



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3560 OF 2025

Suryakant Bhagwanrao Patil

Age: 83 years, Occu. Agril.

All R/o. Kelgaon, Tq. Nilanga, Dist. Latur.

...PETITIONER

VERSUS

1. Prakash Pralhadrao Atargekar

@ Kulkarni, Age: 71 years,

Occu. Retired, R/o. Kelgaon,

Tq. Nilanga, Dist. Latur.

2. Assistant Charity Commissioner-I

Latur.

3. Omprakash Mallikarjun Mitkari,

Age: 51 years, Occu. Agril.

R/o. Kelgaon, Tq. Nilanga, Dist. Latur.

4. Noor Bismilla Patel,

Age: 63 years, Occu. Agril.

R/o. Kelgaon, Tq. Nilanga, Dist. Latur.

5. Manoj Madhukar Patil,

Age: 46 years, Occu. Agril.

R/o. Kelgaon, Tq. Nilanga, Dist. Latur.

At present R/o. Krishna Medical,

Shivaji Chowk, Nilanga,

Tq. Nilanga, Dist. Latur.

6. Rangrao Dinkarrao Patil,

Age: 53 Yrs. Occu. Agril.

7. Devrao Nagorao Chavan

Age: 63 Yrs. Occu. Agril.

8. Keshav Bhau Kamble

Age: 63 yrs. Occu. Agril.

9. Vaibhav Vijaykumar Patil

Age: 44 Yrs. Occu. Agril.

10. Namdev Baliram Parale,

Age: 63 Yrs. Occu. Agril.

11. Bhaskar Suryakant Patil,

Age: 42, Yrs. Occu. Agril.

12. Dayanand Nivruttirao Gaware,

Age: 43 Yrs. Occu. Agril,

Res Nos. 6 to 13 r/o. Kelgaon,

Tq. Nilanga, Dist. Latur.

...RESPONDENTS

Mr. S. S. Thombre, Advocate for the Petitioner.

Mr. P. V. Barde h/f Mr. Mukund S. Patil, Advocate for Respondent No.1.

Mr. K. B. Jadhavar, AGP for Respondent No.2-State.

Mr. Amar D. Soman, Advocate for Respondent No.4.

CORAM : KISHORE C. SANT, J.

RESERVED ON : 7th APRIL 2025

PRONOUNCED ON : 24th APRIL 2025

ORDER :-

1. Heard Mr. Thombre, the learned Advocate for the Petitioner, Mr. Barde, learned Advocate for Respondent No.1, Mr. Soman, learned Advocate for Respondent No.4 and Mr. Jadhavar, learned AGP for Respondent-State.
2. The petitioner has challenged the judgment and order dated 7th February 2026 passed by the learned Joint Charity Commissioner (for short "JCC"), Latur Region, Latur in Revision Petition No.96 of 2024 allowing the revision petition filed by the present Respondent No.1 and setting aside the order passed by the learned Assistant Charity Commissioner in Change Report No. 251 of 2024. The learned ACC by way of said order had accepted the change report provisionally.
3. The facts, in short, are that the petitioner and other respondents are the members of one Trust namely, Bharatiya Sanskruti Poshak Sanstha, Kelgaon, Taluka, Nilanga Dist. Latur. The petitioner filed Change Report under Section 22 of the Maharashtra Public Trust Act (for short "MPT Act"). In the said proceedings, the petitioner filed an

application below Exh.12 praying for accepting the change report provisionally. The respondent No.1 filed objection to Exh.12. It is the case of the Respondents that, the alleged meeting in which the election is held itself is not held. The record of the said meeting is prepared falsely. Earlier the elections were held for the term of 2017-2022 and the change was accepted on 1st January, 2019. After the term of 2017-2022 body expired, there is no election held. The application is already filed under Section 41A of the MPT Act, praying for direction to hold the election. It is stated in the said objection that it is necessary to hear the change report itself finally but the petitioner has not given any evidence.

4. The learned ACC by order dated 30th July 2024, allowed the application Exh. 12 accepting the change report provisionally and directed the parties to give evidence. It is also directed that no policy decision be taken by the new elected committee without prior permission of learned ACC. This order came to be challenged by Respondent No.1 by filing revision. The revision is filed on 9th August 2024, mainly on the ground that, no any election is held after 2022.

There is already application filed under Section 41A of the MPT Act seeking direction to hold the election. The meeting which is shown to be held itself is not held etc. The learned JCC allowed the revision and set aside the provisional acceptance of the change report. The petitioner is, therefore, before this Court.

5. Mr. Thombre, the learned Advocate for the petitioner strenuously submits that the revision itself was not maintainable in view of Section 17-A(2) of the M.P.T. Act. The revision has to be filed within period of limitation. On this ground alone, the revision ought not to have been entertained. When the change report is filed, Section 22(2) of the M.P.T. Act, enables the learned ACC to accept the report provisionally. The application Exh.22 was filed on 18th June 2022, the Respondent objected the said on 18th July 2024. The learned ACC has considered the material placed before him. It is held that the compliance is made by the petitioner and it is only thereafter he has passed the order. The only ground taken in the revision was that, the meeting was invalid. Looking to the language of Section 22(2) of the MPT Act, what is required is

filing of application for provisional acceptance. At this stage, the learned ACC need not go into the question of validity of the body holding the election etc. He relies upon the following judgments:

(i) ***Qidwai Education and Cultural Society Vs. The State of Maharashtra*** passed by this Court at Nagpur Bench in Writ Petition No.3296-1365-1366 of 2020 on 27th April 2022.

(ii) ***Banjara Shikshan Prasarak Mandal Vs. Mukinda Nandu Chavan and Ors.*** passed by this Court in Writ Petition No.11141 of 2022 on 14th November 2022.

(iii) ***Adarsh Vidyalaya Shikshan Samiti Vs. State of Maharashtra and Ors.*** passed by this Court in Writ Petition No.11297 of 2014 on 8th April 2015.

He thus, prays for quashing and setting aside the order passed in the revision petition.

6. Learned Advocate Mr. Barde holding for Mr. M. S. Patil, the learned Advocate for the Respondent No.1 submits that, proviso to sub-Section (2) of Section 22 of the MPT Act, is enabling provision giving power to the learned ACC to accept the change report. It is, however, the discretion of the learned ACC to accept the change report or not? The language shows that it is not mandatory to accept the change report. So

far as maintainability is concerned, he relies upon the judgment of this Court in the case of *Anand s/o Sheshrao Bharose Vs. Rahul Vedprakash Patil and Ors.*¹ and *Bapuro Shankar Rathod Vs. The Joint Charity Commissioner, Latur* passed by this Court in Writ petition No.7949 of 2024 on 2nd August 2024. He further submits that the application for acceptance of provisional change report needs to be tagged alongwith main change report. It cannot be filed subsequently. In the present case, meeting was not held by out-going body. The election is to be conducted by the out-going body alone. There was even application filed under Section 41-A of the MPT Act in which direction was issued. However, the said direction is also not followed. No meeting was held to hold the election. The meeting needs to be held as per constitution of the Trust. The learned ACC had failed to consider the objection. Even *prima facie* case was not made out to accept the change report. The *de-facto* committee of the trust was looking after the affairs of the trust which could have held the election. He relied on the Rule 7 of the Committee Rules and the judgment of this Court in the case of *Anand s/o Sheshrao*

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Bharose (supra).

7. In the case of ***Qidwai Education and Cultural Society*** (supra), the Division Bench of this Court at Nagpur Bench, considered the provision of Section 22(2) of the MPT Act. It is held that, this provision provides for mechanism for provisional acceptance of the change report. It is held that the legislature has specifically brought the amendment by inserting sub-Section (2) of Section 22 of the MPT Act considering that the decision of change report takes long time. In that case, the learned DCC was directed to pass provisional order in terms of amended section 22 of the said Act. It is seen that, it was still kept open for the authorities to consider the provisional acceptance. No positive direction was given directing to accept the change report.

8. In the case of ***Banjara Shikshan Prasarak Mandal*** (supra), this Court also held that after acceptance of provisional change report, if no objections are received, the said provisional change becomes final. It is held that for provisional acceptance no specific application is required. In the case of ***Adarsh Vidyalaya Shikshan Samiti*** (supra), this Court had

considered Section 22 of the Act. However there sub-Section (2) of Section 22 was not in statute book then and therefore, the judgment need not be considered.

9. So far as the judgment relied upon by the learned Advocate for the respondent in the case of *Anand Sheshrao Bharose* (supra) is concerned, the court had considered the remedy of revision under Section 70(A) of the Act. It is held that the remedy of revision under section 70(A) is efficacious remedy available to the petitioner. It was held that the writ petition is not maintainable. If the revision is preferred, the revisional authority is entitled to go into evidence undertaking and even scrutiny of disputed fact can be done. The writ petition is, therefore, not entertainable. It was held that even the order passed under Section 22(2), would be squarely covered by Rule 72 and thus, the revision is held to be maintainable.

10. In the case of *Bapurao Rathod* (supra), this Court also held that sub-Section (2) of Section 22 power is given to the authorities to accept the change provisionally within 15 working days. If no objection is

received to provisional acceptance then the same report becomes final. It is further held that an opportunity of hearing can be given to the parties.

11. Considering all above aspects, this Court finds that the revision was very much maintainable. This Court does not find any force in the submissions of learned Advocate for the petitioner that the revision was not maintainable. The revisional authority has thus rightly entertained the revision. The revisional Court held that, since 2022 to 2024 there was no valid committee looking after the trust. It is rightly held that, even for provisional acceptance, *prima face* case must be made out. The revisional Court rightly considered that the managing committee was *de-facto* trustees and this fact is admitted by the present petitioner. Rule 5 of the Trust does not vest any discretion in the members to convene the meeting for the election after expiry of the tenure of the trustees. For doing so, it was necessary for them to approach the learned ACC and to seek directions to hold the election. On facts, it is held that there was no service of notice on all members of the trust. There was no declaration of election program. Even electoral role was not published.

12. Considering all this material prima facie, the revisional authority has rightly accepted the case of respondent No.1 and allowed the revision. This court thus finds that, no illegality is committed by the revisional authority. Writ petition is, therefore, devoid of merits and the same is rejected. Hence, the following order:

ORDER

- (i) Writ petition stands dismissed.
- (ii) No order as to costs.

[KISHORE C. SANT, J.]