



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

FIRST APPEAL NOS. 1085/2012 & 218/2013
WITH
WRIT PETITION NOS. 1909/2021 & 1193/2021

FIRST APPEAL NO. 218 OF 2013

Jaipal Pundlik Wanve,
Aged about 44 years,
Occ. Business & Cultivator,
R/o. Samarth Nagar, Murmadi (Lakhani),
Tq. Lakhani, District Bhandara

... APPELLANT

// VERSUS //

1. Kashiram Lingaji Madavi,
R/o. Murmadi (Sawari), Post + Tah.
Lakhani, Dist. Bhandara
**(Name of R. No. 1 is deleted as per R(J)
order dt. 10/6/14.**
2. Gopichand Ratiramji Maraskolhe
R/o. Khapa (Khurd), Post Alesur
(Piteshwar), Tah. Tumsar, Dist. Bhandara
3. Dr. Ramkrishna Natthu Shinde,
R/o. West Samarth Nagar, Murmadi,
Tah. Lakhani, District Bhandara.
4. Khushal Natthuji Motghare,
R/o. West Samarth Nagar, Murmadi
Tah. Lakhani, District Bhandara
5. Dr. Umesh Narayan Taram,
At Post + Tah. Deori, District Gondia.
6. Madhukar Hanumant Bhadikar,
Gandhi Nagar, Amravati.
7. Shivaji Natthuji Dhurve,
R/o. + Post Miregaon, Tah. Lakhani,
District Bhandara.

8. Joint Charity Commissioner,
Nagpur Division, Nagpur
(deleted)

... **RESPONDENTS**

Shri A. Z. Jibhkate, Advocate for appellant.

Shri Prashant Gode, Advocate for respondent nos. 2, 5 & 7.

Shri S. D. Abhyankar, Advocate for respondent no. 4.

WITH

FIRST APPEAL NO. 1085 OF 2012

1. Gopichand S/o. Ratiramji Maraskolhe,
Aged 60 yrs, Occ. Private,
R/o. Khapa Khurd, Post Lendezari,
Tah. Tumsar, Distt. Bhadara.
2. Ku. Jayashri Raghunathji Maraskolhe,
Aged 39 yrs, Occ. Service,
R/o. West Samarth Nagar, In front of
Samarth Mahavidyalaya, Lakhani,
Tah. Lakhani, Dist. Bhandara.

... **APPELLANTS**

// VERSUS //

1. Kashiram S/o. Lingaji Madavi,
Aged 82 yrs, Occ. Private,
R/o. Murmadi, Post Lakhani,
Tah. Lakhani, Distt. Bhandara.
2. Madhukar S/o. Hanumantrao Bhadikar,
Aged Major, Occ. Private,
R/o. Near Gurdwara, Gandhinagar,
Amravati, Tah. & Dist. Amravati.
3. Khushal S/o. Natthuji Motghare,
Aged Major, Occ. Private,
R/o. Samarth Nagar, Lakhani,
Tah. Lakhani, Dist. Bhandra.
4. Dr. Umesh Narayan Taram,
Aged Major, Occ. Private, R/o. At-Post
Deori, Tah. Deori, Dist. Gondia.

5. Ankush S/o. Bhagwat Sarve,
Aged 48 years, Occ. Service,
R/o. Bhayyaji Nagar, Khat Road,
Bhandara, Tah. & Dist. Bhandara.
6. Ramkrushna S/o. Natthuji Shinde,
Aged Major, Occ. Private,
R/o. Samarth Nagar, Lakhani.
7. Shri Shivaji Nathuji Dhurve,
R/o. Miregao, Post Pimpalgaon,
Tah. Lakhani, Dist. Bhandara.

. . . **RESPONDENTS**

Shri Prashant Gode, Advocate for appellants.
Shri A. Z. Jibhkate, Advocate for respondent no. 1/Caveator.

WITH

WRIT PETITION NO. 1193 OF 2021

1. Shri Jaipal s/o Pundlik Wanwe,
Aged 55 yrs, Occupation Retired,
R/o At and Post Murmadi, Tahsil Lakhani,
District Bhandara.
2. Sou. Jaya W/o Jaipal Wanwe,
Aged major. Occ: Private,
R/o Murmadi, Tahsil Lakhani,
District Bhandara.
3. Shri Duryodhan S/o Baliram Sayyam,
Aged major, Occ: Private,
R/o Khairy, Post Minsi, Tahsil Paoni,
District Bhandara.
4. Shri Dnyaneshwar S/o Mahadeo Neware,
Aged adult, Occ: Private,
R/o Paschima Smarth Nagar, Murmadi,
Tahsil Lakhani, District Bhandara.

5. Shri Ghanashyam S/o Atmaram
Waghmare, Aged adult, Occ: Private,
At and post Lakshori, Tahsil Lakhani,
District Bhandara.
6. Sau. Rajeshree Raju Murkure,
Aged adult, Occ: Private,
R/o Borgoan, Post Ahela,
Tah. & District Bhandara.
7. Shri Prakash S/o Gajnan Dolas,
Aged adult, Occ: Private,
R/o At and Post Gondumari,
Tahsil Sakoli, District Bhandara.
8. Shri Ramesh S/o Wasudeo Maske,
Aged adult, Occ: Private,
At & post Lakhani, District Bhandara.
9. Smt. Urmila W/o Tarachand Kathane,
Aged adult, Occ: Private,
R/o Garada, post Kesalwada,
Tahsil Lakhani, District Bhandara

. . . **PETITIONERS**

// VERSUS //

1. Joint Charity Commissioner, Nagpur
2. Assistant Charity Commissioner,
Bhandara
3. Shri. Shivaji S/o Natthuji Dhurve,
Aged 80 yrs, Occ: Service,
R/o Paschim Samarth Nagar, Murmadi,
Tahsil Lakhani, Distt. Bhandara.
4. Shri Madhukar S/o Hanumantrao
Bhadikar, Aged about 75 yrs,
Occ: Retired, R/o Gandhi Nagar,
Amaravati, Tehsil & District Amaravati.

5. Ku. Jayashree D/o Raghunathji
Maraskolhe, Aged 47 yrs, Occ: Service,
R/o Pachshim Samarth Nagar,
Murmadi, Lakhani Tahsil Lakhani,
District Bhandara.

6. Khushal Natthuji Motghare,
Aged Major, Occ. Retired,
R/o. Lakhni, Taluka Lakhni,
Dist. Bhandara.
**(Amendment carried out as per courts
order dtd. 12.10.22)**

.. RESPONDENTS

Shri A. M. Ghare, Advocate for petitioner.
Shri S. B. Bissa, AGP for respondent nos. 1 and 2.
Ms. Dipali Kolhe, Advocate for respondent nos. 3 and 5.
Mr. S. D. Abhyankar, Advocate for respondent nos. 4 and 6.

AND

WRIT PETITION NO. 1909 OF 2021

Jaipal S/o. Pundalik Wanve,
Aged about 52 years, Occ. Secretary,
R/o. Samarth Nagar, Murmadi,
Tah. Lakhani, Dist. Bhandara.

... PETITIONER

// VERSUS //

1. In charge Assistant Charity Commissioner,
Bhandara.

2. Jayshree D/o. Raghunathji Maraskolhe,
Aged about 49 years, Occ. Service,
R/o. West Samarth Nagar, Murmadi,
Tq. Lakhani, Dist. Bhandara.

3. Khushal Nathuji Motghare,
Aged Major, Occ. Retired,
R/o. Lakhani, Taluka Lakhni,
Dist. Bhandara.
**(Amendment carried out as per courts
order dtd. 12.10.22)**

.. RESPONDENTS

Shri A. M. Ghare, Advocate for petitioner.
Shri S. B. Bissa, AGP for respondent no. 1.
Shri Prashant Gode, Advocate for respondent no. 2.
Mr. S. D. Abhyankar, Advocate for respondent no. 3.

CORAM :- M. W. CHANDWANI, J.

RESERVED ON :- 18.08.2025

PRONOUNCED ON :- 09.09.2025

JUDGMENT :-

. Heard.

2. The dispute in both the Appeals and both the Writ Petitions is in respect of a common Trust and considering the questions raised in these two First Appeals and two Writ Petitions, these are being decided analogously by this common judgment.

3. Bhartiya Adiwasi Shiv Shikshan Sanstha, Garada, a registered Public Trust under the provisions of the Maharashtra Public Trust Act, 1950 (for short, "the Act of 1950") as well as the Societies Registration Act, 1860 was established by seven founder members. Out of the seven Trustees, only two were surviving i.e. Kashiram Madavi and Gopichand Maraskolhe on the date of passing of the order under Section 47 of the Act of 1950 by the learned Joint Charity

Commissioner, Nagpur. Persons having interest in the Trust filed applications for being appointed as Trustees before the Joint Charity Commissioner, Nagpur asking him to exercise his powers under Section 47 of the Act of 1950 on the premise that the numbers of Trustees were insufficient to run the administration of the Trust smoothly. The learned Joint Charity Commissioner, Nagpur by entertaining the applications, issued a public notice in Lokmat Daily Newspaper calling upon persons having interest in the Trust to submit their application for being appointed as Trustees. In response to the public notice, many aspirants filed applications claiming themselves to be either members of the Trust or persons having interest in the Trust. The learned Joint Charity Commissioner after considering their record, by order dated 12.10.2012 appointed seven persons as Trustees of the Trust with certain conditions. The Trustees consist of Kashiram Madavi and Gopichand Maraskolhe, the founder members; One Shivaji Dhurve who was already a member of the Trust; and the remaining four Trustees were the persons having interest in the Trust.

4. The said order of the learned Joint Charity Commissioner has been challenged by Jaipal Wanve by filing First Appeal No. 218/2013 as well as by his rival group Gopichand Maraskolhe and others by filing First Appeal No. 1085/2012 on the ground that their candidature has not been considered and some of the persons who

were not fit for the post of Trustee have been selected by the learned Joint Charity Commissioner.

5. It is the case of the appellant in First Appeal No. 218/2013 i.e. Jaipal Wanve that since the trust was facing problems on account of ongoing litigation created after the judgment passed under Section 47, he along with his associate members appointed an Election Officer and conducted elections of the Managing Committee amongst the list of members. Consequently, elections were held and Change Report No. 38/2014 came to be filed on 13.03.2014.

6. On the other hand, Kashiram Madavi along with the Trustees who were selected by the order of the learned Joint Charity Commissioner have also filed Change Report No. 670/2012 claiming that, as per the directions of the learned Joint Charity Commissioner in his order under Section 47 of the Act of 1950, they conducted the elections of the officer bearers of the Trust and accordingly, claimed change in Schedule-I.

7. One more important fact required to be stated is that, after the order under Section 47 of the Act of 1950, an application was moved under Section 50A of the Act of 1950 for framing the scheme of appointment of the First Board of Trustees which was allowed by the

Assistant Charity Commissioner. That order was challenged in Appeal before the District Judge, Bhandara which came to be allowed and the order of the Assistant Charity Commissioner was set aside. Thereafter, it was not carried further.

8. Reverting to Change Report Nos. 670/2012 filed by respondent nos.1 to 7 in First Appeal No. 218/2013 and 38/2014 filed by Jaipal Wanve, initially Change Report No. 670/2012 was rejected and in Appeal before the Joint Charity Commissioner, the matter was remanded to the learned Assistant Charity Commissioner, Bhandara. Thereafter, the learned Assistant Charity Commissioner allowed Change Report No. 38/2014 by order dated 16.02.2017, which was carried in Appeal before the learned Joint Charity Commissioner. The learned Joint Charity Commissioner stayed the order of the learned Assistant Charity Commissioner. The order of stay was carried in two Writ Petitions bearing Nos. 5487/2018 and 7516/2018. This Court set aside the stay order of the learned Joint Charity Commissioner and directed him to decide the proceedings pending before him by disposing of both the Writ Petitions. This Court directed that pending the proceedings, the Trustees mentioned in Change Report No. 38/2014 will continue. Ultimately, the learned Joint Charity Commissioner by order dated 13.10.2022 allowed the Appeal as well as the Revision and set aside the order of the learned Assistant Charity

Commissioner whereby, Change Report No. 38/2014 was rejected. Against rejection of Change Report No. 38/2014, the learned Joint Charity Commissioner in Appeal as well as in Revision, Writ Petition No. 1193/2021 came to be filed by Jaipal Wanve.

9. It is to be noted that, after the learned Joint Charity Commissioner allowed the appeal as well as the Revision, names of the Trustees mentioned in Change Report No. 38/2014, came to be deleted from Schedule-I by order dated 30.03.2021 and that has been challenged in Writ Petition No. 1909/2021.

10. It will be convenient to first deal with First Appeal Nos. 1085/2012 and 218/2013.

11. Mr. Gode, learned counsel for the appellants in First Appeal No. 1085/2012 has contended that, though appellant no. 2 had applied before the Joint Charity Commissioner, Nagpur for being appointed as Trustee of the Trust, but her application was not considered. Appellant no. 2 is a woman and she has a good reputation and experience in managing the Trust. She used to attend all the meetings of the Executive Body. No Trustee from the female category has been appointed on the Trust. On the other hand, respondent nos. 1, 2, 3 and 6 are not eligible to be appointed as Trustees of the Trust.

Respondent no. 1 is an old aged person, whereas there were allegations of misappropriation of the Trust fund on respondent no. 2. Respondent no. 3 is an employee of the Trust and the By-laws of the Society do not permit an employee to be the Member of the Managing Committee. Apart from that, the son of respondent no. 3 is working as Assistant Teacher in one of the junior colleges of the Trust. Respondent no. 6 does not possess a B.A.M.S. degree as claimed by him. Hence, their candidature should not have been considered by the Joint Charity Commissioner, Nagpur.

12. It is a matter of record that respondent no. 1 is one of the original Trustees and he continued in the Management since the beginning of the Trust. Merely because respondent no. 1 was old, that cannot be a ground to reject his candidature or for not considering him as Trustee of the Trust. Be that as it may, the fact remains that respondent no. 1 died on 10.06.2014 during the pendency of the appeal.

13. So far as respondent no. 2 is concerned, the Joint Charity Commissioner, Nagpur considered the educational qualification of respondent no. 2 which is equivalent to a Master's degree in Engineering. He retired from the post of Superintendent Engineer at M.S.E.B. and was the Chairman of the Law Committee of Amravati

Corporation. He was also a Member of the Local Committee and looked after the administration of the Adiwasi Ashramshala, Palasapur, Tah. Achalpur, Dist. Amravati, a boarding school run by the Trust. Indisputably, the allegations which are made against respondent no. 2 cannot be taken as a concrete proof of his involvement in the misappropriation of the Trust fund. Therefore, the Joint Charity Commissioner rightly dispelled the grounds raised by the appellant.

14. Respondent no. 3, evidently received 'Ideal Teacher' award from the Government of Maharashtra in the year 1996-97 and has retired as Headmaster. Therefore, the Joint Charity Commissioner has rightly opined that his experience and educational qualification will be helpful for the betterment of the Trust and its institutions.

15. Respondent no. 6 has acted as an Advisor to the Trust and is connected with the Trust since the last 35 years. He is also a respectable person having worked as a Special Executive Magistrate for 20 years from 1978 to 1998 as well as Secretary of the Human Rights Commission. Therefore, no fault can be seen with the selection of respondent no. 6 by the Joint Charity Commissioner.

16. So far as the submission of the learned counsel for the appellant that respondent no. 3 was an employee of the Trust and he

cannot be appointed as Trustee is concerned, the By-laws prohibit selection of an employee of the Trust and not an ex-employee. Needless to mention that, the husband of appellant no. 2 is an existing employee, who is working as Headmaster of one of the schools of the Trust. Therefore, the Joint Charity Commissioner has rightly discarded her candidature in wake of the fact that the wife of an employee of the Trust may not be a proper choice as it may result in conflicts. Therefore, no interference is required in the impugned order of the Joint Charity Commissioner.

17. Turning to First Appeal No. 218/2013, in this appeal also the appellant is working as Hostel Superintendent of Bhartiya Adiwasi Shiv Shikhan Sanstha, Garada, one of the schools of the Trust and is also acting as the Administrator of the hostel of Rani Durgawati Vastigruha, Garada. No doubt, these two hostels have been attached to another Trust namely Bapurao Madavi Multipurpose Education Society temporarily due to an ongoing dispute in the Managing Committee of the Trust. The attachment of these two hostels with another Trust has been done temporarily and therefore, the appellant cannot claim that he is not an employee of the Trust. Perhaps, he may be receiving salary from the very Trust. Therefore, his candidature has rightly been discarded by the the Joint Charity Commissioner.

18. So far as the submission that respondent nos. 5 and 7 should not have been appointed as Trustees for the reason that they did not demonstrate their contribution to protect the interest of the Trust is concerned; the record shows that the Joint Charity Commissioner has considered the candidature of respondent no. 5 as he belongs to Adiwasi community and is a resident of Bhandara District where various institutions are being run by the Trust as well as his medical background to appoint him as a Trustee of the Trust. Whereas, respondent no. 7 was a Trustee of the Trust for quite some time and worked as Secretary of the Trust. However, he resigned as he had joined service at a school run by the Trust. Now, he has retired and therefore, there is no embargo on appointing him as a Trustee of the Trust; more particularly, when he is connected with the Trust and has experience with regard to the affairs of the Trust.

19. No fault can be seen in the selection of respondent nos. 5 and 7 as Trustees of the Trust. The Joint Charity Commissioner has rightly considered the candidature of each respondent and has accepted each candidature while appointing the Trustees and has rightly rejected the candidature of appellant no. 2 in First Appeal No. 1085/2022 and appellant in First Appeal No. 218/2013 by giving elaborate reasons. Therefore, the appeals are devoid of merits.

20. This takes me to the events which occurred post selection of Trustees by the Joint Charity Commissioner under Section 47(5) of the Act of 1950. As stated earlier, the group led by petitioner- Jaipal Wanve in Writ Petition No. 1193/2021 conducted a meeting and passed a resolution to conduct the elections. Consequently, the elections were held. Jaipal Wanve was elected as Secretary and Change Report No. 38/2014 came to be filed. Whereas, the Trustees selected by the order of the Joint Charity Commissioner also claimed that they conducted elections of the office bearers of the Trust and filed a Change Report before the Joint Charity Commissioner. Thus, both the groups are claiming that they conducted the elections and accordingly, filed the Change Reports. Ultimately, Change Report in Revision No. 144/2017 and Appeal No. 216/2018 and 81/2017 filed by the respondents was allowed and Change Report No. 38/2014 came to be rejected.

21. It is a matter of record that as of 17.10.2013, except Gopichand Maraskolhe all the Trustees were dead and neither General Secretary nor Secretary was available. As per the By-laws of the Trust, it is only the General Secretary who can issue notice and in his absence, the Secretary can issue notice. In the year 2013, no General Secretary of the Trust was available and except Gopichand Maraskolhe, all other Trustees died. Axiomatically, Jaipal Wanve who claims to

be a Member of the Society could not have issued a notice for calling the meeting on 17.10.2013. Therefore, notice issued by petitioner no. 1 for holding elections in order to form a new Managing Committee is not a valid notice. The Joint Charity Commissioner has rightly held that appointment of the Election Officer in the said meeting is totally illegal and the elections conducted by him are also illegal. The Joint Charity Commissioner has further rightly observed that, if at all petitioner- Jaipal Wanve had interest in the Trust, he ought to have moved under Section 41A of the Act of 1950 before the Competent Authority with one interested person to decide as to how and when the elections are to be conducted. Therefore, the Joint Charity Commissioner has rightly rejected Change Report No. 38/2014 based on the elections held on the basis of the meeting which was not convened legally. Hence, no interference is required in these findings of the Joint Charity Commissioner.

22. So far as the ground that the respondents did not become Trustees as they had not paid the subscription fees as per the directions of the Charity Commissioner contained in order dated 12.10.2012 is concerned, Change Report No. 670/2012 is not a subject matter of the present Appeals or Writ Petitions. Needless to mention that, the Charity Commissioner by order dated 12.10.2012 has already held that the respondents are having interest in the Trust. Even if it is accepted

that they are not Trustees of the Trust due to non-payment of the subscription fees, the appeal filed by them before Jt. Charity Commissioner against acceptance of Change Report No. 38/2014 is still maintainable.

23. This takes me to Writ Petition No.1909 of 2021 which has been filed by Jaipal Wanve and others whose names were appearing in Schedule-I on the record of the Assistant Charity Commissioner, Bhandara complaining about the removal of their names from Schedule-I in respect of the trust on the premise that, this Court by order dated 27.10.2020 in Writ Petition No.1193 of 2021 directed that the body of the petitioners shall continue to operate during pendency of the present petitions. However, the Assistant Charity Commissioner, Bhandara ignoring the order dated 27.10.2020 passed in Writ Petition No.1193/2021 removed the names of the petitioners from Schedule-I which is a contemptuous act. Therefore, the petitioners seek setting aside of the order dated 30.03.2021 passed by the Assistant Charity Commissioner, Bhandara in Misc. Civil Application No.25 of 2022. For the sake of convenience, the order dated 27.10.2020 passed by this Court in Writ Petition No.1193 of 2021 is reproduced as under :

“Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. *Heard learned counsel for the petitioners.*

3. *It is submitted that by the impugned order, the respondent No.1 has allowed an appeal, which was not even maintainable. Apart from this, contentions are raised on merits and it is submitted that there were interim orders operating in favour of the body, which has been incharge of the trust in question since the year 2017.*

4. *Issue notice for final disposal, returnable in six weeks.*

5. *In the meanwhile, the body holding charge of the aforesaid trust since the year 2017, shall continue to operate during the pendency of the present writ petition. It is made clear that since the term of elected body appears to be over, this Court will consider issuing directions for holding of immediate election in the said trust under the supervision of an independent authority.”*

24. Perusal of the order dated 27.10.2020 reveals that by the said order, having made an interim arrangement, the petitioners' body holding charge of the above-mentioned Trust was allowed to continue its operation during the pendency of the writ petitions. Thus, the effect and operation of the order passed by the learned Joint Charity Commissioner in Revision Application No. 144 of 2017 and Appeal Nos. 216 of 2018 and 81 of 2017 rejecting Change Report No. 38/2014 and allowing the petitioners to continue to operate the Trust is one thing and removal of the petitioners' names from Schedule-I of the Trust in consequence of the order passed by the learned Joint Charity Commissioner dated 13.10.2020 is another. Thus, there is no substance in the arguments of Mr. Ghare, learned counsel for the petitioners that the Assistant Charity Commissioner has violated the order dated 27.10.2020 passed by this Court in Writ Petition No.1193 of 2021. Therefore, the deletion of the names of the petitioners by the

Assistant Charity Commissioner in consequence of the rejection of Change Report No. 38/2014, whereby the names of the present petitioners were incorporated in Schedule-I of the said Trust and the common judgment passed by the Joint Charity Commissioner in Revision Application No. 144 of 2017 and Appeal Nos. 216 of 2018 and 81 of 2017 cannot be faulted with.

25. Consequently, the Appeals and the Writ Petitions are devoid of merits and hence, they are dismissed.

(M. W. CHANDWANI, J.)

26. At this stage, the learned counsel for the petitioners in both the Writ Petitions submits that by way of interim relief, this Court has allowed the petitioners to hold charge of the aforesaid Trust and the said order continued to operate during the pendency of the Writ Petitions. Therefore, this arrangement shall further be extended for a period of three weeks, since the petitioners want to get this judgment and order tested before the Hon'ble Supreme Court.

27. The prayer is opposed by the learned counsel for the respondents on the ground that the petitioners have not approached this Court with clean hands. Rather, they held another election and the

Change Report has been filed inspite of the fact that the earlier election is under challenge.

28. Considering the submissions made by the learned counsel for the petitioners as well as the learned counsel for the respondents and considering the fact that the body of the Trust is operating and holding charge of the aforesaid Trust since 2017, the interim order shall continue to remain in force for a further period of three weeks from today.

29. It is made clear that the body shall only work as a caretaker of the Trust and shall not take any policy decisions including appointment of any employee in the Trust during the said period.

(M. W. CHANDWANI, J.)