

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

**WRIT PETITION NO.11633 OF 2019
WITH CA/5996/2022 IN WP/11633/2019 WITH CA/13613/2021
IN WP/11633/2019 WITH CA/157/2020 IN WP/11633/2019
WITH CA/2116/2020 IN WP/11633/2019 WITH WP/11633/2019
WITH CA/10999/2022 IN WP/11633/2019 WITH CA/5994/2022
IN WP/11633/2019 WITH CA/2115/2020 IN WP/11633/2019**

**SHARDOPASAK SHIKSHAN SANSTHA THR ITS PRESIDENT
VISHWANATHRAO SHANKARAPPA VALANDEAND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr. N. P. Patil Jamalpurkar, Advocate for the Petitioners.

Mr. S. N. Morampalle, AGP for Respondents-State.

Mr. S. N. Patne, Advocate for Respondent Nos.3 and 4.

Mr. Dastagar, Advocate for Respondent Nos.5 and 6.

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**CORAM : SANDEEP V. MARNE, J.
DATED : 23rd NOVEMBER, 2022.**

PER COURT:-

1. By this petition order dated 25.07.2019 passed by the Deputy Charity Commissioner, Latur refusing to provisionally accept change under sub-Section 2 of Section 22 of the Maharashtra Public Trusts Act, 1950 is under challenge.

2. When the petition came up for admission on 23.01.2020, this Court admitted the petition and passed following order:

“ Heard both sides.

2. Arguable points have been raised. It appears from the submissions made on behalf of the contesting parties that interpretation of the newly amended proviso to Section 22 Sub-section (2) of the Maharashtra Public Trust Act, 1950 (for short, “the said Act”) is necessary. Furthermore, despite the specific directions given by this Court in the order dated 08.07.2019 while

disposing off Writ Petition No. 7377 of 2019, the learned Deputy Charity Commissioner has passed a cryptic order which is impugned in this petition. It appears that since there is no interpretation of the said newly amended proviso to Section 22 (2) of the said Act, the learned Deputy Charity Commissioner has passed such cryptic order. It further appears from the aims and objects behind the said amended proviso to Section 22(2) of the said Act that it is noticed that the proceedings under various provisions of the Act remain pending for the inordinately long period and thereby result in hindrances in the advancement of public religious and charitable objects.

3. As expressed by the late Hon'ble Justice Chagla, the former Chief Justice of the Bombay High Court in his judgment in the case of Ratilal Pannachand Gandhi v. State of Bombay, reported in AIR 1953 Bom. 242, "the whole attempt and the whole object is to see that the properties settled on public and charitable trusts are properly managed and are properly administered, that the trustees keep proper accounts, that the trustees render those accounts, answer questions put to them arising out of those accounts and every single provision contained in the Act is incorporated from that point of view". The Bombay Public Trusts Act was enacted for better provision for the administration of the public religious charitable trust since it was expedient to regulate and to make better provisions for such purpose.

4. In view of the same, RULE. Learned counsel appearing for the respective respondents waive notice on rule.

5. There shall be interim relief in the following manner:

A. The further proceedings in Inquiry Change Report No. 1304 of 2019 are hereby stayed.

B. The newly elected managing committee in terms of the elections held on 15.02.2019 and 19.02.2019 to manage and administer the day to day affairs of the petitioner-trust with the following conditions:

I. The newly elected managing committee is permitted to take decisions pertaining to the day to day affairs of the trust and the newly elected managing committee shall not take any policy decision.

II. Excluding the amount of payment of salary of the staff members and so also the amount required for day to day maintenance, for any withdrawal and spending of the amount exceeding Rs.1,00,000/-, the newly elected managing committee shall take prior permission from the Deputy Charity Commissioner.

6. Hearing of the Writ Petition shall stand expedited. The parties are at liberty to file Civil Application for early hearing, if occasion so arises.”

3. The petition is pending since the year 2019 and on account of interim order dated 23.01.2020, the enquiry change report no.1304/2019 is not getting decided. This Court has already made provisional arrangement for management of the Trust by its order dated 23.01.2020.

4. In this view of the matter, I am of the considered view that instead of keeping this petition pending and instead going into the correctness of the order dated 25.07.2019 refusing to accept provisional change, it would be appropriate to direct the Deputy Charity Commissioner to decide change report no.1304/2019. This could be in the interest of all the parties.

5. Mr. Dastagar, learned counsel appearing for respondent nos.5 and 6 makes a grievance that in violation of the interim order passed by this Court, the management Trustees have taken a policy decision to terminate some of the members of the Trust. It appears that, in respect of the grievance relating to termination of membership, Writ Petition No.4785/2020 was filed which came to be disposed of by order dated 09.07.2020, wherein this Court made following observations:

“5. For the purpose of appointment of administrator and to consider the submissions about the illegality, an enquiry would be necessary. The same would not be possible under

the writ jurisdiction of this Court. Moreover, the remedy is available under the various provisions of the Maharashtra Public Trust Act. The petitioners are at liberty to avail the same. Even the remedy is provided against the impugned resolution removing the petitioners as life members.

6. In view of the fact that the remedy is available to the petitioners, we are not inclined to entertain the present writ petition. Keeping all contentions of the parties open, we dispose of the writ petition with liberty to the petitioner to avail the alternate remedy. No costs.”

6. It appears that, concerned ex-members whose membership is terminated have moved appropriate proceedings before the Deputy Charity Commissioner. The same would be decided independently as they are not subject matter of challenge in the present petition.

7. The present petition is accordingly disposed of with a direction to the Deputy Charity Commissioner to decide enquiry change reported no.1304/2019 as expeditiously as possible and preferably within a period of six months from today. Till final decision of the enquiry change report no.1304/2019, the interim arrangement directed by this Court vide order dated 23.01.2020 shall continue to operate.

8. All points on merits of the matter are kept open.

9. Pending civil applications are disposed of.

(SANDEEP V. MARNE)
JUDGE