



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

WRIT PETITION NO.1810 OF 2022

1. Bhausahab Bhimaji Kulat
Age 68 years, Occ. Agriculture
2. Ramesh Gotiram Kardile
Age 61 years, Occ. Agriculture
3. Ashok Ramchandra Zine
Age 54 years, Occ. Service
4. Bhausahab Balaji Tambe
Age 68 years, Occ. Agriculture
5. Shivaji Baburao Jadhav
Age 56 years, occ. Agri,
6. Ramabai Yadavrao Pacharane
Age 71 years, Occ. Household,
All R/o. Burudgaon, Tq. & Dist. Ahmednagar.
7. Sau. Varsha Shivaji Kale
Age 49 years, Occ. Household,
R/o. Kedgaon, Tal. & Dist. Ahmednagar. ...Petitioners
(Orig. Applicants)

Versus

1. Satish Jagannath Nannaware
Age 52 years, Occ. Nil,
R/o Babar Mala, Burudgaon,
Tq. & Dist. Ahmednagar
2. Asstt. Charity Commissioner, Ahmednagar
3. Joint Charity Commissioner,
Pune Region, Pune ... Respondents
(Orig. Opponents)

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Shri. Vivek Dhage h/f. Shri. N. C. Garud, Advocate for the Petitioners
Ms. M. S. Mhase, Advocate for Respondent No.1
Respondent Nos.2 & 3 – Served.

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CORAM : NEERAJ P. DHOTE, J.
RESERVED ON : NOVEMBER 18, 2025
PRONOUNCED ON : DECEMBER 10, 2025

FINAL ORDER :-

. By the present Writ Petition under Article 227 of the Constitution of India, the Petitioners have challenged the Judgment and order dated 27.11.2019 passed by the Respondent No.3 – Jt. Charity Commissioner, Pune Region, Pune, in Appeal No.7 of 2015 and order dated 25.06.2014 passed by the Respondent No.2 – Asstt. Charity Commissioner, Ahmednagar, in Change Report No.272 of 1999.

2. The facts, in brief, giving rise to the present Petition are as under :

2.1. The Petitioner No.3 submitted the Change Report in the Executive Body of the “Sina Education Society, Burudgaon, Tq. Nagar, Dist. Ahmednagar, PTR No.F-3183”, for the tenure 1999-2004. According to him, the tenure of the old Executive Committee of the Trust expired and therefore, in the Annual General Meeting dated 16.05.1999 new Executive Committee was unanimously elected. The Education Society was registered under the Bombay Public Trusts Act, 1950 (for short, Act of 1950’) in the year 1994. There are approved rules and regulations for the better administration of the trust, which provide for maximum 9 trustees and minimum 7 trustees and the tenure of the first Executive Committee was for 5 years. As 3 Members, namely, Ashok Sambhaji

Babar, Respondent No.1 - Satish Jagannath Nannaware and Shaikh Noorjaha Nisar Ahmed did not pay the annual membership fees of the Trust and they did not attend the meetings of the Trust, their membership was cancelled in the meeting dated 15.10.1996 by majority and 1 Member was elected in the said meeting as the Trustee which made total trustee as 7 in number. As the tenure of the 7 Members was completed on 05.05.1999, and in the Annual General Meeting dated 16.05.1999, 7 Petitioners came to be elected on the Managing Committee. Thus, the above referred Change Report was filed.

2.2. The Respondent No.1 raised objection to the said Change Report. According to him, the documents along with the Change Report were false and fabricated and no change occurred in the Trust. He was the Life Member of the Trust and therefore, could not be removed. As the Change Report was filed with ill intention, the same was liable to be rejected. The Respondent No.2 – Asstt. Charity Commissioner rejected the said Change Report. The Petitioners challenged the decision of the Respondent No.2 – Asstt. Charity Commissioner, in Appeal before Respondent No.3 – Jt. Charity Commissioner. The Appeal was also dismissed.

3. Heard the learned Advocate for the Petitioners and the learned Advocate for the Respondent No.1. With their assistance, perused the

relevant papers on record.

4. It is submitted by the learned Advocate for the Petitioners that, the Affidavit of Respondent No.1 stating that, he had no objection to allow the said Change Reports was not considered by the Respondent Nos. 2 and 3 – Authorities. The notice of the Annual General Meeting was issued to the Respondent No.1 and the same was sent by post under the certificate of posting. The resolution came to be passed in the meeting. The Respondent No.1 raised objection belatedly in 2008. The Bye laws of the Society provides for types of members and also provides for cancellation of membership. The Intervention Application filed by the Respondent No.1 in Change Report No.797/2004 was rejected. The Audit Reports of the Society are filed from time to time. Both the impugned orders are passed without considering the material on record and the same were liable to be set aside and the Petition be allowed. In support of the contention, he cited the Judgments in *(a) Secretary, Shiorai Education Society, Wani vs. Presiding Officer, School Tribunal, Aurangabad and Others*, [2000(2) Mh.L.J. 752], *(b) Central Bank of India, Bombay vs. Sion Bakers and Confectioners Private Ltd., Bombay and Others*, [2008(5) Mh.L.J. 772], *(c) Hislop Education Society, Nagpur vs. Presiding Officer, University College Tribunal, Nagpur and Others*, 2009 (6) Mh.L.J. 419], *(d) Vidarbha Youth Welfare Society, Amravati and Others vs. Sandip Ram Meghe and Others*, [2016 (5)

Mh.L.J. 711].

5. It is submitted by the learned Advocate for the contesting Respondent No.1 that, the Petitioners, who had filed the Change Report, should stand on their own footing. There were initially 9 Founder Members of the Trust. Their names are mentioned in the Schedule-I. Out of them, 3 Members were not issued the notice of the meeting. There is no iota of evidence to show that the said 3 Members, including the Respondent No.1 were removed. No change in the executive body was reported for 1996. The alleged executive body of 1996 had no existence in the eye of law, as the evidence led before the Respondent Nos.2 – Asstt. Charity Commissioner clearly show that the Respondent No. 1 was the Life Member, and therefore no question of paying yearly membership fees by him arises. The Affidavit purported to be filed by the Respondent No.1 giving no objection to the Change Report, was not filed by the Respondent No.1. When the final order was in favour of the Respondent No.1, there was no question of challenging the interim order of rejection of Intervention Application. The Special General Body Meeting was not legally convened. The requisition was not as per bye-laws and Rules, and mandate of prior 10 days' notice was not followed. Nothing is shown by the Petitioners as to how the impugned orders are incorrect. There is no merit in the Writ Petition and the same be dismissed.

(a) In *Secretary, Shiorai Education Society, Wani (supra)*, it is observed that,

“It is the general rule that whenever limitation is not prescribed for filing appeal or revision, the aggrieved person is required to prefer the same within reasonable time and the words of statute are clear, plain or unambiguous, the Court must give effect to that meaning irrespective of consequences.”

(b) In *Central Bank of India, Bombay (supra)*, it is observed that,

‘any evidence without pleading is inadmissible and the admission is the best evidence against the person giving it’.

(c) In *Hislop Education Society, Nagpur (supra)*, it is observed that,

“the disputes between various faction in trust or the societies which manage educational institutions have become very common. If it were to be held that in the intervening period there is a vaccum, it would obviously lead to anarchy and mismanagement in the affairs of the institutions which are run by such societies or trusts. Therefore, as observed in the judgments referred to, “de factor doctrine” has taken birth out of necessity to maintain a continuity of authority in management of affairs of such societies or trusts.”

(d) In *Vidarbha Youth Welfare Society, Amravati (supra)*, it is observed that,

“Filing of a change report for adjudicating whether removal of life members from the trust is not at all contemplated under the scheme of the Act. There would be, therefore, no occasion to decide or deal with that question. The law does not wait for future cause of action and hence plaintiff having cause of action cannot be told to wait ad infinitum.”

6. Coming to the case at hand, the Change Report submitted by the Petitioner No.3 has been rejected by the Respondent No.2 – Asstt.

Charity Commissioner and the said rejection order is maintained in the Appeal by the Respondent No.3 – Jt. Charity Commissioner. There is no dispute on the aspect that there were in all 9 founder trustees at the time of registration of the Trust including the Respondent No.1. There is also no dispute on the aspect that the Respondent No.1 was the founder and Life Member of the Trust. The learned Advocate for the Respondent No.1 referred the bye-laws of the Society, the copy of which is enclosed as Exh. 'G', Page No.118. Bye-law no.5 shows the categories of Members, one is Life Member (आजीव सभासद) and other is General Member. It further shows that, the person who pays Rs.1,000/- at one time, he becomes Life Member and the General Members are required to pay Rs.100/- per year. I find substance in the contention of the learned Advocate for the Respondent No.1 that, being Life Member Respondent No.1 was not required to pay yearly membership fees, therefore his membership cannot be cancelled for want of payment of yearly membership fees.

7. The Change Report, which was objected by the Respondent No.1, is in respect of the Executive Committee of 7 members in the year 1999-2004. The copy of the said document is at Exh. 'A' at page no.31. It mentions that, the old Committee which was at the time of establishment of the Society be removed and in place of that the names of the 7 newly elected members be included. The Reporting Trustee i.e.

Petitioner No.3 submitted the documents along with the Application, which included the copy of resolutions in the meetings dated 10.07.1996 and 15.10.1996. However, it is nobodies case that the Change was effected pursuant to the said resolution dated 15.10.1996 which was in respect of removal of some trustees and election of new body.

8. Respondent No.2 – the Asstt. Charity Commissioner observed that, it was the duty of the Reporting Trustee to mention all the factual and true facts before the authority while reporting the change and mere filing of the minutes of the meeting was not sufficient. He further noted that, there was no change in the Schedule-I pursuant to the resolution in the General Body Meeting dated 15.10.1996. It further observed that, the reporting trustee while reporting the change referred to the old executive body constituted at the time of the registration of the Trust. This shows that, the subsequent change, as is the case of the Reporting Trustee, cannot be effected unless the previous change, which according to the Reporting Trustee was in the meeting dated 15.10.1996, is effected. It is rightly observed by the Respondent No.2 – Asstt. Charity Commissioner that the Reporting Trustee has failed to satisfy regarding occurrence of the change according to the rules and regulations of the Trust, therefore, the Change Report was liable to be rejected.

9. The observations of the Respondent No.3 – Jt. Charity Commissioner that, the names of the outgoing trustees were not mentioned in the Change Report is in consonance with the Change Report. The material and the evidence on record was considered by the Respondent No.3 – Jt. Charity Commissioner and it upheld the rejection of the Change Report. The observations in the said order is supported by the documents on record. It noted that, the notice of the meeting was not signed by the President as required by the bye-laws of the Society and hence, it was not as per the provisions of the Constitution of the Trust. It further noted that, there is no provision in the Trust-deed to disqualify the trustees and the tenure of the trustees who were the trustees at the time of the constitution was till 2000, which indicate that before the tenure of the earlier trustees, the trustees were elected.

10. There are concurrent findings by the Respondent No.2 – Asstt. Charity Commissioner and the Respondent No.3 – Jt. Charity Commissioner which are borne from the material before them. There is no reason to interfere with the concurrent findings recorded by the Respondent No.2 - Asstt. Charity Commissioner and Respondent No.3 – Jt. Charity Commissioner. The above referred cases also are of no assistance to the Petitioners in the present facts and circumstances of the case. I find no merit in the Petition and hence, the following order.

ORDER

- (i) The Writ Petition is dismissed.

(NEERAJ P. DHOTE, J.)

GGP