

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7202 OF 2025

1. Ramesh S/o Dadarao Bagdure,
Aged: 64 years, Occ: Business &
Secretary of Shardopasak Shikshan
Sanstha, Aurad-Shahajani,
Tq. Nilanga, Dist. Latur,
R/o Aurad-Shahajani, Tq. Nilanga,
Dist. Latur.
2. Kishanrao Veerappa Bhingole (Reddy),
Aged: 79 years, Occ: Agriculture &
Managing Committee Member of
Shardopasak Shikshan Sanstha,
Aurad-Shahajani, Tq. Nilanga, Dist. Latur,
R/o Aurad-Shahajani, Tq. Nilanga,
Dist. Latur.
3. Shivajirao S/o Manikrao Jadhav,
Aged: 76 years, Occ: Pensioner &
Managing Committee Member of
Shardopasak Shikshan Sanstha,
Aurad-Shahajani, Tq. Nilanga,
Dist. Latur,
R/o Aurad-Shahajani, Tq. Nilanga,
Dist. Latur.
4. Rajesh Vishwanathappa Valande,
Aged: 58 years, Occ: Agriculture,
Vice-President of Shardopasak Shikshan
Sanstha, Aurad-Shahajani,
Tq. Nilanga, Dist. Latur,
R/o Aurad-Shahajani, Tq. Nilanga,
Dist. Latur.
5. Madolayya Sangayya Mathpati,
Aged: 71 years, Occ: Pensioner &
Managing Committee Member of
Shardopasak Shikshan Sanstha,
Aurad-Shahajani, Tq. Nilanga,
Dist. Latur,
R/o Aurad-Shahajani, Tq. Nilanga,
Dist. Latur.
6. Dagadu S/o Baliram Girbane,

Aged: 72 years, Occ: Pensioner &
Managing Committee Member of
Shardopasak Shikshan Sanstha,
Aurad-Shahajani, Tq. Nilanga, Dist. Latur,
R/o Aurad-Shahajani, Tq. Nilanga,
Dist. Latur.

7. Martin Nabisab Alandkar,
Aged: 50 years, Occ: Business &
Trustee of Shardopasak Shikshan Sanstha,
Aurad-Shahajani, Tq. Nilanga,
Dist. Latur,
R/o Aurad-Shahajani, Tq. Nilanga,
Dist. Latur.
8. Shardopasak Shikshan Sanstha,
Aurad-Shahajani, Tq. Nilanga,
Dist. Latur,
Through its Secretary,
Ramesh S/o Dadarao Bagdure,
Aged: 64 years, Occ: Business
R/o Aurad-Shahajani, Tq. Nilanga,
Dist. Latur.

..Petitioners

VERSUS

1. The Joint Charity Commissioner,
Latur Region, Latur.
2. Ramrao S/o Kashiba Thete,
Aged: 89 years, Occ: Agriculture,
R/o Tagarkheda, Tq. Nilanga,
Dist. Latur.
3. Sundarlal S/o Ramnivas Darak,
Aged: 61 years, Occ: Agri. & Business,
R/o Marwadi Galli, Aurad-Shahajani,
Tq. Nilanga, Dist. Latur,
At present Row House No.12,
Phase-3, Hake Nagar, Latur.
4. Ravindra Basavraj Gastagar
Aged: 57 years, Occ: Business and Agriculture,
R/o Aurad Shahajani, Tq. Nilanga,
Dist. Latur.
5. Baburao S/o Bhiwaji Bhandare,
Aged: 68 years, Occ: Agriculture,

R/o Aurad-Shahajani, Tq. Nilanga,
Dist. Latur.

6. Vyankaatreddy Kishanreddy Bhingole,
Aged: 62 years, Occ: Agriculture,
R/o Aurad-Shahajani, Tq. Nilanga,
Dist. Latur.

..Respondents

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Advocate for Petitioners : Mr. N.P. Patil Jamalpurkar
AGP for Respondent/State : Mr. K.B. Jadhavar
Advocate for Respondent Nos.2 to 6 : Mr. S.B. Gastgar

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : JUNE 23, 2025

PRONOUNCED ON : JULY 15, 2025

JUDGMENT :-

1. The petitioners impugn order dated 25.04.2025 passed by Joint Charity Commissioner at Latur below Exhibit-1 in Revision No.51 of 2023 by which application filed by petitioners below Exhibit-29 challenging the maintainability of revision came to be rejected.

2. The petitioners filed an application below Exhibit-29 in Revision No.51 of 2023 pending before learned Joint Charity Commissioner, Latur Region, Latur, objecting the maintainability of revision on two grounds, firstly, the revision application suffers from inordinate delay and laches and Secondly revision petitioners have no *locus standi*. Since no decision was taken on such application, Writ Petition No.3786 of 2025 was filed before this Court. Accordingly, this Court passed the following order :

“3. In this case, the question of maintainability is raised as the revision is filed after reasonable period. In the revision, the order passed by the learned Deputy Charity Commissioner Latur Region, Latur dated 3rd July 2015 is challenged whereas the revision itself is filed on 15th April 2023. This court is, therefore, inclined to direct the learned authority to decide the issue of maintainability first keeping in view the order of the Apex Court passed in Civil Appeal Nos. 10743-10744 of 2016 in the case of **Gandhi Smarak Nidhi (Central) Vs. Maharashtra Gandhi Smarak Nidhi and Anr.**

4. Considering above, the authority to decide the question of maintainability within a period of one month from today.

5. Parties are free to address the court on all the issues.

6. Parties to appear before the authority on 16th April 2025. No fresh notice is required from the authorities.

7. With this, writ petition stands disposed off.”

3. In pursuance to aforesaid order learned Joint Charity Commissioner heard respective parties on application Exhibit-29 and ruled that revision application is maintainable so also, revision petitioners have *locus standi*. Eventually, rejected the application Exhibit-29.

4. Mr. Jamalpurkar, learned advocate appearing for petitioners submits that revision petition raises challenge to order dated 03.07.2015 passed by learned Deputy Charity Commissioner in change report Inquiry No.235 of 2015. Revision Petition has been filed on 10.04.2023 without explanation for inordinate delay. According to him, in view of law laid down by the Hon’ble Supreme

Court of India in case of **Gandhi Smarak Nidhi (Central) Vs. Maharashtra Gandhi Smarak Nidhi and Anr in Civil Appeal Nos.10743-10744 of 2016 (Arising out of SLP (C) Nos.34940-34941 of 2011)** decided on 08.11.2016, the objection as to maintainability ought to have been favourably considered, however, learned Joint Charity Commissioner erroneously observed that issue of fraud is involved and refused to entertain objection as to limitation. Mr. Jamalpurkar would further submit that on issue of *locus standi* of revision petitioners no specific findings has been recorded while passing impugned order. Relying upon judgment of this Court in case of **Shri Kashyap Odhavji Thakkar Vs. Shri Chandrakant R. Ganatra & Ors**,¹ he would urge that there is substantial difference between word 'finding' and 'order'. Similarly, relying upon the judgment of this Court in case of **Prakash Rajmal Zawar & Ors Vs. Kaumudi Charudatta Sane & Ors**,² he urge that the Charity Commissioner is not the Court within the meaning of Criminal Procedure Code. Therefore, the law on the point of fraud with Court would not apply in facts of present case. The Charity Commissioner has simply recorded the finding as to validity of change report in Inquiry No.235 of 2015. Therefore, the whole base of impugned order is hollow.

5. Mr. Jamalpurkar would further submit that the respondents are neither members of public trust nor they fall within

1 2019 (2) ALL MR 539

2 2025 (3) Mh.L.J. 414

definition of interested persons. Hence, does not have *locus standi* to assail the orders of Deputy Charity Commissioner as to acceptance of change report.

6. Per contra, Mr. Gastgar, learned advocate appearing for respondent nos.2 to 6 justifies the impugned order and submits that if the orders are obtained by misrepresentation or fraud on authority or Court, such orders cannot be allowed to be perpetuated. The powers of revision under Section 70-A of Maharashtra Public Trusts Act are very much available to the revisional authority, who can call for, examine record and proceeding from Deputy or Assistant Charity Commissioner.

7. Having considered the submissions advanced, it can be observed that in case of **Gandhi Smarak Nidhi (supra)**, the Hon'ble Supreme Court of India observed that although no period of limitation is prescribed under Section 70A of Bombay Public Trusts Act, if the revision is filed beyond reasonable period, it cannot be entertained. However, it is further observed that what should be reasonable period shall depend upon the facts and circumstances of each case. Similar view is taken by this Court in case of **Subir Kumar Banerjee & Ors Vs. Neetu Singh & Ors in Writ Petition No.11994 of 2019 decided on 20.12.2019**. In para 13, the 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 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 definition 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.”

8. In light of aforesaid exposition of law, learned Joint Charity Commissioner made following observations :

- (i) *Prima facie*, there is reason to believe that wrong/incorrect or may be wrongly prepared document of amended bylaws was produced or relied upon in support of C.R. No.235/2015.
- (ii) *Prima facie*, it appears that by producing such document, the judgment might have been obtained.

9. The learned Joint Charity Commissioner further relying upon the observations of Hon'ble Supreme Court in case of **A.V. Papayya Sastry & Ors Vs. Government of A.P. & Ors**³, observed that the judgment obtained by playing fraud is nullity and such judgment has

to be treated as nullity by every Court superior or inferior and it can be challenged in any Court at any time, in appeal, revision, writ or even in collateral proceedings. In light of aforesaid observations, learned Joint Charity Commissioner arrived at conclusion that revision application deserves to be entertained, *albeit*, it is filed challenging the order passed eight years back.

10. This Court did not find any reason to interfere in such conclusion recorded by Joint Charity Commissioner. However, it is made clear that it would be open for parties to canvass at the time of final hearing of revision petition if element of fraud exist or not. Depending on such finding final decision shall be taken either to entertain revision or not.

11. The second aspect as to *locus standi* is also dealt with by learned Joint Charity Commissioner in paragraph nos. 12 to 14 of impugned order. The learned Joint Charity Commissioner observed that issue as to membership of respondent nos.2 and 3 is not yet decided and referring to certain orders passed in writ petitions, learned Joint Charity Commissioner observed that such an issue is subjudice before him in Appeal No.37 of 2024. In wake of aforesaid observations, learned Joint Charity Commissioner rejected the application Exhibit-29 holding that respondents have locus and revision petition filed by them is maintainable.

12. This Court do not find any infirmity in aforesaid order. In result, writ petition sans merit. Hence, dismissed.

(S.G. CHAPALGAONKAR, J.)