

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

**WRIT PETITION NO.8530 OF 2024
WITH
INTERIM APPLICATION NO.13142 OF 2024
IN
WRIT PETITION NO.8530 OF 2024**

Sambhaji Sahebrao Pawar and Ors. **...Petitioners**

V/s.

The State of Maharashtra and Anr. **...Respondents**

**WITH
INTERIM APPLICATION NO.13142 OF 2024
IN
WRIT PETITION NO.8530 OF 2024**

Usha Baburao Pawar and Ors. **...Applicants**

In the matter between

Sambhaji Sahebrao Pawar and Ors. **...Petitioners**

V/s.

The State of Maharashtra and Anr. **...Respondents**

Mr. Sanjay P. Shinde *for the Petitioners.*

Ms. Gauri Jadhav, 'A' panel with *Mr. J.P. Patil*, AGP for
Respondent -State.

Mr. R.M. Haridas *i/b. Mr. Nikhil M. Pujari* for
Intervenors/Applicants in IA/13142/2024.

CORAM: SANDEEP V. MARNE, J.

Dated: 8 April 2025.

P.C.:

1) The Petition is filed challenging the order dated 17 May 2024 passed by the Deputy Charity Commissioner, Nashik Division, Nashik, to the limited extent that it records a finding that Petitioners are not valid members of the Trust. Petitioners are also aggrieved by declaration of persons at Sr. Nos.1 to 27 as valid members of the Trust.

2) It appears that initial proceedings were filed under Section 41D of the Maharashtra Public Trust Act, 1950 (**MPT Act**) seeking removal of Petitioners as Trustees. The said proceedings were rejected by order dated 13 January 2023. However, while dropping proceedings under Section 41D of the MPT Act, the Joint Charity Commissioner directed conduct of enquiry into the affairs of the Trust through Deputy Charity Commissioner for its appropriate administration. Towards compliance with the said direction for conduct of enquiry for proper administration of Trust, issued vide order dated 13 January 2023 it appears that Enquiry Officer submitted report dated 16 April 2024. However, the Deputy Charity Commissioner treated the said enquiry conducted by the Enquiry Officer under the provisions of Sections 38 and 39 of the MPT Act and directed registration of the proceedings accordingly. This is how the

proceedings were registered as Miscellaneous Enquiry Application No.396 of 2024 under the provisions of Sections 38 and 39 of the MPT Act. After considering the findings of the Enquiry Officer, the Deputy Charity Commissioner has ultimately dropped the proceedings and has not submitted a report to the Charity Commissioner for taking further action under Section 40 of the MPT Act. However, while dropping the proceedings, the Deputy Charity Commissioner has recorded a finding that Petitioners are not valid members of the Trust. In my view, said findings could not have been recorded in enquiry under Sections 38 and 39 of the MPT Act, especially when the proceedings have ultimately been dropped.

3) Joint Charity Commissioner had directed conduct of enquiry for proper administration of the Trust possibly under Section 41A of the MPT Act. However, the Deputy Charity Commissioner apparently took the said directions to an altogether different direction under Sections 38 and 39 of the MPT Act. When proceedings under Sections 38 and 39 have ultimately been dropped, a finding recorded by the Deputy Charity Commissioner of validity of membership of Petitioners cannot be permitted to stand. In any case the issue about status of a person as valid member of the Trust cannot be decided in an enquiry under Sections 38 and 39 of the MPT Act. In that view of the matter, findings relating to invalidity of the membership of the Petitioners or validity of other members of the Trust recorded in the order dated 17 May 2024 are clearly

unsustainable. Said findings are accordingly set aside. However, setting aside the findings relating to validity and invalidity of persons as members of the Trust would not preclude the Deputy Charity Commissioner from implementing the order dated 13 January 2023 for conduct of enquiry for proper administration of the Trust. The Deputy Charity Commissioner is at liberty to take appropriate steps for implementation of the directions given in paragraph 32 read with operative direction No.2 of order dated 13 January 2023.

4) All contentions of the parties on merits on the issue of status of the Petitioners as members, are expressly kept open.

5) With the above directions, the Petition is partly allowed and disposed of.

6) With disposal of the Petition, nothing would survive in the Interim Application, hence the same stands disposed of.

[SANDEEP V. MARNE, J.]