IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1120 OF 2024.

1. Arun Ashok Jadhav]
Age- 48 Yrs, Occ. Business and Trustee (Treasurer) R/at : C-1001/1002, Pride Panorama, Shivaji Housing Society, Senapati Bapat Road, Pune 411 016.]

2. Rajani Arun Jadhav]
Age- 43 Yrs, Occ- Housewife and Trustee R/at : C-1001/1002, Pride Panorama, Shivaji Housing Society, Senapati Bapat Road, Pune 411 016] **... Appellants.**

Versus

1. Ravindra Dagadu Gaikwad]
Age-49 Yrs, Occ: Business
R/at : Antrolikarnagar, 1, Plot No. 36, Near Rajiv Udyan, Solapur, Taluka District Solapur.]

2. Anamika Ravindra Gaikwad]
Adult, Occ. Housewife R/at : Antrolikarnagar, 1, Plot No. 36, Near Rajiv Udyan, Solapur, Taluka District Solapur.]

3. Smt. Sheetal Dagadu Kavathekar]
Adult, Occ. Housewife,
R/at: Antrolikarnagar, 1, Plot No. 36, Near Rajiv Udyan, Solapur, Taluka District Solapur.]

4. Shri. Ramesh Vitthaldas Zariwalla]
Age: Adult, Occ. Business
R/at : 83, Antrolikarnagar, 1, Solapur, Taluka District Solapur.]

5. Niraj Ramesh Zariwalla]
Age: Adult, Occ. Business]

R/at : 83, Antrolikarnagar, 1, Solapur, Taluka District Solapur.]

6. Shri. Dagadu Sayappa Gaikwad]
Age- Adult, Occ. Business]
R/at : C-1001/1002, Pride Panorama, Shivaji Housing Society, Senapati Bapat Road, Pune 411 016.]

7. Shri. Ganesh Shankarlal Karva]
Age : 61 Yrs. Occ. Business]
R/at : Mantri Chandak Park, Rajhans, Bungalow, Near Rupa Bhavani Mata, Taluka District Solapur.]

8. Kum. Sushmita Ravindra Gaikwad]
Adult, Occ. Education,]
R/at: Antrolinagar, 1, Plot No. 36, Near Rajiv Udyan, Solapur, Taluka District Solapur.]

9. Manoj Subhash Nishandar]
Age : 51 Yrs, Occ. Agriculturist,]
R/at: Bhavani Peth, Madewasti, Taluka District Solapur]

10. Noha Ravindra Gaikwad]
Adult, Occ. Education]
R/at : 65, Antrolirnagar, Plot No. 36, Near Rajiv Udyan, Solapur, Taluka Dist. Solapur.] **...Respondents.**

Mr. A. V. Anturkar, Senior Advocate along with Mr. Sugandh Deshmukh for the Appellants.

Mr. Vineet Naik, Senior Advocate along with Mr. Ashutosh Kulkarni, Mr. Mihir Jaykar i/b Mr. Akshay Kulkarni for the Respondent Nos. 1, 2, 4, 5 and 8 to10.

Mr. Prasad Kulkarni and Adv. Raghvendra Kulkarni i/b Ms. Jyoti Kawade for the Respondent Nos. 3 and 6.

Coram : **Sharmila U. Deshmukh, J.**

Reserved on: **February 5, 2025.**

Pronounced on : **March 25, 2025.**

JUDGMENT :

1. The First Appeal has been preferred challenging the order dated 22nd May, 2023 passed by the Joint Charity Commissioner, Pune in Application No. 48 of 2023 filed by the present Appellants under Section 41 E of the Maharashtra Public Trusts Act, 1950 (**"the *MPT Act*").**

FACTUAL MATRIX :

2. The Trust in question is Late Sushilabai Gaikwad Bahuudeshiya Sanstha, Solapur which runs a college known as Bharatratna Indira Gandhi College of Engineering. An Application under Section 41E of MPT Act came to be filed by the present Appellant seeking injunction against the Respondent Nos 1, 2,4,5 and 8 to 10 restraining them from representing themselves as office bearers on basis of Change Report No 1479 of 2023 and using the signature and seals of the Trust as office bearers and for mandatory injunction against Respondent Nos 1, 2 and 5 to re-deposit the amount of Rs. 28,50,000/- withdrawn from the bank account of the Trust account.

3. It was alleged that Respondent No 1 unauthorisedly convened a general body meeting in violation of the provisions of the Constitution and conducted elections of office bearers, and Change Report No. 1479 of 2023 was filed in that regard. Pursuant thereto, the

Respondent Nos 1, 2, 4, 5 and 8 to 10 have claimed right to operate the Trust's bank account as office bearers and members of executive committee. The Respondent Nos 8 to 10 were never granted membership of the Trust by any valid executive committee. The trust in question is having various bank accounts which are operated jointly by founder president and treasurer, whose specimen signatures were submitted to the Bank by way of Change Report No. 478 of 2023. Thereafter on the basis of Change Report No. 1479 of 2023 the Respondent No. 1 authorized themselves to operate the Bank accounts. The Bank on receiving the operating instructions obtained legal advice and thereafter accepted the change which was on the basis of the resolution dated 20th August, 2023. During the period from 25th August, 2023 to 9th October, 2023, the Respondent Nos. 1, 2 and 5 withdrew total amount of Rs 28,50,000/ from the bank account out of which Rs 14,50,000/ was reportedly allocated for employee's salaries, while the remaining amount was withdrawn for personal use.

4. The Respondents filed their reply denying the allegations contending that the Respondents were duly elected and possess the Authority to manage the financial affairs of the college. The Bank accounts have been operated by the Respondents in their official capacity as elected office bearers and transactions carried out are properly accounted for and the amounts have been withdrawn for the purpose of the operations of the Trust. It was further contended that the prayers do not fall within the purview of Section 41E of the MPT Act.

5. An Interim Application came to be filed under Exhibit-5 seeking order of mandatory injunction that the Chairman, Secretary or Treasurer as per the Change Application No. 478 of 2023 be directed to operate the Bank accounts pending Scheme Application No. 278 of 2021 under Section 50-A of MPT Act. Vide order dated 24th November, 2023, the Joint Charity Commissioner *prima facie* recorded finding that the meeting shown to have been held on 20th August, 2023 appears to be illegal and that Respondent Nos. 1 and 2 have prepared false and bogus resolution and submitted it to the Bank in collusion to operate the account. By an interim order, the Respondent Nos. 1, 2 and 8 to 10 were restrained from looking after the affairs of the Trust and Professor Dr. B. G. Patil and Asif Shaikh were authorised to carry out bank transactions through cheque. The Respondent Nos. 1 and 2 were directed to submit detailed explanation as regards the withdrawn amount and Dr. B. G. Patil was also directed to give account of the amounts collected, if any. The Joint Charity Commissioner authorized the Professor to look after the day to day affairs of the Institution and directed the Inspector to make monthly visit to the Trust and submit Report about the financial transactions. The Joint Charity

Commissioner further directed that, if required, the proposal related to the institution such as matters related to NAAC Committee, utility bills, promotion of employees, staff grievances and teachers appointments to be submitted to the appropriate authority with prior approval of the office and the Assistant Charity Commissioner was directed to expedite the pending Scheme Applications and other judicial matters related to the institution.

6. The Respondents aggrieved by the Interim order preferred an Appeal before this Court being First Appeal No. 1277 of 2023. Vide order dated 23rd January, 2024, this Court noted that there is no averment in the Application that the property of trust is likely to be wasted or is in danger or is likely to be disposed of at the hands of the Appellants. This Court noted that there is no finding by the Joint Charity Commissioner in the order below Exhibit-5 that the property of the trust is danger or likely to be disposed of or will be wasted and there is only *prima facie* observation that there is misuse of power. It noted the allegation against Dr. B. G. Patil that students were directed to deposit amount of exam fees in the account of Dr. B. G. Patil and despite thereof the same person is chosen by the Joint Charity Commissioner and Respondent Nos. 1 and 2 are restrained from operating the Bank account. This Court observed that the Respondent Nos. 1 and 2 have given Pursis that they will not use accounts except for statutory payments and quashed the impugned interim order by directing that Respondent Nos. 1 and 2 shall not withdraw any amount from any of the Bank accounts of the Trust and all statutory payments such as salary, NAAC Committee fee etc., to be made only through RTGS or by crossed cheque. This Court further directed the Respondent Nos. 1 and 2 to keep proper account and to submit the accounts with the office of the Joint Charity Commissioner till final disposal of the main Application under Section 41E. The Appellants herein carried the order to the Apex Court and by order dated 12th February, 2024 the SLP came to be dismissed with direction to Joint Charity Commissioner to dispose of the main Application within a period of three months.

7. The Joint Charity Commissioner by the impugned Judgment has finally adjudicated the Application No. 48 of 2023. The Joint Charity Commissioner framed following legal points for determination:

> "**a)** Whether the application filed by the applicants under Section 41E of the Act is maintainable and within the scope of the provision.?
>
> **b)** Whether there is a prima facie case of mismanagement, financial irregularities, or risk to the Trust's property that warrants interim relief under Section 41E ?

c) Whether the parallel change reports filed by the rival groups require adjudication or determination within the scope of the present application. ?

d) Whether the respondents' actions in operating the Trust's bank accounts and making withdrawals constitute unauthorized activities or financial misappropriation.?"

8. On the aspect of the maintainability, the Joint Charity Commissioner held that the Application filed is not maintainable in the present form. On *prima facie* case of mismanagement or risk to trust property, the Joint Charity Commissioner noted that this Court had upheld the Respondents position and found no wrongdoing in the management of the trust bank accounts. It further opined that the evidence presented does not establish *prima facie* case of imminent risk to the Trust property that warrants relief under Section 41E and that issues required comprehensive inquiry and determination through appropriate legal channels.

9. On the aspect of unauthorized activities and financial misappropriation, the Joint Charity Commissioner held that the evidence presented is not conclusive and that the Respondents have provided explanation and justification for their actions asserting the legitimate authority as elected office bearers and reiterated the need for comprehensive inquiry to address the allegations of financial irregularities and mismanagement. The Joint Charity Commissioner rejected the Application holding that there is no *prima facie* case of imminent risk to the trust property that would warrant interim relief under Section 41E and passed the following order:

> “**a)** The application filed by the applicants under Section 41E of the Maharashtra Public Trusts Act, 1950, is dismissed as not maintainable in its present form.
>
> **b)** The Deputy or Assistant Charity Commissioner concerned is directed to inquire into the allegations of financial irregularities and mismanagement raised by the applicants, both before and after the orders passed by the Hon'ble High Court. This inquiry should be conducted in accordance with the provisions of the Act and the principles of natural justice, and report accordingly.
>
> **c)** The Deputy or Assistant Charity Commissioner is further directed to adjudicate and determine the validity of the parallel change reports filed by the rival groups, in accordance with Section 22 of the Act, and to decide on the legitimate office bearers and

trustees of the Trust, expeditiously.

d) All parties are directed to strictly comply with the orders and directions issued by the Hon'ble Bombay High Court in First Appeal No. 1277/2023 dated 23/01/2024, and the subsequent order of the Hon'ble Supreme Court dated 12/03/2024, affirming the High Court's decision. Any actions or transactions undertaken by the parties shall be in accordance with the Hon'ble Courts' orders, including any restrictions or guidelines imposed on the management of the Trust's bank accounts and operations. The Deputy or Assistant Charity Commissioner shall ensure that the parties adhere to the Hon'ble Courts' orders and take appropriate measures, within their legal jurisdiction, to enforce compliance with the same. Failure to comply with the Hon’ble Courts' orders may result in initiating contempt proceedings or any other legal action deemed necessary by the competent authorities.

e) The parties are at liberty to pursue appropriate legal remedies concerning the substantive issues and disputes, as per the provisions of the Act and the relevant laws.

f) This order is passed in the exercise of the powers vested in me as the Joint Charity Commissioner, Pune, under the Maharashtra Public Trusts Act, 1950.

g) A certified copy of this order shall be sent to the Deputy/Assistant Charity Commissioner concerned for necessary action and compliance in accordance with the directions contained herein.

h) Parties to comply with the order accordingly. No orders as to costs."

SUBMISSIONS :

10. Mr. Anturkar, learned Senior Advocate appearing for the Appellants would submit that the Application came to be rejected on three grounds. Firstly that the High Court as well as the Apex Court has upheld the Respondent's position and found no *prima facie* case of mismanagement or risk to the Trust property. Secondly, that the evidence of misappropriation presented by the Appellants are not conclusive and the Respondents have provided explanation. Thirdly, that the comprehensive inquiry and determination is necessary to address allegation of financial irregularities. He would further submit that the Joint Charity Commissioner lost sight of the fact that the findings were recorded at the interim stage by the High Court and the

Apex Court. He would further submit that while holding that the evidence presented by the Appellant is not conclusive, there is no discussion and only conclusion has been recorded without considering the evidence produced by Appellant to show misappropriation. He would further submit that the adjudication under Section 41E could have been restricted only to the prayers which fall within the purview of Section 41E without holding that application is not maintainable. He would further submit that the findings would indicate that the Joint Charity Commissioner has only considered *prima facie* case when the matter was required to be decided finally and that there is no discussion and reasoned findings. He submits that the entire Judgment is replete with recording of the pleadings, arguments and submissions of the parties and the order is vitiated due to non application of mind.

11. He would submit that by order dated 23rd January, 2024 passed in First Appeal No. 1277 of 2023 certain directions were given which were not complied with by Respondent Nos. 1 and 2 and therefore the aspect of financial misappropriation stood concluded. He would further submit that the order of High Court refers to the pursis of the Respondent Nos. 1 and 2 that no money will be spent except for the statutory dues and the record shows that non-statutory payments have been made. He submits that the order of the High Court permitted only statutory payment which are salary, NAAC Committee fee etc, and that too through RTGS and the expression “etc” was used contextually to indicate only statutory payments. He would further submit that the accounts though directed were not produced and only some bank accounts were produced. He has tendered a detailed statement to demonstrate the non statutory payments made by Respondent Nos. 1 and 2 from the Trust account in violation of the directions of the High Court in First Appeal No. 1277 of 2023. He would further submit that he is not pressing for prayer clause (a) of the Application as the same is outside the scope of Section 41E.

12. *Per contra* Mr. Naik, learned Senior Advocate appearing for the Respondents would submit that the Application filed under Section 41E sought substantive relief restraining Respondent Nos. 1, 2, 4, 5 and 8 to 10 from representing themselves as office bearers of the Trust which prayer is now sought to be given up. He submits that the only other relief was for the re-deposit of sum of Rs. 28,50,000/- in the trust Account. He submits that it is an admitted position that out of the sum of Rs. 28,50,000/- a sum of about Rs. 14 lakhs was paid towards salaries of the staff of the institution. He submits that while allowing the First Appeal by order dated 23rd January, 2024, this Court has restrained the Respondent Nos. 1 and 2 from withdrawing any amount from the bank account and directed all statutory payments such as salary, NAAC Committee fee etc., to be made through RTGS or crossed cheque and to keep proper accounts. He submits that the order has to be read in the true spirit and it cannot be said that the payments required to be made for the functioning of the institution and the Trust should not be made. He submits that there are no cash withdrawals and all amounts have been paid through RTGS or by crossed cheque.

13. Pointing out to the statutory provisions of MPT Act, he submits that under Section 41B proper inquiry can be instituted in respect of any Public Trust and under 41D the Charity Commissioner may remove or suspend any trustee. He submits that the provisions of Section 41E are for grant of injunctive relief which provides for temporary injunction in order to prevent alienation which is in nature of pro-tem arrangement. He submits that the Change Report No. 478 of 2023 was in respect of change alleged to have taken place on 19th July, 2019 and this Change Report came to be filed on 5th April, 2023 whereas the Change Report No. 1479 of 2023 filed by the Respondents was filed on 29th August, 2023 where the Respondents were elected as trustees pursuant to Annual General Meeting held on 20th August, 2023.

14. He submits that the Joint Charity Commissioner has passed balanced order and directed an appropriate inquiry as there is allegation of misappropriation of funds. He submits that considering the statutory scheme, without any proper inquiry a shortcut method has been adopted by the Appellants under Section 41E of MPT Act. He would submit that pursis was filed on 8th November, 2023 before Joint Charity Commissioner stating that there will be no cash payments withdrawn and the statutory payment and other legal financial transactions will be conducted through RTGS or through cheque payment. He would further submit that the Joint Charity Commissioner while dismissing the Application has directed an inquiry and for the said purpose under Section 41B (7) of MPT Act there has to be *prima facie* finding. He submits that subsequent to the directions, inquiry is going on. He would point out the bank statements annexed to his affidavit-in-reply and would submit that substantial payments have been made towards the 7th pay commission pay difference. He submits that the institution of the Trust does not have any internet banking facility and for certain statutory payments such as provident fund, professional tax etc., amounts have to be transferred to accounts of the account officer for further payment towards statutory dues. He submits that such transfer cannot amount to a transfer being in violation of the order passed by the High Court. He submits that all necessary payments for the purpose of running the institution have been paid and the same would be covered by the decision of this Court in First Appeal No. 1277 of 2023.

15. In rejoinder, Mr. Anturkar, would submit that it is very evident that payments have been made to the Advocate's Clerk from the bank account of the Trust. He submits that in event the payments were required for the purpose of running day to day affairs of the institution of the Trust the Respondent could have applied for modification. He submits that before the Joint Charity Commissioner pursis was filed by the Appellants specifically alleging that more than one lakh rupees was transferred from the bank account of the trust in the name of certain persons who were either working as the Clerk of the Advocate or are having typing and xerox shop. He submits that the order of this Court in First Appeal No. 1277 of 2024 is required to be followed in letter and spirit. He would further submit that from the bank statement it is clear that the Respondents have defaulted in complying with their own statement made before this Court that only statutory payments would be made and that being so the Application ought to have been allowed.

16. The point for determination is whether there is mismanagement or risk to the property of the Trust which requires injunctive reliefs to be granted by allowing the Application under Section 41-E of MPT Act.

17. The first thing to be noted in the impugned judgment is that though the Joint Charity Commissioner has dismissed the Application filed under Section 41E of the MPT Act as not maintainable in the present form it has further issued certain vital directions. The first direction is to the Deputy or Assistant Charity Commissioner to conduct inquiry into the allegations of financial irregularities and mismanagement raised by the Applicants both before and after orders passed by the High Court. Secondly it has also directed all parties to strictly comply with the orders and directions issued by the High Court in First Appeal No. 1277 of 2023 dated 23rd January, 2024 and the order of the Hon'ble Apex Court dated 12th March, 2024. The Joint Charity Commissioner has directed that any actions or transaction undertaken by the parties should be strictly in accordance with the High Court order and has placed the responsibility on the Deputy or Assistant Charity Commissioner to ensure that the parties adhere to the Court's order and to take appropriate measure to enforce compliance with the same. From the specific directions which have been issued by the Joint Charity Commissioner it is clear that the allegations of financial misappropriation raised by the Appellants have not been brushed aside on the ground that the Application under Section 41E is not maintainable in the present form but cognizance have been taken of those allegations by directing an inquiry by the Deputy or Charity Commissioner.

18. The foundation for the Application under Section 41-E is that the Respondents have withdrawn amounts from the Trust for their personal use and thus there is financial misappropriation. The statutory provisions of MPT Act provides a detailed procedure to address the issue of financial misappropriation of the Trust property. Section 37 of the MPT Act empowers the Deputy or Assistant Charity Commissioner to inspect affairs of the public trust and if it is found that loss is caused to the public trust on account of gross negligence, breach of trust, mis-Application or misconduct of the part of the trustee or any person connected with the Trust, to make a Report to the Charity Commissioner who under Section 40 determines whether such loss has been caused and the person responsible for the same. The provisions further empower the Charity Commissioner to issue necessary directions for proper administration of the Trust. More particularly Section 41B vests power in the Charity Commissioner to institute an inquiry and take such steps as necessary under the provisions of Act which may include the suspension, removal or dismissal of the Trustee by the impugned Judgment. In fact by the impugned judgment, the Joint Charity Commissioner has set the wheels in motion by instituting an inquiry into the alleged financial irregularities, which inquiry is undisputably going on.

19. The Application filed by the Appellants under Section 41E sought substantive relief of prohibitory injunction restraining the Respondents from representing themselves as office bearers of the

Trust which Mr. Anturkar, has fairly conceded is outside the purview of Section 41E. The other relief sought was an order of mandatory injunction directing the Respondent Nos. 1, 2 and 5 to re-deposit the amount of Rs. 28,50,000/- withdrawn from the Trust bank account into the trust account. The said prayer finds its foundation in the allegation that there has been unauthorized General Body Meeting pursuant to which the Respondents have claimed a right to operate the trusts bank accounts whereas the bank accounts were earlier jointly operated with the signature of the president and the treasurer as per the provisions of the Constitution of the trust. It is alleged that during the period from 25th August, 2023 to 9th October, 2023 the Respondent Nos. 1, 2 and 5 have withdrawn an amount of Rs. 28,50,000/- from the bank account out of which Rs. 14,50,000/- was paid payment towards the employees salary while the remaining amount was withdrawn for personal use. The relief of re-deposit of amounts withdrawn can be granted only consequent to an inquiry conducted into the allegation of financial misappropriation. For the Joint Charity Commissioner to arrive at a conclusion that the amounts which have been withdrawn are not utilized towards the operations of the trust or the institution but have been misappropriated for personal use requires something more than the statements produced by the Appellants showing non compliance of the order passed by this Court in First Appeal No. 1277 of 2023. The thrust of the argument of Mr. Anturkar, is that the Appellants have duly proved that the bank accounts of the trust are being utilized for purposes other than the operations of the trust or the institution and therefore the only logical conclusion which should follow is an order of temporary injunction under Section 41E. The provisions of Section 41E reads as under:

"Section 41E. Power to act for protection of Charities.

(1) Where it is brought to the notice of the Charity Commissioner either by the Deputy or Assistant Charity Commissioner through his report or by an application by at least two persons having interest supported by affidavit :
(a) that any trust property is in danger of being wasted, damaged or improperly alienated by any trustee or any other person, or
(b) that the trustee or such person threatens, or intends to remove or dispose of that property,
The Charity Commissioner may by order grant a temporary injunction or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of such property, on such terms as to the duration of injunction, keeping an account, giving security, production of the property or otherwise as he thinks fit.

(2) The Charity Commissioner shall in all such cases, except where it appears that the object of granting injunction would be defeated by delay, before granting an injunction, give notice of the facts brought to his notice to the trustee, or the person concerned.

(3) After hearing the trustee or person concerned and

holding such inquiry as he thinks fit, the Charity Commissioner may confirm, discharge or vary or set aside the order of injunction or pass any other appropriate order.

(5) A trustee or a person against whom the order of injunction or any other order under this section is passed may, within ninety days of the date of communication of such order, appeal to the Court against such order."

20. Section 41E provides for grant of temporary injunction after the Charity Commissioner comes to finding that any trust property is in the danger of being wasted, damaged or improperly alienated by any trustee or any other purpose. In the present case, the Joint Charity Commissioner instead of passing an order of injunction which injunction was sought only for the refund of sum of Rs. 28,50,000/- into the Trust account has gone one step ahead and has exercised his duties under the provisions of the MPT Act by instituting an inquiry into the alleged financial irregularities. The Appellants would want that pending the said inquiry there should be sufficient restraints on the operations of the bank accounts by the Respondents so as to ensure that the Trust property is not wasted or alienated under the guise of carrying out the operations of the Trust. For that purpose it is necessary for the Appellants to make out a case for grant of injunction pending final disposal of the inquiry. In the present case as rightly observed by the Coordinate Bench in the order dated 23rd

January, 2024 in First Appeal No. 1277 of 2023 there is not even an averment that property of the trust is likely to be wasted or is in danger or is likely to be disposed of at the hands of the Appellants.

21. In order to support the allegation of financial misappropriation, all that is averred is that a sum of Rs. 28,50,000/- has been withdrawn out of which admittedly 14,50,000/- was towards payment of salary. It cannot be disputed that the Trust runs an engineering institution, which would require funds to be expended for carrying out day to day functioning of the Trust and the institution. The power under Section 41E cannot be exercised in such manner so as to stultify the operations of the Trust or Institution. Even in order to impose certain restrictions on the functioning of the Trust there must be sufficient evidence on record to show that in event there are no restraints the property of the trust is in danger of being alienated or misappropriated. In order to demonstrate the same, the Appellants have taken help of the order dated 23rd January, 2024 passed in First Appeal No. 1277 of 2023 and would contend that though the Respondents had submitted that the accounts will not be used except for making statutory payments and which are required to be made only through RTGS or by crossed cheque, non statutory payments made by the Respondent Nos. 1 and 2. The order of 23rd January, 2024 directed all statutory payments such as salary, NAAC Committee fees etc., to be made through RTGS or by crossed cheque, which both Counsel argued have to be complied with in letter and spirit. When so read, the order cannot mean that apart from the illustrated statutory payments and others belonging to the class of statutory payments no other expenses can be met, even if they are legitimate expenses incurred for running the operations of the Trust. It is not disputed that there are no cash withdrawals and all payments have been made through cheque or bank accounts. The statements of accounts relied upon by Mr. Anturkar, would show that certain payments have been made to the person unconnected with the Trust and allegation is that there are fictitious expenses which are being shown and amounts withdrawn. To test the genuineness of the allegations made, indepth investigation is required and inquiry is directed by the concerned Authority so that proper report is placed before the Joint Charity Commissioner pursuant to which appropriate steps can be taken. The Joint Charity Commissioner has rightly held that the allegation of financial irregularities and misappropriation require comprehensive inquiry and determination through appropriate legal channels. The Joint Charity Commissioner has opined that the allegations which have been raised have been met by Respondents by providing explanation and justification and therefore an inquiry is necessitated. The finding cannot be faulted for the reason that in the proceeding under Section 41E without any inquiry and a report to support the said inquiry into financial misappropriation, it was not possible for the Joint Charity Commissioner or even this Court to arrive at a conclusion that the explanation tendered by the Respondent as regards the payments made are not genuine or not for the purposes of operation of the Trust but have been misappropriated. It also cannot be disputed that the accounts of the Trust must have been regularly audited and the same can also be considered at the time of the inquiry. Though Mr. Anturkar, would assail the impugned Judgment on the ground that the same suffers from non Application of mind in as much *prima facie* case of mis management or risk to the trust property or any imminent risk to the trust property is sought to be adjudicated, the same by itself is not sufficient to warrant interference. Though the Joint Charity Commissioner has relied upon the observations made by this Court in the First Appeal, the findings do not reflect that the Application has been dismissed solely on the findings of this Court in First Appeal No. 1277 of 2023. On the contrary, the findings of this Court have been taken further by the Joint Charity Commissioner and direction has been given to strictly comply with the order passed therein including any restrictions or guidelines imposed on the management of the trust bank accounts and operations. As the inquiry has already been commenced and the Joint Charity Commissioner has passed well reasoned order though having dismissed the Application, the same does not warrant any interference.

22. Point No. 1 is accordingly answered against the Appellants. Resultantly, First Appeal stands dismissed.

23. In view of the dismissal of First Appeal, nothing survives for consideration in the pending Civil/Interim Applications and the same stand disposed of.

[Sharmila U. Deshmukh, J.]