



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 2677 of 2025

[Shri Anna Shriram Fate and ors. ..vs.. Shri Baburao S/o Motiram Chole and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. D. Abhyankar, Advocate for the petitioners
Mr. N. D. Khamborkar, Advocate for respondent nos. 1 to 5/caveators
Mr. A. V. Palshikar, AGP for the State/respondent nos. 6 and 7

CORAM : ANIL L. PANSARE J.

DATED : 30-06-2025

Having heard both sides, it appears that the appeal filed before Joint Charity Commissioner by the respondents has been allowed on the count that the application under Section 50(A)(1) of the Maharashtra Public Trusts Act, 1950 (for short, 'the Act of 1950') is itself not maintainable in view of the provisions of Sections 12 and 12A of the Societies Registration Act, 1860 (for short, 'the Act of 1860'). The Joint Charity Commissioner accordingly thought it proper to not refer to the merits of the appeal.

2. Thus, it appears that the Joint Charity Commissioner is of the view that since there are provisions under Sections 12 and 12A of the Act of 1860, the application under Section 50A(1) of the Act of 1950 is not maintainable.

3. Section 12 of the Act of 1860 enables to alter, extend or abridge the purposes of the society. Section 12A provides for change of name of society. Thus, these two provisions provide for a specific remedy as regards amendment to the object and purpose of the society and further to change name of the society whereas Section 50A of the Act of 1950 provides for the scheme for proper administration of the trust.

4. The society under question is formed for educational purpose, which is, undoubtedly a charitable purpose. The attention of Joint Charity Commissioner is, therefore, invited to definition of 'public trust' as provided in Section 2(13) of the Act of 1950, which reads as under :

(13) "public trust" means an express or constructive trust for either a public religious or charitable purpose or both and includes a temple, a math, a wakf, [church, synagogue, agiary or other place of public religious worship,] [a dharmada] or any other religious or charitable endowment and a society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860;

5. As could be seen, the society formed for a charitable purpose and registered under the Act of 1860 is also a public trust. That being so, the provisions of the Act of 1950 will be applicable. The Joint Charity Commissioner thus committed serious error of law in allowing the appeal only on the ground that application under Section 50A of the Act of 1950 is not maintainable.

6. Writ petition is accordingly partly allowed. Judgment and order dated 2-4-2025 passed by Joint Charity Commissioner, Nagpur in Appeal No. 12/2018 is quashed and set aside. The appeal is remanded back to consider afresh in accordance with law and what has been stated in the body of the order. The Joint Charity Commissioner shall decide the appeal as expeditiously as possible.

7. The parties shall appear before the Joint Charity Commissioner, Nagpur on 4-7-2025.

(Anil L. Pansare, J.)