

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

WRIT PETITION NO. 2686/2025

**Hemant S/o Vitthalrao Bandebuche and others Vs. Kalyan Laluji
Dongre and others**

Office Memoranda Appearances, directions orders	Notes, of Court's orders and	Office Coram, orders or Registrar's	Court's or Judge's orders

Mr. S.D. Abhyankar, Advocate for Petitioners
 Mr. N.D. Khamborkar, Advocate for Respondent No.1
 Mr. S.C. Joshi, AGP for Respondent Nos.2 and 3

CORAM: ANIL L. PANSARE, J.

DATED : 26th JUNE, 2025

1. Heard.
2. The challenge is to the order dated 05.05.2025, passed by the Joint Charity Commissioner, Nagpur, thereby staying the order dated 06.09.2023, passed by the Assistant Charity Commissioner, Bhandara, below Exh.3A accepting the change report provisionally.
3. The petitioners filed Change Report No. 60/2023, in terms of Section 22 of the Maharashtra Public Trusts Act, 1950 (In short, Act of 1950). The respondent No.1 also filed Change Report No. 61/2023. The petitioners moved application under Section 22(2) of the Act of 1950, for provisionally accepting the change report. The Assistant Charity Commissioner, Bhandara, vide order dated 06.09.2023, allowed the application and thus provisionally accepted the change report. This order was challenged by the respondents before the Joint Charity Commissioner,

Nagpur. The Joint Charity Commissioner referred to Circular No. 323, issued on 19.10.2006, by the Charity Commissioner, Maharashtra, saying that if the earlier change reports of similar nature are pending, the same shall be disposed of first and thereafter inquiry into subsequent change report of similar nature shall be conducted. The Joint Charity Commissioner, accordingly, stayed the said order.

4. Mr. Abhyankar, counsel for the petitioners submits that the amendment to Section 22 of the Act of 1950 came into effect in the year 2017, by which a proviso was made to provisionally accept the change report pending enquiry, whereas, the circular referred to by the Joint Charity Commissioner, issued in the year 2006. Accordingly, he submits that the Joint Charity Commissioner committed apparent error by relying upon the circular, which was issued prior to amendment and thus given go bye to the provisions of law, relying on the circular, which has no force of law and even otherwise, was issued prior to the amendment.

5. I find substance in the aforesaid arguments. The Assistant Charity Commissioner has by way of an interim arrangement accepted the change report provisionally. In the circumstances, even if the circular and the provision is given effect to, it only speaks of the disposing of earlier change report and thereafter to conduct inquiry into subsequent change report. In that sense, the Assistant Charity Commissioner will now be required to first decide the pending change reports, of course if they are similar to

the change report under question, and thereafter will decide the change report under question. The Assistant Charity Commissioner is expected to follow these direction. However, it will not bar him from granting interim relief, one of which will be to provisionally accept the change report. In fact, this situation of pendency of more than one change report is prevailing in many cases and that may be a reason to incorporate amendment in the form of Section 22(2) of the Act of 1950.

6. As such, the counsel for the respondents submits that there are other issues involved in the case, however, the Joint Charity Commissioner has passed the impugned order based only on the circular No.323. That being so, the order is erroneous and is thus unsustainable.

7. The petition is allowed. The order dated 05.05.2025, passed in Revision No. 44/2024, below Exh.10 by the Joint Charity Commissioner-II, Nagpur is quashed and set aside. The order dated 06.09.2023 passed by the Assistant Charity Commissioner below Exh.3A in Change Report No. 60/2023 is restored. No order as to costs.

8. The Joint Charity Commissioner, Nagpur shall decide the revision as expeditiously as possible.

(ANIL L. PANSARE, J.)