



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 WRIT PETITION NO.4971 OF 2024

Asgar Ali Mehaboob Ali

VERSUS

The Joint Charity Commissioner And Others.

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Advocate for Petitioner : Mr. Girish S. Rane

AGP for Respondents : Mr. K.N. Lokhande

Advocate for Respondent 3 : Mr. J. V. Patil

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 22, 2026

PER COURT :-

1. By way of this writ petition, petitioner takes exception to the order dated 29.09.2020 passed by Deputy Charity Commissioner, Jalgaon in Change Report No.1002 of 2011 as well as judgment and order dated 19.08.2022 passed by the Joint Charity Commissioner, Nashik Region, Nashik in Appeal No.62 of 2020.

2. The constitution of Trust was amended by Resolution dated 20.1.2007 and change report no.288 of 2007 was submitted to Assistant Charity Commissioner. Change report was contested, however, it was allowed vide order dated 27.8.2012. Order passed by the Assistant Charity Commissioner was assailed in appeal before Joint Charity

Commissioner, who dismissed the appeal upholding acceptance of change report. In effect, amendment in Constitution has been upheld.

3. It appears that in the year 2011 election of Managing Committee was held as per old Constitution under the pretext that change report pertaining to amendment in constitution is still subjudice before Appellate Authority. In this background, impugned order is passed in inquiry application no.1002 of 2011 declaring the trustees who were elected and in-charge of business of Trust during period from 2011 to 2014 as *defacto* trustees, accordingly, directions are given to take entries in Schedule-I of the Trust.

4. Mr. Rane, learned advocate appearing for the petitioner/contesting trustees would submit that election which is held as per the old/unamended constitution of the trust ought to have been approved. The trustees, who came in charge of business of Trust ought to have been given legal status as Trustees. Mr. Rane would further submit that while Change Report no.288 of 2007 was pending consideration before appellate authority, new Trustees came to be elected in General Body meeting dated 16.6.2011 as per old/unamended

constitution of the Trust. Total 11 members were alive, accordingly, body of 11 Directors came in existence. As such, change was legal, valid and ought to have been allowed.

5. In case of **Chembur Trombay Education Society and others Vs. D.K. Marathe and others** reported in 2002(3) Bom.CR 161, it has been observed that where any change occurs in any of the entries recorded in the register kept under Section 17, the trustee shall, within 90 days from the date of occurrence of such change, report such change to the Deputy or Assistant Charity Commissioner, as the case may be. However, change brought already would take effect from the date of resolution. Same analogy is applied by this Court in case of **Mehernosh Jamshed Jassawalla Vs. Lalitrao Bhaskarrao Patil and others** reported in 2025 (2) Mh.L.J. 685.

6. In light of the aforesaid proposition of law, the impugned order declaring that the trustees, who were in-charge of business of Trust during the year 2011 to 2014 in pursuance to the election conducted on the basis of old constitution have been rightly given status of defacto trustees. The election based on old constitution cannot be approved as legal and valid once amended constitution is given effect. However,

trustees in charge of Trust can be given status of deemed trustees for that period. No illegality or jurisdictional error can be found in the impugned order so as to call interference under Article 227 of the Constitution of India. Hence, writ petition stands **rejected**.

7. At this stage, Mr. Rane, learned advocate appearing for petitioner submits that subsequent two change reports bearing no.533 of 2015 and 1398 of 2019 are pending before the Deputy Charity Commissioner in pursuance to the subsequent elections, which are held as per the amended constitution. Needless to state that, both the change reports would be considered in accordance with law without influenced by directions given in impugned order.

(S. G. CHAPALGAONKAR, J.)

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