



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

WRIT PETITION NO. 170 OF 2025

(Shri Wasudeo s/o Natthuji Kamble & Ors. Vs. Shri Gajendra s/o Jyotiram Shahare & 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, Counsel for the petitioners.
Mr. V.K. Paliwal, Counsel for respondent nos. 1 and 2.
Ms M.S. Naik, A.G.P for respondent no.3/State.

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CORAM : ANIL L. PANSARE, J.
APRIL 29, 2025

The matter pertains to proceedings filed under Section 50A of the Maharashtra Public Trusts Act, 1950 (for short "Act of 1950"). The Assistant Charity Commissioner, in the given facts and circumstances of the case, thought it necessary to formulate a scheme, and accordingly, framed the scheme. In doing so, he has appointed nine Members as First Board of Trustees.

2] The learned Counsel for the petitioners submits that out of nine, only five Members are alive and are pursuing the cause. The Assistant Charity Commissioner observed that the Management of the Trust, namely, Rashtrasant Shikshan Sanstha Soni (Chaprad) was run by the then five Members, contrary to its bye-laws. The Assistant Charity Commissioner further took note of the fact that the bye-laws of the Trust were incomplete. There were no provisions as regards rights and duties of the office bearers. The post of Treasurer was absent. The provisions for issuance of notice of meeting

was also absent. Some of the Clauses, like Clauses 15 and 19, were self-contradictory, and so on.

3] The Assistant Charity Commissioner accordingly found it necessary to frame a scheme and appoint First Board of Trustees. The Assistant Charity Commissioner has, while appointing First Board of Trustees, gone through biodatas of persons, who showed interest to manage the affairs of the Trust. He noted that they were educated persons having interest and experience in the management and administration of Trust, and found them to be fit persons to be appointed as First Board of Trustees.

4] Respondent nos. 1 and 2, along with three others, assailed the order before the District Judge, Bhandara, under Section 72 of the Act of 1950. The First Appellate Court has concurred with the finding of the Assistant Charity Commissioner as regards necessity to frame scheme under Section 50A, and his powers to appoint First Board of Trustees. The only exception taken by the First Appellate Court is that the Assistant Charity Commissioner has not followed the procedure as envisaged under Section 47 of the Act of 1950. The First Appellate Court was of the view that the Assistant Charity Commissioner ought to have interacted with the persons to find out their fitness, and then only should have appointed them as First Board of Trustees. Accordingly, the order appointing First Board of Trustees was set aside with a direction to the petitioners to approach the Joint

Charity Commissioner under Section 47 of the Act of 1950.

5] The learned Counsel for the petitioners has rightly argued that the First Appellate Court committed error of law while directing the petitioners to approach the Joint Charity Commissioner under Section 47 of the Act of 1950, particularly when it concurred with the finding of the Assistant Charity Commissioner as regards necessity to frame scheme under Section 50A, and further his powers to appoint First Board of Trustees.

6] The learned Counsel for the petitioners referred to the judgment of a Co-ordinate Bench of this Court in the case of *Ramkrushna-Appa s/o Vishweshwar-Appa and others Vs. Krushna s/o Udaybhanji Ingale and others* [2005(3) Mh.L.J. 729], wherein the Court held that while appointing Members of First Managing Committee, the paramount consideration should be safeguarding interest of the Trust, and for that it is necessary to appoint a fit person with honesty and integrity. The Court further held that it is necessary for the Charity Commissioner to first obtain biodatas and consents, and after examining the credentials of such persons, to appoint Members of First Managing Committee.

7] In the present case, the Assistant Charity Commissioner appears to have followed the said procedure. As noted earlier, the biodatas of the applicants were examined by the Assistant Charity Commissioner. It is nobody's case that these applicants have criminal

antecedents. The Assistant Charity Commissioner, accordingly, found them fit to be appointed as First Board of Trustees.

8] That being so, there appears no reason why should the First Appellate Court expect the Charity Commissioner to interact with the petitioners, to ascertain their fitness to act as Member of Board of Trustees.

9] The learned Counsel for respondent nos. 1 and 2 instead of supporting the judgment, made an attempt to criticize the same and thereby, in a way, supported the petitioners.

10] Put all together, the judgment passed by the First Appellate Court is contrary to the provisions of law, and is, thus, unsustainable.

11] The petition is, accordingly, allowed. The judgment and order dated 4/12/2024 passed by the District Judge – 2, Bhandara, in M.J.C. No. 20/2015, is quashed and set aside. Judgment dated 23/1/2015 passed by the Assistant Charity Commissioner, Bhandara, in Application No. 1/2013, is restored.

12] The petition is disposed of in above terms. No costs.

13] At this stage, the learned Counsel for respondent nos. 1 and 2 made a request to stay the effect of order.

14] The request cannot be acceded to inasmuch as respondent nos. 1 and 2 though have not challenged the order made an attempt to criticize the same, meaning

thereby, that they were also not satisfied with the impugned order. In any case, the order of the District Judge – 2, Bhandara, having been found apparently contrary to the provisions of law, the request, as put forth, is refused.

(ANIL L. PANSARE, J.)

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