IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

10 WRIT PETITION NO. 13545 OF 2026

SMT ASMA KHAN MAZHAR KHAN AND OTHERS
VERSUS
JOINT CHARITY COMMISSIONER AND OTHERS

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Advocate for the Petitioners : Mr. Siddiqui Sohel E
AGP for Respondent/s-State : Ms. D. S. Jape.
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CORAM : MANJUSHA A. DESHPANDE, J.
DATE : 05.10.2026

PER COURT :-

1. The petitioners are challenging the orders dated 16.07.2026 and 19.08.2026. The petitioners are party to the Inquiry No.382 of 2019 pending before the Assistant Charity Commissioner, Aurangabad.

2. It is the contention of the petitioners that, during the pendency of Inquiry No.382 of 2019, some civil and criminal cases were filed by respondent No.3 and others against the Management of Kohinoor Education Society including petitioner and respondent Nos.4 to 6. The petitioners and respondent No.4 were remanded to MCR by the JMFC Court. Therefore, the petitioners were not in a position to lead evidence in the matter. Since they were in MCR, they could not lead evidence in Inquiry No.382 of 2019. Due to their

unavailability in the pending cases against them, they have informed their advocate to seek an adjournment in the matter. The Assistant Charity Commissioner rejected their request on 16.07.2026, observing that, they have failed to appear to give their evidence and verify their affidavit-in-chief. Against this order, the petitioners have filed an application to set aside and recall the order of no evidence dated 16.07.2026. According to the learned advocate even this application was rejected on 19.08.2026 by observing that, the signature of the petitioners were not affixed on the application and the said application was not verified. It is the contention of the petitioners that, because of the order of MCR passed against them, they were in custody, therefore, they could not remain present and could not affix their signatures on both the applications. On this background, the order passed on 19.08.2026 on their application below Exh.80 as well as the order passed below Exh.75 dated 16.07.2026 needs to be set aside.

3. I have heard the learned advocate for the petitioners and learned AGP appearing for the respondents/State. Considering the technical defect, it is appropriate to grant liberty to the petitioners to file a fresh application. Both orders are based on the same ground, wherein it is observed that, there is no

verification to the application as well as affidavit of examination-in-chief. The order dated 16.07.2026 holds that the examination-in-chief of the petitioners is not verified and therefore, the order of “no evidence” came to be passed against them. Similarly, the order dated 19.08.2026 has been passed holding that, the application as well as verification on application does not bear the signature of the petitioners. Therefore, even that application has been rejected.

4. Considering the ground on which, the orders have been passed, in my view, the defect can be remedied by affording one chance to the petitioners to file appropriate affidavit of examination-in-chief with verification and also filed fresh application for setting aside the order dated 16.07.2026 by following proper procedure along with proper signatures and verification subject to payment of costs of Rs.10,000/- to the respondents. The petitioners shall file an affidavit of examination-in-chief within a period of two (2) weeks from the date of this order and file appropriate application for setting aside the order dated 16.07.2026 along with verification and appropriate signatures within a period of one (1) week thereafter.

5. Both the orders dated 16.07.2026 below Exh.75 and 19.08.2026 below Exh.80 are quashed and set aside.

6. The petitioners shall deposit costs within a period of one (1) week from the date of this order before the Assistant Charity Commissioner.

7. Writ Petition stands disposed of accordingly.

(MANJUSHA A. DESHPANDE, J.)

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