

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3498 OF 2022

Shri. Vijay Vitthal Vidya Prasarak
Sanstha, SonyalPetitioner
Vs.
Shri. Shrimant Sangappa Biradar & Ors.Respondents.

Mr. Umesh R. Mankapure for the Petitioner.
Mr. Rajas A. Naik for Respondent Nos. 1 to 4.

CORAM : NITIN W. SAMBRE, J.

DATED : 15th JULY, 2022

P.C.:

In view of the fact that plain reading of section 41A postulate that trust cannot take recourse to the provisions of section 41A of Maharashtra Public Trust Act.

2. Mr. Mankapure, Counsel for Petitioner on instructions made a motion for withdrawal of the Petition. As such the petition stands disposed of as withdrawn.

3. However, the duly elected trustees, including the Chairman who has preferred the application under section 41A in the present proceedings is at liberty to take out fresh proceedings under section 41A of the Act in their capacity as elected trustees of the trust or such other capacity as is qualified under section

41A of the said act.

4. If such application is moved alongwith application for grant of interim relief, if any, the same be considered and decided by the Charity Commissioner in accordance with law and having regard to the judgment of this Court in the matter of *Chembur Trombay Education Society & Others vs D. K. Marathe & Others* reported in (2001) SCC Online Bom 842 : (2002) 3 Bom CR 161 and *Ganesh Mahadeorao Thawre vs. Central Hindu Military Education Society & Anr.* reported in 2007(5) Bom.C.R.680.

(NITIN W. SAMBRE, J.)