



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

WRIT PETITION NO. 214 OF 2023

- 1) Dinesh s/o Mahsukhlal Sanghvi,
Aged about 60 years, Occ. - Business,
President of National Education
Society, having its Regd.No.F-24,
Tahsil Khamgaon, District – Buldana,
R/o Near Nagar Parishad School
No.6, Deshmukh Plot, Khamgaon,
Tq. Khamgaon, District Buldana.
- 2) Manoj s/o Narayanji Nagada,
Aged about 55 years, Occ. - Business,
Secretary of National Education
Society, having its Regd.No.F-24,
Tah. Khamgaon, District – Buldana,
R/o 201, RK Sankul Ghatpuri Naka,
Khamgaon, Tq. Khamgaon,
District Buldana.

.... **PETITIONERS**

VERSUS

- 1) The Assistant Charity Commissioner,
Buldana Division, Buldana.
- 2) The Khamgaon Urban Cooperative
Bank Ltd., Khamgaon, through its
Bank Manager having office at
Dhanwardhani Shriram Shaligram
Plot, Khamgaon, Tahsil Khamgaon,
District – Buldana.
- 3) The National Education Society,
Khamgaon, Regd.No.F-24,
through its Secretary,
Jinesh Rajendra Timbadiya,
R/o Balaji Plot, Tah. Khamgaon,
District Buldana.

.... **RESPONDENTS**

Mr. C.R. Sharma, Counsel for the petitioners,
Mr. H.D. Marathe, AGP for respondent No.1,
Mr. G.L. Agrawal, Counsel for respondent No.2,
Mr. A.D. Bhate, Counsel for respondent No.3.

WITH

WRIT PETITION NO. 6508 OF 2023

The National Education Society,
Khamgaon, Regd.No.F-24,
through its Secretary
Jinesh Rajendra Timbadiya,
R/o Balaji Plot, Tah. Khamgaon,
District Buldana.

.... **PETITIONER**

VERSUS

- 1) Dinesh s/o Mahsukhlal Sanghvi,
Aged about 60 years, Occ.- Business,
Education Society having its Regd.
No.F-24, Tah. Khamgaon, District
Buldana, R/o Near Nagar Parishad
School No.6, Deshmukh Plot,
Khamgaon, Tq. Khamgaon,
District Buldana.
- 2) Manoj s/o Narayanji Nagada,
Aged about 55 years, Occ. - Business,
Secretary of National Education
Society, having its Regd.No.F-24,
Tah. Khamgaon, District – Buldana,
R/o 201, RK Sankul Ghatpuri Naka,
Khamgaon, Tq. Khamgaon,
District Buldana.
- 3) The Khamgaon Urban Cooperative
Bank Ltd., Khamgaon, through its
Bank Manager having office at

Dhanwardhani Shriram Shaligram
Plot, Khamgaon, Tahsil Khamgaon,
District Buldana.

.... RESPONDENTS

Mr. A.D. Bhate, Counsel for the petitioner,
Mr. C.R. Sharma, Counsel for respondent No.1,
Mr. G.L. Agrawal, Counsel for respondent No.3.

CORAM : A.S. CHANDURKAR
 & ABHAY J. MANTRI, JJ.
DATED : 3rd NOVEMBER, 2023

ORAL JUDGMENT : (PER : A.S. CHANDURKAR, J.)

Rule. Rule made returnable forthwith. Since the challenge in both the writ petitions is to the orders passed by the learned Assistant Charity Commissioner in proceedings under Section 41-A of the Maharashtra Public Trusts Act, 1950 (Act of 1950), the same have been decided by common judgment.

2. In Writ Petition No. 214/2023 the petitioners had filed an application under Section 41-A of the Act of 1950 praying therein that the suitable arrangement be made to enable the petitioners to conduct the affairs of the society. The proceedings were numbered as Application No.1/2022. The petitioner in Writ Petition No. 6508/2023 filed similar application under Section 41-A of the Act of 1950 which was numbered as Application No.2/2022. Both these applications were decided on 19-10-2022. It was held by the learned Assistant Charity

Commissioner that the facts of the case did not indicate any necessity to issue any direction under Section 41-A of the Act of 1950. It was further observed that the prayers made in the applications were beyond the scope of Section 41-A of the Act of 1950.

3. Having heard the learned Counsel for the parties and having perused the documents on record, we find that the learned Assistant Charity Commissioner ought to have considered the prayers made in both the applications on their own merit. The Division Bench of this Court in *Vanmala Manoharrao Kamdi and others v. Deputy Charity Commissioner, Nagpur and others, 2012(3) Mh.L.J. 594* has held in paragraph No.31 that the Charity Commissioner is empowered to take such steps and exercise jurisdiction considering the need arising in the matter of proper administration of the public trust. When the averments in both the applications are considered, it is clear that the petitioners were seeking issuance of direction to manage the affairs of the trust since various change reports were pending. The impugned orders do not indicate any consideration of the prayers on merit. Merely by observing that such directions could not be issued, the proceedings have been dismissed.

4. We find that reconsideration of both the applications is

warranted in the light of the decision in *Vanmala Manoharrao Kamdi and others* (supra).

5. For aforesaid reasons, the orders dated 19-10-2022 passed in Application No.1/2022 as well as in Application No.2/2022 are set aside. The proceedings are remanded to the learned Assistant Charity Commissioner for reconsideration in accordance with law as well as the law laid down in *Vanmala Manoharrao Kamdi and others* (supra). The parties shall appear before the learned Assistant Charity Commissioner on 01-12-2023. The proceedings be decided preferably within a period of three months from the date of appearance of the parties. All points raised in the applications are kept open for being raised before the learned Assistant Charity Commissioner.

6. Rule made absolute in the aforesaid terms. No costs.

(ABHAY J. MANTRI, J.)

(A.S. CHANDURKAR, J.)

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