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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9198 OF 2023**

Shri Rajarshi Shahu Chatrapati ... Petitioners
Shikshan Prasarak Mandal
Shirgaon and Others

Vs.

Shri Sanjay Govindrao Kalikate and Others ... Respondents

**WITH
WRIT PETITION NO. 9228 OF 2023**

Shri Rajarshi Shahu Chatrapati ... Petitioners
Shikshan Prasarak Mandal
Shirgaon and Others

Vs.

Shri Subhashrao Govindrao ... Respondents
Kalikate and Others

Mr. Prashant Bhavake a/w. Mr. Utkarsh Desai for the Petitioners.

Mr. S. S. Patwardhan a/w. Mr. Bhooshan Mandlik for the Respondents.

CORAM : GAURI GODSE, J.

DATE : 12th JANUARY 2024

P.C.

1. Heard.

2. Learned counsel for the petitioners submits that by the impugned order, the order dated 6th August 2021 passed by the Deputy Charity Commissioner accepting the Change Report submitted by the newly elected managing committee is set aside. He submitted that the Joint Charity Commissioner at the time of allowing the appeals had also directed the Assistant Charity Commissioner to conduct an inquiry regarding misappropriation, mismanagement, and forgery and submit report.

3. It is further directed that after submission of the report, the general body shall conduct an election in the presence of learned Assistant Charity Commissioner from valid members of the Trust. He submitted that in the event the Joint Charity Commissioner was of the opinion that an inquiry was required to be conducted for accepting the Change Report, the matter should have been remitted back to the file of the Deputy Charity Commissioner for conducting an inquiry as

contemplated under section 22 of the Bombay Public Trusts Act, 1950. In support of his submission, he relied on the decision of this court in the case of *Marutirao Vishwanath Bagal and Others vs. Dinkar Kashinath More and Others*.¹

4. The learned counsel appearing for the respondents in both petitions does not dispute the legal position with respect to holding inquiry as contemplated under section 22 of the Bombay Public Trusts Act, 1950. He on instructions of respondents states that the respondents have no objection if the impugned order is set aside and the matter is remitted back to the Deputy Charity Commissioner for holding inquiry as contemplated under section 22 of the Bombay Public Trusts Act, 1950.

5. Hence petition is disposed of by passing the following order :

(i) The impugned orders dated 6th July 2023 passed by the Joint Charity Commissioner, Kolhapur Region, Kolhapur in Appeal No. 23 of 2021 and Appeal No. 24 of 2021 are quashed and set aside.

¹ 2005(1) Bom C.R. 779

- (ii) Change Report No. 436 of 2021 is restored to the file of the Deputy Charity Commissioner, Kolhapur Region for deciding the same afresh after holding an inquiry as contemplated under section 22 of the Maharashtra Public Trusts Act, 1950.
- (iii) During the pendency of the hearing on the Change Report No. 436 of 2021, the petitioners shall not take any policy decision except for the day-to-day management of the trust.
- (iv) Learned respective counsels appearing for the parties on instructions agree that no unnecessary adjournments will be sought before the Deputy Charity Commissioner and the parties shall co-operate for early disposal of the change report.
- (v) Petition is disposed of in the above terms.
- (vi) All concerned to act on an authenticated copy of this order.

[GAURI GODSE, J.]