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

**WRIT PETITION NO.1848 OF 2020**

Prakash Ananda Waghmare and Others

PETITIONERS

VERSUS

Manohar Laxman Walekar and Others

RESPONDENTS

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Mr. V. D. Gunale, Advocate for the petitioners

Mr. S. W. Munde, AGP for respondent - State

Mr. Ameya Sabnis, Advocate for respondent No.2

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**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 21<sup>st</sup> MARCH, 2022**

**ORDER :**

1. Leave to add Joint Charity Commissioner, Aurangabad Region, Aurangabad and Assistant Charity Commission, Nanded as party respondents. Amendment to be carried out forthwith. Learned Assistant Government Pleader waives service for added respondents No. 3 and 4.

2. Seven trustees, namely, (1) Bhimrao Madhavrao Niradhonkar, (2) Gangaram Sambhaji Manjramkar, (3) Dhondiba Hiranman Manjramkar, (4) Sambhaji Laxman Jondhale (5) Manohar Laxman Walekar (6) Madhavrao Iraba Jamdade and (7) Digambar Piraji Pawar, formed a Trust "*Matoshri Bhimai Shikshan*

*Prasarak Mandal, Nanded*” bearing PTR No.F599 (Nanded) (for short ‘the said Trust’). The names of these seven trustees were on Schedule I.

3. Out of the seven trustees, five trustees, namely (1) Madhavrao Iraba Jamdade, (2) Dhondiba Hiranman Manjarmkar, (3) Bhimrao Madhavrao Jamdade (4) Gangaram Sambhaji Manjaramkar and (5) Digambar Piraji Pawar, expired and the said vacancies were not filled in.

4. The petitioners and respondent No.1, therefore, on 12<sup>th</sup> December, 2012, filed application under section 50-A of the Maharashtra Public Trusts Act, 1950 (for short “the said Act”), for framing of the scheme of the said Trust, which was numbered as Enquiry No. 24 of 2013. In the said application, the petitioners claimed that founder trustees Sambhaji Laxman Jondhale and respondent No.1 enrolled the petitioners and respondent No.2 as members of the said Trust. The petitioners further contended that subsequently respondent No.1, by playing mischief, created record showing that he has enrolled different members and he filed application Enquiry No.879 of 2016 for framing scheme of the said Trust, when respondent No.1 has signed the application filed for framing the scheme of the said Trust i.e. Enquiry No. 24 of 2013, along with the petitioners.

5. Applications Enquiry No. 24 of 2013 and 879 of 2016 were clubbed together by respondent No.4 and after hearing and recording the evidence, both the applications were dismissed by respondent No.4. The petitioners, therefore, challenged the order passed by respondent No.4, by filing appeal No.228 of 2018 under section 70 of the said Act before respondent No.3. Respondent No.1 also filed appeal No. 235 of 2018 before respondent No.3. By a common judgment, both the appeals were dismissed by respondent No.3, by order dated 25<sup>th</sup> March, 2019. Hence, the present writ petition.

6. Respondent No.1 has expired and, therefore, this petition has abated against him by order dated 16<sup>th</sup> December, 2021. Respondent No.2 is supporting the petitioners.

7. In view of these peculiar facts and the subsequent developments and considering the fact that none of the founder trustees are alive and the scheme of the Trust is required to be framed, this Court is of the view that it is necessary to set aside the impugned orders passed by respondents No.3 and 4 and to remand the matter back to respondent No.4 to take decision afresh on merits.

8. In the result, impugned orders dated 28<sup>th</sup> June, 2018

passed by respondent No.4 and dated 25<sup>th</sup> March, 2019 passed by respondent No.3 are quashed and set aside. The matter is remanded back to respondent No.4 to take decision on the applications Enquiry No.24 of 2013 and 879 of 2016, after hearing the concerned parties, in accordance with law, on its own merits, within a period of three months from the date of receipt of writ of this order.

9. Writ petition is allowed in above terms.

**[NITIN B. SURYAWANSHI]**  
**JUDGE**

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