

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1257 OF 2025

Bhogawati Shikshan Prasarak Mandal
Shahunagar, Parite

...Petitioner

Vs.

Jaysing Gopalrao Jadhav-Hujare & Ors.

...Respondents

Mr. S. S. Patwardhan a/w Chetan Patil, Mandar B., B. Mandlik & Atharva Kamble for Petitioner.

Ms. S. S. Bhende, AGP for State.

Mr. Hiten Venegaonkar a/w Manoj Sabale h/g Kamar Ali Shaikh for Respondent No.2.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATED: 29 JANUARY 2025

P.C.

1. We have heard Mr. Patwardhan, learned counsel for the petitioner and Mr. Venegaonkar, learned counsel for Respondent No.2.
2. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs :

"(a) That this Hon'ble Court may be pleased to issue a Writ of Certiorari, or any other appropriate Writ, order or direction in the nature of writ thereby quashing and setting aside the impugned order dated 20th January 2025 passed by Respondent No. 23 herein below Exhibit 4 and Exhibit 7 and further be pleased to allow the Applications filed by the Petitioner below Exhibit 4 and Exhibit 7 and in consequence set aside the election programme."

3. At the outset, we may observe that this is the second round of proceeding before this Court. On an earlier occasion, the petitioner had approached this Court in the proceedings of Writ Petition No. 46 of 2025 praying for a relief that an order dated 20 December 2024 passed by the learned Joint Charity Commissioner on an application dated 20 December 2024 moved by one Rajendra Vishwanathh Adake - Respondent No.2 be quashed and set aside, which was an order whereby the inspector was directed to conduct the election as early as possible. At the relevant time, the petitioner had urged before the Court that against rejection of change report No. 439 of 2022 by the learned Deputy Charity Commissioner, Kolhapur vide order dated 18 December 2024, petitioner had filed an appeal under Section 70 of the Maharashtra Public Trust Act, 1950 (for short "the said Act") along with an application for stay before the Appellate Authority namely the Joint Charity Commissioner. However, before such application could be adjudicated an election programme was notified, and on such ground, the said Writ Petition was filed. This Court by an order dated 9 January 2025 disposed of the said Writ Petition directing that the Joint Charity Commissioner shall decide an application of the petitioner for vacating of the *ex parte* impugned order. The said order passed by this Court reads thus:

"1. This writ petition under Article 226 of the Constitution of India is filed praying for a relief that the order dated 20 December 2024 passed by the learned Joint Charity Commissioner on an application dated 20

December 2024 moved by one Mr. Rajendra Vishwanath Aadke be quashed and set aside. The impugned order reads thus:-

“Inspector Ragini Khadke shall assist Supt. Patankar and conduct election as early as possible.”

2. We are informed by Mr. Patwardhan, learned counsel for the petitioner that against the rejection of Change Report No. 439 of 2022 by learned Deputy Charity Commissioner, Kolhapur vide an order dated 18 December 2024, the petitioner has already filed an appeal under Section 70 of the Maharashtra Public Trust Act, 1950 along with an application for stay before the Joint Charity Commissioner. The petitioner intends to press the stay application and more particularly in view of the impugned ex-parte order dated 20 December 2024 passed by the Joint Charity Commissioner directing conducting of the election. It is informed that the election program has already been notified by the Election Officer and the election is scheduled to be held on 03 February 2025.

3. In this view of the matter, we are of the opinion that it is appropriate for the petitioner to move an application before the learned Joint Charity Commissioner praying for vacating of the ex-parte impugned order dated 20 December 2024, or stay of the said order by filing an appropriate application, as also press for stay application in appeal No. 01 of 2025 filed under Section 70 of the Maharashtra Public Trust Act, 1950 against the rejection of the change report by the learned Deputy Charity Commissioner, Kolhapur. If such an application for stay is made, the same be decided in accordance with law after notice to all the parties as expeditiously as possible and in any event within one week of the filing of the said application. All contentions of the parties in that regard are expressly kept open.

4. The petition stands disposed of in the aforesaid terms. No costs."

4. It is on the aforesaid backdrop, the parties were heard and the impugned order dated 20 January 2025 is passed by the Joint Charity Commissioner whereby the petitioners application, directed to be decided by this Court by the aforesaid order, has been rejected.

5. Mr. Patwardhan has several contentions, however, his primary contention was in regard to the jurisdiction of the Joint Charity Commissioner to pass an order under Section 41 A of the Act.

6. We have also heard Mr. Venegaonkar, learned counsel for Respondent No.2. It appears to be not in dispute that the appeals filed by the petitioner against rejection of the change report are admittedly pending. However, in the intervening period as noted in the impugned order, the elections are now sought to be held.

7. In this view of the matter, we are of the opinion, that without expressing any opinion on the merits of the rival contentions, it would be appropriate and in the interest of justice that the petition is disposed of by directing the Joint Charity Commissioner / Appellate Authority to decide the petitioner's appeal as expeditiously as possible and in any event within a period of three months from today.

8. All contentions of the parties in that regard are expressly kept open. The petitioner's appeal be decided without being influenced by the impugned Interim Order dated 20 January 2025 passed under Section 41A of the Act.

9. It is clarified that all actions which would be taken in the intervening period, shall be subject to the orders which would be passed on the petitioner's appeal.

10. Disposed of in the aforesaid terms. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)