

SATISH
RAMCHANDRA
SANGAR

Digitally signed by
SATISH RAMCHANDRA
SANGAR

Date: 2022.11.17
17:54:30 +0530

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

INTERIM APPLICATION NO. 17870 OF 2022

IN

WRIT PETITION NO. 3628 OF 2019

Shivaji Pandurang Patil

... Applicant

In the matter between

Dhanaji Shivaji Rankhambe

... Petitioner

vs.

Yashwant Kashid Shikshan Sanstha and Ors.

... Respondents

WITH

WRIT PETITION NO. 3636 OF 2019

Dilip Ramchandra Rankhambe

Through POA holder and Ors.

... Petitioners

vs.

Yashwant Kashid Shikshan Sanstha and Ors.

... Respondents

Mr.A.V.Anturkar – Sr. Advocate a/w Mr.Amol Gatne, Advocates for Applicant in Interim Application No. 17870 of 2022/Petitioner in both the Writ Petitions i/b. Mr.Shubham H. Misar in Writ Petition No.3628 of 2019. Dr.Uday P.Warunjikar a/w Mr.Siddhesh Pilankar, Advocates for Respondent Nos. 1 to 8.

Ms.V.S.Nimbalkar, AGP for Respondent Nos. 9 and 10 – State.

CORAM : S. M. MODAK, J.

DATE : 15th NOVEMBER, 2022

P. C. :-

INTERIM APPLICATION NO. 17870 OF 2022

1. Already learned Advocate for Applicant has argued on the the last date. Today, heard learned Senior Advocate Shri.Anturkar for Applicant and also heard learned Advocate Shri.Warunjikar assisted by learned Advocate Shri.Siddhesh Pilankar for Respondents.

2. Petitioner Dhanaji expired on 25th August, 2019 and copy of the death certificate is annexed. In view of his death, now the Applicant wants

his name to be substituted. Reliance is placed on the observations in case of *ABAJI DAULATA YADAV since deceased by his heirs and others V/s. DHONDIRAM JAGEDEVRAO YADAV and others [1993 Mh.L.J. 588]*.

3. The prayer is opposed for the reason that there is no provision for substitution, if the matter is as per the provisions of the Maharashtra Public Trusts Act, 1950. There is submission that instead of substitution, the Applicant may initiate fresh Writ Petition.

4. Learned Assistant Charity Commissioner has refused to accept the change report. The change was reported by one Patang Patil and Madan Waghmare. They are the elected members i.e. Respondent Nos. 2 and 7. Whereas, change was opposed by the Petitioner. However, in an Appeal, the Deputy Charity Commissioner approved the change. This order is challenged by the present Petitioner.

5. A list of nominal members of the Trust is annexed at Page No.17. The present Applicant is a nominal member of the Trust. He claims that he falls within the meaning of the word “*person interested*” as given in Section 2(10)(e) of the Maharashtra Public Trusts Act, 1950.

6. In view of that, certainly he is also having right to challenge the decision. No purpose would be served by asking him to file a fresh Petition.

7. Therefore, Application is allowed in terms of prayer clauses (a) and (b). Necessary amendment be carried out within two weeks. Amended copy be served on the Respondents.

8. Stand over to 7th December, 2022.

[S. M. MODAK, J.]