



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**901 FIRST APPEAL NO. 119 OF 2026
WITH
CIVIL APPLICATION NO. 14178 OF 2025**

BABURAO S/O JALBA TAWDE.

VERSUS

**THE JOINT CHARITY COMMISSIONER, NANDED REGION,
NANDED AND ORS.**

....

Mr. S. S. Gangakhedkar, Advocate for the Appellant

Mr. V. M. Chate, APP for Respondent Nos.1 and 2 - State

Mr. V. S. Kadam, Advocate for Respondent No.3

Mr. R. N. Dhorde, Senior Advocate i/b Mr. P. S. Dighe, Advocate
for Respondent Nos. 4 and 5

....

CORAM : Y. G. KHOBRAGADE, J.

DATE : February 06, 2026

PER COURT :-

1. By the present appeal, the appellant, the trustee of Shree Datta Swami Education Society, questioned the legality and validity of the order dated 20.10.2025 passed below Exh.1 in Suo Moto Misc. Application No.11 of 2025, whereby the respondent No.2 Assistant Charity Commissioner, Nanded, appointed the respondent No.3 as a fit person by resorting the powers conferred under Section 47 of the Maharashtra Public Trust Act, 1950.

2. The appellant also filed Civil Application No.14178 of 2025 and prayed for stay to the effect and operation of the order dated 20.10.2025 passed in Suo-Moto Misc. Application No.11 of 2025 during pendency of the present appeal.

3. Heard Mr. Gangakhedkar, the learned counsel for the appellant, Mr. Chate, the learned AGP for respondent Nos.1 and 2, Mr. Kadam, the learned counsel for respondent No.3 and Mr. Dhorde, the learned senior counsel instructed by Adv. Dighe for respondent Nos. 4 and 5. With the consent of parties to the appeal it being heard and taken final decision.

4. It is a matter of record that, in the year 1965, Shree Datta Education Society, Talani, Taluka Hadgaon, District Nanded, is registered under the provisions of Maharashtra Public Trust Act. At the time of registration there were seven founder members/trustees. The present appellant is inducted as a life member/trustee on 01.04.1974 on payment of Rs.501/- as per Clause-3 of the constitution of the said trust.

5. Needless to say that, on 04.08.2009, one of the trustee Dr. Narayan Govindrao Tawde submitted proposal of change report

with the respondent No.2 Assistant Charity Commissioner, on stating that as per the elections conducted on 04.08.2009, the following persons/office bearers are the newly managing committee members, as under:-

(1) Narayan Govindrao Tawde, (2) Achyut Kishanrao Tawde, (3) Dr. Namdeorao Narayanrao Tawde, (4) Ganesh Gyanbarao Tawde, (5) Bhagwan Baliram Jadhav, (6) Madhukar Nagoba Dalve and (7) Sunil Bapurao Deshmukh.

6. On 14.10.2010, the learned Assistant Charity Commissioner passed the order and rejected said change report. Being aggrieved by the said order, Dr. Narayan Govindrao Tawde, had filed Appeal bearing No.48 of 2010 under Section 70 of the Public Trust Act. On 30.11.2011, the learned Joint Charity Commissioner, Aurangabad, passed an order and dismissed the appeal, however, it was directed the Assistant Charity Commissioner, to conduct administration of the trust, to induct the members and to appoint one advocate to conduct the election of the trust within 15 days.

7. Being aggrieved by the said order, Miscellaneous R.J.E. No.173 of 2011 was filed before the learned District Judge-4,

Nanded, which came to be dismissed on 28.03.2016. Being aggrieved by the said order, the trustee Dr. Narayanrao Govindrao Tawde had filed First Appeal No.3193 of 2016 before this Court. On 10.11.2023, this Court (Coram: Kishore C. Sant, J.) passed the judgment and allowed the appeal and accepted the change report / inquiry report No.1386 of 2009 filed before the Assistant Charity Commissioner, Nanded by setting aside the order dated 28.03.2016 passed by the learned District Judge-4 in Misc. R.J.E. No.173 of 2011.

8. Being aggrieved the said order, the present appellant had filed Civil Appeal No.7237 of 2025 [SLP (C) No.8486 of 2024] [Baburao Jalba Tawde Vs. Narayanrao and others]. On 14.05.2025, the Hon'ble Supreme Court passed an order directing the Joint Charity Commissioner to give effect to the order dated 30.11.2011 passed by the learned Joint Charity Commissioner and conduct the election within a period of three months from the date of order.

9. On face of record it further appears that, on 18.11.2025, the Hon'ble Supreme Court passed an order in Misc. Application No.2057 of 2025 in Civil Appeal No.7237 of 2025 [M.A. Diary No.5039 of 2025] and extended three months time to conduct the election of the trust Shree Datta Education Society.

10. On face of record it appears that, on 11.08.2025, the Joint Charity Commissioner by its office order initiated Suo-Moto inquiry holding that, the Hon'ble Supreme Court restored the order dated 30.11.2011 of the Joint Charity Commissioner. Accordingly, on 26.08.2025, the learned Joint Charity Commissioner passed an order in Suo-Moto proceeding, as under:-

“1) In the present matter, this authority passed order on 11/08/2025 and giving directions to A.C.C. Nanded to call applications from interested Advocates as per order of the then Joint Charity Commissioner dated 30.11.2011, but due to oversight in the last paragraph in the said order, it is typed as “The Superintendent (Judicial) of the P.T.R.O. Nanded is directed to incur expenses of publishing the notice in the newspaper from Public Trusts Administration Fund and after appointment of the Trustees, the expenses be recovered from the Trust Fund” instead of “Therefore, it is necessary to direct the Superintendent (Judicial) to suo-moto register the present miscellaneous application and put-up before this authority for further action according to law”. The above mentioned typical mistake is hereby needs to be corrected. Therefore, order dated 11/08/2025, in last paragraph read as “Therefore, it is necessary to direct the Superintendent (Judicial) to suo-moto register the present miscellaneous application and put-up before this authority for further action according to law”.

11. Thereafter, on 26.08.2025, the Assistant Charity Commissioner, Nanded, issued a communication to the Bar

Association, Public Charity Commissioner, Nanded and invited applications from the eligible and competent legal practitioners to act as a fit person to conduct administration, to enroll members and to conduct the election of the Shri Dutt Education Society/Trust.

12. It is not in dispute that, as many as 20 Lawyers/legal practitioners have submitted their candidature who have practiced for a considerable period including one Retired District and Sessions Judge, who now practicing before this Bench.

13. On 20.10.2025, the learned Joint Charity Commissioner, Nanded, passed the impugned order below Exh.1 in Suo-Moto Misc. Application No.11 of 2025 and appointed the respondent No.3 Sandip Sudhakarrao Deshmukh as a fit person as well as the Election Officer to conduct election of the said trust. By the said order, it is further directed the respondent No.3 Election Officer to take charge of the trust and enroll new members by following the bye-laws of the trust and as per the provisions of the Maharashtra Public Trust Act, scrupulously and to conduct the election.

14. Mr. Gangakhedkar, the learned counsel for the appellant canvassed that respondent No.3 is not competent and qualified

person to be appointed as a fit person to conduct the affairs of the trust, to enroll the members and to conduct election of the Shri Dutta Education Society/Trust. The Respondent no. 3 has no sufficient qualification, good experience than the other candidates. So also, the Joint Charity Commissioner fail to conduct the inquiry prior to appointment of the respondent No.3 to prove that how the respondent No.3 is meritorious than the other candidates who have submitted their candidature. Therefore, impugned order is illegal, bad in law, hence, prayed for quash and set.

15. The learned counsel appearing for the appellant further canvass that, the appellant being an interested person, therefore, he is having right to challenge impugned order of appointment of respondent No.3 as a fit person and as such the respondent No.1 Joint Charity Commissioner invoked Section 47 of the Maharashtra Public Trust Act for appointing the respondent No.3 as a fit person/administrator to conduct the affairs and election of the trust. Therefore, the appellant is competent person to challenge the impugned order passed by the Respondent no. 1 for appointment of Respondent no. 3 being trustee of the Trust.

16. In support of these submissions, the learned counsel for the appellant placed reliance on the case of ***Chandrakant Jaydevshankar Thakar and Ors. V. Alka Sahani and Ors, AIR Online 2021 Bom 1008***, wherein the Division Bench of this Court held that, in inquiry, wherein decision to appoint or to remove trustee is to be taken, it is incumbent on the part of the adjudicating authority to give opportunity to the parties to lead evidence and to follow the procedure as contemplated under Section 47 of the Maharashtra Public Trust Act in letter and spirit.

17. It further placed reliance on the case of ***Pankaj Yashwant Chaudhari and others Vs. Joint Charity Commissioner, Nashik and others, 2014 (4) Mh.L.J. 200***, wherein this Court observed in paragraph No.20 and 21, as under:-

“20. Section 47(2) contemplate a hearing to be given to the parties and making such enquiry as the Jt. C.C. may deem fit, then he may appoint any person as trustee. Sub-clause (3) of section 47 contemplate precautionary measures to be taken for such exercise. Clause (a) deals with wishes of the authors of that trust; clause (b) speaks of wishes of the persons, if any, empowered to appoint new trust; clause (c) contemplate to the question, whether appointment will promote or impede the execution of the trust; clause (d), to the interest of the public or section of public, who have interest in the trust; clause (e), to the custom and usage of the trust.

21. The Jt. C.C. did not advert and ponder upon as to what made him to ensure that appointment of few trustees was to promote execution of the trust or that, it was in the interest of the public or section of public, who have interest in the trust. The persons to whom he has nominated as trustees, brazenly indicate that they are resident of Dhule, away from Chimthane and they have no social linkage to the trust or any sentimental attachment or any past activity to promote the trust. Merely branding by Arun to be a social worker would not qualify him to gag rights of others in militant manner.”

18. Per contra, Mr. Dhorde, the learned Senior Counsel appearing for respondent Nos. 4 and 5 canvassed that, on 14.05.2025, the Hon’ble Supreme Court passed an order in Civil Appeal No.7237 of 2025 and set aside Judgment and order dated 10.11.2023 passed by this Court in First Appeal No. 3193 of 2016 and confirmed the order dated 30.11.2011 passed by respondent No.1 Joint Charity Commissioner. So also, vide order dated 18.11.2025, passed in Misc. Application Diary No.50391 of 2025 in Civil Appeal No.7237 of 2025 [Dr. Nagorao Vs. Baburao and others], three months period has been extended to conduct the election. Accordingly, respondent No.1 appointed the respondent No.1 as a fit person in pursuance of order dated 30.11.2011. Therefore, the appointment of the Respondent no. 3 is just to conduct the election and to submit the

change Report, hence, there is no need to interfere with the findings recorded by the Respondent no. 1, hence, prayed for dismissal of the appeal.

19. It is further canvassed that respondent No.1 Joint Charity Commissioner appointed the respondent No.3 as a fit person after considering merit and scrutinizing the candidature of other 19 persons. The present appellant was not participated in the selection process, therefore, the present appellant has no locus standi to challenge the impugned order of appointment of respondent No.3 as a fit person to conduct the election.

20. It is further canvassed that, on 19.01.2026, the respondent No.3 has already published the election program and the schedule of election is on 08.02.2026 and election process already commence. There is no scope for interference in the election process at the hands of this Court and to stall the election of the trust.

21. In support of these submissions the learned senior counsel appearing for respondent Nos. 4 and 5 placed reliance on the case of *Deodhar Vs. Parag and others, (2016) 14 SCC 722*, wherein it has been held that after the election program is declared, the

interference by granting stay at the interim stage would not justifiable.

22. It further relied on the case of ***Gujarat University Vs. Shri. N. U. Rajguru and others, AIR 1988 SC 66***, wherein, in paragraph 6, the Hon'ble Supreme Court held as under:-

“6. It is well settled that where a statute provides for election to an office, or an authority or institution and if it further provides a machinery or forum for determination of dispute arising out of election, the aggrieved person should pursue his remedy before the forum provided by the statute. While considering an election dispute it must be kept in mind that the right to vote, contest or dispute election is neither a fundamental or common law right instead it is a statutory right regulated by the statutory provisions. It is not permissible to invoke the jurisdiction of the High Court under Article 226 of the Constitution by-passing the machinery designated by the Act for determination A of the election dispute. Ordinarily the remedy provided by the statute must be followed before the authority designated therein. But there may be cases where exceptional or extraordinary circumstances may exist to justify by-passing the alternative remedies. In the instant case, there existed no circumstances justifying departure from the normal rule as even the challenge to the validity of statute 10 was not pressed by the respondents before the High Court.”

23. It further relied on the case of ***S. T. Muthusami Vs. K. Natarajan and others, AIR 1988 SC 616***, wherein, the Hon'ble Supreme Court in paragraph Nos. 4 and 5, observed as under:-

“4. The Government order No 1677 L.A. dated 8. 10. 1960 provides that for all the purposes of the Act, the District Collector and the Division Development officer in respect of panchayat constituted under the said Act under the area within their respective jurisdiction, the District Collector in respect of every panchayat union council constituted under the Act in the District under his charge and the Additional Development Commissioner, Madras in respect of every said panchayat union council under the said Act shall be the election authorities. The expression 'election authority' is defined by section 2(9) of the Act as such authority? not being the president or vice president or a member of the panchayat or the chairman or vice chairman or a member of the panchayat union council as may be prescribed. Rule 5 of the Rules provides that subject to the superintendence, direction and control of the election authority the Returning officer shall be responsible for the proper conduct of the election under the rules. Instructions issued by the Election Authority to the Returning officer regarding the allotment of the symbols cannot, therefore, be construed as interference with the election process by an authority unconnected with the process of election. Even if there is any mistake committed by either the election authority or the Returning officer in the allotment of symbol to the appellant the said mistake can only amount to a non-compliance with the provisions of the Act or the Rules made thereunder. It is clear from clause (c) of rule 11 of the Rules made for the purpose of providing a machinery for the decision of election disputes relating to panchayat union councils that every action amounting to such non-compliance with the provisions of the Act and the Rules made thereunder would not automatically vitiate an election. It is only when the election court on a consideration of the entire material placed before it at the trial of an election petition comes to the conclusion that the result of the election has been materially affected by such non-compliance with any of the provisions of the Act or the Rules made thereunder the election of the returned candidate can be declared void. Rule 1 of the said Rules provides that an election held under the Act whether of a member or chairman or vice-chairman of a panchayat union council can be called in question only by an election petition and not otherwise. In

these circumstances it has to be seen whether the Division Bench of the High Court was justified in setting aside the Errata Notification issued by the Returning officer with regard to the allotment of symbols.

5. It is no doubt true that rule (1) of the Rules made for the settlement of election disputes which provides that an election can be questioned only by an election petition cannot have the effect of overriding the powers of the High Court under Article 226 of the Constitution of India. It may, however, be taken into consideration in determining whether it would be appropriate for the High Court to exercise its powers under Article 226 of the Constitution of India in a case of this nature.”

24. The learned counsel appearing for respondent No.3 submitted that, the Respondent no. 3 is appointed by respondent No.1 under order dated 20.10.2025 by invoking Section 47 of the Maharashtra Public Trust Act and after scrutinizing 19 candidature to manage the affairs of the trust, to enroll the members and to conduct the election. The respondent No.3 participated the said selection process along with other 19 candidates. After undertaking due process, the respondent No.3 is selected as an Election Officer of the Trust. Thereafter, on 25.11.2025, the proclamation was issued for enrollment of the members and trustees of the trust and published the election program, which is scheduled on 08.02.2026. It is further canvassed that, the present appellant has not participated in the selection process before respondent No.1, therefore, the appellant has

no right to challenge the selection of respondent No.3, hence, prayed for dismissal of the appeal.

25. The learned AGP appearing for respondent Nos. 1 and 2 supported the findings recorded by the learned respondent No.1 Joint Charity Commissioner and contended that the order passed by respondent No.1 on 30.11.2011 has been upheld by the Hon'ble Supreme Court in Civil Appeal No.7237 of 2025. Therefore, respondent No.1 appointed the respondent No.3 as the Administrator/Election Officer to conduct the election of Shree Datta Education Society, Talani, Taluka Hadgaon, District Nanded and published the election program. Therefore, after the election process is started, therefore, interference at the hands of this Court is not warranted, hence prayed for dismissal of the appeal.

26. It is an admitted fact that, on 30.11.2011, the learned Joint Charity Commissioner passed an Order and set aside the order dated 14.10.2010, passed in Change Report No.1386 of 2009 and directed the Assistant Charity Commissioner to appoint any fit person amongst the advocates to administer the affairs of the trust, to enroll the members and to conduct the election. As per the said order, the

names from the advocates/legal practitioners were to be called within 15 days. However, the said order was challenged in First Appeal No.3193 of 2016, which came to be decided on 10.11.2023 by this Court, wherein the order passed by the District Judge-4, Nanded in Misc. R.J.E. No.173 of 2011 on 28.03.2016, was set aside and the Change Report Inquiry No.1386 of 2009 was allowed. However, on 14.05.2025, the Hon'ble Supreme Court passed an order in Civil Appeal No.7237 of 2025 and quashed and set aside the judgment and order passed by this Court on 10.11.2023 in First Appeal No.3193 of 2016 and restored the order dated 30.11.2011 passed by respondent No.1 Joint Charity Commissioner. Therefore, it was mandatory on the part of respondent No.1 to appoint a fit person to conduct the election of the said education society within a period of three months from the date of order passed by the Hon'ble Supreme Court. However, within the stipulated period but no election was conducted. On 18.11.2025, the Hon'ble Supreme Court extended the period of three months to conduct the election of the said education society. Thereafter, respondent No.1 by invoking the powers conferred upon him under the Maharashtra Public Trust Act, initiated suo-moto proceeding bearing Misc. Application No.11 of 2025 and invited

applications from the qualified legal practitioners by issuing notice dated 26.08.2025 to the Bar Association of Public trust.

27. Indeed, the respondent No.2 received total 19 applications amongst the legal practitioners including the application of the present respondent No.3. After scrutinizing the applications as well as considering the meritorious candidates, the respondent No.1 passed the impugned order dated 20.10.2025 and appointed the present respondent No.3 as the Election Officer to enroll new members as per the Trust's Constitution and to conduct the election. Though the Appellant contended that, the respondent No.3 is not competent and qualified person to be appointed as a fit person to conduct the affairs of the trust, to enroll the members and to conduct election of the Shri Dutta Education Society/Trust. So also, the Respondent no. 3 has no sufficient qualification, good experience than the other candidates. However, nothing has been brought on record to show that the Respondent no. 3 is less meritorious than other 19 candidates. Not only this but non of the aspiring candidate challenge the appointment of the Respondent no. 3. The appellant has not brought any material on record that, how the appointment of the Respondent no. 3 as the Election Officer/Administrator is illegal,

malafide. On perusal of impugned order it *prima facie* appears that, the Joint Charity Commissioner conducted the inquiry and appointed the the respondent No. 3. Therefore, I do not find any manifest error apparent on face record and law, hence, impugned order do not warrant interference at the hands of this Court.

28. On face of record it is evident that, the respondent No.3 issued notice to the members on 19.01.2026 and informed about conducting general meeting on 08.02.2026. The respondent No.3 quoted the agenda of meeting and published election program on 19.01.2026. The schedule of election of the Trust is on 08.02.2026.

29. It is well settled proposition of law that, once the election process is started, the Court should not interfere with the election process. In the case in hand, the appellant has specifically challenged the order dated 20.10.2025 passed by respondent No.1 Joint Charity Commissioner, whereby the respondent No.3 appointed as a fit person as well as Election Officer of the said education trust. It is true that the present appellant is the interested person in the affairs of the trust within the meaning of Section 2(10) of the Maharashtra Public Trust Act. However, in the facts and circumstances of the present case, the

appellant cannot challenge the appointment of respondent No.3 who has been appointed by respondent No.1 Joint Charity Commissioner by exercising its powers under Section 47 of the Act, because the appointment of respondent No.3 is not being a trustee, but the appointment of respondent No.3 is the Election Officer/Administrator to conduct the election and to submit report to that effect. Therefore, I do not find any substance in the submissions canvassed on behalf of the appellant. So also, I do not find that the appellant / applicant has make out *prima facie* case and no balance of convenience lies in favour of the appellant to stay the effect and operation of the impugned order dated 20.10.2025 passed by respondent No.1.

30. In view of above discussion, the appeal fails, hence, it is dismissed. Accordingly, civil application No.14178 of 2025 is also dismissed.

[Y. G. KHOBRADE, J.]

SMS