



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9704 OF 2024

1. Shri. Anandrao Manikrao Lathkar
Age : 82 years, Occ. : Pensioner,
R/o Vasant Nagar, Nanded,
Tq. & Dist. Nanded.

...PETITIONER

...VERSUS...

1. Madhavrao Ramchandra Shelgaonkar
Age : Major, Occ. : Nil
R/o Shelgaon (Gauri), Tq. Biloli,
Dist. Nanded
2. Shri Chandrashekhar Marotrao Sonwane
Age : 78 Years, Occ. : Business,
R/o Sanmitra Colony, Nanded,
Tq. & Dist. Nanded
3. Shri. Govind Vyankatrao Thete
Age : 77 Years, Occ. : Pensioner,
R/o Anand Nagar, Nanded,
Tq. & Dist. Nanded
4. Shri. Dattatray Ramchandra Waghmare
Age : Major, Occ. : Nil
R/o Waghmare Hospital, Purna,
Tq. Purna, Dist. Parbhani
5. Shri. Narsingh Mohanrao Pawde
Age : Major, Occ. : Business,
R/o Bhagyanagar, Nanded,
Tq. & Dist. Nanded
6. Shri. Gopalrao Arjunrao Kadam
Age : Major, Occ. : Agri.,
R/o Rajendra Nagar, Near Baba Nagar,
Nanded, Tq. & Dist. Nanded

7. Shri. Mohanrao Manikrao Sugaonkar
Age : Major, Occ. : Agri.,
R/o Phule Nagar,
Nanded, Tq. & Dist. Nanded.

8. The Assistant Charity Commissioner-I,
Nanded Region, Nanded,
Having the official address
as Charity Commissioner office,
In front of Nanded Railway Station,
Hingoli Gate, Nanded,
Tq. & Dist. Nanded.

9. Shri. Namdeo Eknathrao Ambore
Age : 78 years, Occ. : Pensioner,
R/o Chhatrapati Nagar, Nanded.

...RESPONDENTS

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- Adv. Mr. A. A. Fulfagar, Advocate for the Petitioner
 - Mr. B. B. Bhise, AGP for Respondent/s – State
 - Sr. Counsel Mr. V. D. Hon i/b Mr. U. B. Bilolikar, Advocate for Respondent No. 6

CORAM : ROHIT W. JOSHI, J.
DATE : JULY 21, 2025

ORAL JUDGMENT :

1. By the present petition, the petitioner, who along with one Namdeo Eknathrao Ambhore had filed an application under Section 50A of the Maharashtra Public Trusts Act, 1950 for framing scheme in relation to a registered public trust named Marathwada Shikshan Sanstha, Nanded challenges the judgment and order dated 27.08.2021 passed by the learned I/c Assistant Charity Commissioner - I, Nanded Region, Nanded, as also the judgment and order dated 29.01.2024

passed by the learned Joint Charity Commissioner, Chhatrapati Sambhajingar Region, Chhatrapati Sambhajingar, dismissing Appeal No. 20 of 2021 preferred by the petitioner and thereby confirming the scheme framed by the learned Assistant Charity Commissioner.

2. Mr. Fulfagar, learned Advocate for the petitioner contends that while framing the scheme under Section 50A of the Act, the learned Assistant Charity Commissioner has appointed persons, who were earlier associated with the Trust, as Executive Committee members as Trustees although their functioning while they were holding the office prior to framing of the scheme, was not proper resulting in appointment of administrator over the public Trust. He contends that the trust is an educational trust and yet the persons appointed as Trustees were guilty of not conducting audit of the Trust. He further contends that the learned Assistant Charity Commissioner has erred in making appointment of Trustees under Section 50A of the Act. According to the learned Advocate, appointment of Trustees falls within the jurisdiction of the Charity Commissioner under Section 47 of the Act. The learned Advocate also contends that while four different schemes were filed before the learned Assistant Charity Commissioner in four separate applications, which are decided by a common judgment, the learned Assistant Charity Commissioner has framed a separate scheme and that while framing an independent scheme, apart from the drafts submitted

by respective parties, the learned Assistant Charity Commissioner has not afforded opportunity of hearing to the petitioner. In view of the aforesaid, it is submitted that the scheme framed by the learned Assistant Charity Commissioner is unsustainable and the judgment and order framing the same is required to be quashed. He contends that the learned Joint Charity Commissioner has also erred in not noticing these vital aspects of the matter while confirming the scheme framed.

3. It cannot be disputed that there was indeed a need for framing the scheme inasmuch as the petitioner and three (03) other groups had filed application, praying for framing of scheme. In all four scheme applications were submitted by the respective parties. The learned Assistant Charity Commissioner has concurred with the opinion of the applicants in all the four applications that there was indeed a need for framing a scheme for smooth functioning of the Trust.

4. The learned Advocate contends that before framing the scheme the learned Assistant Charity Commissioner had not afforded opportunity of hearing to the parties. This contention is contrary to the record. The learned Assistant Charity Commissioner has clearly recorded that all the concerned were heard and thereafter the order framing scheme was passed. Perusal of initial paragraphs in the judgment will demonstrate that opportunity of hearing was indeed granted.

5. As regards the contentions with respect to authority of the learned Assistant Charity Commissioner to appoint Trustees in the scheme, the learned Advocate for the petitioner has placed reliance on judgment dated 11.07.2023, in the matter of **Pravin Vijayrao Pawar Vs. State of Maharashtra (Writ Petition No. 7671 of 2018, Nagpur Bench)**. In the said judgment, the learned Single Judge has held that in cases where there is no trustee in existence with respect to any public Trust, appointment of Trustees is required to be made by taking recourse to Section 47 of the Act. It will, however, be pertinent to mention that in Paragraph 12 of the judgment, it is specifically held that power to appoint Trustees is also vested with the Assistant or Deputy Charity Commissioner, while framing scheme under Section 50A of the Act.

6. In the case at hand, the learned Assistant Charity Commissioner has framed a scheme under Section 50A and while framing the scheme, Trustees have been appointed. While doing so, a new scheme other than the one, which was prevailing, is framed by the learned Assistant Charity Commissioner. While framing the scheme, it was necessary for the learned Assistant Charity Commissioner to nominate first Board of Trustees. The learned Assistant Charity Commissioner has accordingly done so. Needless to mention that even the judgment on which the learned Advocate places reliance recognizes this power and authority to appoint Trustees while framing scheme

under Section 50A of the Act. In that view of the matter, the first contention raised by the learned Advocate regarding *inter se* between Section 50A and Section 47 is liable to be rejected. Had it been a case that the learned Assistant Charity Commissioner did not deem it necessary to frame a scheme and yet if he had ventured to appoint Trustees, then probably the argument of the learned Advocate for the petitioner could be accepted.

7. The next submission by the learned advocate is that the persons who were working as Executive Committee members with the Trust earlier only have been appointed as Trustees. It needs to be mentioned that the present petitioner was also associated with the Trust as an Executive Committee member and he is also appointed as a trustee under the scheme framed by the learned Assistant Charity Commissioner. The learned Charity Commissioner has deemed it appropriate that rather than introducing strangers in the Trust for the first time, the people who were associated with the Trust be appointed as Trustees. The objection of the learned counsel for the petitioner is that while these persons, including the petitioner himself were associated with the Trust as Executive Committee members, they did not discharge their duties diligently, as a consequence of which administrator was required to be appointed. However, the learned advocate fairly states that there are no allegations of any misconduct in the nature of malfeasance or

misfeasance. At best, it can be said that there was some mistake in prompt upkeep of accounts and failure to file audit reports. This by itself, in my considered opinion, may not be a reason good enough to interfere with the discretion exercised by the learned Assistant Charity Commissioner, while making appointment of Trustees. Although the order framing scheme is a quasi-judicial order and a scheme has to be framed on an objective assessment of the material on record, selection of Trustees to a great extent will depend upon subjective satisfaction of the authority. There is nothing to warrant interference with subjective satisfaction exercised by the learned Assistant Charity Commissioner while making appointment of Trustees. It needs to be mentioned that the tenure of the Executive Committee of the Trust is fixed at five years and therefore, if any person does not discharge his duties properly, he can always be democratically removed from the office.

8. Learned Counsel for the petitioner states that earlier the deed of Trust provided for Board of Trustees and Executive Committee. The property of the trust vested with the Board of Trustees and day to day functioning of the Trust was looked after by the Executive Committee. This according to him is a ideal mechanism, which was provided under the original Trust deed, which ought not to have been disturbed. The contention is liable to be rejected. In most of the cases the Trustees of the public Trust and members of the Executive Committee are

the same. In very few cases, Board of Trustees and Executive Committee are two separate bodies. The general rule is followed by the learned Assistant Charity Commissioner. This Court sees no reason to interfere with the decision of the learned Assistant Charity Commissioner in doing away with a separate Board of Trustees.

9. In that view of the matter, in the considered opinion of this Court, no case is made out warranting interference with the order framing scheme passed by the learned Assistant Charity Commissioner, which is confirmed by the appellate authority namely the Joint Charity Commissioner.

10. The petition stands **dismissed**.

11. Pending civil applications, if any, stand **disposed of**.

[ROHIT W. JOSHI, J.]