pendency of Change Report Enquiry No. 527 of 2003 founder President Shri Sheshrao D. Bharose died on 31.10.2009 and it appears that the reins of the trust were sought to be taken over by the founder member Dr. B. G. Nirval, who at the time of death of Sheshrao Bharose, was in Bharose group. Dr. Nirval, apparently conducted elections to the governing council by including names of 157 new members in the voters' list and constituted the governing council of the trust on 17.01.2010. Consequently, Dr. Nirval in his capacity as reporting trustee filed Change Report Enquiry No. 190 of 2010 to report a

change of constitution of governing council for the years 2010 to 2013. Certain other change reports were also filed by the parties, details of which at this stage are irrelevant. What progressed ahead and fought bitterly by the rival groups hereafter was the Change Report Enquiry No. 190 of 2010.

44. Within a year of holding elections constituting governing council and filing Change Report Enquiry No. 190 of 2010, a twist in the story occurred when Dr. B. G. Nirval swiftly changed sides from Bharose group to Patil group. On 18.08.2011 Dr. Nirval filed a pursis for withdrawal of Change Report Enquiry No. 190 of 2010 after switching over to Patil group. From 18.08.2011 till his, death of Dr. Nirval chose to remain behind the curtains and did not participate actively in the proceedings before the A.C.C. and J.C.C. After switching over by Dr. Nirval, reins of Bharose group came in the hands of Shri Anand Bharose, son of Shri Sheshrao D. Bharose, who continued the proceedings in Change Report Enquiry No. 190 of 2010.

E. 1 AUTHENTICITY OF RECORDS PRODUCED BY BHAROSE GROUP

45. In the aforestated manner, on account of switching the sides by Dr. Nirval and staying behind the curtains after the year 2011 onwards, it became an uphill task for the Bharose group to prove the issue of validity of admission of 157 members. This is because Dr. Nirval had apparently participated in all the affairs of the trust with Shri Sheshrao D. Bharose and he was possibly party to most of the decisions taken in connection with the trust.

46. Faced with the difficulty of Dr. B. G. Nirval's switching over to Patil group, a plea was raised by Bharose group before A.C.C. that the entire records of the trust were in the custody of Patil group. Therefore first an application was filed to seek documents from Dr. Nirval and since there was opposition to that application by Patil group, another application was filed by Bharose group seeking permission to lead secondary evidence. This application was also opposed by Patil group, which lead to its rejection A.C.C. by order dated 17.05.2016. This Court refused to interfere in the decision of A.C.C. by dismissing the writ petition filed by Bharose group on 23.06.2016, leaving open liberty to Bharose group to lead any other evidence.

47. Thus till 23.06.2016, when Bharose group was making desperate attempts to lead secondary evidence, Bharose group was not in possession of any of the original documents to prove valid admission of 157 members to the trust. Shri Anand Bharose began adducing his evidence by 05.04.2016. He initially sought time on 05.04.2016 to produce certified copy of letter admitting him as member. Later in that day he produced certified copy of the letter admitting him as member, which was was exhibited. The examination in chief of Shri Anand Bharose was adjourned on account of his ill health on 05.10.2016. His examination in chief resumed on 10.10.2016, when he suddenly introduced voluminous original records of the trust without clarifying the source through which the same was procured. The documents included register of resolutions from 1983 to 1990, register of notices, cash book, ledger book, etc. during 1983 to 1990. Thus Bharose group which made desperate efforts till 26.03.2016 to produce secondary evidence on the pretext of

original records being in the custody of Patil group, suddenly was able to produce the original records dating back to the years 1983 to 1990 through examination in chief of Anand Bharose on 10.10.2016.

48. The source of access to the original records is sought to be justified by Bharose group. The story put forth by Bharose group is that Anand Bharose directed Head Master of Sant Tukaram Vidya Mandir, Parbhani to trace the original records and to hand over the same in the office of the trust. Such directions were given in the form of letter dated 21.05.2016 by Anand Bharose. It must be noted here that by this time, application of Bharose group for leading secondary evidence (under the pretext of entire records of the trust being in the custody of Patil group) was rejected on 17.05.2016. Bharose group had filed writ petition in this Court challenging the order of A.C.C. dated 17.05.2016 and the same was pending. Therefore, it becomes incomprehensible as to how and why Anand Bharose who was professing a plea before this Court about records being in the custody of Patil group, suddenly believed that the records of the trust could be in one of the schools of the trust in the custody of Headmaster. This conduct on the part of Shri Anand Bharose casts serious doubts about genuineness of the letter dated 21.05.2016.

49. Five months after Shri Anand Bharose writing letter dated 21.05.2016 to the Headmaster, the entire voluminous old records of the trust pertaining to years 1983 to 1997 are claimed to have been found by the Headmaster in Sant Tukaram Vidya Mandir, Parbhani in October 2016. Accordingly, the Headmaster claims to have written letter dated 15.10.2016 to the President of the

trust (Anand Bharose) stating that he took search in the school and found the original records, which he has handed over to the President. While letter is type written, the words ‘notice book and proceeding book’ are added in hand writing. The letter bears acknowledgment of Vice President of the trust dated 15.10.2016. Thus as per the story woven by Bharose group itself, original record of the trust was handed over to the Vice President by the Head Master on ‘15.10.2016’. This claim is reiterated by Bharose group’s witness Shri Namdev Dattrao Chavan in his evidence recorded on 24.10.2016 when he deposed that the entire original records was handed over by the Headmaster to him on 15.10.2016 and that he acknowledged the letter dated 15.10.2016. Head Master has also confirmed the date of ’15-10-2016’ as the date of handing over of the records.

50. If the original records were traced by the Head Master and handed over to Shri Namdev D. Chavan on ‘15.10.2016’, how Shri Anand Bharose was able to produce that record during the course of his examination in chief recorded 5 days before on ‘10.10.2016’ remains a mystery. This completely falsifies the theory advanced by Bharose group that the Headmaster traced out the records and handed over to Shri Namdev Chavan on 15.10.2016. As rightly submitted by Mr. Sapkal, the above contradiction clearly casts serious doubts about genuineness of the entire original records produced before the A.C.C. by Bharose group.

51. There is yet another reason to cast doubt about genuineness of the original records produced by Shri Anand Bharose before the A.C.C. during his examination in chief on

10.10.2016. The original records were produced in support of contention that 157 new members were validly admitted by conducting various meetings and adopting resolutions by the governing council of the trust upto the year 2003. However, little before filing of Change Report Enquiry No. 527 of 2003, the then Chairman of the trust Shri Sheshrao D. Bharose filed an application on 18.11.2003 along with list of 25 members. Application dated 18.11.2003 along with the list is at page No. 1115 to 1118 of the paper book. The said list shows that 25 members were shown to have been admitted to the trust during the years 1994 to 1996. If only 25 members were admitted to the trust as on 18.11.2003, genuineness of the so-called original records produced by Shri Anand Bharose before A.C.C. on 10.10.2016 showing admission of 157 members becomes questionable. Therefore, how said number of '25' suddenly swell to '157' has not been explained in any manner. Rather such swelling of number from 25 to 157 completely belies and falsifies the case of Bharose group that 157 members were validly admitted to the trust upto the year 2003.

52. There is one more reason why the genuineness of the documents tendered by Shri Anand S. Bharose during the course of his examination in chief on 10.10.2016 is doubtful. By order dated 19.05.2010 in Change Report Enquiry No. 149 of 2009, the A.C.C. had directed founder trustees of Patil group to look after administration of the trust till constitution of new managing committee. This means that from 2010 onwards Patil group has been managing the day today affairs of the trust. If this is the position, it is quite perplexing as to how the Headmaster of one of the several schools run by the trust had kept vital documents

relating to the management of the trust in the school without the knowledge of the managing trustees of Patil group. The directions to manage day today affairs by Patil group were issued on 19.05.2010 and the alleged discovery of original records is made by the Headmaster on 15.10.2016 i. e. six years later. This again casts heavy doubts on the authenticity of such records.

53. Thus the three factors of (i) records allegedly traced by headmaster on '15-10-2016' being produced on '10-10-2016'; (ii) records showing admission of 157 members as against only 25 members shown to have been inducted by Sheshrao Bharose as on 18-11-2003; and (iii) tracing of records on 15-10-2016 by headmaster from a school when Patil group managing day to day affairs of the trust; make the entire story of tracing of original records unbelievable and authenticity thereof doubtful.

E. 2 EVIDENCE IN SUPPORT OF RECORDS

54. Next issue to be decided is about the proof of documents produced by Bharose group during the course of examination in chief of Shri Anand Bharose on 10.10.2016. Shri Anand Bharose himself had not made an attempt to prove those documents. The sheet anchor of Bharose group for proving those documents is the evidence of Shri Namdev D. Chavan. He is not the original founder trustee. He claims to have been admitted as a member of the trust on 02.09.1984. It must be added here that in the list of 25 members submitted by Shri Sheshrao D. Bharose along with application dated 18.11.2003, name of Shri Namdev Dattrao Chavan was not included. Therefore, it becomes doubtful as to whether Shri Namdev D. Chavan was indeed admitted as member of the trust on 02.09.1984 as claimed. Be that as it may.

Shri Namdev D. Chavan has deposed that in pursuance of letter dated 21.05.2016, the Head Master of the school handed over the records described in the deposition to him on 15.10.2016 and that he acknowledged the receipt of the records. The only evidence adduced by Shri Namdev D. Chavan for proving those documents is as under :

> "या सर्व रेकॉर्ड मध्ये तत्कालीन अध्यक्ष व सचिव यांच्या सहया आहेत त्या मी ओळखतो कारण मी संस्थेचा कर्मचारी म्हणुन 1986 ते 1990 या काळात कार्य केले आहे. संस्था नोंदणी कायदयानुसार या परिशिष्ट 6 वर सर्व सभासदांच्या सहया, वर्गवारी व त्यांनी सभासदत्वासाठी भरलेली फिस यांचा उल्लेख आहे. मी कार्यरत असलेल्या काळात सर्व सभासदांनी माझ्या समोर सहया केल्या आहेत. मुळ अभिलेखे आज रोजी आपल्या न्यायालयात दाखल झाली आहेत त्यांना निशानी कं...... देवुन पुराव्या कामी वाचण्यात यावीत."

55. The above deposition can be translated as under :

> "All these records bear signatures of the then President and Secretary. I identify them as I was working as an employee in the trust from 1986 to 1990. As per the provisions of the trust registration Act, Schedule VI bears signatures of all members, category and payment of fees given by them for membership. During my tenure all members have put their signatures infront of me. Original documents have been produced today in your Court. The same may be exhibited and read in evidence."

56. Shri Namdev D. Chavan was further subjected to examination in chief on 25.10.2016, in which he deposed as under :

"आता साक्षीदारास सर्वसाधारण सभासद नोंद वही रजिस्टर मधील पान क्रं 02 दाखवण्यात आले. साक्षीदार सांगतो की त्यावर माझे नावापुढे सही आहे."

57. The above deposition is translated as under :

"Now the witness is shown register of ordinary members. Witness says that the same bears his signature infront of his name."

When an attempt was made to exhibit the membership register, an objection was raised by Patil group and the A.C.C. passed following order.

"Learned Counsel for the applicant submitted that register be exhibited. On the other hand learned counsel for the objector has objected for exhibiting it. Heard learned counsel for both the sides. Learned counsel for the applicant submitted that the register is prepared as per Schedule – VI of S. R. Act. The witness has signed on it, therefore entire register be exhibited. On the other hand learned counsel for the objector submitted that the present witness is not the author of the document. He has prepared it therefore it not be exhibited. I gone through the document, it appears that it is a member list of Society. It has been prepared by the Secretary and President of the Society. It appears that this witness has been signed it before his name as he paid amount mentioned in it. Therefore, the entire register can not be exhibited but to the extent of witness signature only page no. 02 of the register is exhibited."

58. Shri Namdev D. Chavan thereafter adduced evidence about his admission as member of the trust and issuance of notice in the news paper about holding general body meeting on 14.12.2009 as under :

"मला दि. 06.09.1984 रोजी संस्थेमार्फत पत्र आले होते, ते मी दाखल केले आहे. ते पत्र संस्थेचे तत्कालीन अध्यक्ष व सचिव यांनी

दिले होते त्यावर त्यांच्या सहया आहेत. त्यातील मजकूर बरोबर आहे, त्यास निशाणी क्रं 108 देण्यात येत आहे. मी दि. 14.12.2009 रोजी संस्थेला विशेष सर्वसाधारण सभा बोलावण्याबाबत विनंती अर्ज दिला होता, तो मुळ अर्ज दाखल केला असून त्यावर माझी सही आहे, त्यातील मजकूर बरोबर आहे, सदर अर्ज निशाणी क्रं 109 वर आहे. सदर सुचनेबाबत दैनिक गाववालामध्ये नोटीस जाहिर करण्यात आली होती, त्यापेपरची मुळ प्रत दाखल केली आहे."

59. This deposition is translated as under :

> "I received letter dated 06.09.1984 from the trust which I have produced. The said letter was issued by the then President and Secretary and the same bears their signatures. The contents of the letter are correct. The same is marked as Exhibit No. 108. I had submitted a letter for convening a general body meeting of the trust on 14.12.2009 and the same bears my signature and contents thereof are correct. The said application is exhibited as Exhibit No. 109. A notice was published in Daily Gavwala about the said meeting. Original of the news paper is produced."

60. The A.C.C. refused to admit the notice in the evidence and only marked the same as Article A by passing following order :

> "Learned counsel for the applicant submitted that the paper be exhibited. On the other hand learned counsel for the objector submitted that the name of the present witness is not stated in the said paper, hence it not be exhibited. In reply, it is submitted that it is published in news paper hence it be exhibited. I gone through the Exh. No. 109. Nothing is stated in it in respect of publishing the notice in news paper by all the members. The name of the present member is not mentioned in the said notice. Hence, only Article as 'A' is given to it."

61. Mr. Chavan thereafter attempted to produce notices allegedly sent to the then members via R.P.A.D. by producing the original receipts which were exhibited. He thereafter gave some

evidence about meeting register, notice register, cash and ledger book as under :

> "मी संस्थेचे मुळ कार्यकारी मंडळाची सुचना बुक व कार्यकारी मंडळाची ठराव बुक 1995 ते 1996 या काळासाठीचे दाखल केले आहे. त्यास आर्टीकल 'C' देण्यात येत आहे. संस्थेची 1991 ते 1995 कार्यकारी मंडळाची सभेची सुचना बुक दाखल केले आहे. त्यास आर्टीकल 'D' देण्यात येत आहे. मी संस्थेची मुळ लेजर बुक सन 1990 ते 1997 दाखल केले आहेत. त्यास आर्टीकल 'E-1' ते 'E-7' देण्यात येत आहे. मी संस्थेची मुळ कॅश बुक सन 1990 ते 1997 दाखल केले आहेत. त्यास आर्टीकल 'F-1' ते 'F-7' देण्यात येत आहे."

62. The above deposition is translated as under :

> "5. I have filed notice book and resolution book of the governing council during 1995 to 1996. The same is marked as Article 'C'. I have produced notice book and meeting book of the governing council from 1991 to 1995. The same is marked as Article 'D'. I have filed original ledger book for the year 1990 to 1997. The same is marked as Article E-1 to E-7. I have filed original cash book for the year 1990 to 1997. The same is marked as Article F-1 to F-7."

63. The above evidence of Shri Namdev D. Chavan would indicate that he has not proved the resolutions passed by the governing council in the alleged meetings, of which the registers were produced. Beyond vaguely contending that he identifies the signatures of the then President and Secretary, he has not deposed anything about adopting of resolutions for accepting membership of various individuals. Furthermore, each of the resolution book, meeting book, notice book, etc. were not shown to the witness and he has not identified signatures of the signatories on each of them. Mere vague statement in the

affidavit of evidence that 'all record bears signatures of the then President and Secretary, I identify them' is not sufficient to prove that various meetings took place from time to time with notices of such meetings being issued to the founder trustees or that resolutions as alleged were passed admitting members of the trust. I therefore conclude that on the basis of evidence of Shri Namdev Dattrao Chavan, the records tendered by Shri Anand Bharose on 10.10.2016 have not been proved.

64. The evidence of other witnesses examined by Bharose group is irrelevant for the purpose of proving that record.

65. Thus after considering the entire evidence produced before the A.C.C. I am of the view that the A.C.C. and J.C.C. have rightly ignored the records produced by Bharose group as inadmissible in evidence.

66. There were two sets of records which were to be proved. The first set was about various registers etc. tendered in evidence by Shri Anand Bharose on 10.10.2016. The another set was with regard to various audit reports of the trust. The A.C.C. refused to take into consideration the audit reports on the ground that the same were not admissible in the evidence. The J.C.C. however overturned the findings of the A.C.C. with regard to audit reports and has held that, the audit reports were properly proved. The findings recorded by the J.C.C. in this regard in para No. 82 to 87 of his order reads as under :

> "(82) Witness Venugopal Rao is Chartered Accountant and partner of Firm, which audited the accounts of the Trust. His father was also a Chartered Accountant and allegedly

audited the accounts of the Trust and prepared the Audit Report. The witness Venugopal Rao has identified his father's signature on the Audit Reports. The learned A.C.C. has discarded his evidence saying that, he is hearsay witness since te witness had not personally audited the accounts.

(83) After going through the relevant record, it is seen that, witness Venugopal Rao was examined to establish that, the Audit Reports bears signature of his father. It is true that, in the cross-examination the witness has admitted that, he personally did not verify the Account Books, Minutes Books etc. The witness is also not sure whether the seals appearing on the Ledgers, Cash Books, Minutes Books, produced on record, are of his Firm. However, the witness has specifically identified signatures of his father on the Audit Reports at Exh. 142 to 155. The said Audit Reports bears the date of preparation of Audit as 08/07/1998.

(84) It is also pertinent to note that, there are various modes to prove the documents. One of the modes is to prove the documents through the evidence of a person who is acquainted with the handwriting of the writer or signature of the author. This is opinion evidence as prescribed under section 47 of the Indian Evidence Act. A person is said to be acquainted when he has seen the writer's handwriting or signature of author for several times and knows it well. Here in the present case, the witness is son of the Author of Audit Report. He himself is a Chartered Accountant and partner of the Firm, to which his father was also a partner. In such a Circumstance, the acquaintance of the witness about his father's signature is not doubtful. Thus, in view of Section 47 of the Indian Evidence Act, the Audit Reports ought to have been held as proved.

(85) Apart from the said, the procedure of preparing Audit Report, filing it with the Charity Office, taking entry on Schedule-X etc. are considered, it is seen that, unless the contrary is proved or the Authority has got examined the necessary record by way of special Audit, the contents of the Audit Reports cannot be disputed. If the learned A.C.C. had doubt about the genuineness of the Audit Reports, he ought to have called the original Audit Reports, filed in his Office. Moreover, the certified copies of the Audit Reports were provided by the Office itself. On this background, the observation of learned A.C.C. that, the Audit Reports, were

> not proved since the witness was hearsay witness, does not appear to be legal.
>
> (86) It is true that, mere exhibiting document cannot dispense with the proof. However, it is seen that, at the time of chief-examination of the witness C. Venugopal Rao, the objection was taken by the Patil Group. The learned A.C.C. after hearing both the parties passed detailed order during the chief examination itself and exhibited the Audit Reports. The order clearly gave an indication that, the documents are admitted as proved. But in the impugned Judgment, the learned A.C.C. has taken a contrary view that, the witness is hearsay witness.
>
> (87) Thus, so far as Audit Reports are concerned, I am of the view that, said were properly proved. The Patil Group has also filed revised Audit Report Exh.159. The said witness has also given evidence about the revised Audit Reports say that, on the basis of additional information, received in 2016, from Shri V. K. Patil, the revised Audit Report was prepared."

67. Thus, the J.C.C. has held that the audit reports are properly proved essentially on the basis of deposition of son of the Chartered Accountant, who was in a position to identify the signatures of his father. Mr. Sapkal has raised strong objection to these findings of the J.C.C. submitting that mere identification of signatures would not prove contents of the document.

E. 3 RULE OF EVIDENCE

68. Thus there are two sets of records viz. registers, cash book, ledger book, etc and audit reports, signatures of which are identified. The issue is whether mere identification of signatures would prove contents of those documents? It would be appropriate to discuss the judgments on this issue. In **Madholal Sindhu** (supra), it is held as under.

4. Mr. Somjee argued that under the provisions of the Indian Evidence Act all facts except the contents of documents could be proved by oral evidence, that so far as the contents of documents are concerned, they could be proved either by primary or scondary evidence, that the primary evidence of the documents meant the documents themselves produced before the Court, and that if the documents were alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as was in that person's handwriting need be proved to be in his handwriting. He, therefore, urged that the said various documents which he sought to prove before the Court need only be proved to be in the handwriting of the persons making the same and if he succeeded in doing so by calling the evidence of persons acquainted with the handwriting of the persons who signed or wrote out the said several documents, he was entitled to put them in and argued that the contents of the said documents were also proved by him.

5. This proposition sounded to me a novel one. I had in fact never heard any such argument before. **Section 67, Evidence Act only permitted the proof of the signature or handwriting of the person signing or writing the document to be given and considered it to be sufficient in those cases where the issue between the parties was whether a document was signed or written wholly or in part by that person. It did not go so far as to say that even if it was proved that the signature or the handwriting of so much of the document as was alleged to be in the handwriting of the person, was in his handwriting, it would go to prove the contents of that document.** No doubt the proof in so far as it was sought to be given in the evidence of Balkrishna Bhagwan Deshmukh of the signature or handwriting of the said various documents could have established that those documents were signed or written in the handwriting of Deshpande, Paranjape or Jamna-das; but the matter could rest there and would carry the plaintiff no further.

It certainly could not prove that the contents of those various documents which were thus proved to have been signed or written by Deshpande, Paranjape or Jamnadas were correct, and unless the plaintiff succeeded in proving the correctness of the contents of those various documents, he would not advance any step towards proving his case. Mr. Taraporewalla for the bank and Jamnadas supported Mr. Somjee in his submission. He submitted that once the signatures were proved the letters as a whole were proved, though the Court might say that the contents thereof were not proved in the sense that they were true. He submitted that the Court could admit those documents in evidence with that reservation, a reservation which to my mind went to the root of the whole matter and deprived the documents of all value whatsoever even if they might be admitted by the Court in evidence.

7. Mr. Setalvad on the strength of this authority urged that the documents which were sought to be tendered by Mr. Somjee through this witness Balkrishna Bhagwan Deshmukh could not be admitted in evidence without calling the signatory or the writer thereof who could be the only persons competent to depose to the truth of contents of the said various documents. Mr. Somjee replied urging that the usual mode of proving documents was by calling the writer or by the testimony of the persons who were acquainted with the handwriting of the persons in question and he was thus entitled to prove the various documents which he sought to tender in evidence through this witness Balkrishna Bhagwan Desh mukh who was acquainted with the signatures or handwriting of the persons who signed or wrote the said various documents.

As I have already observed it was futile for Mr Somjee to merely prove the signatures or the handwriting of the persons who signed or wrote the various documents without calling the said persons who were the only persons who could depose to the correctness of the contents of those various documents. Whether Deshpande, Paranjape or Jamnadas signed or wrote the various documents, was not the only issue before me. If that had been the only issue, the proof of the signatures or the handwriting of Deshpande Paranjape or Jamnadas would have been enough What was in issue, however, before me was apart from Deshpande, Paranjape or Jamnadas having signed or written those documents, whether the contents of those various documents were correct This certainly could not be proved by Balkrishna Bhagwan Deshmukh who had no personal knowledge whatever about the contents of those various documents. It would have served no purpose whatever to admit those documents in evidence with the reservation as suggested by Mr. Taraporewalla. I was supported in this conclusion of mine by the remarks of the appeal Court in --'11 Bom H C R 242 at p. 246 (A)', and I accordingly declined to admit in evidence the said various documents in spite of Balkrishna Bhagwan Deshmukh deposing before me that the said, various documents were signed by or were in the handwriting of Deshpande, Paranjape or Jamnadas.

(emphasis supplied)

69. In **Om Prakash Berlia** (supra) it is held as under :

3. Much depends upon the interpretation to be given to the expression "the contents of documents" in the Act. It was contended at first by Mr. Nariman that that expression wherever used in that Act meant the truth of the contents of documents. When, however, the Court pointed out to him the provisions of S. 63 (5), Mr. Nariman submitted that at least in Ss. 61 and 77 that expression bore that meaning,. being linked to "proved" in S. 61 and to "proof" in Section 77.

4. Maxwell on the Interpretation of Statutes, 12th Edn., states (at page 278) that it is reasonable to presume that the same meaning is implied by the sue of the same expression in every part of an Act.

5. Section 63 states that secondary evidence includes an oral account of the contents of documents given by some person who has seen it. That person does not given evidence of the truth of the contents of the documents merely by reason of having seen it, but of what he saw. In Section 63, therefore, the expression "the contents of a documents" must mean only what the documents states. Section 61 provided that the contents of documents may be proved either by primary or by secondary evidence. The expression in S. 61 , must therefore, also mean what the documents states, and not the truth of what the documents states.

6. Secondarily, Ss. 61 and 62 read together show that the contents of a document must, primarily, be proved by the production of the documents itself for the inspection of the Court. It is obvious that the truth of the contents of the

documents, even prima facie, cannot be proved by merely producing the documents for the inspection of the Court. What is states can be so established.

7. **Thirdly, it is laid down that the writer of a documents must depose to the truth of its contents**. Three judgments must be noted in this connection.

(emphasis supplied)

70. Mr. Adwant has relied upon the judgment of the Apex Court in **Sait Tarajee Khimchand and others** (supra). In para No. 15 whereof it is held as under :

15. The plaintiffs wanted to rely on Exhibits A-12 and A-13, the day book and the ledger respectively. The plaintiffs did not prove these books. There is no reference to these books in the judgments. **The mere marking of an exhibit does not dispense with the proof of documents.** It is common place to say that the negative cannot be proved. The proof of the plaintiffs' books of account became important because the plaintiffs' accounts were impeached and falsified by the defendants' case of larger payments than those admitted by the plaintiffs. The irresistible inference arises that the plaintiffs' books would not have supported the plaintiffs.

(emphasis supplied)

71. In **Narbada Devi Gupta** (supra), the Apex Court has reiterated the principle that the contents of documents are not automatically proved merely on the document being marked as exhibited. It is held in para No. 16 of the judgment as under :

"16. Reliance is heavily placed on behalf of the appellant on the case of Ramji Dayawala & Sons (P) Ltd., (supra), The legal position is not in dispute that mere production and marking of a document as exhibit by the court cannot be held to be a due proof of its contents. Its execution has to be proved by admissible evidence that is by the 'evidence of those persons who can vouchsafe for the truth of the facts in issue'. The situation is, however, different where the documents are produced, they are admitted by the opposite party, signatures on them are also admitted and they are marked thereafter as exhibits by the court. **We find no force in the argument advanced on behalf of the appellant that as the mark of exhibits has been put on the back portions of the rent receipts near the place where the admitted signatures of the plaintiff appear, the rent receipts as a whole cannot be treated to have been exhibited as an admitted documents.**"

(emphasis supplied)

72. The same view is taken by the Apex Court in **Bhimappa and others Vs. Allisab and others** (supra). In para No. 15 whereof the Apex Court has held as under :

"15. Therefore, the contention that the evidence on record cannot be taken into consideration to declare the title of the plaintiff has no substance. The suit is one for declaration of title and for possession. In a suit for declaration of title, the plaintiff has to establish his title. Title cannot be established by his personal knowledge. It has to be established by producing documents under which he is claiming title, most of the time under a registered document. In so far as documents are concerned Section 61 of the Evidence Act mandates that the contents of documents may be proved either by primary or secondary evidence. Primary evidence means the documentary evidence produced for inspection of the Court. Therefore, when a particular fact is to be established by production of documentary evidence there is no scope for leading oral evidence and there is no scope for personal knowledge. What is to be produced is the primary evidence, i.e., document itself. The said evidence can be adduced by the party or by his Power of Attorney Holder. Production of the document, marking of the document is a physical act which does not need any personal knowledge. Even proof of the document is by examining the persons who are well versed with the document or by examining the attesting witnesses or the executant of the document. Again the personal knowledge of the plaintiff has no role to play. In those circumstances it is open to the plaintiff to examine the Power of Attorney Holder, produce the documents through the Power of Attorney Holder, mark the same and examine witnesses to prove the said document if

> it is denied. Therefore, the contention that the evidence of a Power of Attorney Holder cannot prove the case of the plaintiff in all cases is not correct and that is not the law laid down by the Supreme Court in the aforesaid judgment. In the instant case, the registered sale deed is produced and the same is proved by examining the executant of the said document, and it is on the basis of the said evidence the suit is decreed, which cannot be found fault with."

73. The principal enunciated by above judgments would be relevant both with regard to the evidence of Shri C. Venugopal Rao as well as Shri Namdev D. Chavan. Both have identified signatures of signatories to the documents. However, both have not deposed that they had personal knowledge about the contents of the documents. So what is proved is only identification of signatures and not contents of the documents. As the J.C.C. has held that the audit reports are proved, submissions are made on behalf of Bharose group particularly by Mr. Deshmukh that the auditor has certified that meetings of the trust were conducted from time to time and minutes of such meetings were maintained. This is the exact folly in admitting a document in evidence merely on account of identification of signature in absence of evidence about contents. Admittedly, Mr. C. Venugopal Rao has no personal knowledge about the conduct of such meetings. Therefore, merely because he has identified signatures of his father on audit report, same would not lead to a conclusion that everything contained in such audit report is also automatically proved. Therefore, it cannot be stated that contents of the audit reports are also proved on account of identification of signatures by Mr. C. Venugopal Rao. The findings of the J.C.C. to this limited extent are erroneous.

E. 4 Confrontation In Cross Examination

74. Mr. Dhorde has assailed the findings of the A.C.C. and J.C.C. about non confrontation of the documents to the witness of Patil group. He has taken me through the evidence of Shri Patil, Shri Bhosale and Shri Kakde to demonstrate that the records indeed confronted to them. I have gone through the evidence of said witnesses and find that no attempt was made to show the documents to those witnesses. Some vague questions have been asked to those witnesses about admission of members. However, the cross examination does not indicate that the notice register or alleged notices issued/published for holding various meetings of the governing council were shown to said three witnesses for confronting them. Therefore, I do not find any error being committed by the A.C.C. in holding that the documents in question were not confronted by Bharose group to the witnesses of Patil group.

E. 5 Whether Remand Warranted

75. In the aforestated manner, Bharose group was not able to prove conduct of meetings, adoption of resolutions and issuance of notices to founder trustees in respect of alleged meetings which took place for admission of 157 members. It is also a matter of fact that such 157 members did not participate in the proceedings nor make any attempt to adduce evidence in support of their membership. The J.C.C. has passed order dated 02.03.2017 granting liberty to the members to prove their membership in pending change reports especially Change Report Enquiry No. 190 of 2010. True it is that there was a small gap between the date of judgment of the J.C.C. in Change Report

Enquiry No. 527 of 2003 of 02.03.2017 and date of judgment of A.C.C. in Change Report Enquiry No. 190 of 2010 and other related change reports of 29.04.2017. However during this gap, it appears that no attempt was made to lead evidence by the members in support of their membership. Mr. Dhorde, learned senior advocate has made an attempt to submit that the proceedings need to be remanded to the J.C.C. for providing an opportunity to the members to lead evidence in support of their membership. The submission is opposed by Mr. Sapkal, learned senior advocate for respondents relying on the judgment of the Supreme Court in the case of **B. V. Smitha Rani Vs. M. K. Girish** reported in *MANU/SC/1446/2009* and another judgment in the case of **Syeda Rahimunnisa Vs. Malan Bi by L.Rs. and others** reported in *MANU/SC/1166/2016* and contending that proceedings cannot be remanded back in order to give an opportunity to a party to fill up lacuna in a case by adducing evidence. Mr. Sapkal has further relied upon decision of this Court in the case of **Abdul Sattar Sher Mohammad Qureshi and others Vs. Haji Mustaq Ahmad Sher Mohd. and others** reported in *2009(1) Bom.C.R. 43* in support of his contention that mere proof of payment of subscription would not prove valid admission of members. As held hereinabove Bharose group has failed to prove documents relating to holding of meetings and issuance of notices to founder trustees and adoption of resolutions admitting new members. Therefore, even if the proceedings were to be remanded to the A.C.C. for providing an opportunity to the members to adduce evidence in support of their membership, beyond proving payment of membership fees and letters issued to them admitting their membership, they will not be in a position to prove holding of meetings and adoption of resolutions. Even otherwise bitter fight about control over the trust between Bharose group and Patil group has been going on for the last about two decades and it is otherwise not appropriate to remand the proceedings back to the A.C.C. as the same would set the entire clock back. I have already expressed serious doubts about authenticity of records produced by Shri Anand S. Bharose during his examination in chief on 10.10.2016. The manner in which the documents were allegedly traced itself is highly doubtful. Said record is in direct contravention of list filed by Shri Sheshrao D. Bharose along with application dated 18.11.2003. Therefore, it would not be appropriate in such circumstances to remand the proceedings to A.C.C. to give any further opportunity to members.

E.6 FACTORS UNFAVOURABLE TO PATIL GROUP

76. While it is held that the Bharose group has not been able to prove valid admission of 157 members to the trust, there are few factors heavily relied upon by the Ld. Counsels appearing for Bharose group, which I must say are slightly unfavorable to Patil group. Firstly, discarding of all documents produced by Bharose group would result in a situation that there is no records of the trust at all. It is not that the Trust was dormant after its registration. On the contrary it grew substantially by establishing as many as 31 educational institutions during 1979 to 2003. These enormous activities of the trust couldn't have been possibly without taking policy decisions from time to time, raising funds, etc. From the depositions of the founder trustees of Patil group, it does appear that they were completely oblivious about the activities of the trust when it was expanding its wings.

Those trustees were apparently busy in their own services, most of them being academicians posted outside Parbhani. Secondly, J.C.C. (in previous proceedings relating to CR 527/03) has held that the entire business of the trust transacted by the transitory governing council is required to be recognized. Also, in para 149 of the order of the A.C.C. in the present proceedings, also it has been held that business transacted by transitory governing council till 2003 has to be recognized. The issue is whether by recognizing business of the trust as valid would also automatically result in valid admission of new members effected without holding valid meetings of the trust? The answer to the question in my view has to be in the negative for the reasons in the paragraph to follow.

77. Even if the records produced by Bharose group was to be considered as admissible evidence, none of the meetings shown to have been conducted had participation by founder trustees of Patil group. This shows that the entire growth of activities of the trust were carried out without involvement of the other founder trustees. This is against the Constitution of the trust. Therefore, even if the founder trustees belonging to Patil group have possibly not contributed in the expansion activities of the trust prior to 2003 and even if the business of trust transacted upto 2003 is taken as valid, that alone cannot be a reason not to permit them to constitute governing council of the trust as they are the only surviving trustees forming adequate quorum.

E.7 JUDGMENTS CITED BY BHAROSE GROUP

78. What remains now is to deal with various judgments relied upon by Mr. Dhorde and Mr. Kute :

(i) In **Vinodkumar M. Malavia** (supra), the Apex Court has held that the Charity Commissioner is not required to strictly adhere to the procedure under Civil Procedure Code 1908 and the Evidence Act, 1802 and that evidence submitted before the Charity Commissioner may be admissible unless it is against the basic principles of evidence law. There can be no dispute to the proposition that Charity Commissioner not being a Court, strict procedure required under the Code and Evidence Act need not be followed. However, in the present case, apart from failure to prove the documents, there are serious doubts about genuineness of documents itself. Therefore, the judgment is of no assistance to Bharose group.

(ii) In **Thimmappa Rai** (supra), the Supreme Court has held that an admission given by a party to a suit in earlier proceeding is binding against the party who made such an admission. This judgment, far from assisting the case of Bharose group, actually militates against them. If this judgment is to be strictly followed, Shri Sheshrao D. Bharose would be bound by the list of 25 members filed by him before the A.C.C. and the entire theory of admission of 157 members would get falsified.

(iii) Judgment of this Court in the case of **Sambappa Trimbakappa Girwalkar** (supra) is relied upon by Mr. Dhorde in support of his contention that the members subsequently added by the trust are required to be included in the voters' list. However, since the very admission of such members into the trust is in violation of its constitution and since their admission to the trust is also not proved, this judgment would be of little assistance to Bharose group.

(iv) Judgment in the case of **Achutananda Baidya** (supra) is relied upon by Mr. Dhorde in support of his contention with regard to the nature and scope of jurisdiction of this Court under Article 227 of the Constitution of India. Mr. Dhorde has contended that even on facts this Court is not justified in interfering with the order of the Appellate Court. There can be no debate about the proposition advanced by Mr. Dhorde. However, after analyzing the entire documentary evidence of the case, I am unable to rule in favour of Bharose group.

79. Mr. Kute has relied upon judgments of the Apex Court in **Vidhyadhar Vs. Manikrao** (supra) and **Gopal Krushnaji Ketkar** (supra) in support of his contention that adverse inference is required to be drawn against a person who withholds an information by not entering in the witness box. These submissions are referable to the conduct of Dr. B. G. Nirval in not entering into the witness box. True it is that Dr. Nirval was associated with Shri Sheshrao D. Bharose in managing activities of the trust upto the year 2009-2010 and he had conducted the elections of the trust in the year 2010 by including 157 members in to voters list. However, he later switched over to Patil group. This conduct of Dr. B. G. Nirval may not morally or ethically correct. However, this would not absolve Bharose group of their burden to prove valid admission of 157 members by conducting meeting and passing resolution strictly in accordance with constitution of the trust. Having failed to discharge that burden, mere reluctance of Dr. Nirval from entering into witness box

would not be sufficient to draw an adverse inference to such an extent that highly doubtful documents and records produced by Bharose group can be believed as gospel truth. The judgments therefore are of no assistance to Bharose group.

F. CONCLUSION

80. From the discussions above, the inescapable conclusion that emerges is that the ultimate operative orders passed by the A.C.C. and J.C.C. are unflawed.

81. The Trust, as observed earlier, has been involved in imparting education by establishment of 32 institutions. It is necessary that the Trust is managed by duly constituted governing council. Most of the founder trustees are now no more and the surviving ones are also at advanced ages. The J.C.C. has directed the founder trustees of Patil group Shri Vedprakash Kashirao Patil, Shri Dr. B. G. Nirwal, Shri V. G. Bhosale and Shri S. N. Kakde to take necessary steps for formation of various bodies to constitute governing council. The governing council so constituted is directed to take necessary steps for calling general body meeting for election of regular governing council. The regular governing council so elected is directed to act as legal body of the trust. The A. C. C. Parbhani is directed to ensure compliance of the directions issued by the J. C. C. and in the event of any default, he is granted liberty to take steps under Section 41A of the Trust Act. These directions in my view are apt considering the facts and circumstances of the case. Rather than allowing the reins of the trust being handled by Bharose group, in the light of availability of requisite number of founder trustees, it is appropriate that they constitute the governing

council as directed by the J.C.C. Thus, no error is committed by the A.C.C. or J.C.C. in passing the impugned judgment and orders.

G. IMPLEMENTATION OF DIRECTIONS OF J.C.C.

82. Now remains the issue about implementation of directions of J.C.C. As observed earlier, despite the directions of J.C.C. being stayed by this Court during pendency of these petitions, Patil group has gone ahead and held elections to the trust and even got the change provisionally accepted. By Judgment and order dated 02-12-2022 passed in Writ Petition Nos. 10498 of 2021 and 3788 of 2021, this court has already set aside the order of provisional acceptance of change, being in violation of interim order passed by this court. Now that the directions of the J.C.C. are being upheld, would it mean a *post facto* seal approval to the elections held by Patil group as per directions of JCC? In my view it cannot be. Interim order was binding on Patil group. Any action taken in violation of interim order passed by this court will not be validated merely because the petitions are ultimately dismissed. Therefore, it is appropriate that the entire process of implementation of directions of J.C.C. is conducted afresh. Considering the nature of controversy where both groups claim control over the activities of the trust, it is appropriate that both the groups would work in unison by burying the disputes and work for betterment of the trust together. Formation of new governing council by surviving founder trustees is a great opportunity to work in that direction and I hope and trust that while constituting the new governing council, the founder

trustees, who are now septuagenarians, would consider this aspect.

H. ORDER

83. Thus, no error is committed by the A.C.C. or J.C.C. in passing the impugned judgment and orders and therefore, their orders (except to the extent of the observations made hereinabove) are upheld. All the writ petitions challenging the orders of the A.C.C. and J.C.C. deserve to be dismissed. All the Writ Petitions are accordingly dismissed. The directions of J.C.C. be implemented within a period of two months from today. There shall be no order as to costs. Rule is discharged.

[SANDEEP V. MARNE, J.]

84. At this stage Mr. Kadam, learned counsel appearing for Bharose group requests for continuation of interim order dated 04.06.2019 for a period of eight weeks from today. The request is opposed by learned counsel appearing on behalf of the Patil group. Considering the fact that interim order is in operation for the last more than three years, the same is continued for a period of six (06) weeks from today.

[SANDEEP V. MARNE, J.]

bsb/Dec. 22