

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4918 OF 2025

Sakharwadi Education Institute & Ors.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Surel Shah, Senior Advocate with Mr. S. C. Wakankar i/b. Mr. P. B. Gujar for Petitioners.

Ms. P. J. Gavhane, AGP for State.

Mr. Vineet Naik, Senior Advocate with Mr. Shekhar Jagtap, Mr. Kartikeya Desai and Ms. Sayli Shinde i/b. Kartikeya & Associates for Respondent Nos.4 & 5.

Mr. Dhananjay Salunkhe, President of Petitioner Trust present.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATE : 17 APRIL 2025

P.C.:

1. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:-

“a) By an order of this Hon’ble Court, be pleased to issue Writ of Certiorari and/or any other Writ and therefore be pleased to call the record and proceedings in Enquiry Application No. 56 of 2023 filed before Assistant Charity Commissioner, Satara Division, Satara;

b) By an order of this Hon’ble Court, the impugned Order dated 03.04.2025 passed by the Assistant Charity Commissioner, Satara Division, Satara in Enquiry Application No. 56 of 2023 below Exhibit – 1 be quashed and set aside and the Enquiry Application No. 56 of 2023 be kindly rejected.

c) By an order of this Hon’ble Court, that pending the

hearing and final disposal of the present Writ Petition, the effect, implementation and/or operation of the impugned Order dated 03.04.2025 passed by the Assistant Charity Commissioner, Satara Division, Satara in Enquiry Application No. 56 of 2023 below Exhibit – 1 be kindly stayed.”

2. We find that the Assistant Charity Commissioner, Satara has passed the impugned order dated 03 April 2025 on an application moved on behalf of respondent nos.4 and 5 under Section 41A of the Maharashtra Public Trusts Act, 1950 and while allowing the said application, Mr. Pore, Inspector working with the Department of Charity Commissioner has been appointed as an Administrator of respondent no.3-Trust with directions that respondent no.3 shall not take any decision as also if any decision is to be taken by the Administrator, it should be taken in consultation with respondent nos.4 and 5. The operative part of the impugned order is required to be noted which reads thus:-

“(Official Translation of a photocopy of a Marked Portion being an Order, typewritten in Marathi)

ORDER

1. The present application is allowed.
2. The Respondent is hereby directed not to take any policy decision in respect of the Institution, until further orders.
3. Shri Pore, the Inspector from the Office is hereby appointed to work as an Administrator on the aforesaid Institution, until further orders.
4. The Inspector Shri Pore is hereby directed to take appropriate decisions in the interest of the Institution, in consultation with the Applicant in respect of the Institution and the management of the primary and secondary schools being run

by the Institution and also the immovable and movable properties thereof and also the recruitment, promotions and suspensions etc. of the Teachers and non-teaching staff members of the Institution.

5. The financial transactions in the Bank account of the Institution and the primary and secondary schools being run by the Institution shall be made by cheques under the signatures of Shri Pore and also of the Applicant and the correspondence to that effect shall be made with the Bank.

6. The Inspector Shri Pore is hereby directed to take the records of the Institution and of the schools being run by the Institution in his possession and also to take precaution to see that the said records are not misused by anyone. The Inspector Shri Pore is further directed to make available the said Records to the Applicant, if required by him.”

3. Mr. Shah, learned senior counsel for the petitioners would submit that in the application moved on behalf of respondent nos.4 and 5, there was no prayer that the Administrator be appointed. He submits that there is already an elected body appointed under the elections which were held in the year 2022. It is stated that the tenure of General Governing Body is of three years.

4. It appears that the disputes had arisen between the petitioners and respondent nos.4 and 5, and more particularly in the context of clause 7 of the Memorandum of Association which provides that there has to be a nominee of the company, as also the General Manager of the Company to be Ex-Officio member. In the definitions clause being clause 4 of the Memorandum of Association, the company has been defined to mean the Phaltan Sugar Works Ltd., Sakharwadi. Respondent nos.4 and 5 on the

basis of subsequent developments which have taken place insofar as the company is concerned, are asserting rights to be the members of the Board of Trustees as per Clause 7. However, such rights of respondent nos.4 and 5 are being disputed by the petitioners. These issues admittedly are stated to be the subject matter of pending search reports, being Change Report Nos. 130 of 2020, 143 of 2020, 163 of 2020, 164 of 2020, 35 of 2020, 36 of 2020 and 365 of 2022, as also Change Reports filed on behalf of respondent nos.4 and 5 being Change Report Nos.174 of 2020, 175 of 2020 and 145 of 2021.

5. In our opinion, considering the nature of the impugned order, it would be appropriate and in the interest of justice that the present proceedings are disposed of by protecting the interest of both the parties and more particularly as the change reports pertain to such contentions as urged before us, considering such contentions as urged on behalf of respondent nos.4 and 5, applying for an enquiry under Section 41A of the Maharashtra Public Trust Act on subject matter of the change reports which are sub judice, in our opinion, the impugned order to the effect it appoints Mr. Pore as an Administrator, needs to be stayed. However, insofar as the other directions are concerned, we are of the opinion that until final orders are passed on change reports, no major policy decision in respect of the

property of the Trust or also in regard to any actions on appointment, promotion and/or termination of the employees of the educational institution, shall be taken by the petitioners.

6. Needless to observe that this shall be without prejudice to the rights and contentions of the parties as being asserted in the proceedings of the change reports. Learned senior counsel for the parties have fairly agreed that such arrangement would suffice the interim interest of both the parties.

7. In this view of the matter, we dispose of the petition in terms of the following order:-

ORDER

- i. The impugned order insofar as it appoints Mr. Pore, Inspector in the office of the Department of Charity Commissioner, stands set aside.
- ii. Insofar as the other directions as set out in the operative order are concerned, the same shall stand substituted by the following order:-
 - a. The petitioners shall not take any policy decision,
 - b. The petitioners shall also not deal with the movable and immovable property of the Trust in relation to the affairs of the educational institution.
 - c. The petitioners shall also not take any decision in regard to the appointment, promotion and termination of the employees of the Trust till

the adjudication of the pending change reports.

iii. The Change Report Nos. 130 of 2020, 143 of 2020, 164 of 2020, 35 of 2020 and 36 of 2020 which are pending adjudication, shall be taken up and decided as expeditiously as possible and in any event final orders thereon be passed within a period of six months from the date a copy of this order is presented before the Id. Assistant Charity Commissioner.

iv. All contentions of the parties on the pending change reports are expressly kept open.

v. We, however, clarify that in the event there is any urgency of any decision to be taken, we permit the petitioners to make an appropriate application to the learned Charity Commissioner who shall decide the said application after hearing all the parties and in accordance with law.

vi. It is clarified that the petitioners have permitted to incur urgent expenditure in respect of salaries and other regular outgoings and account of the same be maintained as also intimation of such incurred expenditure be forwarded to respondent nos.4 and 5.

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

8. We are informed that there are writ petitions pending on the same issue before the learned Single Judge of this Court, namely, Writ Petition (Stamp) No. 13531 of 2025, Writ Petition (Stamp) No. 13536 of 2025,

Writ Petition (Stamp) No. 13883 of 2025, Writ Petition (Stamp) No. 13894 of 2025, Writ Petition (Stamp) No. 13890 of 2025 and Writ Petition (Stamp) No. 13880 of 2025. Mr. Shah, learned senior counsel for the petitioners, on instructions of Shri. Dhananjay Salunkhe, President of petitioner-Trust who is present in the Court, submits that the said petitions would now be required to be withdrawn. Appropriate steps in that regard may be taken.

9. While parting we may also observe that considering the issues as raised before us, the petitioners as also respondent nos.4 and 5 need to take appropriate position and make an endeavour to resolve the dispute subject matter of the change reports, as it would be in the interest of none of the parties, that the issues are litigated and valuable time and resources are spent in litigating, instead more constructive work can be undertaken when the activities of the Trust pertain to educational institution.

10. Needless to observe that the parties are permitted to implead either the petitioners or the respondents in adjudication of their respective change reports, and if any other change reports.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]

corrected as per speaking to minutes order dated 25.04.2025