

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL WRIT PETITION NO.7880 OF 2019

Baburao S/o. Sahadu Berad and Others

.. Petitioners.

Versus

Chandrabhan S/o. Dhondiba Berad and others

.. Respondents.

...

Mr. A.D. Shinde, Advocate for the Petitioners.

Mr. Devdatta P. Palodkar, Advocate for Respondent Nos.1 to 3.

Mr. R.B. Bagul, AGP for Respondent Nos.11, 13 and 14.

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CORAM : SHARMILA U. DESHMUKH, J.

Reserved on : FEBRUARY 21, 2023.

Pronounced on : MARCH 28, 2023.

ORDER :

1. The petition takes exception to the order dated 19th January, 2019 passed by the District Judge in Trust Application No.1 of 2013 rejecting the petitioner's application and confirming the orders dated 1st October, 2008 passed by the Assistant Charity Commissioner and order dated 21st December, 2012 passed by the Joint Charity Commissioner.

2. The dispute in the present case pertains to the election of respondent No.8-Trust i.e. Sarva Seva Dyan Prasarak Sanstha, Nimbodi for the period 2006-2008. Petitioners herein are the objectors to the change report filed by the present

respondent Nos.1 to 7 under Section 22 of the Maharashtra Public Trusts Act, 1950 (for short, “the Act”). The litigation in respect of the trust commenced in the year 2002, upon an application being Application No.9 of 2002 filed by the Petitioner nos.1, 2 and 5 herein along with other applicants against the then trustees under Section 41D of the Act, which came to be allowed and the opponent Nos.1 to 7 therein were removed from post of trusteeship, and “fit person” was appointed to take charge of the administration of the trust in question with a direction to the fit person to conduct the elections as per the constitution of the trust within a period of three months from the date of the order 27th March, 2006. The fit person, after taking charge, conducted the election and the Respondent Nos.1 to 7 were declared elected on 14th May, 2006.

3. On 13th May, 2006, an application came to be filed by the Petitioners being Enquiry Application No.459 of 2006 under Section 41A of the Act against the fit person. It was stated that the fit person has intentionally disobeyed the order of the Court and inspite of declaring the election programme has not conducted the election. The application sought inquiry into the conduct of fit person. Evidence was led by both parties and by order dated 6th September, 2007, the Assistant Charity Commissioner rejected the application.

4. Pursuant to the elections, Respondent Nos.1 to 7 filed a change report being Change Report Enquiry No.460 of 2006 to which objection was raised vide reply dated 9th November, 2006. Petitioner No.1, Petitioner No.2 and Petitioner No.5 were the opponents and Petitioner No.3 and Petitioner No. 4 were third party interveners in Enquiry No.460 of 2006. It was the case of the Opponents therein that the elections conducted by the fit person was not in accordance with the bye-laws; that the elections conducted were illegal and that the conduct of elections suffered from various irregularities and illegalities.

5. The change report came to be allowed by order dated 1st October, 2008. As against the order of the Assistant Charity Commissioner an Appeal No.10 of 2008 was filed before the Joint Charity Commissioner which came to be dismissed by order dated 21st December, 2012. Challenging the dismissal of the appeal by the Joint Charity Commissioner, Trust Application No.1 of 2013 was filed by the petitioners before the District Judge, which came to be rejected with costs.

6. Heard Mr. Shinde, learned counsel appearing for the petitioners, Mr.Palodkar, learned counsel appearing for the Respondent Nos.1 to 3 and learned AGP for the Respondent Nos.11, 13 and 14-State.

7. Learned counsel for the petitioners has raised two submissions before this Court. Firstly, that the fit person could not have enrolled new members and as such the voters list itself was bad in law and secondly, that the fit person has no authority to change the venue of the voting. He has invited the attention of this Court to the observations in the impugned order passed in the Trust Application No.1 of 2013. He would submit that the objections were not considered by applying the principle of *res judicata*, by holding that the issues in the present case have already been raised in Misc. Application No.459 of 2006. He has invited the attention of this Court to the observation of the Assistant Charity Commissioner at page no.84 of the petition that the opponents and the third party who were the previous Managing Committee Members have not filed the list of members maintained by them and would submit that the opponents as referred to in the said paragraph are the respondents herein and they have not filed the list of members. He has further drawn the attention of this Court to the admission of the fit person at page no.85 of the petition that membership was issued to 14 members by accepting the subscription fees. In support of his contentions, he has relied upon the following decisions:

- (i) **S.M.Kamble & Ors. Vs. Jt.Registrar & Ors. [2007 (6) Mh.L.J. 890];**

- (ii) **K. Shantharaj Vs. M.L.Nagaraj [1997(6) SCC 37];**
- (iii) **Shobhatai wd/o. Krishnarao Zoting & Ors. Vs. Joint Charity Commissioner & Others, [2005(2) All MR 237];**
- (iv) **Jagatnarayansingh Swarupsingh Chithere & Others versus Swarupsingh Education Society & Another, [1980 Mh.L.J. 372];**
- (v) **Mandabai Bhausahab Zinjurde Versus Additional Divisional Commissioner and others [2021 (3)Mh.L.J. 541].**

8. He would further submit that the powers of an Administrator appointed under the provisions of the Maharashtra Co-operative Societies Act, are similar to the powers of the fit person appointed under Section 41D of the Act and the Administrator had no power to enroll new members and has the power to organize the elections in accordance with law. He has placed reliance on the decision of the Apex Court in the case of **K. Shantharaj (supra)**, to support the contention that the administrator has no powers to enroll new members. He has also placed reliance on the decision of this Court in the case of **Shobhatai Krishnarao Zoting (supra)**. He has further assailed the order of the District Court by submitting that there are no findings and the District Court has merely accepted the findings of the Joint Charity Commissioner. He would further contend that perusal of the election report would show that the

petitioners herein who had contested the elections, were given 'zero' votes, which is improbable, inasmuch as the petitioners would have atleast voted for themselves.

9. Per contra, learned counsel appearing for the respondents submits that there are concurrent findings of the Assistant Charity Commissioner, the Joint Charity Commissioner and the District Judge which does warrant any interference. He would further submit that the petitioners cannot raise the issue of enrollment of the new members, inasmuch as these 14 new members, who are alleged to have been enrolled, include the petitioner No.1, Petitioner No. 2 and Petitioner No. 5 and the same is evident from the application appearing at page No.181 of the record and proceedings. He would further submit that at page No.189 of the record and proceedings, there is a list of 27 persons forwarded by the Joint Secretary of the Trust which includes names of the present respondents and not of the petitioners and as such, the contention of the petitioners that there were only 21 members of the trust cannot be upheld. He would submit that the list annexed at Page No.47 upon which the reliance has been placed by the petitioners include the names of the 14 members to whom the membership issued by the fit person and 7 erstwhile managing committee members who were removed by the Joint Charity Commissioner in Enquiry

Application No.9 of 2002. He would submit that the fit person has rightly compared both the lists i.e. the 27 members forwarded by the Joint Secretary of the Trust and 21 members has prepared a valid list of 39 members. As regards the place of conduct of elections, he submits that though the registered address of the society is at Bagadpatti, Ahmednagar, entire administration was carried out at village Nimbodi, where the school is run by the society and all the activities of elections were carried out by fit person at the said school. He has invited the attention of this Court to the evidence recorded in Enquiry Application Nos.460 of 2006 and 459 of 2006.

10. Considered the rival submissions of the parties.

11. The impugned order is challenged on two grounds, firstly that the fit person had no authority to enroll new members and secondly the elections were vitiated by virtue of change in venue of voting.

12. I shall first deal with the issue of validity of the voters lists. The Assistant Charity Commissioner while deciding the Change Report Enquiry No.460 of 2006 framed the following issues:

- (1) Whether the change report is legal and valid?
- (2) What order?

13. The first issue was answered in the affirmative. While deciding the application, the Assistant Charity Commissioner has, as regards the validity of list of voters, held that list of members was not maintained by the then Managing Committee and the then members had refused to hand over the said list. It was further observed that the fit person had issued membership to 14 members by accepting the subscription fees and combined the list with the one received from the opponents and then finalized the voters list. The order records that the Opponent i.e. the Petitioner No.1 herein has admitted that he alongwith 13 members were given membership by fit person.

14. The Joint Charity Commissioner has upheld the findings of the Assistant Charity Commissioner as regards the issuance of membership to 14 members by fit person. The District Judge has declined to interfere by observing that the findings in M.A. No.459 of 2006 operates as *res judicata*.

15. Before delving into the merits of the matter, I deem it appropriate to consider as to whether the findings of M.A.No.459 of 2006 operates as *res judicata*. M.A.No.459 of 2006 was filed by the Petitioners under Section 41A of the Act against the fit person. It was stated that the fit person has intentionally disobeyed the order of the Court and inspite of declaring the

election programme has not conducted the election. The application sought inquiry into the conduct of fit person. Evidence was led by both parties. The Assistant Charity Commissioner, while deciding the application was considering the issue as to whether the applicants were entitled to the direction of an inquiry against the fit person. The case of the Applicants therein was that the process of election was conducted validly till the stage of accepting the nominations and thereafter the fit person had declined to scrutinize the nomination forms on 9th May, 2006 for the reason that the matter was sub-judice. The Assistant Charity Commissioner while deciding the said application held that the order of the District Judge shows that the election process was going on. It was observed that after the conduct of elections, Change Report Enquiry No.460 of 2006 has been filed and is pending. The Assistant Charity Commissioner held that the validity of the change report is pending adjudication and as it has been observed that the election process was going on, it cannot be held that the fit person has disobeyed the orders and as such rejected the application. In my reading of the order dated 6th September, 2007 of the Assistant Charity Commissioner, there is no finding as regards the validity of the election and the entire issue was left to be determined in the Change Report Enquiry No.460 of 2006. The Assistant Charity Commissioner was

concerned with the issue whether the fit person has declined to conduct the election and as such had disobeyed the directions of the Assistant Charity Commissioner and in that context the observations were made. In M.A.No.459 of 2006 there was no challenge to the validity of the election and on the contrary it was the case of the Applicants, that the fit person had declined to conduct election. Considering the pleadings in Civil M.A. No.459 of 2006, the prayers therein and the findings of Assistant Charity Commissioner in the order dated 6th September, 2007, the finding of the District Judge that the M.A.No.459 of 2006 challenged the election process and the issues were decided finally cannot be sustained. In my view, the findings in M.A.No.459 of 2006 did not decide the issue of validity of the elections which were required to be determined in Change Report Enquiry No.460 of 2006.

16. I have perused the records and proceedings minutely. The Application No.9 of 2002 under Section 41-D was filed by six applicants which included the present Petitioner Nos.1, 2 and 5. The Joint Charity Commissioner in paragraph 10 of the order dated 27th March, 2006 has recorded the submission of the counsel for the opponents therein that at the relevant time, the Applicants were also the members. During the inquiry into the

Change Report No.460 of 2006, the Petitioner No.1 herein has admitted that he alongwith 13 other persons were given membership by fit person.

17. The issue required to be determined in the Change Report No.460 of 2006 is the validity of the change report and for the said purpose in a given circumstance to inquire into the validity of voters list. In this context it will be apposite to refer to two decisions of this Court in the case of **Jagatnarayansingh Swarupsigh Chthere** (supra); and **Krishanarao Kanhaiya Naidu & Ors vs. Jeevraj Bhairavlal Agarwal** [2010(2) Mh.L.J. 31]. In the decision of **Jagatnarayansingh** (supra), this Court in paragraph 8 held as under:

“8. Therefore, though *prima facie* it appears to be a mere change, the scheme of the Act contemplates *qua* the change under consideration an inquiry of a Judicial character with an appeal therefrom to the Charity Commissioner and a further application under section 72 to the District Judge and yet another appeal therefrom to the High Court against which appellate judgment of the High Court, a still further appeal may, in a given case, lie under the Letters Patent. Such being the Judicial scrutiny and the extensive gamut of the inquiry under section 22 of the Act, it is obvious that this inquiry can not be a mere factual process or one purely formal in nature. Investigation into the legality and validity

of the change is implicit. The inquiry is a judicial process partaking the character of judicial adjudication. An elemental pre-requisite or the minimal requirement of a judicial inquiry and a judicial process is compliance with the principles of natural justice. These principles, though not embodies rules, constitute none the less an important facet and pivot of the judicial process. Inquiry behind the back of an aggrieved party is best avoided lest it stands vitiated. One affected must be noticed and heard. Basic lacuna in that respect may well render the inquiry and/or the order therein almost *non est* at least *qua* the aggrieved absent party left unheard and, therefore, unheeded.”

18. In **Krishnarao Kanhaiya Naidu (supra)**, this Court in paragraph 13 held as under:

“13. Shri Manohar learned counsel submits that all arguments of Shri Khapre about validity of the enrolment of new members can be negated for the simple reason that the Deputy Charity Commissioner in Enquiry No. 8 of 1991 has specifically held that such enrolment was invalid. This application was moved by Shri C.G.Choube and others. They have made a prayer that 78 members should be declared as legally enrolled. Therefore the material question that was being decided by the Deputy Charity Commissioner was about validity of the enrolment of new members. He held that new members in category of sympathiser were not properly enrolled. He held

that these new members had paid Rs.250/- in one lumpsum which was in breach of the scheme. Clause IV of the said scheme is already quoted above. If the clause is read it would be clear that a person becomes sympathiser member only when he pays 50th instalment of Rs.5/-. Anybody paying Rs. 250/- in lumpsum cannot be enrolled in category of sympathiser. He at the most may become an ordinary member. This finding of the Charity Commissioner appears to me to be correct. Shri Khapre learned counsel submits that this decision is a void decision as according to him the Charity Commissioner has no right to decide the issue of membership. Decision has been rendered by a Charity Commissioner and it is not challenged or set aside. It cannot be said to be an order which is non est and one without jurisdiction. Charity Commissioner in fact has a power to decide the question of validity enrolment of members since the question would always be whether the office bearers are elected by a valid electorate. If the persons who are not validly included in electoral roll elect then election by those persons would be invalid. Therefore the Charity Commissioner would certainly have a right to go into the question of validity of electoral roll if called upon to decide the same. Charity Commissioner has always an overall control over any trust. Therefore such an act on part of the Deputy Charity Commissioner to my mind was not one without jurisdiction. At the most it could be said that the Charity Commissioner may have committed an error of law. An error of law does

not render any order invalid. Authorities below have rightly held that the enrolment was improper and therefore the election was improper.”

19. It is clear from the judicial pronouncements, that an inquiry under Section 22 of the Act is a judicial inquiry and it is incumbent to hold a full fledged inquiry which in a given case may entail an examination into the validity of the electoral roll. In the present case, an objection was raised during the hearing that the fit person had issued membership to 14 persons by accepting subscription fees and has combined the list with the one received from the Joint Secretary of the Trust and finalized the voters list. Whether the fit person is invested with the power to admit new members is the question that begs determination. The appointment of fit person under the provisions of Section 41D of the Act is in the nature of an ad-hoc arrangement pending the appointment of trustees through valid and legal election. The position of a fit person is akin to that of an Administrator appointed under the provisions of the Maharashtra Co-operative Societies Act, 1960. This position, asserted by the learned counsel for Petitioners is not disputed by the learned counsel for Respondents. The decision of this Court in **S.M. Kamble (supra)** deals with the admission of new members by Administrator appointed under the provisions of the Maharashtra Co-operative Societies Act, 1960 and this Court after referring to the decision

of Apex Court in the case of **K. Shantaraj Vs M.L. Nagaraja [(1997) 6 SCC 37]**, held as under:

“15. Admission of new members by the Administrator.

In *K. Shantaraj Vs. M.L. Nagaraja*, AIR- 1995 SC 2925 the Supreme Court, while interpreting the provisions of Karnataka Co-operative Societies Act, 1959 has held that the Administrator has no power to enroll the new members; he has only power to organise the election in accordance with the law, and the bye-laws of the society. This decision was followed and the ratio thereof was re-affirmed by the Supreme Court in *Joint Registrar of Co- operative Societies, Kerala vs. T.A. Kuttappan and others*, reported in (2000) 6 SCC 127. Therein after considering the provisions of the Karnataka Co-operative Societies Act, 1959 as well as the Kerala Co-operative Societies Act, 1969 the Supreme Court re-iterated the position that the Administrator or the Committee of Management appointed (by the Registrar) to administer the society while the regular managing committee is under suspension does not have the power to enrol new members. Enrolment of new members would involve the alteration or the composition of the society itself and such a power should be exercised by an elected committee rather than by an administrator or a committee appointed by the Registrar while the regular management committee is under suspension.

Section 32(4) of the Kerala Co-operative Societies Act, 1969 is pari materia with section 78(2) of the Maharashtra Co-operative Societies Act, 1960. In our view even in respect of the Co-operative societies governed by the Maharashtra Act of 1960 the administrator appointed by the Registrar under section 78 should not ordinarily enroll new members and he is not expected to take any policy decision which would involve the alternation of composition and capital of the society. In the circumstances, the admission of the new members by the Administrator was beyond his powers and illegal.”

20. In the case of **Shobhatai Krishnarao Zoting (supra)**, this Court has held thus:

“14. Coming to the demand of petitioners in Writ Petition No.1920 of 2004 and 1977 of 2004 that their names should also be included in voters list or that their votes are also be counted in elections which have taken place on 11-06-2004, question which arises is, whether, these persons are validly enrolled as members of the trust? It is admitted position that they are enrolled either in the year 1999 or on 09-10-2002. From the proceedings it is apparent that about 88 members have been enrolled by body of fit persons on 09-10-2002. It is argument of the petitioner in W.P. No.4421 of

2004 who has filed Civil applications for permission to intervene these petitions that body of fit persons could not have enrolled new members. Reliance has been placed on two judgments (1) reported at A.I.R. 1994 S.C. 1673 (R.G. Shinde v. State of Maharashtra), and other reported at 2000(6) S.C.C. 127 (Jt. Registrar of Co-operative Societies v. T.A. Kuttappan). In the later ruling the Honble Apex Court has considered the scope of powers available to administrator or the Committee appointed as care taker Committee while elected Committee of management of the society under suspension. The provisions considered are section 30(3) of Karnataka Co-operative Societies Act, 1959 and section 32(4) of Kerala Co-operative Societies Act. The Hon'ble Apex Court has found that such administrator or Committee appointed to take care and exercise only those powers and functions as are required to protect interest of Co-operative Society and should conduct elections with members as are available on rolls and are not vested with powers to enroll new members. It is observed that the Committee of management regularly elected is empowered to enroll new members and such enrollement involves alteration of the composition of the society itself and hence, such powers should not be exercised by the Committee run by an administrator or a Committee appointed by Registrar while the regular Committee of management is under supersession. The expression "have power to exercise all or any of

the functions of the Committee” has been considered and it has been held that such administrator or ad-hoc Committee has only job of bringing on an even keel a ship which was in doldrums. The same reasoning holds good even in present case. The arguments of the petitioners that the Joint Charity Commissioner or Assistant Charity Commissioner did not impose any riders upon their powers in this respect therefore, cannot be accepted. In these circumstances, I do not find that the said petitioners or 88 persons who have been permitted to cast their votes by this Court vide its interim orders dated 09-06-2004 are entitled to participate in the process of election which has taken place on 11-06-2004. The selection of the year 1996 for the purpose of said election by Joint Charity Commissioner is just and proper and calls for no interference.”

21. The settled position in law as discerned from the above judicial pronouncements is that the fit person appointed under Section 41D of the Act does not have the authority to enroll new members. In the present case, the fit person has precisely done what is prohibited in law. The manner of finalizing the voter's list leaves much to be desired. Perusal of Page No. 85 of the record and proceedings produced before this Court indicates that on 19th March, 2006, the subscription was accepted in respect of 14 persons, which included the Petitioner No.1, Petitioner No.2 and Petitioner No.5 and these persons were

enrolled as new members by the fit person. There appears to be some anomaly here in as much in the Application No.9 of 2002, it was the contention of the learned counsel for Opponents that the Applicants therein i.e Petitioner Nos. 1, 2 and 5 were the members of the Trust, whereas, the subscription receipts produced at Page 85 of the record and proceedings indicate that the Petitioner Nos.1, 2 and 5 were inducted as new members and in fact an admission to that effect has been given in the inquiry in Change Report No.460 of 2006. There is no answer forthcoming from perusal of the proceedings before this Court.

22. Perusal of page No.189 of the record and proceedings of the Enquiry Application No.459 of 2006 shows that a list of 27 members was forwarded by the Joint Secretary of trust. The list which is appearing at page no.47 and in on which the reliance has been placed by the petitioners, is a list of 21 persons which include the name of 14 members to whom the membership receipts were issued by the fit person and the members of erstwhile managing committee members. There was no inquiry conducted by the fit person as to the valid members of the trust and the final voters list has been admittedly prepared by combining these two lists.

23. Learned Counsel for the Respondents has submitted that as the Petitioners herein are part of the 14 members

admitted by the fit person, the Petitioners are estopped from challenging the validity of the voters list. As indicated above, in the Application No.9 of 2002, the Petitioner Nos.1, 2 and 5 were part of the Applicants and submissions were made that they were the members of the Trust. On the other hand there is admission in the Change Report Enquiry No. 460 of 2006 that the Petitioner No.1 alongwith 13 others were admitted as members by the fit person. Without going into these disputed questions of fact, considering the settled position in law, the fit person could not have admitted new members. As regards the issue of estoppel raised by learned counsel for Respondent, the legal principle is well settled that there is no estoppel against law. In the present Petition, apart from the Petitioner Nos.1, 2 and 5, who were admitted as members by the fit person, there are two other Petitioners at whose instance the present Petition can be prosecuted. As such I am not inclined to accept the submission of learned counsel for Respondents that the Petitioners are estopped from challenging the validity of the elections.

24. The Assistant Charity Commissioner has upheld the validity of the voter's list on the ground that the original record was not handed over to fit person and the fit person combined the list of 27 members forwarded by the Joint Secretary of the Trust with the list of 14 members forwarded by the Petitioners and as such published common final list. In my opinion, the

body of electoral roll, who have cast their votes, is necessarily required to be a valid body of persons legally entitled to elect the committee of the Trust and the course adopted by the fit person cannot be said to be in consonance with law. The explanation tendered by the fit person is that the original record was not handed over to him, in which situation the provisions of the Act could have been invoked for seeking necessary directions from the Charity Commissioner.

25. As no records were made available to the fit person, the fit person has compared the list of 27 members which was handed over by the Joint Secretary of the Trust and the list of 21 members which was handed over by the petitioners and after comparing both the lists has prepared a voters list of 39 members.

26. The admitted position is the fit person has no authority to enroll the new members and, as such could not have prepared a list of voters by comparing the list of 27 members forwarded by the trust and the list of 21 members and thereafter, prepared a list of 39 members who have voted at the elections. Neither the Assistant Charity Commissioner nor the Joint Charity Commissioner or the District Court has taken into consideration the position that the fit person had no authority to appoint any new members and as such, the list of 39 members prepared by

the fit person was not a valid list. As regards the submission that it is improbable that the zero votes were obtained by the petitioners, there is admission on record that since the venue was changed the petitioners abstained from voting.

27. As regards the change of venue, the place of the election was mentioned as the office of the fit person situated at Nimbodi. It is the contention of the learned counsel for the petitioners that the election was conducted at the address which is not registered and is not legal and valid. The material on record demonstrate that the registered office of the society as per the original record is at Bagadpatti and in the Application No.9 of 2002 there was an allegation that though the registered office of the trust is shown at Ahmednagar, the said office is never attended by the opponents. The entire administration was being done from the school which was run by the society at village Nimbodi and there is no evidence on record to show that the administration was done at the registered address only. The record demonstrates that the election programme was conducted at the office of administration of the society and only in the resolution there is a mention of Gokulwadi and, as such the entire election process being conducted at village Nimbodi, cannot be faulted with. I am thus not inclined to accept the submission of the learned counsel for Petitioner that the change in venue has vitiated the election.

28. As indicated above, I find considerable force in the submission of the learned counsel for Petitioner that the fit person had no authority to enroll new members. Further the course adopted by the fit person to finalise the voter's list cannot be countenanced. The invalid electoral roll has vitiated the election and consequently the change report cannot be accepted. In my opinion, it will be necessary to determine the validity of the members of the Trust in as much as 14 persons are admitted as new members and the Joint Secretary of the Trust has forwarded list of 27 members.

29. For the reasons above, the order dated 1st October, 2008 passed by the Assistant Charity Commissioner in Enquiry Application No.460 of 2006, the orders of the Joint Charity Commissioner dated 21st December, 2012 and District Judge dated 19th January, 2019 cannot be sustained and are hereby quashed and set aside.

30. In light of the above, the matter is remanded to the Assistant Charity Commissioner to decide the Change Report Enquiry No. 460 of 2006 afresh after determining the validity of the voters list i.e. 39 members in accordance with law and in light of the observations made above. All right and contentions of all the parties are expressly kept open. The Assistant Charity Commissioner to decide the issue after affording opportunity of

hearing to all the concerned parties. The Assistant Charity Commissioner is requested to decide the Enquiry No.460 of 2006 expeditiously and in any event within a period of six months from the date of this order. In the meantime, the Joint Charity Commissioner to issue necessary directions, in accordance with law, as regards the administration of the Respondent No.8-Trust, till the decision by the Assistant Charity Commissioner.

31. Writ Petition stands allowed in the above terms.

(SHARMILA U. DESHMUKH, J.)