



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.5861 OF 2025**

Sachin Narsinh Godbole and Ors. ... Petitioners
versus
State of Maharashtra and Ors. ... Respondents

Mr. Ashutosh Kumbhakoni, Sr. Advocate i/by Mr. Raviraj Paramane, Mr. Vaibhav Gaikwad, Ms. Pradnya Solanki, for Petitioners.
Smt. Vaishali Nimbalkar, AGP for State.

CORAM: N.J.JAMADAR, J.

DATE : 15 SEPTEMBER 2025

ORAL ORDER :

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 27 January 2025 passed by the learned Joint Charity Commissioner – 1, Maharashtra State, Mumbai, in an Appeal No.11 of 2023, whereby the appeal preferred by the Petitioners challenging the order dated 9 January 2023 passed by the Assistant Charity Commissioner, - II, Greater Mumbai Region, Mumbai in Scheme Application No.ACC/II/90/2019 came to be dismissed by affirming the order passed by the learned Assistant Charity Commissioner.
3. When the Petition was first listed before this Court on 9 June 2025, this Court had crystalized the issues that arise for consideration in this petition. The observations in paragraphs 3 to 7 of the said order read as under :

“3. While the impugned order passed by Respondent

No.2 rejects the application essentially on procedural grounds with no reference to the merits of the matter, the impugned order passed by Respondent No.3 makes detailed observations on the merits of the matter, holding that the petitioners failed to make out their case for framing of the scheme as the existing Constitution could not be said to be vague.

4. It is brought to the notice of this Court that the Respondent No.3 has gone beyond the findings rendered by the Respondent No.2 and given findings on merits against the petitioners, as a consequence of which, any fresh application proposed to be moved after following all procedural requirements, would be a stillborn exercise.

5. In fact, it is submitted on behalf of the petitioners that such an application has been recently moved on 16th May 2025, which according to the Petitioners complies with all procedural requirements, but consideration of the same on merits would be hampered by the observations and findings rendered on merits in the impugned order passed by the respondent No.3.

6. In that context, attention of this Court is invited to contents of the original application moved on behalf of the petitioners under Section 50A(1) of the Maharashtra Public Trust Act, 1950, for framing of scheme. This Court finds prima facie substance in the contentions raised on behalf of the petitioners that specific reasons stated in the aforementioned application were not adverted to and therefore, the impugned order passed by respondent No.3 rendering findings on merits, deserves to be set aside.

7. In this connection, the learned Senior Counsel

appearing for the petitioners specifically invited attention to documents, indicating the requirements specified by the Central Government as per the National Sports Development Code of India, 2011 in line with which the Constitution of the concerned association would have to be modified.”

4. Respondent No.4 has been duly served. Office report indicates that the Respondent No.4 has been served as per Bailiff's Report and the Petitioners have also filed an affidavit of service of the notice to the Respondent No.4. None appears for Respondent No.4.

5. The Petitioners are not aggrieved as much by the dismissal of the appeal against the order dated 9 January 2023 passed by the learned Assistant Charity Commissioner to the extent the learned Joint Charity Commissioner concurred with the view of the learned Assistant Charity Commissioner that the Petitioner had not complied with the requirements of the issue of notice to the members of the Trust and passing of the resolution before filing an application for framing of the scheme as by the observations of the learned Joint Charity Commissioner that the constitution of the trust settled in the year 1966 is adequate and there is no need to frame a fresh scheme.

6. It is submitted that, the Petitioners were constrained to file an application for framing a Scheme in view of the National Sports Development Code of India, 2011 framed by the Ministry of Youth Affairs and Sports,

Department of Sports, Government of India. The Constitution / Rules and Regulations of the Sports Organizations are required to be in conformity with the National Sports Development Code of India, 2011, framed by the Central Government, to avail certain benefits. To comply with the requirements of the said Code, the Petitioners were required to file an application for framing of a new scheme. Though, the Petitioners have, in fact, filed a fresh application for framing the Scheme, being ACC/II/83 of 2025, in view of the observations of the learned Joint Charity Commissioner in the impugned order that, there is no need to frame the scheme for the administration of the trust, the Petitioners have reasonable apprehension that the fresh application would meet the same fate, submitted Mr. Kumbhakoni.

7. I find substance in the submissions of Mr. Kumbhakoni that the learned Joint Charity Commissioner had no occasion to delve into the question of necessity of the scheme for the better administration of the affairs of the trust. The learned Assistant Charity Commissioner had not delved into the merits of the matter. Nor the necessity of the scheme in the light of the Sports Development Code was examined by the learned Assistant Charity Commissioner. The Application was rejected by the learned Assistant Charity Commissioner for the reason that the Petitioners had not filed copies of the notices for the annual general body / special general body meetings and the resolutions passed in such meetings to frame the scheme. Learned Assistant

Charity Commissioner was of the view that these pre-requisites were required to be complied with by the Trust before the application for framing the Scheme was filed. Thus, on technical ground, the application was rejected by the learned Assistant Charity Commissioner.

8. In appeal against the said order, the Joint Charity Commissioner was well within his rights in concurring with the said view of the learned Assistant Charity Commissioner. However, the observations of the Joint Charity Commissioner on the merits of the matter to the effect that there was no necessity to frame a new scheme altogether, and the constitution of the trust framed in the year 1966 was adequate to manage the affairs of the trust, even in the changed scenario, were gratuitous in the least. Learned Joint Charity Commissioner lost sight of the fact that the constitution of the trust and the rules and regulations framed to administer the affairs of the trust, are required to be amended to keep pace with the emerging situations.

9. Evidently, the Petitioners were required to file the application for framing the scheme in view of the National Sports Development Code of India, 2011 framed by the Central Government, to bring the rules and regulations in conformity with the said Code. Therefore, since the Petitioners have filed a fresh Application i.e. ACC/II/83 of 2025 for framing the Scheme, it would be in the fitness of things that the learned Assistant Charity Commissioner decides the said application on its own merits and in accordance with law. The

observations in the impugned order to the effect that there is no necessity to frame a scheme for the trust would not be an impediment for the learned Assistant Charity Commissioner in deciding the said application.

10. For the foregoing reasons, the Writ Petition stands allowed.

11. It is declared that the observations in the impugned order to the effect that there is no necessity to frame a fresh scheme for the trust will not bind the Assistant Charity Commissioner in deciding the application for framing the Scheme.

12. The learned Assistant Charity Commissioner shall decide the said application on its own merits and in accordance with law without being influenced by any of the observations made by the Joint Charity Commissioner in the impugned order.

13. No costs.

(N.J.JAMADAR, J.)