



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION No. 11361 OF 2024

1. Mr. Bhausahab Kisan Naikwadi
Age : 65 years, Occ : Agri.,
R/o At Post. Navalewadi, Tq. Akole,
Dist. Ahmednagar.
2. Mr. Sureshrao Maruti Kote
Age : 67 years, Occ : Retired,
R/o Jayanti Apartment, Bibavewadi,
Pune.
3. Mrs. Ranjana Bhausahab Naikwadi
Age : 55 years, Occ : Agri.,
R/o At Post. Navalewadi, Tq. Akole,
Dist. Ahmednagar.
4. Mrs. Bhakti Sachin Hivarkar
Age : 38 years, Occ : Agri.,
R/o 1/101, Lalwani Vastu, Sakorengar,
Vimannagar, Pune.
5. Mr. Girish Bhausahab Naikwadi
Age : 37 years, Occ : Agri.,
R/o At Post. Navalewadi, Tq. Akole,
Dist. Ahmednagar.

..PETITIONERS

VERSUS

1. The Joint Charity Commissioner-II,
Pune Office of the Joint Charity
Commissioner, Pune Region,
Pune.
2. Mr. Madhukarrao Laxman Navale
Age : 72 years, Occ : Social Worker,
R/o Radhakunj, Dhamangaon Road,
Akole, Dist. Ahmednagar.
3. Mr. Vikram Madhukarrao Navale
Age : 38 years, Occ : Business,

R/o Radhakunj, Dhamangaon Road,
Akole, Dist. Ahmednagar.

4. Mr. Laxman Kashiba Navale
Age : 87 years, Occ : Nil (Senior Citizen),
R/o Navalewadi, Post. Tq. Akole,
Dist. Ahmednagar.
5. Dy. Charity Commissioner,
Ahmednagar Division, Ahmednagar.

..RESPONDENTS

WITH

WRIT PETITION NO. 11362 OF 2024

1. Mr. Bhausahab Kisan Naikwadi
Age : 65 years, Occ : Agri.,
R/o At Post. Navalewadi, Tq. Akole,
Dist. Ahmednagar.
2. Mr. Sureshrao Maruti Kote,
Age : 67 years, Occ : Retired,
R/o Jayanti Apartment, Bibavewadi,
Pune.
3. Mrs. Ranjana Bhausahab Naikwadi
Age : 55 years, Occ : Agri.,
R/o At Post. Navalewadi, Tq. Akole,
Dist. Ahmednagar.
4. Mrs. Bhakti Sachin Hivarkar
Age : 38 years, Occ : Agri.,
R/o 1/101, Lalwani Vastu, Sakorengar,
Vimannagar, Pune.
5. Mr. Girish Bhausahab Naikwadi
Age : 37 years, Occ : Agri.,
R/o At Post. Navalewadi, Tq. Akole,
Dist. Ahmednagar.

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VERSUS

1. The Joint Charity Commissioner-II,
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Age : 72 years, Occ : Social Worker,
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3. Mr. Vikram Madhukarrao Navale
Age : 38 years, Occ : Business,
R/o Radhakunj, Dhamangaon Road,
Akole, Dist. Ahmednagar.
4. Mr. Laxman Kashiba Navale
Age : 87 years, Occ : Nil (Senior Citizen),
R/o Navalewadi, Post. Tq. Akole,
Dist. Ahmednagar.
5. Dr. Mrs. Jayshri Rajiv Deshmukh
Age : Major,
Add. Shriramnagar, Dhumalvadi,
Dhamangaon, Aavari Road,
Post. Tal. Akole, Dist. Ahmednagar.
6. Mr. Arun Lakshman Navale
Age : Major,
Add. Radhakunj, Dhamangaon road,
Post. Dist. Ahmednagar.
7. Dr. Mrs. Archana Satish Khatal
Age : Major,
Add-4/A, Shivapurvada, At Post. Shivapur,
Tq. Haveli, Dist. Pune.
8. Mrs. Alphonsa Devsi Palisheri,
Age : Major,
Add-Shriramnagar, Dhumalvadi,
Dhamangaon, Aavari Road,
Post. Tal. Akole, Dist. Ahmednagar.
9. Mr. Bhagwat Lakshman Navale
Age : Major,
Add-Radhakunj, Dhamangaon road,
Post. Akole, Dist. Ahmednagar.

10. Mr. Vivek Madhukar Navale
Age : Major,
Add-Aalefata, Vadagon Ananad,
Tal. Junnar, Dist. Pune.
11. Dy. Charity Commissioner,
Ahmednagar Division, Ahmednagar.

..RESPONDENTS

WITH
WRIT PETITION NO. 11360 OF 2024

1. Mr. Bhausahab Kisan Naikwadi
Age : 65 years, Occ : Agri.,
R/o At Post. Navalewadi, Tq. Akole,
Dist. Ahmednagar.
2. Mr. Sureshrao Maruti Kote,
Age : 67 years, Occ : Retired,
R/o Jayanti Apartment, Bibavewadi,
Pune.

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1. The Joint Charity Commissioner-II,
Pune Office of the Joint Charity
Commissioner, Pune Region,
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2. Mr. Madhukarrao Laxman Navale
Age : 72 years, Occ : Social Worker,
R/o Radhakunj, Dhamangaon Road,
Akole, Dist. Ahmednagar.
3. Mr. Vikram Madhukarrao Navale
Age : 38 years, Occ : Business,
R/o Radhakunj, Dhamangaon Road,
Akole, Dist. Ahmednagar.
4. Mr. Laxman Kashiba Navale
Age : 87 years, Occ : Nil (Senior Citizen),
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5. Dr. Mrs. Jayshri Rajiv Deshmukh
Age : Major,
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Age : Major,
Add. Radhakunj, Dhamangaon road,
Post. Dist. Ahmednagar.
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Age : Major,
Add-4/A, Shivapurvada, At Post. Shivapur,
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8. Mrs. Alphonsa Devsi Palisheri,
Age : Major,
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Dhamangaon, Aavari Road,
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Add-Radhakunj, Dhamangaon road,
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Age : Major,
Add-Aalefata, Vadagon Ananad,
Tal. Junnar, Dist. Pune.
11. Dy. Charity Commissioner,
Ahmednagar Division, Ahmednagar.

..RESPONDENTS

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Mr.Prashant Ramakant Katneshwarkar, Senior Advocate i/b
Mr.Rahil R. Kazi, Advocate for the petitioners in all WP
Mr. Ramesh N. Dhorde, Senior Advocate i/b Mr. V.R. Dhorde
for Respondent Nos.2 to 4 in WP No.11361/2024, Respondent
Nos.2 to 10 in WP No.11362/2024 and Respondent Nos.2 to
10 in WP No.11360/2024.
Mr. V.S. Badakh, AGP for the respondent/State.

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CORAM : ROHIT W. JOSHI, J.
RESERVED ON : 17th JUNE, 2025
PRONOUNCED ON: 30th JULY, 2025

JUDGMENT :

The present petitions pertain to a trust registered under the Maharashtra Public Trust Act, 1950, named Abhinav Shikshan Sanstha, Navalewadi (Hereinafter referred to as “the said trust”). The said trust was registered vide registration certificate dated 09.04.1992. The controversy pertains to change reports filed by two rival groups in the trust.

2. Before adverting controversy involved in the matters, it will be appropriate to briefly summarize the scheme of the trust. The trust is an educational institution. Its area of operation is Akole Tahsil in Ahmednagar district. For the purpose of controversy involved in the matters, clauses 2, 3, 4, 5(d), 10 and 15 will be relevant. Clause (2) deals with Board of Trustees. The said clause provides that the Board of Trustees will be the final authority of the Trust. The members of any other committees do not have the authority to effect any change in the Board of Trustees. Clause (3) of the scheme provides for constitution of the Managing Committee for

managing the day today affairs of the trust. It is provided that this Committee shall comprise of trustees, who are elected by the trustees amongst themselves. As per clause 10, the Managing Committee comprises of 9 members including President(1), Vice President (2), Secretary(1), Joint Secretaries (2) and Treasurer (1). Clause 10 further provides that the Board of Trustees by unanimous resolution may resolve to fill up the posts in the Managing Committee through regular elections. It is, however, provided that even if the Managing Committee is to be elected by way of elections, the office bearers shall be only from the Board of Trustees. This is also provided under clause 15, which states that the Managing Committee will be elected by trustees. Clause 15 further provides that if the trustees deem it appropriate, elections can be held for the Managing Committee and that in case of such elections each member shall have right to cast one vote. Clause 16 enables the Board of Trustees to fill up vacancies in the Managing Committee which may arise on account of death, resignation, expulsion or otherwise. Apart from Board of Trustees and Managing Committee, the scheme provides for constitution of Executive Committees. Such Executive Committees can be constituted with permission of

the Board of Trustees. The members of the Trust have a right to cast vote in elections for constitution of such Executive Committees. There are seven categories of members as per clause 5 of the scheme.

3. The scheme is unique in the sense that unlike any other trust, the general body comprising of members of trust is not the supreme body. Supreme Body is the Board of Trustees. The office bearers of the Managing Committee are to be elected by the Board of Trustees from amongst themselves. A person, who is not a Trustee cannot be member of Managing Committee. The Managing Committee can be constituted by elections only if it is so decided by the Board of Trustees.

4. The trust was formed by nine individuals. The said nine individuals, who formed the trust constituted the first Board of Trustees and also the Managing Committee. The petitioner no.1 in Writ Petition No.11361/2024 was founder treasurer. Likewise, respondent nos.2 to 4 were founder President and members respectively.

5. It will be pertinent to mention that over a period of years several disputes have arisen between the trustees. As

a consequence of which, a suit, being Regular Civil Suit No.406/2022 was filed by the petitioner nos.1 to 3 and 5 against respondent nos.2 to 4 as also petitioner no.4 in Writ Petition No.11361/2024 seeking an order of mandatory injunction for handing over the management of the trust to them on the ground that they were elected on the Managing Committee of the trust in the election meeting held on 31.03.2022. An application for grant of temporary injunction was also filed in the said suit seeking relief that respondent nos.1 to 3 should not create any obstruction in the management of the trust. The said application for temporary injunction was rejected by the learned trial court vide order dated 06.05.2022. The suit is filed in view of the fact that respondent no.2 had called for a meeting for holding elections to the Managing Committee.

6. The controversy in the matters revolves around three change reports i.e. Change Report No.589/2022 filed by petitioner no.1, Change Report No.831/2022 and Change Report No.870/2022 filed by respondent no.1. Initially, the learned Deputy Charity Commissioner had vide common judgment and order dated 09.01.2024 allowed the Change

Report No.589/2022 and rejected the Change Report No.831/2022. The learned Deputy Charity Commissioner by passing separate judgment and order dated 09.01.2024 has rejected the Change Report No. 870/2022. However, the learned Joint Charity Commissioner allowed the appeals by passing separate orders and has approved Change Report No.870/2022 and Change Report No.831/2022 and rejected the Change Report No.589/2022. The petitioners have, therefore, filed present petitions challenging the aforesaid orders passed by the Joint Charity Commissioner.

7. Since the controversy involved in the matters is common and it is relating to the same trust, all the three petitions are decided by this common judgment and order. Before dealing with merits of the matters, it is necessary to state that a Change Report can be allowed only if the change has factually taken place and further if the change is legal.

8. ***WRIT PETITION NO.11361/2024 :-***

(a) This petition arises out of Change Report No.589/2022, which was initially allowed by the learned Deputy Charity Commissioner vide order dated 09.01.2024 and rejected by

the learned Joint Charity Commissioner vide judgment dated 11.09.2024 passed in Appeal No.11/2024. The said Change Report was filed by petitioner no.1 as Reporting Trustee. Initially, the name of two trustees viz:-, Ramkrushna Namdeo Navale (Joint Secretary) and Rameshchandra Dhondiba Khandge (Secretary) were sought to be deleted on account of their demise. There cannot be a dispute with respect to said aspect. Petitioner No.1 also sought deletion of name of respondent no.2 on the ground that in the meeting of Board of Trustees held on 31.03.2022, new Managing Committee was constituted as per Resolution No.2 passed in the said meeting. Apart from this, change was sought with respect to positions held by two trustees in view of the said election. The designation of Shri Suresh Kote/petitioner no.2 was sought to be altered from Vice President to President and that of petitioner no.1 was sought to be changed from Treasurer to Secretary. Likewise, the names of petitioner nos.3 and 4 were sought to be included as Joint Secretary and Treasurer respectively.

(b) The said Change Report No.589/2022 was filed on 01.04.2022. Notice was issued to respondent no.2 in the said

Change Report as outgoing trustee. Respondent Nos.3 and 4 filed application for intervention, which was allowed by the learned Deputy Charity Commissioner.

(c) Learned Deputy Charity Commissioner has recorded that notice for election meeting to be held on 31.03.2022 was issued on 16.03.2022. It is observed that the said notice was not disputed by respondent nos.2 to 4. The learned Deputy Charity Commissioner has accepted the version of petitioner no.1/Reporting Trustee that after the meeting had commenced, respondent no.2 realized that majority was not on his side, and therefore, he left the election meeting midway. It is observed by the learned Deputy Charity Commissioner that two out of nine trustees had expired and out of seven trustees four trustees continued with the meeting. It is observed that the quorum for meeting is $\frac{1}{3}^{\text{rd}}$ of the total strength and as such, four trustees present in the meeting constituted adequate quorum for holding the meeting. The learned Deputy Charity Commissioner has, therefore, directed change as is recorded in the resolution dated 31.03.2022 needs to be recorded. It is also held that the said election was held in accordance with the scheme of the Trust.

(d) Respondent Nos.2 to 4 filed appeal, being Appeal No.11/2024 under Section 70 of the Maharashtra Public Trust Act (Hereinafter referred to as “MPT Act”) challenging the judgment and order dated 09.01.2024 passed by the learned Deputy Charity Commissioner allowing the Change Report No.589/2022. The learned Joint Charity Commissioner has allowed the appeal vide judgment and order dated 11.09.2024 thereby rejecting the Change Report No.589/2022. It is held that the election meeting dated 31.03.2022 was not issued in accordance with the Constitution of the Trust, and therefore, the election meeting was illegal and election held in the said meeting is liable to be discarded. It is also held that the meeting was held in the absence of adequate quorum. The learned Joint Charity Commissioner has observed that there were serious allegations of fabrication of minutes of meeting which created doubt as regards validity of the resolutions passed in the meeting. This finding appears to be recorded on the basis of discrepancies in the official membership lists and attendance sheet. However, the learned Joint Charity Commissioner has not recorded any specific reasons for arriving at such finding. Sweeping observations are made in order without referring to any evidence on the basis of which

the observations are made. It is also held that removal of respondent no.2 as trustee was without following procedural safeguards under Section 41D of the MPT Act.

9. It is stated that a notice for meeting of the Board of Trustees was issued on 16.03.2022. The meeting was scheduled to be held on 31.03.2022. Perusal of the notice dated 16.03.2022 will indicate that the meeting was called for the following subjects :-

- (i) To read and confirm the minutes of meeting held on 15th March, 2021.
- (ii) Regarding the elections of Managing Committee for the term 2022-2025.

10. Mr. Dhorde, learned senior advocate appearing for the respondents contends that the meeting was not for holding elections but only in order to hold discussions with respect to the elections to the Managing Committee. As against this, the contention of Mr. Katneshwarkar, senior advocate for the petitioners is that the notice was for holding elections. If the interpretation of item no.2 as offered by Mr.Dhorde is accepted, then Change Report filed by the

petitioners has to be rejected. For important matters such as election of the trust, it is necessary that a clear notice should be issued to all the concerned and the notice must clearly mention election as an agenda item. Important matters such as election cannot be taken at spur of moment without appropriate notice of advance to the concerned. However, even if item no.2 is interpreted to mean that the notice was issued for holding the elections, as contended by Mr.Katneshwarkar, the Change Report must fail for the reasons mentioned hereinafter.

11. Perusal of minutes of meeting dated 31.03.2022 prepared by the petitioners will demonstrate that the meeting had commenced under Chairmanship of respondent no.2. It is recorded that when discussion on agenda item nos.1 and 2 commenced, respondent no.2 found that the majority was not with him, and therefore, he left the meeting along with respondent nos.3 and 4 without signing the proceeding book. It is recorded that petitioner no.2 presided over the meeting thereafter. Perusal of the meeting will demonstrate that the decision was taken to remove respondent no.2 from the post of President as also from the post of trustee. Thereafter,

decision was taken to induct petitioner no.3 Ranjana Naikwadi as trustee. Perusal of resolution further shows that petitioner nos.1 to 4 were appointed as Secretary, President, Joint Secretary and Treasurer respectively. It was thereafter resolved that the vacant post of Vice President, created on account of appointment of petitioner no.2 as President and two members will be filled up later on.

12. The removal of respondent no.2 from the post of President and Trustee is absolutely illegal since the said item was not on the agenda of the meeting. Even if it is assumed that the meeting was election meeting and respondent no.2 did not have support of majority for being elected as President, there cannot be any justification for his expulsion from the Board of Trustees as a Trustee.

13. No provision is cited enabling the Board of Trustees or Managing Committee of the Trust to expel or take a decision to remove respondent no.2 as Trustee from Board of Trustees. The power of suspension, removal and dismissal of the Trustee is vested with the Charity Commissioner under

Section 41D of the MPT Act. This power can be exercised by the Charity Commissioner either on an application of a Trustee or any person interested in the Trust or on receipt of report under Section 41B or even suo-motu. Thus the petitioners as Trustees could have at best made an application for removal of respondent no.2 to the Charity Commissioner under Section 41D of the Act. They did not have any power or authority to remove respondent no.2 as Trustee simply by passing resolution.

14. The induction of petitioner no.1 as a Trustee is also illegal because there was no item on the agenda for doing so. Inducting a person as a Trustee is an important decision and it is, therefore, necessary that before taking any decision in this regard all the concerned must be put to notice so that they can participate in the decision making process. From the minutes of meeting produced on record by the petitioners, it appears that after respondent nos.2 to 4 left the meeting, decision to induct petitioner no.3 as a Trustee was taken by petitioner nos.1 to 4 and 5. It will be pertinent to mention that petitioner no.3, who was inducted as Trustee is wife of petitioner no.1 and mother of petitioner no.5. The induction

of petitioner no.3 as Trustee and her consequent appointment on the post of Joint Secretary, is therefore illegal.

15. As per the Trust Deed, the Managing Committee comprises of nine members. Members of the Managing Committee have to be Trustees. Any person, who is not a Trustee, is not eligible to be a member of Managing Committee. Admittedly as on 31.03.2022, there were only seven Trustees and as such only seven posts of Managing Committee could be filled up. If a general election to the Managing Committee was to be held in the meeting dated 31.03.2022, nine persons would have to be elected. However, nine eligible persons did not even exist since there were only seven Trustees. It is difficult to interpret agenda item no.2 of the notice dated 16.03.2022 as an election notice. The contention of the respondents that the agenda item was for holding discussion regarding election to be held appears to be more probable. The change reported vide Change Report No.589/2022 is not in accordance with the Trust Deed, and therefore, not a legal and valid change. Change Report No.589/2022 is therefore, liable to be rejected. Writ Petition No.11361/2024 is therefore liable to be dismissed.

WRIT PETITION NOS.11362/2024 AND 11360/2024 :-

16. Writ Petition No.11362/2024 pertains to Change Report No.831/2022, which is filed by respondent no.2 as Reporting Trustee on 10.05.2022. It is stated that a new Board of Trustees was constituted in the Annual General Meeting (AGM) of the members of the trust on 07.05.2022. Names of nine members, who are stated to be elected as trustees in the meeting dated 07.05.2022 were sought to be brought on record in the said Change Report. The said Change Report was rejected by the learned Deputy Charity Commissioner vide order dated 09.01.2024. Being aggrieved by the rejection of the Change Report, respondent nos.2 to 10, who were elected as trustees filed appeal no.9/2024 before the Joint Charity Commissioner under Section 70 of the MPT Act. The said appeal came to be allowed vide judgment dated 11.09.2024 passed by the learned Joint Charity Commissioner. The learned Joint Charity Commissioner has observed that the election meeting was held on 07.05.2022 by issuing proper notices to all the members and the minutes of the said meeting were signed by all the trustees, who attended the meeting. It is observed that substantive evidence was brought

on record to hold that the election was properly conducted. As regards allegations of irregularities raised by the present petitioners, it is held that the evidence brought on record did not suggest any such irregularity. The petitioners have filed Writ Petition No.11362/2024 challenging the said judgment passed by the learned Joint Charity Commissioner.

17. Writ Petition No.11360/2024 arises out of Change Report No.870/2022 filed by respondent no.2 as reporting trustee on 23.05.2012. The said Change Report sequel to Change Report No.831/2022. It is stated that after the new Board of Trustees was elected in the meeting held on 07.05.2022, the said trustees, elected a new Managing Committee in the meeting held on 19.05.2022. The learned Deputy Charity Commissioner rejected this change vide order dated 09.01.2024 in view of rejection of Change Report No.831/2022. Respondent Nos.2 to 10 preferred appeal under Section 70 of the MPT Act, being Appeal No.10/2024 challenging the said order dated 09.01.2024 passed by the Deputy Charity Commissioner. The said appeal is allowed vide judgment and order dated 11.09.2024 passed by the learned Joint Charity Commissioner for the same reasons on the basis

of which Appeal No.9/2024 arising out of Change Report No.831/2022 came to be allowed.

18. It will be appropriate to first deal with the Change Report No.831/2022 filed by respondent no.2. As stated above, this Change Report pertains to elections of trustees allegedly held in the AGM held on 07.05.2022.

19. With respect to Change Report No.831/2022, Mr.Katneshwarkar contends that the said election is allegedly held in the AGM in which the members have allegedly cast votes for elections of Board of Trustees. Mr. Katneshwarkar draws attention to clauses 10 and 15 to contend that the Board of Trustees only is competent to elect the members of the Managing Committee. He further states that members of the trust do not have any right to cast votes for elections of Managing Committee. Relying on clause 2, he contends that the elections allegedly held on 07.05.2022 with respect to Board of Trustees and subsequent elections held on 19.05.2022 with respect to Managing Committee are illegal.

20. Per contra, Mr. R.N. Dhorde, learned senior advocate appearing for the respondents contends that the General Body of the Trust is supreme body and it has the right to elect the members of Board of Trustees.

21. The election held by the general body is also sought to be justified by the learned senior advocate for the respondents placing reliance on clause 5(d)(2) of the scheme. The learned senior advocate contends that in view of the said provision, the members of the trust have a right to cast vote for electing the members of the Managing Committee. The contention is liable to be rejected. Perusal of the scheme, will indicate that there are three bodies contemplated under the same viz:- the Board of Trustees (clause 2), Managing Committee (clause 3) and Executive Committees {clause 5(D)(2)}. Perusal of clauses 3 and 5(D)(2) will demonstrate that the Managing Committee and Executive Committees are separate bodies. It is not compulsory to constitute an Executive Committee. Perusal of clause 5(D)(2) will demonstrate that an Executive Committee may be constituted subject to permission by the Board of Trustees. Thus, Executing Committee is a body which may come in existence

only if the Board of Trustees decides to constitute the same. Further perusal of the clauses 10 to 17 will demonstrate that both committees are different and their powers and functions are also different. Clause 10(D)(2) provides that the members have right to cast vote for elections of Executive Committee that may be constituted with approval of the Board of Trustees. It does not confer right in the members to cast vote for constitution of Managing Committee. The contention of the learned senior advocate for the respondents with respect to right of members to cast vote for constitution of Managing Committee is therefore rejected.

22. It is undisputed that initial Board of Trustees comprises of nine persons. Two of them had died. There is no provision under the scheme which specifically deals with the manner in which the trustees can be appointed. The trust deed is silent with respect to number of trustees in the Board of Trustees. The first board comprised of nine trustees. However, maximum or minimum number of trustees is not specified. Since, the Managing Committee comprises of nine members and the scheme categorically provides that a person cannot be member of the Managing Committee unless he is a trustee, it

is obvious that the Board of Trustees must comprise of minimum nine persons. It will also be pertinent to mention that there is no direct provision prescribing the manner in which a person can be inducted as trustee or vacancies of the trustees can be filled up. However, clause 16 provides that vacancies in the Managing Committee arising out of death, resignation or expulsion or any other reason can be filled in by the Board of Trustees. Thus the Board of Trustees has power to fill up vacancies of managing Committee. As stated above in order to be a member of the Managing Committee, a person has to first be a trustee. Since Board of Trustees has power to appoint a person on the Managing Committee in case of vacancy, in the considered opinion of this Court, the Board of Trustees will also have power to appoint a person as trustee, because unless a person is first appointed as trustee, he cannot be appointed to fill up vacancy in the Managing Committee. **The power to appoint a person on Managing Committee includes by implication to appoint such person as a Trustee.** Therefore, the power to fill up vacancies in Board of Trustees is vested only with members of Board of Trustees.

23. The members, who are not Trustees do not have

this power. Therefore, Change Report No.831/2022, which pertains to election of Trustees by the members in the AGM stated to be held on 07.05.2022 is liable to be rejected, in as much as, the members do not have power or authority to elect or appoint any person as a Trustee.

24. It is also necessary to refer to clauses 2, 10 and 15 of the Trust Deed. Clause 2 provides that Managing Committee shall be constituted by members of Board of Trustees from and amongst themselves. Clauses 10(A) and 15(1) reiterate and confirm the same. However, conjoint reading of Clauses 10(A) and 15(2) will demonstrate that Managing Committee can be constituted by holding elections, if the Board of Trustees takes decision in that regard. It is provided that if the Managing Committee is to be formed by election then the members will have a right to cast vote in such election. However, it further provides that only Trustees can be elected as members or office bearers of Managing Committee. It will be pertinent to mention that although, the members may, subject to decision of Board of Trustees, cast votes in election of Managing Committee, they do not have power to appoint any person as a Trustee. However, according

to respondent nos.2 to 4, the members have elected a new Board of Trustees in the meeting held on 07.05.2022. Since the members do not have power to elect or appoint any person as trustee, Change Report No.831/2022 is also not in accordance with the Trust Deed and is therefore liable to be declared as illegal.

25. As regards Writ Petition No.11360/2024, the same arises out of Change Report No.870/2022. It is the contention of learned advocate for the respondents that Board of Trustees that was constituted/elected in the meeting on 07.05.2022 elected the Managing Committee in its meeting held on 19.05.2022. Since the constitution of Board of Trustees in the meeting/election held on 07.05.2022 is held to be illegal, the consequent election held by such members for constitution of Managing Committee will also have to be declared as illegal.

26. The learned senior advocate Shri Dhorde contends that since the term of the Managing Committee has come to an end, the petitions need not be decided on merits

and be disposed of as infructuous. He has placed reliance on judgment of this Court in the matter of *Jagatnarayansingh Swarupsingh Chithere and others Vs. Swarupsingh Education Society and another*, 1980 Mh.L.J. 372 in support of the contention.

27. The contention of the learned senior advocate cannot be accepted in the facts of the present case. The dispute between the parties is not only with respect to fact of elections being conducted by rival groups but also with respect to mode and manner in which the elections are to be conducted. The respondents contend that the elections of the Managing Committee are required to be held by elections in which all the members will have a right to cast vote. As against this, the contention of the petitioners is that the members other than trustees do not have right to cast vote. They contend that the Managing Committee is required to be elected by the trustees from amongst themselves. This issue between the parties shall continue to arise between the parties after successive tenures come to an end after a cycle of three years. In that view of the matter, the cause in the petitions cannot be said to be rendered infructuous. The petitions are

therefore decided on merits.

28. In view of the above, Change Report No.831/2022 is liable to be rejected in as much as it is stated in the said Change Report that the Board of Trustees was elected by the general members of the trust in the AGM held on 07.05.2022. As stated above, the members of the trust, who are not trustees are not empowered to appoint any person as the trustee. Writ Petition No.11362/2024, therefore, needs to be allowed.

29. As regards Writ Petition No.11360/2024, the same arises out of Change Report No.870/2022. The trustees, who were elected in the AGM held on 07.05.2022, elected a Managing Committee in meeting of Board of Trustees held on 19.05.2022. Since the elections of Board of Trustees itself is illegal, the Managing Committee elected by such Board will also be illegal, Writ Petition No.11360/2024, therefore, needs to be allowed.

30. For the reasons recorded above, Writ Petition No.11361/2024 deserves to be rejected and Writ Petition

Nos.11360/2024 and 11362/2024 deserve to be allowed.

Hence the following order :-

ORDER

(i) Writ Petition No.11361/2024 stands rejected. Change Report No.589/2022 decided by the Deputy Charity Commissioner, Ahmednagar vide order dated 09.01.2024, stands rejected.

(ii) Writ Petition No.11360/2024 and Writ Petition No.11362/2024 are allowed.

(iii) The judgments and orders dated 11.09.2024 passed by the Joint Charity Commissioner-II, Pune in Appeal Nos.10/2024 and 9/2024 are quashed and set aside. Change Report Nos.870/2022 and 831/2022 stand rejected.

31. Civil Applications, if any, stand disposed of.

[ROHIT W. JOSHI, J.]