

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 1786 OF 2021

Nilkanth Kevalram Chitriv and Ors.

Vs.

Devidas s/o Ganpat Sukhdev and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. D.B. Abhyankar, Advocate for petitioners.
Mr. V.K. Paliwal, Advocate for respondent Nos.1 to 3.
Mrs. M.A. Barabde, AGP for respondent No.4.

CORAM : AVINASH G. GHAROTE, J.

DATE : 04/08/2022.

Heard Mr. Abhyankar, learned counsel for the petitioners and Mr. Paliwal, learned counsel for the respondent Nos.1 to 3.

2. The impugned judgment dated 06.03.2020 allowed the application under Section 72 of the Maharashtra Public Trust Act, 1950, whereby order dated 23.01.2015 passed by the Assistant Charity Commissioner, Bhandara, on an application under Section 50-A of the Maharashtra Public Trust Act, 1950, accepting the scheme application has been

set aside and the scheme application has been rejected.

3. The basic ground on which the appeal has been allowed is that the person presenting it namely, Narayan Laxmanrao Tamshetiwar, was not a member of the Trust, as he was removed from the primary membership on 13.02.1986 and change report to that effect has been accepted in that regard. First of all, upon removal from the primary membership of the Trust, a change report under Section 22 of the Maharashtra Public Trust Act, 1950, is not required to be filed. That apart order dated 13.02.1986, does not indicate that the said person was removed from the primary membership of the Trust, as the said order merely accepts a change in the Managing Committee of the Rashtrasant Shikshan Sanstha, Soni (Chaprad), as reported by the reporting Trustee Mr. Nakhate. It does not dilate in any manner whatsoever upon the primary membership of Mr. Tamshetiwar. There is nothing else on record. It is also material to note that the claim of removal of Mr. Tamshetiwar, is not based upon any other document available on record filed by the Trust. That being a

position, the impugned judgment cannot be sustained, the same is quashed and set aside. The matter is remanded back to the learned District Judge to decide the application on merits afresh.

[AVINASH G. GHAROTE, J]