

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4954 OF 2025

Sagar Narsayya Yelle And Anr

...Petitioners

Versus

Akhil Padmashali Samaj Bhiwandi And Ors

...Respondents

Adv. S.C. Wakankar a/w Adv. Aishwarya Bapat, for the Petitioner.

Ms. S.A. Prabhune, AGP for the Respondent-State.

Mr. R.D. Suryawanshi, for the respondent nos. 1 to 4.

Mr. Dinkar Patil, Assistant Charity Commissioner, Thane – Present.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 16 APRIL 2025

P.C.:

1. Let the reply affidavit to the petition be filed.
2. We have perused the impugned notice dated 6 April 2025 notifying the election program which is surprisingly in two phases. In the first phase, elections would be held for the the post of President, Secretary and Treasurer and other posts. In the second phase, there would be general elections to elect the members of the Managing Committee. *Prima facie* this is putting the cart before the horse. According to the petitioner, this is objectionable, as the office bearers are required to be elected only from those who would be elected on the Managing Committee.
3. *Prima facie*, we find substance in the contentions as urged on behalf of the petitioner, as the office bearers like President, Secretary, Treasurer are required to be appointed from amongst the elected members of the

governing body. We are not shown any rule or provision under which a pattern as notified in the election program can be held to be acceptable. We are accordingly of the opinion that an appropriate election program needs to be notified so that the elections are held in accordance with law. However, if the respondents intend to contest this position, they shall file an affidavit on or before the returnable date. Let the same be served on the petitioners and the other parties and we shall take up the proceedings for hearing.

4. Accordingly in our *prima facie* view, defective or unlawful elections under such pattern cannot be permitted to be held. In view of this, we are inclined to stay the election. Ordered accordingly.

5. We, however, clarify that in the event the respondent intends to proceed and hold a proper election and in the manner as the law would mandate, they are free to do so. Accordingly, the program already notified of such elections is permitted to be modified so as to hold the elections of the managing committee of Trustees/governing body and thereafter from the elected members, office bearers can be appointed and in accordance with law. If this is acceptable to the respondents, let appropriate steps in that regard be notified by tomorrow.

6. Stand over to **17 April 2025 at 2.30 p.m.**

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]