IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.3134 OF 2019

1. Deepak Anurathrao Lagad,
Age: 44 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

2. Prakash Ravan Dhumal,
Age: 44 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

3. Ganpat Rambhau Sontakke,
Age: 45 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

4. Vaijnath s/o Rajaram Lagad,
Age: 45 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

5. Santosh s/o Sarvottam Mankulwar,
Age: 44 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

6. Vishnu s/o Kushaba Dhumal
Age: 50 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

7. Arvind s/o Vinayak Nakhate,
Age: 30 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

8. Jayshree Ankush Nawale,
Age: 34 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

9. Sriram Anurath Apet,
Age: 40 years, Occu: Agril.,

R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

10. Rukmin Anurath Apet,
Age: 55 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

11. Aruna Deepak Lagad,
Age: 37 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed. ..Petitioners
(Orig. Resp. No.1 to 11)

Versus

1. The Joint Charity Commissioner,
Latur Region, Latur.

2. The Assistant Charity Commissioner,
Beed Region, Beed.

3. Bandu s/o Rambhau Lagad,
Age: 48 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

4. Vishnu s/o Gangadharrao Lagad,
Age: 45 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed.

5. Ram Dashrathrao Lagad,
Age: 40 years, Occu: Agril.,
R/o. Telgaon, Tq. Wadwani,
Dist. Beed. ..Respondents
(Resp. No.3 & 4 are Orig. Petitioners &
No.5 Orig. Resp. No.12)

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Mr. Sudarshan J. Salunke, Advocate for Petitioners.
Mr. S. P. Joshi, AGP for Respondent Nos.1 and 2.
Mr. Siddheshwar S. Thombre, Advocate for Respondent Nos.3 and 4.
Respondent No.5 is served.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 02nd JULY, 2025.
PRONOUNCED ON : 18th SEPTEMBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matter is taken up for final hearing at admission stage.

2. The petitioners are impugning order dated 27.11.2018 passed by Joint Charity Commissioner, Latur Region, Latur under Section 70-A of Maharashtra Public Trust Act, 1950 (for the sake of brevity hereinafter referred as 'MPT Act, 1950') in Revision Petition No.94/2017, by which order dated 30.12.2008 passed by learned Assistant Charity Commissioner, Beed in Change Report No.1884/2008 has been quashed and set aside and matter is remitted back.

3. Sanskar Sevabhavi Sanstha, Telgaon, Taluka Wadwani, District Beed is a public trust having Registration No.F-8877 (Beed). On 30.12.2008, reporting trustees submitted Change Report before learned Assistant Charity Commissioner based on election dated 25.06.2008 and same has been accepted vide order dated 30.12.2008 in Enquiry No.1884/2008.

4. The respondent nos.3 to 5 were office bearers of Managing Committee of Trust and they were shown as outgoing Trustees in Change Report. It is shown that Trust has enrolled four new members in order to fill up vacancies occurred in Managing Committee.

5. Aggrieved respondent nos.3 and 4 approached Joint Charity Commissioner, Latur vide Revision Petition No.94/2017 filed under Section 70-A of MPT Act, 1950, thereby raising challenge to order dated 30.12.2008 passed by learned Assistant Charity Commissioner, Beed in Change Report No.1884/2008 alleging that election of Managing Committee of Trust never held. In the year 2017, they made enquiry with Mr. Deepak Lagad, but he did not reply. Therefore, petitioners made enquiry in respect of election of Trust with Assistant Charity Commissioner at Beed and came to know that Mr. Deepak Lagad had fraudulently submitted Change Report in Enquiry No.1884/2008 and same has been accepted by learned Assistant Charity Commissioner without following due process of law. They were never given notice of Change Report, although they were shown as outgoing trustees. The Change Report is accepted hurriedly without causing necessary enquiry as contemplated under Section 22 of MPT Act, 1950. It is their contentions that signature of petitioners shown in documents are false and fabricated. They were never served with notice of meeting dated 10.09.2017. The alleged proceedings of Managing Committee meeting dated 20.09.2007 are fabricated and bogus. The addition/enrollment of new members is also illegal.

6. The petitioners refuted contentions raised in Revision Petition. They raised contentions that Revision Petition under Section 70-A of MPT Act, 1950 cannot be entertained after 9 years. Further, two

change reports as regards to subsequent election of Managing Committee pertaining to election dated 25.06.2013 and 25.06.2018 are accepted by Assistant Charity Commissioner. The challenge raised to Change Report pertaining to election of 2008 need not be entertained at this stage. The learned Joint Charity Commissioner, Latur after considering submissions advanced, allowed Revision Petition, thereby setting aside order dated 30.12.2008 passed by Assistant Charity Commissioner in Enquiry No.1884/2008 and relegated matter back to him for fresh enquiry and decision.

7. The petitioners, who were respondents in Revision Petition No.94/2017 have approached this Court under Article 227 of Constitution of India raising challenge to order of remand.

8. Mr. Sudarshan Salunke, learned Advocate appearing for petitioners would vehemently submit that learned Joint Charity Commissioner committed patent error of law while entertaining Revision Petition under Section 70-A of MPT Act, 1950 after period of 9 years of acceptance of change report in Eqnuiry No.1884/2008. He would submit that change report was accepted on 30.12.2008. The Revision Petition was presented on 10.11.2017. No explanation is offered for inordinate delay. He would further point out that period of election under impugned Change Report was expired in the year 2013. The fresh election of Managing Committee were conducted on 25.06.2013. Thereafter, in meeting dated 25.06.2018, second election

took place. The change report has been accepted in Enquiry No.872/2018. Therefore, learned Joint Charity Commissioner has exceeded his jurisdiction while setting aside order accepting Change Report passed in Enquiry No.1884/2008, after period of 9 years. In support of his contentions he relies upon observations of this Court in case of ***Maharashtra Gandhi Smarak Nidhi, Pune Vs. Gandhi Smarak Nidhi (Central) New Delhi and Another***[1]. He would further rely upon observations of Division Bench of this Court in case of ***Santoshkumar Shivgonda Patil & Ors. Vs. Balasaheb Tukaram Shevale and Ors.***[2] to contend that *suo motu* revisional powers available with Authority should be exercised within reasonable period, although specific limitation is not provided. According to him, in facts of present case, period of 9 years cannot be considered as reasonable period. The revisional jurisdiction is expected to be exercised ordinarily within period of three years and same should not exceed period of five years in light of exposition of law in various judgments of Supreme Court of India.

9. Per contra, Mr. Siddheshwar Thombre, learned Advocate appearing for respondents submits that revisional powers to be exercised by learned Joint Charity Commissioner are a safeguard to prevent injustice. Although Section 70 provides for Appeal against order passed by learned Assistant Charity Commissioner, revisional

1 **2011 (4) Mh.L.J. 295.**
2 **2010 (2) Mh.L.J. 150.**

powers are brought into statute book to safeguard interest of justice. Such powers are wider than powers on application by parties. In appropriate cases to prevent fraud such jurisdiction can be exercised. According to him, since respondents got knowledge about aforesaid change in the month of May 2017 and they were never served with notice of Change Report submitted to Assistant Charity Commissioner, Revision Petition was filed in the year 2017. The learned Joint Charity Commissioner on *prima facie* consideration of objection raised in Revision Petition found that this is a fit case for exercise of revisional jurisdiction and accordingly, passed impugned order, which need not be disturbed in exercise of Writ jurisdiction of this Court under Article 227 of Constitution of India. In support of his contentions he relies upon following judgments:

1. ***Mohamad Haidar Mujawar Vs. Jamal Haidar Mujawar and Ors.***[3]
2. ***Vithalrao Sambhajirao Kharpade & Ors. Vs. Motiram Narsingrao Birajdar & Ors.***[4]
3. ***Vijay Arjun Bhagat Vs. Kisan Lahanu Bhagat and Ors.***[5]
4. ***Chayya Narayanbua Gosavi Vs. Sudhir Ramnath Chormale*** (***Writ Petition No.12746/2024*** dated ***07.01.2025***).

10. Having considered submissions advanced by learned Advocates appearing for respective parties and material tendered into service before this Court, it can be observed that Section 70 provides Appeal from findings of Deputy or Assistant Charity Commissioner against

3 **AIR 1969 Bom 328.**
4 **2010 (1) Mh.L.J. 977.**
5 **MANU/MH/1572/2023.**

findings under Sections 20, 22, 22A, 28 etc. The limitation of 60 days is provided for assailing order before Charity Commissioner. In the year 1954, by virtue of Section 8 of Bombay Act No.59 of 1954, new Section 70-A has been incorporated, whereby Charity Commissioner bestowed with powers to call for and examine record and proceedings of any case decided by Deputy or Assistant Charity Commissioner. The intention behind bringing Section 70-A of MPT Act, 1950 appears to provide remedy for preventing perpetuation of injustice in cases where Appeal is not filed. Although powers are not as wide as Appeal, exercise of revisional jurisdiction is expected in case where interest of justice requires such exercise. The revisional powers are not expected to be exercised for technical reasons or to correct procedural errors at the behest of parties.

11. In present case, revisional jurisdiction of learned Joint Charity Commissioner was invoked to assail order passed by Assistant Charity Commissioner regarding acceptance of Change Report passed in exercise of powers under Section 22 of MPT Act, 1950. When it comes to enquiry under Section 22 of MPT Act, 1950, it would be a judicial decision either to accept reported change or refuse to entertain reported change. Rule 7 of Bombay Public Trust Act stipulates that enquiry under Section 22 of MPT Act, 1950 shall be held as far as possible in accordance with procedure prescribed for trial of suits under Presidency Small Cause Courts Act, 1882. Apparently, minute

judicial scrutiny is required to be made by Deputy or Assistant Charity Commissioner before passing order on application made under Section 22 of MPT Act, 1950. In cases where reported change is pertaining to removal of Trustees or election of Managing Committee, it is expected that outgoing Trustees or affected persons are given notices and opportunity of hearing. The enquiry behind back of aggrieved parties is best avoided lest it stands vitiated.

12. In light of aforesaid legal provisions, if order passed by learned Assistant Charity Commissioner in Enquiry No.1884/2008 is seen, it can be observed that order is passed on the basis of uncontested enquiry. The notices were not given to outgoing Trustees. The change report submitted on 18.11.2008 is allowed on 30.12.2008 by cryptic order, which depicts that enquiry was not in consonance with Rule 7 of Bombay Public Trust Act. The acceptance of Change Report without notices to affected or outgoing Trustees would definitely cause serious prejudice and injustice to them.

13. It is true that, challenge to order dated 30.12.2008 passed by learned Assistant Charity Commissioner in Enquiry No.1884/2008 is raised after period of 9 years in Revision filed under Section 70-A of MPT Act, 1950 by respondent nos.3 and 4 contending that they were never served with notices of meeting of General Body alleged to have been held on 25.06.2008. Such notice is manipulated. Their signatures are fabricated. The camouflage of election of Managing

Committee of Trust in meeting held on 25.06.2008 is created. The Assistant Charity Commissioner has never served notices of enquiry in Change Report to them, although they were shown as outgoing Trustees. Considering nature of allegations, which has semblance of fraud, so also gross violation of principles of natural justice at hands of learned Assistant Charity Commissioner in conduct of enquiry under Section 22 of MPT Act, 1950, exercise of revisional jurisdiction would be apposite.

14. It is true that, powers under Section 70-A of MPT Act, 1950 are required to be exercised within reasonable period. In case of ***Santoshkumar Shivgonda Patil & Ors. Vs. Balasaheb Tukaram Shevale and Ors.***[6], Division Bench of this Court observed that although period of limitation is not prescribed for invoking powers under Section 70-A of the Act, it does not mean that such powers can be exercised at any time, rather it could be exercised within reasonable time. What should be reasonable period for exercise of powers always depends upon facts and circumstances of each case. Similar view is taken by this Court in case of ***Subir Kumar Banerjee & Ors Vs. Neetu Singh & Ors*** (***Writ Petition No.11994 of 2019*** decided on ***20.12.2019***). In para 13, he following observations are made :

> *"13. Therefore, a Charity Commissioner may invoke jurisdiction under Section 70A in any of the cases mentioned in Section 70. While under Section 70 limitation period is prescribed, for invoking jurisdiction under Section 70A in any of the cases mentioned in Section 70, no limitation*

6 **2009 (6) Bom. C.R. 664.**

> *period is prescribed. It is trite that though there is no period of limitation prescribed for invoking jurisdiction under Section 70A, nonetheless such jurisdiction must be invoked or exercised within a reasonable period. There is no defination of reasonable period or what can be construed as reasonable period. What is reasonable period in one case may not be a reasonable period in another case. No fixed time frame can be prescribed to determine reasonability. Whether revisional jurisdiction under Section 70A has been invoked within reasonable time or not would have to be decided in the facts and circumstances of each case having regard to the 60 days limitation period prescribed for filing appeal under Section 70."*

15. In present case, respondent nos.3 and 4 have specifically contended that notice regarding meeting of General Body was not served upon them, when election of Managing Committee alleged to have took place. Similarly, they were not given notice by learned Assistant Charity Commissioner in Enquiry No.1884/2008. According to them, they could get knowledge of aforesaid order in the year 2017 i.e. just before they approached learned Joint Charity Commissioner in Revision Petition No.94/2017.

16. In aforesaid circumstances, learned Joint Charity Commissioner thought it fit to exercise jurisdiction under Section 70-A of MPT Act, 1950 and set aside order dated 30.12.2008 passed in Enquiry No.1884/2008 and remit matter back for enquiry to Assistant Charity Commissioner. Further, when there is *prima facie* material to infer possibility of fraud or manipulation of records, learned Charity Commissioner is required to step in by exercising powers under Section 70-A of the MPT Act, 1950. In that view of matter, although there is

delay of 9 years in filing Revision Application, in absence of material to demonstrate knowledge to respondent nos.3 and 4 regarding such change, cause put forth by them cannot be thrown away.

17. In result, this Court do not find any jurisdictional error on the part of learned Joint Charity Commissioner in passing impugned order in exercise of revisional jurisdiction. Hence, Writ Petition stands dismissed.

18. Rule stands discharged.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/September-2025