2025:BHC-AUG:37563

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9543 OF 2025

. SHREE DATTA DEOSTHAN TRUST,
Vedant Nagar, Savedi,
Dist. Ahmednagar,
Through its authorized Trustee Secretary,
Shri Sanjay Kshirsagar,
Age: Adult, Occupation: Advocate,
Address: Office No.1, Vishnu Kamal Complex,
Appa Balwant Chowk, 640 Narayan Peth,
Pune 411 030 **.. Petitioner**
(Ori. Appellant)

VERSUS

1. Shri Murlidhar Eknath Rishipathak,
Age: 70 years, Occupation: Retired,
R/at. Shripad Industrial Estate,
At Post & Taluka Rahata,
District: Ahmednagar

2. Milind Govind Kshirsagar,
Age: Adult, Occupation: Service,
R/at. Plot No.51, Shripad Bungalow,
Behind Hotel Sanskruti, Professor Colony,
Near Datta Mandir, Savedi, Ahmednagar **.. Respondents**
(Ori. Respondents)

...
AND
...

WRIT PETITION NO. 9544 OF 2025

. SHREE DATTA DEOSTHAN TRUST,
Vedant Nagar, Savedi,
Dist. Ahilyanagar,
Through its Trustee
Sanjay S. Kshirsagar,
Age: 60 years, Occupation: Advocate,
Office at Vishnu Kamal Complex,
Narayan Peth, Pune 411 030 **.. Petitioner**

(Ori. Reporting Trustee)

VERSUS

1. Milind Govind Kshirsagar,
Age: 58 years, Occupation: Service,
R/o: Ground Floor, Sanman Apartment,
Gaikwad Colony, Savedi Road,
Ahilyanagar

2. Murlidhar Eknath Rushipathak,
Age: 83 years, Occupation: Business,
R/o: Rahata, Tq. Rahata,
Ahilyanagar **.. Respondents**
(Ori. Objectors)

...
AND
...

WRIT PETITION NO. 9545 OF 2025

1. SHREE DATTA DEOSTHAN TRUST,
A religious trust registered under
Provisions of the Maharashtra Public
Trust Act having its registration number
A-711 and office at Shri Datta Kshetra,
Vedant Nagar, Savedi, Ahilyanagar,
Through its trustees,

Shri Sanjay Kshirsagar,
Age: 56 years, Occu.: Profession,
Office at Vishnu Kamal Complex,
Narayan Peth, Pune 411 030

Mr. Dinesh Patwardhan,
C-501, Pate Sanskriti,
Tulashibagwale Colony,
Sahakarnagar No.2, Pune

Mr. Devraj Kashikar,
Prabhuniwas Society, S. No.2/12,
Dhankawadi, Pune 411 043

Tushar Karnik,
Society, Karve Nagar,
Erandawane, Pune 411 004

Pradip Joshi,
Pawan, C 205, DSK Vishwa,
Sinhagad Road, Dhayari,
Pune 411 041 **.. Petitioners**

VERSUS

1. Shri Milind Govind Kshirsagar,
Age: Adult, Occupation: Service,
R/at- “Sanman” Apartment,
Ground Floor, Gaikwad Colony,
Savedi Road, Ahmednagar

2. Shri Abhay Mohanrao Bramhe,
Age: 47 years, Occu.: Service,
R/at – Flat No.2, Gharanda Apartment,
S. No.78/4-5, Plot No.63, Davi Bhusan
Colony, Near Shrungeri Math, Paud Road,
Pune – 411 038

3. Shri Balkrishna Damodhar Amrutkar
Age: 67 years, Occupation – Business,
R/at 22, Vivek Bunglow, Ahsok Nagar,
Dhule

4. Ld. Joint Charity Commissioner,
Pune Region, Pune **.. Respondents**
(Resp. Nos.1 to 3 ori. opponents)

...

AND

...

WRIT PETITION NO. 9564 OF 2025
WITH
CIVIL APPLICATION NO.10580 OF 2025

. SHREE DATTA DEOSTHAN TRUST
A religious trust registered under
Provisions of the Maharashtra Public
Trust Act having its registration number
A-711 and office at Shri Datta Kshetra,
Vedant Nagar, Savedi, Ahilyanagar,
Through its trustees

Shri Sanjay Kshirsagar,
Age: 56 years, Occu.: Profession,
Office at Vishnu Kamal Complex,
Narayan Peth, Pune 411 030

Mr. Dinesh Patwardhan
C-501, Pate Sanskriti,
Tulashibagwale Colony,
Sahakarnagar No.2, Pune

Mr. Devraj Kashikar
Prabhuniwas Society, S. No.2/12,
Dhankawadi, Pune 411 043

Mr. Tushar Karnik
Society, Karve Nagar,
Erandawane, Pune 411 004

Mr. Pradip Joshi
Pawan, C 205, DSK Vishwa,
Sinhagad Road, Dhayari,
Pune 411 041 **.. Petitioners**

VERSUS

1. Shri Muralidhar Eknath Rishipathak,
Age: 70 years, Occupation: Business,
Residing at Shripad Industrial Estate,
At post and taluka Rahata, Ahilyanagar

2. Shri Milind Govind Kshirsagar,
Age: Adult, Occ.: Service,
R/at – "Sanman" Apartment, Ground Floor,
Gaikwad Colony, Savedi Road,
Ahmednagar

3. Ld. Joint Charity Commissioner,
Pune Region, Pune **.. Respondents**
(Resp. Nos.1 to 2 Ori. Opponents)

...

AND

...

WRIT PETITION NO. 9565 OF 2025

. Shree Datta Deosthan Trust
Vedant Nagar, Savedi, Dist. Ahmednagar
Through its Trustee Secretary,

Shri Sanjay Kshirsagar,
Age: 59 years, Occu.: Profession,
Address: Shree Dattakshetra,
Vedant Nagar, Manmad Road,
Ahmednagar-414003 **.. Petitioner**
(Original Appellant)

VERSUS

1. Shri Milind Govind Kshirsagar,
Age: Adult, Occ.: Service,
Address: Sanman Apartment, Ground Floor,
Gaikwad Colony, Savedi Road,
Ahmednagar

2. Shri Murlidhar Eknath Rishipathak,
Age: Adult, occupation: Service,
Address: Shripad Industries,
At & Post Rahata, Tal. Rahata,
Dist. Ahmednagar

3. Joint Charity Commissioner-II,
Pune Region, Pune **.. Respondents**
(Respondent Nos.1 & 2 Ori. Opponents)

...
AND
...

WRIT PETITION NO. 9979 OF 2025

. Shree Datta Deosthan Trust,
Vedant Nagar, Savedi,
Dist. Ahmednagar,
Through its Trustee Secretary,
Shri Sanjay Kshirsagar,
Age: 59 years, Occupation: Profession,
Address: Shree Dattakshetra,
Vedant Nagar, Manmad Road,
Ahmednagar – 414003 **.. Petitioner**
(Ori. Appellant)

VERSUS

1. Milind Govind Kshirsagar,
Age: Adult, Occupation: Service,
R/at: Plot No.51, Shripad Bunglow,
Behind Hotel Sanskriti, Professor Colony,
Near Datta Mandir, Savedi, Ahmednagar

2. Ld. Joint Charity Commissioner (II),
Pune Region, Pune **.. Respondents**
(Resp. Nos.1 opponent)

...
AND
...

WRIT PETITION NO. 9980 OF 2025

. SHREE DATTA DEOSTHAN TRUST
A religious trust registered under
Provisions of the Maharashtra Public
Trust Act having its registration number
A-711 and office at Shri Datta Kshetra,
Vedant Nagar, Savedi, Ahilyanagar,
Through its trustees

Shri Sanjay Kshirsagar,
Age: 59 years, Occu.: Profession,
Office at Vishnu Kamal Complex,
Narayan Peth, Pune 411 030

Mr. Dinesh Patwardhan
C-501, Pate Sanskriti,
Tulashibagwale Colony,
Sahakarnagar No.2, Pune

Mr. Devraj Kashikar
Prabhuniwas Society, S. No.2/12,
Dhankawadi, Pune 411 043

Mr. Tushar Karnik
Society, Karve Nagar,
Erandawane, Pune 411 004

Mr. Pradip Joshi
Pawan, C 205, DSK Vishwa,
Sinhagad Road, Dhayari,
Pune 411 041 **.. Petitioners**

VERSUS

1. Shri Milind Govind Kshirsagar,
Age: Adult, Occ.: Service,
R/at – "Sanman" Apartment, Ground Floor,
Gaikwad Colony, Savedi Road,
Ahmednagar

2. Shri Abhay Mohanrao Bramhe,
Age: 47 years, Occu.: Service,
R/at – Flat No.2, Gharonda Apartment,
S. No.78/4-5, Plot No.63, Davi Bhusari
Colony, Near Shrungeri Math, Paud Road,
Pune – 411 038

3. Ld. Joint Charity Commissioner (II),
Pune Region, Pune **.. Respondents**
(Resp. Nos.1 to 2 Ori. Opponents)

...

Advocate for the Petitioner in respective petitions : Mr. N. B. Khandare, Senior Advocate i/b. Mr. Parag Barde, Ms. Akshara Madake

Advocate for Respondent No.2 in WP/9543/2025, 9564/2025 & Advocate for Respondent No.1 in WP/9544/2025, 9545/2025, 9565/2025, 9979/2025, 9980/2025: Mr. R. N. Dhorde, Senior Advocate i/b. Mr. Anirudha A. Nimbalkar

Advocate for Respondent No.1 in WP/9543/2025, 9564/2025 & Advocate for Respondent No.2 in WP/9545/2025, 9565/2025, 9980/2025:
Mr. P. S. Shendurnikar

Advocate for Applicant / Intervenor in CA/10580/2025:
Mr. C. V. Dharurkar

AGP for the Respondents / State Authorities: Mr. K. N. Lokhande

...

CORAM : ARUN R. PEDNEKER, J.

Reserved On : 17.10.2025

Pronounced On : 24.12.2025

JUDGMENT:

1. Rule. Rule made returnable forthwith. With consent of parties heard finally.

2. All these petitions are taken up together as they are inter connected and relates to sequential change reports filed of the Petitioner / Trust under Section 22 of the Maharashtra Public Trusts Act.

Writ Petition No.9544 of 2025 relates to Change Report No.557/2003, whereby removal of the trustee Milind Govind Kshirsagar was reported by trustee Vitthal Laxman Atre. At the relevant time the other trustees were Madhukar Narhar Phadke (Secretary), Suhas Gangadhar Bhagwat, Sharad Ramchandra Pendse, Vilas Vinayak Dange, Vitthal Laxman Atre, Sudhir Malhar Kulkarni and Shrikant Nagesh Dharmadhikari.

Writ Petition No.9565 of 2025 relates to Change Report No.750 of 2003, whereby the reporting trustee Vitthal Laxman Atre reported a new appointment of Sudhir Vinayak Kshirsagar in the vacant place of Milind Govind Kshirsagar.

Writ Petition No.9543 of 2025 relates to Change Report No.722/2005, whereby the reporting trustee Shri Vitthal Laxman Atre reported names of the retiring trustees as Madhukar Narhar Phadke, Sudhir Malhar Kulkarni, Vilas Vinayak Dange and the re-appointed trustees as Sudhir Malhar Kulkarni, Vilas Vinayak Dange including the newly appointed trustee namely Shrikant Digambar Kavthekar.

Writ Petition No.9564 of 2025 relates to Change Report No.956/2006, whereby new appointment is made of Sanjay Shivaji Kshirsagar on the place of Purushottam Berde, who had resigned earlier and the change is reported by Shrikant Kavthekar.

Writ Petition No.9979/2025 relates to Change Report No.634/2007, whereby name of Suhas Gangadhar Bhagwat is removed from trusteeship on account of his resignation.

Writ Petition No.9545 of 2025 relates to Change Report No.1022/2008, whereby retiring and re-appointment of trustees, are reported. The re-appointed trustees are Sanjay Shivaji Kshirsgar, Sudhir Vinayak Kshirsgar and new appointments are Shrirang Gangadhar Jeste, Sudhir Mali and Vinod Purushottam Namjoshi.

Writ Petition No.9980 of 2025 relates to Change Report No.1281/2011, wherein retirement and appointment of trustees are reported. Retiring trustees are Shrirang Gangadhar Jeste, Vilasvinayak Dange, Shrikant Digambar Kavathekar and new appointments being Nitin Shrinivas Jogalekar and Prakash Maheshwar Pradhan.

3. By the respective impugned orders, all the above change reports are rejected by the Deputy Charity Commissioner, so also, by the appellate authority i.e. the Joint Charity Commissioner. Against the concurrent orders passed by the authorities below the present writ petitions are filed and they are taken up together as in the course of discussion of this Judgment. It would be seen that acceptance or rejection of each change report will have cascading effect on the next change report being accepted or rejected.

CHANGE REPORT NO.557/2003

4. The trust resolved to file the Change Report in the office of the Deputy Charity Commissioner, reporting the change of removal of Milind Kshirsagar (Respondent No.1). It was also resolved that Trustee Shri Vithal Atre will be the reporting trustee of the Change Report. On 10.06.2022, Change Report No.557/2003 was filed.

Milind Kshirsagar filed a written statement and opposed the change report.

On 18.02.2010, the learned Assistant Charity Commissioner rejected the Change Report No.557/2003.

Aggrieved by this Judgment of the Assistant Charity Commissioner, the petitioner herein preferred an Appeal

No.01/2010 before the learned Joint Charity Commissioner, Pune Region, Pune. The appeal is rejected by order dated 04.03.2025.

Being aggrieved and dissatisfied by the above-mentioned Order dated 04.03.2025, passed by the Joint Charity Commissioner writ petition is filed.

5. As per the case of the petitioner, the facts leading to the passing of the said resolution for removal of Mr. Milind Kshirsagar are as follows:-

On 27.06.2001, Captain Shri N. A. Chavan lodged a written complaint to the Assistant Charity Commissioner about the mismanagement and misappropriation by the trustees. The Inspector from the office of the Assistant Charity Commissioner, Ahmednagar was assigned to inquire into the complaint and, accordingly, by Inspection Enquiry No.5 of 2001 an enquiry was conducted into the affairs of the trust. The Inspector recorded statement of Complainant Shri N. A. Chavan and the statement of the then Trustee Secretary Shri A. N. Kale. The Inspector also recorded the statement of Respondent No.1 Shri Milind Kshirsagar. The Inspector also checked and verified the documents of the trust. The Inspector submitted his report to the Assistant Charity Commissioner.

The Inspector submitted a report to the Assistant Charity Commissioner with 10 recommendations. The learned Assistant Charity Commissioner out of these 10 directions, directed to issue of directions numbers 1, 3, 4, 5, 6 and 10 to the trust. Accordingly, on 23.04.2002, the Superintendent of Public Trust Registration Office, Ahmednagar issued 6 directions to the Trust.

On 04.05.2002, the directions were placed before the meeting of the Board of Trustees at agenda number 3. This meeting was presided over by Milind Kshirsagar. After discussing each direction, it was resolved as to how to comply with each direction. Direction No.5 did not disclose the name of the trustee and, hence, it was resolved to get a copy of the report and then proceed with the direction. Respondent No.1 (Milind Kshirsagar), who was present and presided over the meeting did not oppose the resolution.

Thereafter, a meeting of the Board of Trustees was held on 30.06.2002 to which Respondent No.1 was present. Subject at serial numbers 2, 3 and 4 of the agenda was the implementation of the directions issued to the Trust, which was resolved in a meeting held on 04.05.2002. Respondent No.1 opposed the implementation of the directions issued by the learned Assistant Charity

Commissioner. Said opposition is recorded minutes before agenda item number 4.

As resolved in the meeting held on 30.06.2002, the Secretary took inspection of the Inspector's report and prepared their notes. In the meantime, the Trustees, staff and devotees submitted various complaints against the conduct of Respondent No.1. Notes of the Inspector's report and complaints against Opponent No.1 were placed in a meeting dated 29.12.2002 at agenda number 2. In a meeting convened on 29.12.2002, the Secretary of the trust prepared written notes based on the Inspector's report, which were handed over to Respondent No.1. A copy of the complaints and written notes on the Inspector's report were also handed over to Respondent No.1.

On 12.01.2003, a meeting of the Board of Trustees took place, during which Respondent No.1 presented a written letter requesting an extension of one month to formulate a response regarding the complaints lodged against him and the contents of the Inspector's report. The Board of Trustees considered the letter dated 12.01.2003 submitted by Respondent No.1 and resolved to grant time to Respondent No.1 till 15.02.2003.

One month's time as prayed by Respondent No.1 was granted to him. On 14.02.2003, Respondent No.1 sent his reply to the Trustee Secretary Shri Madhukar Phadake. In the reply, Respondent No.1 stated that the Board of Trustees does not have any authority to call a written reply from another trustee. Opportunity was given to reply to various complaints, but Respondent No.1 restricted his reply to the point of authority of the Board to call for a reply. In this reply, Respondent No.1 did not deny the complaints against him. Respondent No.1 was informed of the Inspectors report and complaints against him. Still, he restricted his reply only to the point of the power of the Board of Trustees to call for an explanation from another trustee and waived his right and opportunity to deny and contest the allegations against him.

On 05.03.2003, the Trustee Secretary issued a notice of a meeting scheduled on 13.03.2003. The trustee Secretary placed a reply dated 14.02.2003 filed by Respondent No.1 (Exhibit 91) before the Board of Trustees in a meeting held on 13.03.2003.

On 13.03.2003, a meeting of the Board of Trustees was held at the Trust office. The meeting was attended by all the trustees, including Respondent No.1. At the time of the commencement of the meeting, all trustees put their names and signatures on the proceeding book but Respondent No.1 even before the commencement of the meeting after putting his signature put a remark that the page was blank.

The Board of Trustees, after given due consideration to all complaints and directions of the learned Assistant Charity Commissioner passed the resolution to remove Respondent No.1 from the trusteeship. Respondent No.1, who was present at the meeting did not put forth his defense.

SUBMISSIONS:-

6. **Mr. N. B. Khandare**, learned Senior Advocate for the petitioner submits that that both the authorities have rendered a finding that Milind Govind Kshirsagar is a permanent trustee under the Trust constitution and he cannot be removed by the other trustees. It is contended that Milind Govind Kshirsagar was appointed along with other trustees and that there is no differentiation made in the trust document as regards permanent trustee and ordinary trustee. The term of the trustees is specified in the trust instrument and 1/3rd of the trustees retired after every three years.

Second submission of Mr. N. B. Khandare, learned Senior Advocate for the petitioner is that the authorities have held that the remaining trustees have no authority under the trust deed to remove the hereditary trustee. The authorities constituted have failed to appreciate that although the trust document does not provide for a separate clause for removal of trustees it is to be seen from the instrument of the trust that the automatic vacation of the post of the trustee is provided for under clause 11 of the constitution of the trust and that the remaining trustees appoint new trustees after 1/3rd of the trustees retired every 3 years. Since, the trustees appoint other trustees the power of removal exists in the remaining trustees as they also have a power of appointing the trustees. Thus, for having entered into a disqualification as mentioned under Clause 11(6) the trust by giving specific notice to Milind Govind Kshirsagar has removed him from trusteeship. Said exercise is valid in terms of Clause 11 of the provisions of the Trust.

The learned Senior Advocate further submits that the removal process is initiated on account of a inquiry report made by the Inspector on directions of the Assistant Charity Commissioner. The Assistant Charity Commissioner directed the office to place the same before the Trust and to take appropriate action thereon. On receipt of such a report from the Assistant Charity Commissioner and, also, considering that there were various other complaints against Milind Govind Kshirsagar, which were already noticed to him, all these factors were taken into consideration in the meeting dated 13.03.2003 and after due deliberation in the meeting and on notice to all the trustees and after due deliberations the trustee was removed. Milind Govind

Kshirsagar has acted against the interest of the trust and, accordingly, he was removed from the position of the trustee by the petitioner.

The learned Senior Advocate submits that the authorities constituted were purely being impressed by the fact that Milind Govind Kshirsagar is a permanent trustee who cannot be removed and has also not considered the material in the right perspective, particularly, that there was no denial of natural justice and all the material which was relied upon for removal was with Milind Govind Kshirsagar. He had taken time to file Reply to the same but did not contest the report or the complaints made except saying that the trustees did not have the authority to remove another trustee. Milind Govind Kshirsagar did not contest the report of the Inspector which was conducted after due deliberations with all concerned including Milind Govind Kshirsagar and, also, did not contest the other complaints as such the action of the petitioner should have not been faulted by the Deputy Charity Commissioner or the Joint Charity Commissioner.

7. Considering the above, the learned Senior Advocate for the Petitioner submits that the impugned order in Writ Petition No.9544 of 2025 be set aside and Change Report No.557/2003 be accepted.

8. Per contra, **Mr. R. N. Dhorde**, learned Senior Advocate appearing for the respondent submits that on perusal of the trust instrument it would be seen that Milind Govind Kshirsagar is appointed by the original settler of the trust as a permanent trustee and his term is not limited by the instrument of trust. He submits that there has been a particular fraud committed by the Advocate of the Trust namely Sanjay Shivaji Kshirsagar who later on was made the trustee and on manipulation of the record he has usurped up the entire trust and has been appointing his own people by removing the permanent trustee.

The learned Senior Advocate for the respondent further submits that the trust instrument does not provide for removal of a trustee. He particularly submits that under the Maharashtra Public Trusts Act removal of a trustee is a very serious matter and can only be done by following the procedure prescribed under the Act and the removal of a trustee cannot be at the hands of the remaining trustees. He submits that in the instant case, there is no power conferred upon the trustees under the constitution to remove a trustee incurring disqualification under clause 11(6) of the instrument and, as such, no such powers can be exercised by the remaining trustees under the instrument of trust to remove a trustee. He submits that after every three years 1/3rd trustees retire and the remaining trustees appoint the new trustees.

However, the retirement clause is not applicable to the permanent trustees. But, since, the change reports are rejected, one after the another, the next trustee who has come in the place of Milind Govind Kshirsagar his change report also has been rejected both on account of the fact that there was no vacancy and, also, that there was no consent of the person to become a trustee and that Sanjay Shivaji Kshirsagar (next appointed trustee) has categorically stated before the authority that he does not wish to become the trustee as Milind Govind Kshirsagar is a permanent trustee and he accepts him to be a permanent trustee appointed by the original settler.

The change reports of appointments of other trustees also cannot be accepted in absence of vacancy. He submits that in the present trust there is no General Body of the voters who elects the trustees. In the present Trust, the Constitution provides for appointment of the vacant positions of trustees by the remaining trustees and, since, the removal of the trustees is held to be unlawful the change report reporting subsequent appointments also become unlawful. He submits that all future change reports also have to fall on account of this problem except the appointment of the permanent trustee Milind Govind Kshirsagar.

9. Having considered the rival submissions, the issue that arises for consideration is,

{1} Whether trust document provides for permanent / hereditary trustee or the term of all the trustees is limited ?

{2} Whether the Assistant Charity Commissioner on report of the Inspector could have directed the trust to take action in terms of the report and, whether the remaining trustees would have removed the respondent - Milind Kshirsagar in pursuance of the inquiry report and other complaints ?

{3} Whether the Assistant Charity Commissioner could have lawfully directed to place the report submitted by the Inspector before the Trustees for action thereon or the Assistant Charity Commissioner should have placed the report before the Charity Commissioner in terms of Section 41(D) for further action ?

{4} Whether the removal of Mr. Milind Kshirsagar was in accordance with law i.e. whether proper notice is given of the meeting for removal, whether appropriate opportunity is given to defend ?

THE TRUST DOCUMENT OF Shri Datta Deosthan Trust:-

10. The trust document particularly provides that Shri Datta Devasthan Trust, Vedant Nagar, Manmad Road, Ahmednagar is registered under the Maharashtra Public Trusts act under

Section 50A(2) on 22.08.1991 and amended on 04.06.1999. The object of the trust is to make pooja-archa and others devotional services of Shri Datta Mandir and to observe various festivals, donate food, to maintain and if required increase the property of the trust, to assist the devotees and to make provision for devotees to attend the temple and to make stays arrangement for them and for various other activities relating to Shri Datta Mandir and other pious activities relating to Shri Datta Mandir. The property of the temple is mentioned in the register. It is stated that the property would be with the trust and the trustees will have no ownership, right over the trust property.

Clause 6 of the trust document provides that Shri Ramkrushna Kshirsagar Maharaj as the Gadipramukh and that he would remain the Gadipramukh till his demise and after him none would be made the Gadipramukh.

Clause 7 of the trust document provides the powers of the Gadipramukh ie. Shri Ramkrushna Kshirsagar Maharaj that he would chair the meetings of all the trust, then conduct various activities as mentioned in clause 7.

Clause 8 provides that the minimum trustees would be 5 and maximum would be 9.

Clause 9 provides for secretarial post.

Clause 10 provides for the qualification of being the trustee. The trustee should be major and of sound mind and selflessly work for objects of the trust and that he should be Hindu by religion. It is specifically mentioned in Clause 10, as under:

> "...प. पू. श्री. क्षीरसागर महाराजांचे घराण्यातील श्री प. पू. महाराजांचे व्यतिरिक्त **एका पुरुष व्यक्तीची विश्वस्त म्हणून कायम नेमणूक करण्यात येईल**. प. पू. श्री सागर महाराजांच्या घराण्याची वंशावळ माहितीसाठी परिशिष्ट "अ" मध्ये नमूद केलेली आहे."

Clause 11 of the constitution of trust provides for reduction of trustee from post. Sub-clause 1 provides that if any member wants to retire he may be retired on his resignation, on his demise. Sub-clause 2 provides if the trustee is unable to perform physically, Sub-clause 3 provides that the trustee becomes mentally retired, Sub-clause 4 provides that if the trustee has been declared insolvent, Sub-clause 5 provides that if the trustee has been punished for any IPC offence, Sub-clause 6 provides that if the trustee acts against the interest of the trust thereby causing loss of dignity of the trust, Sub-clause 7 provides that if the trustee does not attend 4 consecutive meetings with permission, Sub-clause 8 provides that if the trustee violates the provisions of the Maharashtra Public Trusts Act and is punished for the same, Sub-clause 9 provides that if the trustee without permission of the Assistant Charity Commissioner remains outside Indian for more than 6 months the trustee would loose his trusteeship.

Clause 12 provides filling up of the temporary vacancies if by vacancy the trustees are reduced to less than 5 then the temporary vacancy shall be filled in and that the vacancy so filled in will be co-terminus with his tenure. Temporary positions can be made by Param Pujya Shri Kshirsagar Maharaj.

Clause 13 provides for appointment of trustees. It provides that Shri Kshirsagar Maharaj will have complete control of appointment of trustees. After the term of the trustee, Shri Kshirsagar Maharaj will have the authority to reappoint them depending upon their performance and if he deems fit and that he would not be under any obligation to reappoint the trustee. It is stated that after the demise of Shri Kshirsagar Maharaj the new trustees would be appointed by the remaining trustees.

Clause 14 provides the term of the trustees. It is stated that 1/3rd trustees would retire every 3 years. In the event that there is no consensus amongst the trustees as to who would retire then the same would be by Chits. The retiring trustees would be eligible for reappointment. The power to appoint the trustee would be with Param Pujya Shri Kshirsagar Maharaj and after his demise with the remaining trustees.

Clause 15 provides for names of existing trustees. Sub-clause 4 and 5 had shown 2 vacant post which were filled in later on by appointment of Milind Kshirsagar and another person namely Madhav Sitaram Bhatkhande by Param Pujya Shri Kshirsagar Maharaj.

Clause 16 provides for the duties and rights of the trustees.

11. From the constitution of the trust, for our purpose, Clause 10 becomes relevant, which provides for the appointment of one trustee from the family of Param Pujya Shri Kshirsagar Maharaj apart from Param Pujya Shri Kshirsagar Maharaj on permanent basis. Clause 10 provides for one member of the family to be appointed as the permanent trustee and the genealogy of the family of Param Pujya Shri Kshirsagar Maharaj is also annexed with the trust document.

12. Both the authorities below has interpreted that the appointment of Milind Kshirsagar by Param Pujya Shri Kshirsagar Maharaj as one of the family members of the Param Pujya Shri Kshirsagar Maharaj as a permanent appointment in terms of clause 10.

However, the submission of the petitioner is that the term of the trustees is limited by Clause 14 of the trust document. Clause 14 provides that every 3 years; 1/3rd trustees would retire. However, the retiring trustee can also be reappointed. The power to appoint the trustees was with Param Pujya Shri Kshirsagar Maharaj and after his demise with the remaining trustees.

Based on Clause 14, it is stated that Milind Kshirsagar was appointed as trustee on 08.06.1999 and with efflux of 3 years period he has retired. It has also been submitted that the trustee can be removed and has been removed by virtue of the report made by the inspector and the same power is available under 11(6) of the constitution.

Bare reading of the above clauses of the trust document would indicate that the trust document provides for permanent trustee from the family of Param Pujya Shri Kshirsagar Maharaj. Milind Kshirsagar is appointed by Param Pujya Shri Kshirsagar Maharaj. By conjoint reading of Clause 10 with Clause 14, it would be seen that barring Param Pujya Shri Kshirsagar Maharaj; 1/3rd trustees retire every 3 years. But, retirement of permanent trustee or a family member is not noted in Clause 14. Clause 14 cannot be read in derogation of clause 10.

The trust document does not provide for separate procedure for appointment of the permanent trustee from the family of Param Pujya Shri Kshirsagar Maharaj. The appointment made of Milind Kshirsagar (Nephew of the Maharaj) is by Param Pujya Shri Kshirsagar Maharaj and one person from the family has to remain permanently on the trust.

Thus, in absence of any provision specifically dealing with the reappointment of the family members or any provision relating to limiting the tenure of the permanently appointed trustees from the family of the settler of the trust Param Pujya Shri Kshirsagar Maharaj, the appointment of Milind Kshirsagar will have to be treated as continuous and permanent and not limited by Clause 14.

An attempt is made by the petitioner to appoint another family member of Param Pujya Shri Kshirsagar Maharaj, which is reflected in the connected change report, however, the same has also failed and the same will be discussed in the subsequent change reports.

13. This court is of the view that for any of the reasons mentioned, unless the position of permanent trustee becomes vacant on resignation, demise or removed by permissible means, which I will discuss later, the trustee appointed from the family of Param Pujya Shri Kshirsagar Maharaj i.e. Milind Kshirsagar would continue to hold his post. Clause 14 which provides for retirement of 1/3rd trustees of managing committee every 3 years cannot be pressed into service for retirement of Milind Kshirsagar. In any event, the argument of the petitioner that the respondent ought to have been retired within 3 years of his appointment does not hold

good. Even on the bare reading of the Clause 14 as only 1/3rd members retire every 3 years meaning thereby that the term of the trustee would ordinarily be of 9 years. However, the tenure of the permanent trustee is not limited.

14. In the instant case, Milind Kshirsagar is removed from the post of the trustee. So the issue is whether in terms of Clause 11(6) of the trust document whether the permanent trustee could have been removed by the other trustees, more particularly, in view of the fact that the directions issued by the Assistant Charity Commissioner to place the inspection report before the trustees for necessary action. Clause 11 provides for reduction of the trustees. It has not conferred any power upon the remaining trustees to remove any of the trustee member. The argument of the learned counsel for the petitioner is that the trustee is appointed by other trustees and, thus, the remaining trustees can also remove a trustee. This is a flawed argument and all the trustees are equal, once appointed and, unless, the constitution of the trust gives power to the remaining trustees to remove the defaulting trustee incurring disqualification under Rule 11(6) the remaining trustee cannot remove a defaulting trustee. There is no procedure prescribed in the constitution of the trust to remove a trustee. The only process by which the trustee can be removed is by following

the process given under the Maharashtra Public Trusts Act and by the authorities constituted under the Act.

15. Chapter VI of the Maharashtra Public Trusts Act provides for control over the public trusts.

Section 37 provides that the Charity Commissioner or the Deputy Charity Commissioner or the Assistant Charity Commissioner or any officer authorized by the State have various powers over the public trust as noted in the section which includes the power to inspect the books of accounts and any proceedings of the trust.

Section 38 provides that if the report is received by the officer authorised under section 37, the Deputy or Assistant Charity Commissioner to whom the report is submitted or complaint is made shall require the trustee or any other person concerned to submit an explanation thereon within a period he thinks fit.

Section 39 provides that on considering the report referred to in section 38, the accounts or explanation and after holding an inquiry in the prescribed manner, the Deputy or Assistant Charity Commissioner shall record his findings on the question whether or not a trustee or the person connected with the trust has been guilty of gross negligence, breach of trust, misappropriation or misconduct which resulted in loss to the trust, and make a report thereof to the Charity Commissioner.

Section 40 provides the Power of Charity Commissioner to issue orders on report received under section 39.

Section 41B provides that the power of the Charity Commissioner or Deputy or Assistant Charity Commissioner to institute an inquiry with regard to charities. In sub-clause 7 provides that the Deputy or Assistant Charity Commissioner shall submit it's report to the Charity Commissioner or he may, proceed under section 38, if necessary.

Section 41A provides that the Charity Commissioner may from time to time issue directions to any trustee of a public trust to ensure that the trust is properly administered and the income thereof is properly accounted for.

Section 41B provides for power to institute inquiries by the authority i.e. the Charity Commissioner or Deputy or Assistant Charity Commissioner on complaint or *suo motu*.

In the instant case, the inquiry was instituted against the trustees and the report was received by the Assistant Charity Commissioner of the inquiry conducted by the Inspector.

Section 41D provides for suspension, removal and dismissal of trustees. For ready reference, Section 41D is noted below:-

Section 41D - Suspension, removal and dismissal of trustees

(1) The Charity Commissioner may, either on application of a trustee or any person interested in the trust, or on receipt of a report under section 41B or suo motu may suspend, remove or dismiss any trustee of a public trust, if he,--

(a) makes persistent default in the submission of accounts report or return;

(b) willfully disobeys any lawful orders issued by the Charity Commissioner under the provisions of this Act or rules made there under by the State Government;

(c) continuously neglects his duty or commits any malfeasance or misfeasance, or breach of trust in respect of the trust;

(d) misappropriates or deals improperly with the properties of the trust of which he is a trustee; or

(e) accepts any position in relation to the trust which is inconsistent with his position as a trustee;

(f) if convicted of an offence involving moral turpitude.

(2) (a) When the Charity Commissioner proposes to take action
under sub-section (1), the Charity Commissioner may issue notice to the trustee or the person against whom the action is proposed to be taken only when he finds that there is prima facie material to proceed against the said person.

(b) The trustee or person to whom a notice under clause (a) is issued, shall submit his reply thereto within fifteen days from the date of receipt of notice.

(c) If the person fails to give reply to the notice issued under clause (a) or the Charity Commissioner finds that the reply is not satisfactory, the Charity Commissioner shall frame charges against the said person within fifteen days of the filing of the reply or the default in the filing of reply, as the case may be, and give the said person an opportunity of meeting such charges and after considering the evidence adduced against him and in his favour, may pass order regarding suspension or removal or dismissal within three months from the date of framing of charges. If it is not practicable for the Charity Commissioner to issue notice, frame charges and pass final orders within stipulated time, he shall record reasons for the same.

(d) The order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation, if any, and the finding on each charge, with reasons therefor.]

(3) Pending disposal of the charges framed against a trustee the Charity Commissioner may place the trustee under suspension.

(4) Where the Charity Commissioner has made an order suspending, removing or dismissing any trustee and such trustee is the sole trustee or where there are more than one trustee and the remaining trustee according to the instrument of trust, cannot function or administer the trust without the vacancy being filled, then in that case the Charity Commissioner shall appoint a fit person to discharge the duties and perform the function of the trust, and such person shall hold office only until a trustee is duly appointed according to the provisions of the instrument of trust.

(5) [* *]*

(6) An appeal shall lie to the Court against the order made under sub-section (1), as if such decision was a decree of a district court as a court of original jurisdiction from which an appeal lies, within sixty days from the date of the order.

(7) The order of the Charity Commissioner shall, subject to any order of the Court or in appeal, be final.

Section 41D provides that the Charity Commissioner may either on application of a trustee or any person interested in the trust or on receipt of a report under Section 41B or suo motu may suspend, remove or dismiss any trustee of a public trust in the conditions mentioned under Section 41D. There are also interim powers available to the Charity Commissioner while considering the report under Section 41B or an application under Section 41D.

Sub-clause 6 and 7 of Section 41B provides for after completion of the inquiry the person holding the inquiry (not being Charity Commissioner) shall submit the report to the officer who entrusted the inquiry to him and further the Deputy or the Assistant Charity Commissioner of the region concerned shall submit his own report or report received by him under this section to the Charity Commissioner or he may proceed under Section 38 if necessary or send a copy of the report to the Charity Commissioner with his remarks. The Charity Commissioner thereafter may act on the report.

16. From the above noted sections of the Maharashtra Public Trusts Act, it is apparent that if any action is to be initiated against the trustee for having acted against the trust for the conditions mentioned in Section 41D the Charity Commissioner

can suspend the trustee and on completion of further process can remove the trustee. Only the Charity Commissioner (Also Joint Charity Commissioner in view of Section 3A of the Act) and no other person below the Charity Commissioner is authorized to do the same. The power conferred on the Charity Commissioner are of the Charity Commissioner and the Joint Charity Commissioner alone. It is well settled that to remove a person a very high degree of proof is required. The order passed by the Charity Commissioner under Section 41D(1) is treated as a decree of a district court of original jurisdiction.

17. Thus, from the above, it will be clear that if the trustee is found violating Section 41D(1) or incurs disqualification under the bye-laws and in absence of any specific power under the trust instrument to remove trustee by the remaining trustee then the only option available is to approach the Assistant Charity Commissioner or Deputy Charity Commissioner, who may inquire into the matter and may submit report to the Charity Commissioner under Section 41B. The Charity Commissioner may then proceed under Section 41D take necessary action by following the procedure noted in Section 41D. The Charity Commissioner also has suo-motu power of inquiry and action as noted in Section 41D. In the instant case, the inquiry was instituted against the

trustees and the report was received by the Assistant Charity Commissioner of the inquiry conducted by the Inspector. The remaining trustee does not have the power to remove the trustee. The argument of the learned counsel for the petitioner that the trustee could have been removed by the remaining trustees, in view of the directions of the Assistant Charity Commissioner is beyond the powers conferred upon the remaining trustees under the trust instrument and cannot be accepted. For removal of the trustee such a report can only be submitted to the Charity Commissioner. The Assistant Charity Commissioner cannot direct the trustees to do something which is beyond their authority and such is also not a direction in the report of the Inspector. Such a power of removal of trustee is not even conferred upon the Assistant Charity Commissioner under the Act.

18. In view of answering the above issue, nothing further is required to be determined by me. However, for the purpose of completion, I will proceed on the basis that a power is available in the constitution of the trust for the trustees to remove a defaulting trustee incurring disqualification under Clause 11(6) of the trust instrument and to determine, whether the removal is lawful in the facts of the case.

The basis of the removal is stated to be complaints made by the devotees and importantly the report of the Inspector, which was submitted on complaint made by Captain Shri N. A. Chavan. The report was forwarded by the Superintendent of Public Trusts Registration Office, Subdivision Ahemednagar, on direction of the Assistant Charity Commissioner to the trustees to take appropriate action. The report states that if any trustee is found to act against the interest and bring the trust in disrepute, action be taken against him. The same reads as under:

> "५. निरीक्षक अहवाल न्यासाच्या हिताविरुद्ध ज्या विश्वस्तांचे वर्तन आढळून आले आहे व त्यामुळे देवस्थानाच्या कीर्तीस बाधा आली आहे असे विश्वस्तांना प्रथम दर्शनी आढळून आले असल्यास योजनेतील कलम ११(६) नुसार विश्वस्तांनी कार्यवाही करावी"

19. Notice dated 05.03.2003 was issued by the Secretary calling for the meeting of the trustees on 13.03.2003, which had around 10 topics on agenda. Agenda Nos. 2 and 3 were relating to letter / reply of trustee Milind Kshirsagar to the Secretary dated 14.02.2003 and further proceedings of point no.2 of the meeting dated 29.12.2002 and Inspectors report forwarded by the Assistant Charity Commissioner. The meeting was scheduled on 01:30 p.m. at Shri Datta Deoshan Trust office. The persons present for meeting were 7 including Milind Kshirsagar, who has made a note on the proceeding book that the proceedings paper is blank and, therefore, fresh signature be made on the paper after the meeting. In the said meeting Milind Kshirsagar was removed as a

trusteee under 11(6) of the trust instrument. In the change report affidavits are filed by Shrikant Nagesh Dharmadhikari and Madhukar Narhari Phadke.

20. From the perusal of the record of the proceedings it is seen there is no specific agenda to discuss removal of Milind Kshirsagar. The meeting held on 13.03.2003 the agenda of the meeting was only to discuss the reply filed by Milind Kshirsagar. However, further resolution for removal was not on the agenda. In agenda no.2, the subject was letter given on 14.02.2003 by Milind Kshirsagar to the Secretary and take decision thereon. Thereafter, 21 misconducts of Milind Kshirsagar are noticed in the resolution of 13.03.2003. Thereafter, it is seen from item no.3 that the report of the charity commissioner and the reply letter of Milind Kshirsagar is taken up for discussion and in the said item discussion is taken up and there are 21 misconducts notified against Milind Kshirsagar and, then, resolution is passed considering the 21 misconducts and by observing that the respondent Milind Kshirsagar is bringing disrepute to the trust and the actions of Milind Kshirsagar has made difficult for the trust to function and the respondent Milind Kshirsagar is removed from the position of the trustee under 11(6) of the constitution from 13.03.2003.

21. In the evidence lead before the Deputy Charity Commissioner it is to be seen that Mr. Vitthal Atre although filed the change report did not support the case of the trust in the change report. He filed his affidavit that the resolution to remove respondent Milind Kshirsagar was pre-meditated and false complaints were manufactured to justify his removal. The respondent Milind Kshirsagar also filed affidavit specifically accuses Suhas Bhagwat and Sanjay Kshirsagar of plotting against him to gain control over the trust's administration.

22. The evidence adduced by Shrikant Nagesh Dharmadhikari and Madhukar Narhari Phadke did not inspire confidence. Both the authorities have concluded that the meeting dated 13.03.2003 is an orchestrated one and that the change report has not taken effect and the same is without following due process. Considering the same, both the authorities have rejected the change reports on merits.

23. I have perused the evidence of Shrikant Nagesh Dharmadhikari and Madhukar Narhari Pahdke, so also, perused the record produced. It is not possible to take a different view than taken up by both the authorities. Notice of removal is not given to Milind Kshirsagar. Affidavits of other trustees present is not filed, except trustee Shrikant Nagesh Dharmadhikari and Madhukar

Narhari Phadke. Mr. Atre the reporting trustee has filed affidavit contradicted the above two witnesses.

24. The petitioner thus failed before both the authorities that the meeting dated 13.03.2003 was lawfully convened for removal of Milind Kshirsagar and that the removal was in accordance with law. Thus, there is no case even on merits and, accordingly, Writ Petition No.9544 of 2025 stands dismissed.

25. Writ Petition No.9565 of 2025 relates to Change Report No.750 of 2003. In this change report both the authorities have held that Sudhir Kshirsagar appointed in place of Milind Kshirsagar as a family member of Kshirsagar family is a bogus and has not been appointed by the trustees. It is specifically observed that Sudhir Kshirsagar has not given consent for his appointment. His consent being obtained by letter dated 26.08.2003 has not been established.

26. Ms. Akshara Madake, the learned counsel for the petitioner has made submissions in Writ Petition No.9565 of 2025, as under:

Shri Sudhir Kshirsagar gave his consent for being a trustee by his consent letter dt. 26/08/2003 and on this letter his appointment was done i.e. this letter is still in existence and hence the consent survived and in the said letter he has given in detail about the fluctuations occurred from his side for giving the consent Hence, the Ld. ACC and Ld. Jt. CC both the Courts wrongly observed that his consent is not free consent.

The Assistant Charity Commissioner condoned the delay in filing Change Report No. 750/2003 by a reasoned order dated 19/11/2009, which was not challenged by the Respondents. The Joint Charity Commissioner approved the order of condonation of delay and its grounds but still in the judgment does not recognises the letters submitted by Shri Sudhir Kshirsagar

That, there is no classification of trustees in the scheme and hence the class mentioned in the judgment as Permanent Hereditary Trustee is not in existence and hence the powers of the Board of Trustees to remove the Permanent Hereditary Trustee cannot be considered, it was understandable if it was discussed in the judgment regarding the powers for removal of trustees but it is not considered and the class considered is not in existence.
Hence, the finding is contrary to the scheme itself.

The omission of Shri Sudhir Kshirsagar as a party to the appeal was not fatal, as the appeal was filed by the trust itself, which is the principal entity concerned with the change report.

The Lower Appellate Court improperly framed an issue on the removal of Shri Milind Kshirsagar as a permanent trustee.

That matter did not fall within the ambit of the Change Report and, therefore, should not have been considered.

The absolute power of appointing the Trustees is with the board of Trustees as per the scheme, both the Courts below have wrongly observed and/or questioned the appointment of Sudhir Kshirsagar as to why he was appointed and no other person from the lineage, but as the absolute powers are with the Board of Trustees and the procedure prescribed in the scheme of taking consent letter, justifies the action of the Trust.

Hence, it was not open to the lower authorities to question the scheme and absolute power of the Trustees.

27. It is to be seen that Sudhir Kshirsagar has stated that he has not consented to his appointment and even after the Judgment of the Assistant Charity Commissioner rejecting the change report 750/2003 has not challenged the same. The petitioner tried to place Sudhir Kshirsagar in the place of Milind Kshirsagar and in any event when the vacancy in the place of Milind Kshirsagar had not accrued it was not available for the petitioner to appoint Sudhir Kshirsagar in the place of Milind Kshirsagar. Particular submission is made that there can be multiple members of the Kshirsagar family and their appointment should not be treated as in the place of Milind Kshirsagar. It is

pertinent to note that the change report is filed belatedly and in any event Sudhir Kshirsagar has himself never consented to be the member of the trust. In this fact situation, the cascading effect is that there was never vacancy arisen on removal of Milind Kshirsagar. Subsequent appointments are also affected. All the change reports are rejected by the charity commissioner. Perusal of the same would indicate that in absence of the permanent trustee the other appointments have taken place.

28. The next petition bearing Writ Petition No.9543 of 2025, relates to Change Report No.722/2005, whereby the reporting trustee Shri Vitthal Laxman Atre reported names of the retiring trustees as Madhukar Narhar Phadke, Sudhir Malhar Kulkarni, Vilas Vinayak Dange and the re-appointed trustees as Sudhir Malhar Kulkarni, Vilas Vinayak Dange including the newly appointed trustee namely Shrikant Digambar Kavthekar. The said change reports are also rejected by both the authorities. In this both the authorities have held that there was no notice that the change has to take place. The court has taken into consideration that vacancy has never existed in the place of Milind Kshirsagar and such the change report has been finally rejected.

The authorities have also observed that notice of meeting dated 23.05.2005 purportedly convened to effect reappointments and a new appointment was vitiated by procedural irregularities. Notice was not duly served on all trustees, especially respondent no.2 and the quorum and voting process remain unsubstantiated. The Joint Charity Commissioner has proceeded to observe that the resignation letters, consent forms, and appointment orders are not independently proved and are tainted by the procedural invalidity of the meeting where they originated. It has also observed upon the conduct of the appellant trust during the pendency of the proceedings including the last minute change of advocate and repeated attempts to open concluded proceedings despite time bound directions of the Hon'ble Supreme Court.

29. Similarly, in Writ Petition NO.9564 of 2025, Change Report No.956 of 2006, the authorities have noticed independently that Mr. Sanjay Kshirsagar was the Advocate of the trust earlier. The authorities have observed that the clause 22(5) of the trust scheme mandates a minimum 15 days notice period for convening trustee meetings, with service upon all trustees. Clause 23 stipulates the necessary quorum. The authorities have observed that the change report 557/2003 was rejected. That, there was failure to compliance of 15 days notice. Affidavits were filed to substantiate procedural compliance and affirm the appointment decision. Their affiance were never tested through cross-

examination. The minutes of the meeting and supporting documents are inconsistent and not uniformally signed. The concurrent findings of fact are not perverse and, this court, in exercise of writ jurisdiction would not disturb the findings rendered by the authorities below.

30. It is to be seen that from 2003, more than 30 change reports were pending consideration before various authorities and finally by orders of the Hon'ble Supreme Court some of the change reports were disposed of from which the present petitions arise.

31. Before the earlier change report is decided, another change report is filed, thereafter another, keeping all the change reports pending for a long period of time. The constitution of the trust is such that rejection of the first change report has cascading effect on all the subsequent change reports in absence of the body of the voters to elect the new trustees.

32. A peculiar situation has now arisen that all the change reports are rejected and the consequent effect would be that all change reports pending as of today before various authorities would have to be necessarily rejected. Thus, over the passage of time trustees (except the permanent trustees) would be illegally holding the post of trustee. It is also not possible to restore status

quo ante due to long passage of time. In this fact situation, it would be necessary for this court to protect the trust and pass following directions while dismissing all the petitions.

33. It is thus directed that the Assistant Charity Commissioner having jurisdiction over the region of the trust shall make amendment to the constitution of the trust under Section 50A of the Maharashtra Public Trusts Act by incorporating the devotees / worshipers of Shri Datta Deosthan as members of the trust. Provision be also made for induction / enrollment of members. The trustees should be appointed after enrolling members of the trust and the trustees should have fixed terms, except permanent trustees (as that is the intention of the settler of the trust). The Assistant Charity Commissioner can have a separate mode of appointment and retirement of permanent trustee within the family members of Kshirsagar family as shown in the annexure of the Trust, if so required and representation in that regard is made by the Kshirsagar Family.

The modification of the trust document to be carried out within 6 months and the process of implementation of the amended trust document by holding elections to the trust and the appointment of the trustees (except permanent trustees) shall be carried out within next 12 months i.e. total of 18 months to complete the process.

The above modification would be necessary to give effect to the intention of the settler of the trust and to carry out the object of the trust and to protect the interest of the trust for the long term. The voters / members of the trust should be the followers of the Shree Datta Deosthan temple. All the existing trustees would also be eligible to contest the elections if found fit by the Charity Commissioner.

34. Rule stands discharged. The Writ Petitions stand dismissed with above directions. The civil application for intervention is also disposed of.

[ARUN R. PEDNEKER, J.]

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