

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3952 OF 2019

PETITIONERS :-
(Org.Objectors)

1. Shri Badrinath Bhiwaji Landge, Aged about 79 years, Occupation Retired Employee.
2. Shri Dewanand Sadashio Madame, Aged about 65 years, Occupation Labour.
3. Shri Dnyaneshwar Istari Bagde, Aged about 65 years, Occupation retired teacher.
4. Shri Hiralal Balaram Meshram, Aged about 68 years, Occupation Retired Head-Master.
5. Shri Keshav Sitaram Pawankar, Aged about 70 years, Occupation Retired Clerk.
6. Smt.Nirmala Badrinath Landge, Aged about 68 years, Occupation Household.

Petitioner No.1 to 6 residents of Khamari (Buti), Post Matora, Tahsil & District Bhandara.

7. Shri Mangeshwar Istari Bagde, Aged about 63 years, Occupation retired teacher, R/o Nasik Nagar, Bhandara, Tahsil & District Bhandara.

8. Shri Rajkumar Pandurang Landge, Aged about 57 years, Occupation Service, R/o In front of new bus stand, Lakhandur, Tahsil Lakhandur, District Bhandara.
9. Shri Surajlal Lahu Chaware, Aged about 65 years, Occupation retired teacher, R/o Chanda Fort, Old Laxminagar, Gondia.
10. Shri Shridhar Lahu Nakade, Aged about 60 years, Occupation Cultivator, R/o Korambhi (Tola) Tahsil Arjuni (Mor), District Gondia.
11. Shri Dilip Trachand Wahane, Aged about 55 years, Occ. Service, R/o Vaishali Nagar, Khat Road, Bhandara, Tahsil & District Bhandara.

...VERSUS...

RESPONDENTS :-
(Org. Applicants)

1. Shri Anant Shambhuji Ramteke, Aged about 35 years, Occupation Cultivator, R/o Korambhi (Tola), Tahsil Arjuni (Mor), District Gondia.
2. Shri Shivdas Gonduji Wanjari, Aged about 49 years, Occupation Cultivator, R/o Korambhi (Tola), Tahsil Arjuni (Mor), District Gondia.
3. Shri Sukhdeo Rakhdu Ramteke, Aged about 67 years, Occupation Cultivator, R/o Yegaon (Janwa), Post Itkheda, Tahsil Arjuni (Mor), District Gondia.
4. Shri Rajan Kurchandas Meshram, Aged about 55 years, Occupation Printing

Press, R/o Petrol Pump Thana, Jawahar Nagar, Tahsil & District Bhandara.

5. Shri Gurudeo Doma Nakade, Aged about 48 years, Occupation Cultivator, R/o Korambhi (Tola), Tahsil Arjuni (Mor), District Gondia.
6. Shri Ako Vithuji Meshram, Aged about 74 years, Occupation Business, R/o At Post Kurud, Tahsil Desaiganj (Wadsa), District Gadchiroli.
7. Smt. Mamata Bhojraj Meshram, Aged about 63 years, Occupation Labour, R/o At & Post Shendurwafa, Near Rahangdale B.Ed. College, Tahsil Sakoli, District Bhandara.
8. Shri Nanaji Bhiva Ganvir, Aged about 65 years, Occupation Cultivator, R/o At Post Kurud, Tahsil Desaiganj (Wadsa), District Gadchiroli.
9. Shri Ulhas Pandhari Ganvir, Aged about 52 years, Occupation Service, R/o At Post Kurud, Tahsil Desaiganj (Wadsa), District Gadchiroli.
10. Assistant Charity Commissioner, Bhandara, Tah. & Dt. Bhandara.

Mr. A.Z.Jibhkate, counsel for the petitioners.
Mr.S.D.Abhyankar, counsel for respondent Nos.1 to 3 and 5 to 9.
Mr. V.N.Patre, counsel for respondent No.4.
Ms Tajwar Khan, AGP for respondent No.10.

CORAM : MANISH PITALE, J.

CLOSED ON: 14.07.2022.

PRONOUNCED ON: 19.07.2022.

J U D G M E N T

Heard.

2 Rule. Rule made returnable forthwith. The writ petition is heard finally with the consent of the learned counsel for the rival parties.

3 The present writ petition arises out of proceedings initiated under the provisions of the Maharashtra Public Trusts Act, 1950 (hereinafter referred to as the “said Act”) concerning a change report submitted before the Assistant Charity Commissioner, Bhandara, in the context of an election conducted in the year 2012, concerning the trust in question called Ankuran Shikshan Sanstha, Khamari (Buti), Tahsil and District Bhandara. The Assistant Charity Commissioner, Joint Charity Commissioner and the District Court have all held against the petitioners on the central issue that arises for consideration, i.e. as to whether 18

persons were validly inducted as members of the aforesaid trust in the year 1999. A lot would turn on the finding that this Court would reach on the aforesaid question, for the reason that according to the petitioners, by the illegal manner in which the 18 members were inducted, the trust was virtually hijacked from the hands of the original trustees, i.e. the petitioners and 6 others. With passage of time, some of the trustees passed away and the dispute is presently being pursued by the 11 petitioners before this Court.

4 According to the contesting respondents in this petition, the 18 members stood inducted on 14/06/1999 and on that basis they became regular members with all rights, including the right to vote in the elections of the aforesaid trust.

5 Change Report bearing No.339 of 1999, was submitted by the then Secretary of the trust, one Shambhu S/o Atmaram Ramteke as the reporting trustee, claiming that an election of the trust was conducted in the year 1999, wherein the said 18 newly inducted members had taken part and on the basis of result of such alleged election, a prayer was made for including

the names of the elected members on Schedule-I concerning the said trust. The said Change Report No.339 of 1999, was rejected by an order dated 21/11/2000, passed by the Assistant Charity Commissioner.

6 It appears that thereafter, there were two change reports submitted in respect of elections conducted to the said trust. On the one hand by the petitioners and on the other by the contesting respondents and others, as a result of which two change reports came to be filed before the Assistant Charity Commissioner. The Assistant Charity Commissioner accepted the change reported by and on behalf of the petitioners, while the change reported by the contesting respondents was rejected. Appeals came to be filed before the Joint Charity Commissioner, wherein the change report at the behest of the petitioners also came to be rejected, while rejection of change report at the behest of the respondents was confirmed.

7 In this backdrop, where there was a running feud within the said trust, in the year 2012, the Joint Charity Commissioner passed an order directing fresh elections to be held

and an inspector of the office of the Commissioner was appointed as the election officer. During preparation of provisional voters list of the members of the trust, when the names of the aforesaid members inducted in the year 1999 were shown in the list, the petitioners raised objection before the election officer, contending that the members were not validly inducted. The said objection was rejected by the election officer and the elections were conducted. Pursuant to the said election, Change Report Enquiry No.529 of 2012 was initiated. In this proceeding, the son of the erstwhile Secretary Shri Shambhuji S/o Atmaram Ramteke, who was also one of the members inducted in the year 1999, was the applicant and the petitioners herein were the objectors.

8 One of the main grounds raised before the Assistant Charity Commissioner on behalf of the petitioners was that the said members purportedly inducted in the year 1999, could not be said to have been validly inducted and that therefore, the entire election was vitiated. This assertion on the part of the petitioners was opposed by the contesting respondents and the Assistant Charity Commissioner dealt with the same. By order dated

17/04/2014, the Assistant Charity Commissioner accepted the change report, holding that there was sufficient material on record to indicate that the said members were properly inducted in the year 1999. While reaching the said finding, the Assistant Charity Commissioner relied upon a list of members at Exhibit-70, prepared in the year 1999, holding that there was sufficient material on record to indicate that the petitioners had consented to the induction of such members.

9 Aggrieved by the aforesaid acceptance of change report by the Assistant Charity Commissioner, the petitioners filed appeal before the Joint Charity Commissioner. By judgment and order dated 03/12/2014, the Joint Charity Commissioner dismissed the appeal and confirmed the findings rendered by the Assistant Charity Commissioner. On the specific issue about membership of the said persons inducted in the year 1999, the Joint Charity Commissioner also relied upon the list at Exhibit-70, a resolution dated 27/02/1994 at Exhibit-187, wherein the general body had resolved to induct new members and the material on record indicating acceptance of membership fees from

such members, including cash books and audit reports. It was also observed that the order dated 21/11/2000, rejecting Change Report Enquiry No.339 of 1999, could not lead to the conclusion that the 18 members inducted in the year 1999, was illegal.

10 Aggrieved by the judgment and order of the Joint Charity Commissioner, the petitioners filed application under section 72 of the said Act before the District Court. The said application was dismissed by the impugned judgment and order dated 20/02/2019, passed by the District Court, thereby confirming acceptance of the change report by the Assistant Charity Commissioner. In the impugned judgment and order, the District Court gave a finding that the oral and documentary evidence on record demonstrated that membership of the said persons was proved and that there was no substance in the contention raised on behalf of the petitioners.

11 Aggrieved by the same, the petitioners filed the present writ petition, wherein notice was issued and the respondents entered appearance through counsel. Record was called as the writ petition was taken up for final disposal.

12 Mr. A. Z. Jibhkate, learned counsel appearing for the petitioners, submitted that the petitioners were founder members along with six others and that they had serious concern about the functioning and management of the aforesaid trust, which was undertaking educational activities funded by the State. It was submitted that the aforesaid 18 members were not validly inducted as members of the trust in the year 1999. The learned counsel emphasized that even though resolution of the trust dated 27/02/1994 at Exhibit-187, passed by the general body, did reflect a decision to induct new members in the trust, there was nothing on record to show that specific 18 persons were inducted as members in the trust and that such membership was approved either by the executive body or by the general body of the trust. It was emphasized that as per settled law, valid membership would come into existence only upon such approval by the general body.

13 It was emphasized that the case of the petitioners as founder members throughout was that one of the founder members, who was the then Secretary, i.e. Shri Shambhuji S/o Atmaram Ramteke, had the entire record of the trust in his

custody. He unilaterally inducted the said 18 new members, including his son, i.e. the respondent No.1 herein, who was a minor at the relevant time, in a most illegal manner. It was submitted that induction of such purported members was never placed before the general body and there was no approval of induction of such persons. It was further submitted that as per the law laid down by this Court, being a public trust, for inducting new members, public notices ought to have been issued, which was also not undertaken.

14 The learned counsel for the petitioners emphasized that the list at Exhibit-70 was not sufficient proof and that it was not a resolution of the general body granting approval to induction of the 18 members. Merely because there were documents like cash books and audit reports to show acceptance of membership fees from the 18 persons, it would not make their membership valid, for the reason that the entire record was in the custody of the said secretary, who had proceeded to prepare such documents in a most illegal manner.

15 It was further submitted that the said secretary of the trust, who had indulged in such illegal activities, expired and when the election officer appointed by the Joint Charity Commissioner in the year 2012, undertook the exercise of conducting the election, the petitioners called for the record from the son of the deceased secretary, i.e. the respondent No.1 herein and whatever record was available, was placed before the election officer. It was submitted that in such a situation, the petitioners in the year 2012 again raised objection to the inclusion of the 18 persons in the provisional voters list and that such objections were not properly considered on merits even up to the stage of passing of the impugned order by the District Court. It was submitted that the trust was virtually hijacked by the then deceased secretary as also the respondent No.1 herein by illegally inducting the 18 members, while the founder members including the petitioners herein were illegally outnumbered and left high and dry. According to the learned counsel for the petitioners, the District Court in the impugned order and the Authorities under the said Act completely failed to appreciate this aspect of the matter while

accepting the change report submitted in pursuance of the election held in the year 2012.

16 The learned counsel for the petitioners placed reliance on judgments of this Court in the case of **Abdul Sattar Sher Mohammad Qureshi and others vs. Haji Mustaq Ahmad Sher Mohd. and others**, reported in 2009 (1) Mh.L.J. 411, **Krishnarao Kanhaiya Naidu and others vs. Jeevraj Bhairavlal Agrawal and others**, reported in 2010 (2) Mh.L.J. 31 and **Shakil Musa Patel and another vs. Dilipsing Pratapsing Patil and others**, reported in 2014 (1) Mh.L.J. 960.

17 On the other hand, Mr. S. D. Abhyankar, learned counsel appearing for respondent Nos.1 to 3 and 5 to 9, submitted that there was no substance in the contentions raised on behalf of the petitioners, for the reason that the Assistant Charity Commissioner, Joint Charity Commissioner as well as the District Court had concurrently held in favour of the said respondents on the basis of appreciation of the oral and documentary evidence on record to reach reasonable and proper conclusions. It was submitted that rejection of the Change Report Enquiry No.339 of

1999, upon which the petitioners were placing much reliance, was of no consequence because a perusal of the order dated 21/11/2000, would show that there was no discussion on merits and that the change report stood rejected because it was not pursued by the reporting trustee. In such a situation, the Assistant Charity Commissioner ought to have *suo motu* enquired into the matter, including the question of validity of induction of the said 18 members in the year 1999.

18 It was further submitted that undisputedly, by the resolution dated 27/02/1994 at Exhibit-187, it was resolved that new members would be inducted in the trust. It was further submitted that the Authorities below and the District Court correctly relied upon Exhibit-70, which was a list of members of the trust, including 18 members inducted in the year 1999, and this list was read out in the meeting of the general body on 14/06/1999. According to the learned counsel for the said respondents, this document sufficiently satisfied the requirement of law of approval of membership by the general body. It was further submitted that there were cash books, ledgers, audit

reports and other such documents to show that these 18 members had indeed paid the membership fees and that therefore, they stood inducted as members of the trust.

19 Much emphasis was placed on the order passed by the election officer rejecting the objections raised on behalf of the petitioners on the provisional voters list. In the said order, it was observed that since list of voters including the names of the 18 members was submitted under the signature of the then secretary of the trust, the objection raised to the provisional voters list could not be accepted. It was further submitted that the oral and documentary evidence was considered in that light and since induction of the members was in pursuance of the aforesaid resolution at Exhibit-187, the same read with the list of members at Exhibit-70, along with the other oral and documentary evidence on record conclusively proved valid induction of the said members and that therefore, the writ petition deserved to be dismissed.

20 The learned counsel for the said respondents submitted that there could not be any quarrel with the position of law that membership would become valid only upon approval by

the general body, but it was submitted that the same was evident from the list at Exhibit-70, thereby indicating that the concurrent findings rendered by the Authorities and the District Court did not deserve interference. The learned counsel for the said respondents relied upon judgment of this Court in the case of **Jagatnarayansingh Swarupsingh Chithere and ors vs. Swarupsingh Education Society and another**, reported in 1980 Mh.L.J. 372, to contend that subsequent events ought to be taken into consideration. It was submitted that as per the ratio of the said judgment, in such matters where change reports were successively submitted under section 22 of the said Act, reporting change pursuant to elections and the dispute came before this Court at a stage when the term of the elected body had expired, the discussion on the dispute or controversy was rendered academic and that therefore, on this ground also the present writ petition ought to be dismissed. It was submitted that the controversy sought to be raised by the petitioners was now rendered meaningless, for the reason that the term of the body pursuant to the election in the year 2012 itself was over and that subsequent elections had also taken place.

21 Mr. V. N. Patre, learned counsel appearing for the respondent No.4 relied upon the affidavit placed on record on behalf of the said respondent. It was submitted that the respondent No.4 was supporting the contentions raised on behalf of the petitioners, as the entire record of the trust was in the custody of the father of the respondent No.1, who was the then secretary with no access to other members, as a result of which the 18 members were wrongly shown to have been inducted in the trust. It was submitted that the respondent No.1 took advantage of the said situation to hijack and monopolize the management of the trust and further that thereafter, the trust was suffering from maladministration and mismanagement.

22 Ms Tajwar Khan, learned AGP appeared on behalf of the respondent No.10.

23 Heard the learned counsel for the rival parties and perused the material on record. The central issue in the present writ petition is about induction of 18 members in the year 1999, which had the effect of bringing about a major change in the composition of the trust. The founder members were 17 in

number and 18 members allegedly stood inducted in the year 1999. Since then disputes arose in the trust and it was claimed that parallel elections were held, leading to further controversies. There is no dispute about the fact that post induction of the said 18 persons as members in the trust, it was reported by the then secretary of the trust, i.e. father of the respondent No.1 herein, that a new body had been elected and this change was placed before the Assistant Charity Commissioner under section 22 of the said Act as Change Report Enquiry No.339 of 1999.

24 There were objections raised to the said change report by the petitioner No.1 and it was claimed that the newly inducted members could not be said to be valid members of the trust. The said change report stood rejected by order dated 21/11/2000. Thereafter, as noted above, two change reports came to be submitted before the Assistant Charity Commissioner, which led to appeals before the Joint Charity Commissioner and ultimately the changes reported on the basis of two parallel elections were both rejected and in the year 2012, the Joint Charity Commissioner was constrained to direct fresh election to be conducted under the

supervision of an inspector of the office, who was appointed as the election officer.

25 In this election also, the petitioners raised serious objections about inclusion of the names of the said 18 members in the provisional voters list. Therefore, the issue regarding induction of the said 18 members in the year 1999 was raised at every opportunity by the petitioners and even during the process of election in the year 2012. The objections raised by the petitioners were rejected by the election officer and when Change Report Enquiry No.529 of 2012, was initiated before the Assistant Charity Commissioner at the instance of the respondent No.1, the petitioners as objectors again raised the said objection regarding induction of the said 18 members in the trust. The said objections stood rejected by the Assistant Charity Commissioner as well as the Joint Charity Commissioner and the District Court in the impugned order. Thus, the said issue cannot be said to have been rendered academic, as it was always alive and continues to be alive even in the present writ petition, for the reason that the question of valid induction of the said 18 members is central to

determination of the validity of the election held even in the year 2012 and the change reported to the Assistant Charity Commissioner under section 22 of the said Act.

26 It cannot be said that since the term of the body elected in the year 2012 is over and subsequent events may have taken place, that the issue regarding induction of the 18 members had been rendered academic. In this regard, reliance placed on behalf of the contesting respondents on the judgment of this Court in the case of **Jagatnarayansingh Swarupsingh Chithere and ors vs. Swarupsingh Education Society and another** (supra) is misplaced, for the reason that the facts of the said case do not demonstrate that any such issue of validity of induction of members was subject matter of change reports submitted before the Assistant Charity Commissioner pursuant to elections. The facts of the said case are clearly distinguishable from the present case. Accepting the said contention raised on behalf of the contesting respondents that the issue has been rendered academic, would amount to permitting an illegality to be perpetuated, just because the term of the body elected in the year 2012, was over.

27 In such proceedings initiated under section 22 of the said Act, it is very often observed that the proceedings remain pending either before the Assistant Charity Commissioner or the Joint Charity Commissioner or the District Court or even before this Court and not only the term of the body concerning the said election is over, but subsequent elections take place and terms of bodies elected in such elections also get over. But, in such a situation, if this Court refuses to consider an issue that goes to the very root of the matter, there is possibility that an illegality may be perpetuated on every occasion that an election is held. Therefore, the aforesaid contention raised on behalf of the contesting respondents is rejected and this Court is deciding the aforesaid central issue on the basis of the material placed on record.

28 Before advertng to the submissions made on behalf of the rival parties, in the backdrop of the material available on record, it would be appropriate to refer to the position of law as regards the manner in which members are to be inducted in a public trust governed by the provisions of the said Act. This Court in the case of **Abdul Sattar Sher Mohammad Qureshi and others**

vs. Haji Mustaq Ahmad Sher Mohd. and others, (supra) held that mere payment of subscription of membership cannot make a person member of the trust automatically. It was held that induction of members in a public trust has to be approved by the executive committee or by the general body. This position was reiterated in the case of **Krishnarao Kanhaiya Naidu and others vs. Jeevraj Bhairavlal Agrawal and others**, (supra) and it was stated that simply because a person pays a sum of money, he cannot become a member and foist his membership on those, who do not desire to be associated with him. Enrollment of new members has to be approved. In the case of **Shakil Musa Patel and another vs. Dilipsing Pratapsing Patil and others**, (supra) this Court considered the aspect of enrollment of new members in a public trust, particularly when large number of members were sought to be inducted. After referring to the provisions of the aforesaid Act, this Court held that fairness demanded that in such a situation public advertisement ought to be published inviting applications and unilateral induction of members cannot be permitted.

29 Thus, it becomes clear that even if the resolution dated 27/02/1994 at Exhibit-187 in the present case, demonstrated a desire on the part of the trust and its general body to induct new members, when large number of members were sought to be inducted, the said procedure ought to have been followed, so that fairness would be manifest in the manner in which new members were inducted in the trust. It was specifically alleged by the petitioners, from the very beginning, that the then secretary of the trust, i.e. Shri Shambhuji Ramteke, who was also one of the founder members, had indulged in the illegality of unilaterally inducting 18 persons, including the contesting respondents, as members by accepting membership fees from them and recording the same in cash book, thereby indicating that there was no consent on the part of other founder members for such induction of new members.

30 It was specifically alleged that the then secretary, who was the father of the respondent No.1 herein, was in custody of the entire record of the trust and merely because he created such record of acceptance of membership fees, entries in the cash book

and got audit reports prepared on that basis, it could not foist legality on the induction of the said 18 members.

31 In the face of such specific contentions, the Authorities and the Court below were expected to appreciate the material on record to verify as to whether there was indeed any effort made by the trust to invite applications for membership by way of advertisement or other such publication, and whether the said 18 persons being inducted were approved by a resolution of the general body. In this regard much emphasis was placed by the Authorities below and the District Court on the resolution dated 27/02/1994 at Exhibit-187. Merely because such a resolution was passed showing desire to induct new members, it could not be said that the then secretary or any member of the trust could unilaterally induct new members in the trust. Therefore, reliance placed on only the said resolution at Exhibit-187, can be of no avail for showing that inducting the said members was valid.

32 Insofar as Exhibit-70 i.e. list of members is concerned, there can be no dispute that the names in the said list included the names of the said 18 persons also, with a note at the bottom that

the names of the members were read out in the general body meeting dated 14/06/1998. Even if the note at the bottom is read with the list, it still does not qualify as a resolution of the general body that the induction of the said 18 persons as members of the trust was approved by a resolution of the general body. In this context, it is found that there is substance in the contention raised on behalf of the petitioners, who are the original founder members, that a note was specifically recorded at the top of the said list stating that “*all members rejected as per Change Report No.339 of 1999, dated 21/11/2000*”. This is crucial while appreciating the purport of the document at Exhibit-70. The Authorities below and the District Court did not appreciate this aspect of the matter, thereby rendering their findings perverse. In the absence of any reliable material to show that the general body of the trust indeed approved the membership of the said 18 persons as members in the trust, it could not have been concluded that they were validly inducted members and that they were indeed entitled to participate in the election of the said trust.

33 A glaring aspect was brought to the notice of this Court, to the effect that at the stage when the proceedings reached the District Court, the petitioners had sought to place on record a transfer certificate issued by the college from where the respondent No.1 had taken education. It was an authenticated copy issued by the institution, stating that date of birth of respondent No.1 was 26/04/1976. In the list of members at Exhibit-70, it was recorded that the respondent No.1 was inducted as a member of the said trust on 03/03/1994, thereby indicating that he was inducted as a member when he was not even major. This could not have been contemplated as per law and even as per the constitution and byelaws of the trust. This supports the specific contention raised on behalf of the petitioners that since the entire records of the trust were in the custody of the then secretary of the trust, i.e. the father of the respondent No.1, such illegalities had taken place and record was sought to be created to show as if the said 18 persons were inducted as members of the trust.

34 It is in such facts that, it was all the more important that material was placed on record to show that such induction of

members was approved by the general body of the said trust. There is no material on record to show that proper procedure was followed by giving sufficient publicity to invite applications for membership, that such applications were scrutinized and verified to ascertain as to whether the applicants satisfied the requirements of the constitution and byelaws of the trust and that such persons sought to be inducted as members were approved by the general body of the trust. The Authorities below and the District Court completely failed to appreciate this aspect of the matter.

35 In fact, a perusal of the impugned order passed by the District Court would show that in paragraph 12 thereof, the District Court in a cryptic manner simply observed that, considering the oral and documentary evidence, it found that the membership was proved. On this basis, the District Court went on to hold that the elections were validly conducted. This Court is of the opinion that the findings rendered by the District Court and the Authorities below under the provisions of the said Act are perverse and unsustainable. In fact, the required procedure for

inducting new members as per the provisions of the said Act, the constitution and the byelaws of the said trust and the position of law as laid down by this Court, was never followed and therefore, it is found that the 18 persons were not validly inducted as members of the trust. This clearly indicates that the inclusion of their names as voters in the election conducted in the year 2012, completely vitiated the elections of the trust and the change report submitted in pursuance of such election, ought to have been rejected by the Assistant Charity Commissioner.

36 But, the Assistant Charity Commissioner as well as the Joint Charity Commissioner and the District Court failed to appreciate this aspect of the matter and wrongly accepted the change report pursuant to the said election conducted in the year 2012. This Court finds substance in the contentions raised on behalf of the petitioners, who are the founder members of the trust, that the trust and its affairs were virtually hijacked in an illegal manner by the said 18 members being inducted in the aforesaid manner, on the basis of illegal actions undertaken by the then secretary and subsequently by the contesting respondents

herein. As a result, it is held that the said 18 persons were not validly inducted as members of the said trust. Needless to say, this will not come in the way of the trust inducting new members in the future, in accordance with law.

37 In view of the above, it is found that the impugned judgment and order is unsustainable. Accordingly, the impugned judgment and order dated 20/02/2019, passed by the District Court is quashed and set aside. Consequently, the orders passed by the Joint Charity Commissioner and the Assistant Charity Commissioner are also quashed and set aside and the Change Report Enquiry No.529 of 2012, stands rejected.

38 As a consequence, election to the said trust shall be conducted afresh under the supervision of the office of the Joint Charity Commissioner, in accordance with law.

39 Rule is made absolute in the above terms. No costs.

JUDGE