



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

WRIT PETITION NO. 2347 of 2025

Ramesh M. Thubrikar vs. Raju Gopichand Madankar & Ors.
and

WRIT PETITION NO. 2348 of 2025

Ramesh M. Thubrikar vs. Narendra Ganpatrao Maher & Ors.

Mr. S.D.Abhyankar, Advocate for petitioners in both WPs.

Mr. I. J.Damle, Assistant Government Pleader for respondent no. 11 in W. P No.2347/2025
and for R.No. 4 in W. P No.2348/2025.

Mr. Prashant Gode, Advocate for caveator-Respondent No.1 in
W. P No.2348/2025

CORAM :- NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 5th MAY, 2025

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Heard Mr. Abhyankar, learned counsel for the petitioners.

2. The challenge in these petitions is to the order dated 04.02.2025 whereby the Assistant Charity Commissioner-2, Nagpur has appointed an Advocate as Election Officer to conduct the elections of the Public Trust of which the elections are admittedly due.

3. Mr. Abhyankar, learned counsel for the petitioners would urge that in view of the law laid down by the Division Bench of this Court at Aurangabad in the matter of *Dinkar Shankarrao Patil and others vs. Dr. Sheshrao Shankarrao Patil and others* reported in **[2008(3)Mh.L.J.833]**, the application under Section 41A of the Maharashtra Public Trusts Act ought not to have been entertained when the change reports are pending. According to him, even the appointment of the Election Officer is without consent of the recorded trustees whose names are reflected in Schedule-1. That being so, the order impugned is not sustainable.

4. As against above, Mr. Gode, learned counsel for the caveator - respondent no.1 supports the impugned order and submits that once the elections are due is an admitted fact, there is failure on the part of the recorded trustees to hold the elections for which the order cannot be faulted with. He would claim that the process of election is already commenced.

5. We have considered the submissions of Mr. Abhyankar in the light of the observations made by the Assistant Charity Commissioner in the impugned order. The Assistant Charity Commissioner while passing the order impugned was sensitive of the earlier change report, however was impressed by the fact that the tenure of the last elected body was over on 22.12.2023 and since the recorded trustees are unauthorizedly continued without holding the elections and managing the Trust properties, the approach of the Assistant Charity Commissioner by directing to conduct the elections by appointing the Election Officer, in such an eventuality, cannot be faulted with.

6. We accept the submissions made by Mr. Gode, learned counsel appearing for caveater-respondent no.1 that the election programme is already published.

7. In the aforesaid background, if we consider the law laid down by the Division Bench of this Court at Aurangabad in the matter of *Dinkar Shankarrao Patil (supra)*, we are required to be sensitive to the fact that the elections were admittedly due and not held in the case in hand. Merely because the earlier change reports are pending that by itself would not give leverage to the Schedule-1 trustees not to hold the elections.

8. That being so, there is no merit in the petitions. The petitions stand dismissed accordingly. No costs.

9. Needless to clarify that it shall be open for the petitioners to object the change reports if so filed after the elections are concluded.

(MRS.VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.