IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2293 OF 2024

1. Smt. Surekha Waman Bhadange,
Age: 50, Occu. Trustee and Homemaker,
R/o. Hadko Colony, near TV Centre,
Savedi, Ahemadnagar.

2. Shri. Maruti nathji Ghaitadak,
Age: 92, Occu: Trustee and Retired,
R/o: Jamkhed, Dist. Ahmednagar..

3. Sau. Rambha Laxman jadhav,
Age: 67, Occu: Trustee and Homemaker,
R/o: Plot No.44, Panchshila
Housing Society, Deepnagar,
Wadarwadi, Bhingar Camp,
Dist. Ahmednagar.

4. Shri. Abhay Uttam Dhiwar,
Age: 52, Occu: Trustee and Agril,
R/o: 37/225, Civil Hudko,
TV Centre Road, Savedi,
Dist. Ahmednagar.

5. Shri. Vivek Uttam Dhivar,
Age: 47, Occu: Trustee and Private Service,
R/o: 37/225, Civil Hadko,
TV Centre Road, Savedi,
Dist. Ahmednagar.

6. Shri. Sanjay Bhaskar Kharat,
Age: 52, Occu: Trustee and Agril,
R/o: 37/225, Civil Hadko,
TV Centre Road, Savedi,
Dist. Ahmednagar.

7. Shri. Laxman Ganpat jadhav,
Age: 76, Occu: Trustee and Retired,

R/o: Plot No.44, Panchashila Housing Society,
Deepnagar, Bhingar,
Dist. Ahmednagar.

8. Shri. Dadaram Mahalu Ghodke,
Age: 82, Occu: Trustee and Agril,
R/o: Siddharth Nagar, Shrigonda,
Dist. Ahmednagar.

9. Shri. Kantilal Popat Salve,
Age: 72, Occu: Trustee and Agril,
R/o: At Post Kanhur Pathar,
Tq. Parner, Dist. Ahmednagar.

10. Shri. Prakash Dadu Shinde,
Age: 53, Occu: Trustee and Agril,
R/o: Civil Hadko Colony, 32/209,
Nagar Manmad Road, Near Makasare
Health Club, Savedi,
Dist. Ahmednagar.

11. Shri. Sanjay Hari Badekar,
Age: 53, Occu: Trustee and Agril,
R/o: Plot No.17 Near Kaveri Hospital,
Wadarwadi, Bhingar,
Dist. Ahmednagar.

12. Shri. Bandu Govind Jagtap,
Age: 76, Occu: Trustee and Agril,
R/o: At Post, Paragaon,
Dist. Ahmednagar.

13. Shri. Jayant Vinayak Salve,
Age: 56, Occu: Trustee and Agril,
R/o: Behind Parasi Hall,
Christian Colony, Tarakpur,
Dist. Ahmednagar.

14. Sau. Usha Bhaskar Kharat,
Age: 73, Occu: Trustee and Agril,
R/o: 37/225, Yugantar, TV Centre,

Hadko Colony, Savedi,
Dist. Ahmednagar.

15. Shri. Bhupesh Laxman Jadhav,
Age: 38, Occu: Trustee and Agril,
R/o Plot No.44, Panchshila
Housing Society, Deepnagar,
Bhingar, Dist. Ahmednagar.

16. Sau. Sandhya Arvind Gaware,
Age: 52, Occu: Trustee and Homemaker,
R/o: 08/ Gopaldarshan Row House,
Saikheda Road, Near Raj Rajeshwari
Mangal Karyalay, Jail Road, Nashik,
Dist. Nashik.

17. Sau. Kalpana Sanjay Bhalerao,
Age: 53, Occu: Trustee and Homemaker,
R/o: Deepnagar Colony House No.
41/8, Nagar Pathardi Road, Wadarwadi,
Bhingar, Dist. Ahmednagar.

18. Sau. Hausabai Janaku Gaikwad,
Age: 68, Occu: Trustee and Homemaker,
R/o: At/post, Khandgaon,
Tq. Pathardi Dist. Ahmednagar.

19. Shri. Abasaheb Rabhaji gaware,
Age: 54, Occu: Trustee and Agril,
R/o: At Post Shirpur, Tq. Pathardi,
Dist,. Ahmednagar.

20. Shri. Dashrath Baban Dhivar,
Age: 53, Occu: Trustee and Agril,
R/o: Slum Area, Indira Nagar,
Bhingar, Dist. Ahmednagar.

21. Sau. Manda Janaku Gaikwad,
Age: 54, Occu: Trustee and Homemaker,
R/o: Slum Area, Indira Nagar,
Bhingar, Dist. Ahmednagar.

…..**PETITIONERS**

VERSUS

1. Shri. Kharse Babasaheb Namdev
Age: 38 years, Occu: Well do to,
R/o: At Post Kaudgaon,
Tq. And Dist. Ahmednagar.

2. Shri. Kharse Sudam Ramdas
Age: 40 years, Occu: Well do to,
R/o: As above.

3. Smt. Kharse Mangal Babasaheb
Age: 51 years, Occu: Well do to,
R/o: As above.

4. Shri. Shinde Baban Tukaram
Age: 39 years, Occu: Asst. Teacher
R/o: As above.

5. Shri. Palwe Sanjay Mahadev
Age: 32 years, Occu: Head Master,
R/o: As above.

6. Shri. Kharse Vinayak Babasaheb,
Age: 34 years, Occu: Well do to,
R/o: As above.

7. Shri. Kharse Prakash Rambhau
Age: 36 years, Occu: Clerk,
R/o: As above.

8. Shri. Gavkhare Raosaheb Vitthal,
Age: 40 years, Occu: Asst. Teacher,
R/o: As above.

9. Shri. Kharse Dhananjay Dilip,
Age: 39 years, Occu: Well do to,
R/o: As above.

10. Shri. Pawar Ashok Shitaram

Age: 33 years, Occu: Asst. Teacher,
R/o: As above.

11. Shri. Dahiphale Anil Murlidhar,
Age: 31 years, Occu: Asst. Teacher,
R/o: As above.

12. Shri. Parbhane Sanjay Sampat
Age: 45 years, Occu: Well do to,
R/o : As above.

13. Shri. Gadhave Santosh Eknath
Age: 42 years, Occu: Well do to,
R/o: As above.

14. Smt. Jadhav Pratibha Raghunath,
Age: 33 years, Occu: Asst. Teacher,
R/o: As above.

15. Smt. Kumatkar Nanda Haribhau
Age: 30 years, Occu: Asst. Teacher,
R/o: As above.

16. Smt. Landge Mangal Gangadhar,
Age: 45 years, Occu: Asst. Teacher,
R/o: As above.

17. Joint Charity Commissioner-2
Pune Region, Pune.

.....RESPONDENTS

Mr. S. S. Shinde, Advocate for the Petitioners
Mr. B. B. Bhise, AGP for Respondent-State
Mr. G. K. Naik Thigle, Advocate for Respondent nos.1 to 16

CORAM : ROHIT W. JOSHI, J.

DATED : 20TH AUGUST, 2025

ORAL JUDGMENT :-

. The dispute in the present petition pertains to a public trust registered under the Maharashtra Public Trusts Act, 1950, named Dr. Babasaheb Ambedkar Foundation. The said trust runs a school at village Kaudgaon, named Sant Laxman Maharaj Vidya Mandir. The dispute in the present petition pertains to change reports with respect to the said trust. Petitioners claim that they are elected trustees of the said trust for the tenure from the year 2021 to 2024. They had filed a Change Report Application bearing No.1836 of 2021 before the Assistant Charity Commissioner, Ahmednagar. The said application is allowed by the learned Assistant Charity Commissioner-1, Ahmednagar, vide order dated 21.12.2021.

2. It appears from perusal of the said order dated 21.12.2021, that the matter was taken up in the special trial initiated for disposal of uncontested change reports. Perusal of the order will demonstrate that the learned Assistant Charity Commissioner has recorded that perusal of the documents on record, the change application and rules and regulations demonstrated that the election was held in accordance with rules and regulations of the trust. Such finding is recorded in

one sentence on the basis of which, the change report came to be allowed.

3. Respondent nos.1 to 16 filed appeal being Appeal No.19 of 2022, challenging the said order dated 21.12.2021, accepting the change report.

4. The learned Joint Charity Commissioner-2 Pune Division, Pune has allowed the said appeal vide judgment and order dated 19.10.2023. The learned Joint Charity Commissioner has quashed the order dated 21.12.2021, accepting the change report and has remitted the matter to the learned Assistant Charity Commissioner for deciding the same afresh. It is directed that in the event persons who were parties to earlier change report proceedings have any objection, they will be free to produce appropriate evidence with respect to their membership and that the Assistant Charity Commissioner should provide opportunity for producing such evidence while deciding Change Report No.1836 of 2021.

5. The learned Counsel for the petitioners contends that the respondents who had preferred the appeal before the Joint Charity Commissioner are in no way concerned with the trust.

He contends that the respondents are guilty of fabricating documents in order to create a false record to show that they are members of the trust. In support of his contention, he has drawn attention to common judgment dated 28.10.2021, passed by the learned Assistant Charity Commissioner-1, Ahmednagar in a Change Report No.1260 of 2015 and other connected matters. Change Report Nos.368 of 2014 and 1008 of 2019 were filed by the faction of the respondents. The said change reports are also rejected by the learned Assistant Charity Commissioner. While rejecting the said change reports, the learned Assistant Charity Commissioner has recorded findings in paragraphs 22 and 27 of the judgment, which demonstrate that the respondents are not members of the trust according to the learned Assistant Charity Commissioner.

6. The learned Counsel for the respondents, however, states that two separate appeals bearing nos.48 of 2021 and 49 of 2021 are filed challenging rejection of Change Report Nos.368 of 2014 and 1008 of 2019. He contends that the said findings have not assumed finality and are subject to the outcome of the appeals preferred by the respondents.

7. It will be pertinent to state that the faction of the petitioners has not filed any appeal against rejection of the change reports filed by them vide the said common judgment dated 28.10.2021, passed by the learned Assistant Charity Commissioner. However, fresh elections have been held for the subsequent tenure of three years for the years 2021 to 2024, as directed by the learned Assistant Charity Commissioner.

8. The contention of the learned Counsel for the petitioners is that the learned Joint Charity Commissioner has erred in entertaining the appeal filed by the respondents. According to him, the learned Joint Charity Commissioner should have considered that the respondents are rank strangers, who had no locus to file appeal challenging acceptance of change report. He also seriously contends that the respondents who have been held to be guilt of practicing fraud by fabrication of record, could not have been permitted to assail change report, which was accepted in view of the fact that there was no contest with respect to the same.

9. As regards the appeals preferred by the respondents, the learned Counsel for the petitioners points out that although,

the appeals are filed in the year 2021, notice in the said appeal issued for the first time on 25.02.2025. He contends that this by itself will demonstrate that the respondents are not serious in prosecuting the appeal and their only intention appears to be to keep the trust and its trustees embroiled in litigation.

10. As against this, the learned Counsel for the respondents contends that in order to accept the change report, the authority must arrive at a satisfaction that the change has occurred as a matter of fact and that the change has also occurred in accordance with law and more particularly in accordance with the constitution/bye laws of the trust. He contends that although, earlier change reports have been rejected, the learned Assistant Charity Commissioner has accepted the change by taking up the change report in a special drive conducted for disposal of uncontested matters. He further contends that respondents are members of the trust and have also filed independent change reports, which although rejected, are subject matter of appeals preferred by the respondents. He also contends that since the respondents are residents of the village in which the school is located, they

are also beneficiaries of the trust and have the right to file appeal against order accepting the change report. The learned Advocate also draws attention to internal page 13 of the judgment delivered by the learned Joint Charity Commissioner and points out that the learned Joint Charity Commissioner has also deserved that he has *suo-moto* powers to satisfy himself as regards correctness and validity of a change report, which is accepted by the learned Assistant Charity Commissioner.

11. Having heard the rival submissions as aforesaid and having perused the record of the case with the able assistance of both the learned Advocates, in the considered opinion of this Court, the conclusion drawn by the learned Joint Charity Commissioner does not warrant interference. It is an admitted position on record that change reports filed with respect to changes which have occurred since the year 1989 and onwards have been rejected. It is not in dispute that rejection of change report is not challenged further. However, in view of the leave granted by the learned Assistant Charity Commissioner, fresh elections have been conducted. Since earlier change reports from the year 1989 onwards are

rejected, in the considered opinion of this Court, it was incumbent for the learned Assistant Charity Commissioner to verify as to whether the change that has reportedly occurred is a legal and valid change. Particularly, the issue of membership should have been looked into by the learned Assistant Charity Commissioner, in view of the fact that change reports pertaining to period preceding almost 32 years have been rejected.

12. As regards the contention of the learned Advocate for the petitioners that the respondents do not have locus to challenge the change report and that since it is held that they have indulged in the case of falsification of records in order to show that they are members of the trust, the appeal ought not have been entertained, it must stated that it is well settled that a person who is guilty of committing fraud or act such as falsification of record etc, has no voice to challenge any order accepting change report. To that extent, the contention of the learned Advocate for the petitioners is correct. However, the judgment of the learned Assistant Charity Commissioner is not stayed by the appellate authority. The submission of the learned Advocate for the petitioners that the manner in which

the said appeals are being prosecuted, i.e. notices in the appeals filed in the year 2021 are issued for the first time in the month of February, 2025, speaks about the intention of the respondents is also *prima facie* correct. However, it will not be appropriate to go into the said issue in the present petition since substantive appeal have whatsoever worth it may be is pending. Ignoring the issue of locus of the respondents, in the considered opinion of this Court, it was the duty of the learned Assistant Charity Commissioner to satisfy himself as regards legality of the change that was reported under Section 22.

13. In that view of the matter, although, the respondents may not have locus to challenge the change report, this Court does not deem it appropriate to interfere with the order passed by the Joint Charity Commissioner remanding the matter for adjudication of change report afresh.

14. The learned Joint Charity Commissioner has observed in Clause 3 of the operative order that in the event, the parties to earlier change reports raise any objection to the change report application no.1836 of 2021, it will be open for them to produce relevant evidence with respect to their membership

and that the learned Assistant Charity Commissioner should give opportunity to all concerned to lead appropriate evidence with respect to their membership. It must be stated that the issue of findings recorded in the earlier judgment, operating as *res-judicata* should also be considered by the learned Assistant Charity Commissioner.

15. All findings with respect to membership of respondents recorded above are only *prima facie* findings, based on the judgment dated 28.10.2021, delivered in change report no.1260 of 2015 and other matters decided by the said judgment. The observations should not be treated findings recorded by this Court.

16. The learned Advocate for the respondents also contends that in view of Section 73(a) of the Act, it was open for the respondents to participate in the change report proceeding and also to file appeal challenging the judgment accepting the change reports. The change report no.1836 of 2021 was filed on 16.12.2021 and it is decided on 21.12.2021. The tenure of three years has come to an end. Having regard to the fact that the trust is running a school and that there should be no vacuum in the trust, *status quo* with respect to management of

trust which is prevailing as on the date will continue to operate till the change report is decided on merits.

17. Writ Petition is disposed of.

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

(ROHIT W. JOSHI, J.)

Rushikesh/2025