IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 WRIT PETITION NO. 14819 OF 2026

Anjuman E Tarakki E Urdu Trust Thr Chairman Sayed
VERSUS
Aquil Liyakat Shaikh And Others
...
Ms.Mhase Madhaveshwari S. for the Petitioner.
Mr.Jadhavar Santosh Sampatrao for Respondent Nos.1 to 9.
Ms.Deepali Jape, AGP for the Respondent/State.
...

CORAM : MANJUSHA DESHPANDE, J.
DATE : 23.10.2026

PER COURT :

1. The Petitioner is challenging the common order below Exhibits 26 and 27 passed by the Joint Charity Commissioner-II, Pune Region, Pune in Revision Application No. 3 of 2026 vide order dated 17.07.2026.

2. The learned Advocate for the Petitioner submits that the Petitioner was elected as a Chairman of the Trust, namely Anjuman-E-Tarakki-E-Urdu Trust. According to the Petitioner, he is a life member of the Trust and was elected as a Chairman for a period of 2022 to 2027. The Change Report No.1332 of 2022 was accepted on 30.09.2022. It is alleged that the Respondents behind the back of the Petitioner created a false record and filed Change Report No.610 of 2025, alleging that the Petitioner is removed as a Chairman. This Change Report filed by the Respondents has been provisionally accepted on 10.07.2025.

3. The said order accepting the provisional change report was the subject matter of challenge before this Court in Writ Petition No.8628 of 2025. Initially, this Court had granted stay to the order dated 10.07.2025, which accepted the provisional change report. It is submitted that after the Respondents had caused appearance in this Hon'ble Court, in view of the decision in Writ Petition No.3788 of 2021, an order was passed that, since the subject matter of the challenge is a provisional change report, a revision would lie before the Joint Charity Commissioner under Section 70/A of the Maharashtra Public Trusts Act, 1950. In view thereof, the Writ Petition was disposed off by this Court by order dated 03.02.2026, granting liberty to the Petitioner to approach the Revisional Authority within a period of three weeks from the date of the order, and the interim relief granted was continued for a period of three weeks with an observation that the Petitioner is at liberty to make an application for interim relief before the concerned Authority, which shall be decided on its own merits.

4. It is submitted that the Petitioner has approached the Joint Charity Commissioner, Pune by filing revision under Section 70/A of the Maharashtra Public Trusts Act. Along with the application, the Petitioner has also filed a stay application. It is the grievance of the Petitioner that though the stay application has been filed by the Petitioner, keeping it pending, the application filed by the Respondents for framing and deciding maintainability of preliminary issue has been taken up and

decided by order dated 17.07.2026. It is submitted that along with the application filed by the Respondents for framing of preliminary issue, even a purshis has been filed for the same. Both the exhibits, i.e., Exhibits 26 and 27, have been allowed by the Joint Charity Commissioner, Pune vide his order dated 17.07.2026.

5. The learned Advocate for the Petitioner submits that according to Section 73 of the Maharashtra Public Trusts Act, the powers of the Civil Court are conferred on the Officers holding inquiries under the Act, and only powers enumerated under clauses (a) to (d) of the said provision can be exercised by the Officers conducting inquiry. Since the subject matter of the revision is regarding inquiry under Section 22 of the Maharashtra Public Trusts Act, the provision, i.e., Section 73, would squarely apply to the proceedings before the Revisional Authority. Thus, save and except the grounds mentioned in clauses (a) to (d), in no other case the powers of the Civil Court can be exercised by the Officer conducting the inquiry. She would further submit that except this provision, there is no other provision which would govern the case of the Petitioner. Even the provision which was introduced for framing of preliminary issues in the Code of Civil Procedure by way of a State amendment has been deleted by way of amendment, and as of now, there is no provision in the Code of Civil Procedure, which empowers the Court to frame preliminary issues. In view of the aforementioned position, according to her, the order passed by the Joint Charity Commissioner,

Pune, which has partly allowed the application at Exhibit 26 and the issues mentioned in Paragraph No.8 of the order are directed to be framed as preliminary issues, becomes unsustainable in view of the position of law.

6. The learned Advocate appearing for Respondent Nos.1 to 9 has opposed the prayer made by the Petitioner, contending that, all the powers of the Civil Court are applicable to the proceedings pending under this Act. In support of his submission, he relies on Section 76 of the Maharashtra Public Trusts Act. He submits that the Petitioner has filed the revision on behalf of the Trust of which he has already been removed, therefore, the preliminary objection has been filed by him, and this issue needs to be decided before deciding the revision itself.

7. I have heard the parties. Admittedly, after the order passed by this Court, the revision has been filed by the Petitioner pursuant to the liberty granted by this Court, and the application for maintainability of the proceedings has been filed with a request for framing of preliminary issue by Respondent Nos.1 to 9. The Respondents have raised grounds about absence of authorization, improper description of the impugned order, and improper impleadment of parties, which according to them are necessary for deciding at the preliminary stage itself.

8. Upon going through Section 73 of the Maharashtra Public Trusts Act, which reads thus :

> *"73. Officers holding inquiries to have powers of civil court*
>
> *In holding inquiries under this Act, the officer holding the same shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908 in trying a suit-*
>
> *(a) proof of facts by affidavits,*
>
> *(b) summoning and enforcing the attendance of any person and examining him on oath,*
>
> *(c) ordering discovery and inspection, and compelling the production of documents.]*
>
> *(d) issuing of commissions.*
>
> *[**Provided** that, while holding enquiry under section 22 of the Act, the Assistant of Deputy Charity Commissioner shall record the evidence in the form of affidavits only subject to the cross-examinations of the deponent, if permitted by him in appropriate case.]"*

9. It is not in dispute that, this provision governs the inquiries that are conducted under the Maharashtra Public Trusts Act. Although it is provided that the Officer holding inquiry is vested with the powers of the Civil Court, however, it is further qualified by stating that only in respect of proof of facts by affidavit; summoning and enforcing the attendance of any person and examining him on oath; ordering discovery and inspection, and compelling the production of documents; issuing of commissions, are the aspects of the matter which would be governed by the Code of Civil Procedure. Therefore, there is no provision under the Maharashtra Public Trusts Act, which would enable framing of preliminary issues by the Revisional Authority.

10. Assuming that the provisions of the Code of Civil Procedure are applicable to the proceedings in the inquiry before the Authorities under the Maharashtra Public Trusts Act, the enabling provision that was introduced by way of amendment in the Code of Civil Procedure by way of Section 9-A has been deleted from the statute in 2018 itself. Thus, even if the provisions of the Code of Civil Procedure are made applicable to the proceedings under the Maharashtra Public Trusts Act, there is no provision in the Code of Civil Procedure also to enable the Revisional Authority to frame preliminary issues.

11. In view of the aforementioned settled position, the order passed by the Joint Charity Commissioner, Pune is against the provisions of law and deserves to be set aside.

12. Accordingly, I pass the following order:

ORDER

[i] The Writ Petition is partly allowed.

[ii] The common order passed below Exhibits 26 and 27 on 17.07.2026 in Revision Application No.3 of 2026 by the Joint Charity Commissioner, Pune Region, Pune is quashed and set aside.

[iii] However, it is made clear that the issues framed by the Joint Charity Commissioner, Pune in the impugned order at Paragraph No.8 can be decided along with the other issues while deciding the revision itself.

[iv] With the aforementioned observations, the Writ Petition stands disposed off.

[MANJUSHA DESHPANDE, J.]