

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14237 OF 2024

Nishant Vijaykumar Patil & Anr. ... Petitioners
Versus
Sushant Vijaykumar Patil & Ors. ... Respondents

Mr. Akshay Patil a/w Mr. Dhaval Patil and M/s. K. Ashar & Co.
for the Petitioners.

Mr. Anil V. Anturkar, Senior Counsel, i/by Mr. Amol A. Ghatne for
Respondent Nos.1 to 4.

Mr. R. S. Pawar, AGP for Respondent No.5-State.

**CORAM: MANISH PITALE, J.
DATE : 3rd OCTOBER 2025**

P.C. :

. The petitioners are aggrieved by order dated 31st August 2018 passed by the Assistant Charity Commissioner-II, Pune Division, Pune, wherein change report submitted by respondent No.1 has been accepted.

2. The learned counsel for the petitioners submits that the said impugned order violates the mandatory statutory requirement contemplated under Section 22(2) of the Maharashtra Public Trusts Act, 1950 (hereinafter referred to as 'the said Act' for short). He also made an endeavour to make submissions with regard to the merits of the matter, alleging that the respondent No.1 could not have appointed his own father-in-law as a trustee in the concerned Trust. It was submitted that such an appointment

would violate the fiduciary duties cast upon respondent No.1, even if the clauses of the Trust Deed were to be taken into account.

3. On the other hand, learned senior counsel appearing for the contesting respondent No.1 submitted that the nature of enquiry contemplated under Section 22(2) of the said Act, read in consonance with the Trust Deed, particularly clauses 14 and 16 thereof, would demonstrate that the petitioners can have no say in the matter and that therefore, no interference is warranted in the impugned order.

4. This Court has perused the impugned order. It is a short order, which simply records the change proposed by the respondent No.1 in appointing a particular individual, who happens to be the father-in-law of respondent No.1, as a trustee in the concerned Trust. The claim of respondent No.1 is recorded and thereafter, the Authority i.e. the Assistant Charity Commissioner has simply allowed the change report.

5. A perusal of Section 22(2) of the said Act shows that the aforesaid Authority is expected to conduct an enquiry to ascertain whether the change reported by the reporting trustee has occurred and to record the same in the register. The proviso to Section 22(2) of the said Act specifically requires the said Authority to initially pass an order, provisionally accepting the change within a period of 15 days and then to issue a notice inviting objections to such change within 30 days from the date of publication of such

notice. There cannot be any dispute about the said requirement being mandatory in nature.

6. It was sought to be impressed upon this Court on behalf of respondent No.1 that if clauses 14 and 16 of the Trust Deed are appreciated in a correct perspective, the petitioners can have no say in the matter and therefore, they cannot raise any grievance with regard to the change accepted by the Assistant Charity Commissioner in the impugned order. It was sought to be demonstrated that the challenge raised on behalf of the petitioners, on the face of it, in the light of the said clauses of Trust Deed, cannot be entertained by the Assistant Charity Commissioner.

7. This Court is of the opinion that the question as to whether the challenge or objections sought to be raised by the petitioners have any merit or not, is another matter, but the said requirement of the statute as contemplated under Section 22(2) of the said Act enjoins the concerned Authority, in this case the Assistant Charity Commissioner, to necessarily issue notice inviting objections to the proposed change. This is a statutory duty cast upon the Assistant Charity Commissioner.

8. In the facts of the present case, it is undisputed that the Assistant Charity Commissioner passed the impugned order without issuing any notice inviting objections with regard to the proposed change.

9. Section 22(2) of the said Act, reads as follows :

*“Section 22 – **Change** (1) ******

(2) For the purpose of verifying the correctness of the entries in the register kept under section 17 or ascertaining whether any change has occurred in any of the particulars recorded in the register, the Deputy or Assistant Charity Commissioner may hold an inquiry in the prescribed manner.

Provided that, in the case of change in the names and addresses of the trustees and the managers or the mode of succession to the office of the trusteeship and managership, the Deputy or Assistant Charity Commissioner may pass order provisionally accepting the change within period of fifteen working days and issue a notice inviting objections to such change within thirty days from the date of publication of such notice :

Provided further that, if no objections are received within the said period of thirty days, the order accepting the change provisionally under the first proviso shall become final and entry thereof shall be taken in the register kept under section 17 in the prescribed manner :

Provided also that, if no objection are received within the said period of thirty days, the Deputy or Assistant Charity Commissioner may hold an enquiry in the prescribed manner and record a finding, as provided by sub-section (3) of this section, within three months from the date of filing objections.”

10. A bare perusal of the above quoted portion, particularly the first proviso to Section 22(2) of the said Act, makes it abundantly clear that the Assistant Charity Commissioner was mandatorily required to first provisionally accept the change within a period of 15 days and then to issue a notice inviting objections to such change within 30 days from the publication of such notice. The said mandatory statutory requirement has been violated in the

present case by the Assistant Charity Commissioner and therefore, the impugned order deserves to be set aside only, on this sole ground.

11. Accordingly, the writ petition is allowed. The impugned order dated 30th August 2018 passed by the Assistant Charity Commissioner-II, Pune Division, Pune, is quashed and set aside.

12. The said Assistant Charity Commissioner is directed to strictly follow the aforesaid statutory requirement contemplated under Section 22(2) of the said Act, particularly the first proviso to the same.

13. The Assistant Charity Commissioner is further directed to conduct the enquiry, strictly as per the requirement of Section 22(2) of the said Act i.e. to ascertain whether the proposed change has occurred, to be recorded in the register.

14. This Court has not expressed any opinion on the merits of the matter and the contesting parties would be at liberty to address the Assistant Charity Commissioner in that regard.

15. The Assistant Charity Commissioner shall decide the change report within three months from today.

MANISH PITALE, J.