IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.755 OF 2026

Shri Santosh Mahadev Vagger,
Memebr, Shir Dev Bodgeshwar
Saunsthan, Age : 37 years,
married, Indian National,
Residing at House No.112,
Khadapawada, Cunchelim-Goa ..Petitioner

Versus

1. The Body of Mazanias/General Body
Of Mahajans of Shir Dev Bodgeshwar Saunsthan,
Bodgeni, Mapusa Goa.

2. Mr. Vaman Jairam Pandit,
President Elect,
R/o. St. Anthony's Buidling,
Near Old Municipality,
Mapusa Goa.

3. Mr. Harischandra Sushant Gaonkar,
Secretary Elect.
Residing near Mopkar Hospital,
Mapusa- Goa.

4. Mr. Shyamsundar Atmaram Pednekar,
Treasurer Elect.
Resident of Karasawada,
Khorlim, Mapusa- Goa

5. Mr. Rajendra Shripad Pednekar,
Attorney Elect.,
Resident of Anganwada,
Mapusa, Goa

6. Mr. Amey Mahadev Korgaonkar,
Vice President Elect.
Resident of Karaswada,
Khorlim Goa.

7. Mr. Kunal Kiran Dhargalkar,
Vice Secretary Elect.,
Resident of Gaunswada,
Mapusa, Goa.

8. Mr. Vishant Uttam Keni,
Vice Treasurer Elect.
Resident of Dangui
Colony, Mapusa, Goa.

9. Mr. Sainath Gopal Raul,
Vice Attorney Elect.
Resident of Flat no.54/4,
Satyesh Residency,
Khorlim, Mapusa, Goa

10. Mr. Ramdas L. Pednekar (Advocate)
Election Chairman/Returning Officer,
Saldhana Business Tower,
r/o. D-1, Mapusa, Goa.

11. Adminsitrator of Devalayas and
Mamlatdar of Bardez Taluka,
Mapusa, Goa. ..Respondents

AND
WRIT PETITION NO.1109 OF 2026

Mr. Anand Pundalik Bhaidkar,
Age 53 Years,
r/o. H. No. 78, A/2, Ruzai Wada,
Duler, Mapusa- Goa. ..Petitioner

Versus

1. Administrator of Devalaya and
Mamlatdar of Bardez Taluka,
Mapusa-Goa.

2. Mr. Vaman Pandit,
President,
R/o. St. Anthony's Buidling,
Near Old Municipality,
Mapusa-Goa.

3. Mr. Harischandra Sushant Gaonkar,
Secretary,
Residing near Mopkar Hospital,
Mapusa- Goa.

4. Mr. Shyamsundar Atmaram Pednekar,
Treasurer,
Resident of Kasarwada,
Khorlim, Mapusa- Goa

5. Mr. Rajendra Shripad Pednekar,
Attorney,
Resident of Anganwada,
Mapusa Goa.

6. Mr. Amey Mahadev Korgaonkar,
Vice President,
Resident of Kasarwada,
Khorlim Goa.

7. Mr. Kunal Kiran Dhargalkar,
Vice Secretary,
Resident of Gaunswada,
Mapusa, Goa.

8. Mr. Vishant Uttam Keni,
Vice Treasurer,
Dangui Colony, Mapusa Goa.

9. Mr. Sainath Gopal Raul,
Vice Attorney,
Resident of Flat no.54/4,
Satyesh Residency, Khorlim,
Mapusa- Goa

10. Shree. Dev Bodgeshwar Saunsthan,
Bodgeni Mapusa Goa
Devasthan registered under the
Devasthan Regulation, 1933
Through the President. ..Respondents

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Mr. Nigel Da Costa Frias with Mr. Vineet Surlakar, Ms. Dishanka Vernekar and Ms. Maria Fernandes, Advocates for Petitioners in WP/755/2026.
Mr. C. Padgaonkar with Mr. Shlok Rai with Ms. Prapti Gaunekar, Advocates for Petitioners in WP/1109/2026.
Mr. S. S. Kantak, Senior Advocate with Mr. Abhijit Gosavi, Mr. G. Kerkar, Mr. Amey Phadte, Ms. Saicha Desai and Ms. Krupa Naik, Advocates for Respondent Nos.1 to 4 and 7 to 10.
Mr. Neehal Vernekar, Additional Government Advocate for Respondent No.11 in WP/755/2026.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 04th NOVEMBER, 2026.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matters are heard finally at admission stage.

2. The petitioners impugns judgment and order dated 30.05.2025 passed by Administrative Tribunal in Devasthan Appeal No.9/2025 and seeks to quash and set aside entire election of Managing Committee of Shree Dev Bodgeshwar Sansthan held on 09.02.2025 declaring it to be null and void.

3. Shree Dev Bodgeshwar Sansthan is a Hindu Religious Institution registered under Devasthan Regulation, 1933, as amended by Diploma Legislative No.1898 dated 29.05.1959. The last election to Managing Committee was held on 13.02.2022 based on catalogue of Mahajans finalized on 31.12.2021. The election process for constituting new Managing Committee was set in motion by Administrator of Devalaya, Mapusa vide Circular dated 02.01.2025 for conduct of elections on 09.02.2025 for constitution of new Committee for triennium 01.04.2025 to 31.03.2028. The Secretary/Clerk of Managing Committee was duty bound to display list of Mahajans on notice board, with simultaneously published of same in local periodicals in Government Gazette at respective temples and forward copy to Administrator till 20th January 2025. The Secretary of Committee was under obligation to make available record for inspection during period from 20th to 31st January 2025.

4. On 21st January 2025, final list of Mahajans signed by Secretary was displayed on notice board of Sansthan, wherein additional 254 Mahajans were disclosed. The illegal enrollment of 254 members by

Secretary was objected under Article 26. The President of Committee had urgently convened meeting of Managing Committee on 27.01.2025 to discuss and deliberate on objection. Although meeting was held on 27.01.2025, objectors were not permitted to participate. The Administrator vide letter dated 29.01.2025 directed Managing Committee of Devasthan to furnish list of Mahajans. On 07.02.2025, Administrator of Devalaya communicated that list submitted by Secretary dated 20.01.2025 shall be considered for election of Managing Committee scheduled on 09.02.2025. Eventually, elections took place on the basis of list of Mahajans supplied by Secretary.

5. The petitioners assailed entire election held on 09.02.2025 including elections of respondents on various post of Managing Committee alleging it to be null and void and marred and vitiated by gross irregularities, illegalities and nullity is committed in election process. The Tribunal dismissed Appeal on ground that appellants could not demonstrate that inclusion of names of 254 persons materially affected outcome of election. Further, as per Resolution dated 18.12.2024 it was resolved to receive and accept all applications for enrollment.

6. Aggrieved by order passed by Administrative Tribunal present Writ Petitions are filed. It is contentions of petitioners that electoral roll was product of fraud, manipulation and fabrication which is

nullity in eyes of law. The election process carried on the basis on such fraudulent or manipulated electoral roll would be *void ab initio*. The Administrator of Devasthan validated disputed electoral roll in blatant violation of his own Circular and abdicated his duty under Article 70 to ensure compliance of Regulations. The enrollment of 254 members at verge of election was not only contrary to procedure prescribed under law, but it was fraudulent act of Secretary. Article 25 of Devasthan Regulation mandates that Clerk/Secretary of Committee shall draw up till 15th January 2025 as per catalogue list of Mahajans capable to vote and shall display same on notice board of temple with prior notice published in periodicals of Taluka or in Government Gazette and shall forward to Taluka Administrator of Devasthan by 20th of the Month. Article 26 provides for objection to list of capable Mahajans and applications for enrollment which shall be submitted to Managing Committee till 31st January with supporting documents. In present case, in respect of such objections, no decision is taken by Managing Committee and decision on objections was postponed and elections were conducted on the basis of fraudulent and manipulated list by Secretary, wherein names of 254 members were illegally incorporated.

7. Per contra, Mr. S.S. Kantak, learned Senior Advocate appearing for respondents supports impugned order. According to him, objection to list of Mahajans capable to vote can be raised before Managing

Committee before 31st January 2025 with supporting documents. The Managing Committee has to decide objections by 10.02.2025. The decision of Managing Committee is further appealable before body of members (Mazania) and then such decision of Mazania/body of members can be subjected to Appeal before Administrative Tribunal. The petitioners failed to exhaust aforesaid remedy. Therefore, it is not open for them to raise post-election challenge to list of Mahajans capable to vote or such challenge cannot be raised in Election Appeal.

8. He would further submit that addition or enrollment of 254 members was made in accordance with law as per Resolution dated 18.12.2024, wherein it was resolved to accept all applications for enrollment received upto 31st December 2024. All such applicants were admitted and names of members were incorporated in list of voters. The final list of voters were forwarded to Administrator, who issued Circular dated 02.01.2025 setting date of election as 09.02.2025. The enrollment of 254 members, whose names were approved for admission had attained finality, as there was no challenge before Committee. Even otherwise, looking to margin of votes between elected candidates and candidates with second highest votes, addition of 254 members was inconsequential and did not affect election result. Unless petitioner demonstrate that inclusion of 254 persons has materially affected result of election or without demonstrating as to how it goes to roots of matter

and vitiate election process altogether, there is no reason to exercise extraordinary Writ jurisdiction of this Court. He would further submit that in view of Article 255 of Devasthan Regulation, on expiry of period prescribed for filing appeal, decision which was sought to be appealed beyond period of limitation, shall be deemed to have attained finality and decision which has attained finality in terms of Devasthan Regulation cannot be reopened in parallel or subsequent proceeding.

9. Having considered submissions advanced by learned Advocates appearing for respective parties, it is apposite to refer relevant provisions of Devasthan Regulation (Regulamento das Mazanias, 1933). Article 2, particularly para 1 and 2 prescribes that "*Mazania (body of members) is association of components of a Hindu temple (Devasthan) constituted according to rite of their religion. The rights of Mahajan are hereditary, being transmitted to male descendants in direct line to those adopted in accordance with applicable code of usages and customs*." Article 23 prescribes for "*revision of catalogue every year by Managing Committee till 31st of December, making therein necessary enrollment, necessary eliminations and endorsements to the enrollments in harmony with bye-laws*." Article 25 prescribes that "*Clerk/Secretary of Committee shall draw up, till 15th of January, as per catagloue list of Mahajans capable to vote, in duplicate and shall display same on notice board of temple with prior notice published in periodicals of Taluka, if*

there is any or in Government Gazette, copy of list shall be forwarded to Taluka Administrator Dvalayas (Mamlatdar) by 20th of Month." Article 26 prescribes for "*objections to revision of catalogue, list of capable Mahajans and applications for enrollment. The interested persons who may seek to enroll in catalogue or in list of capable members or those objecting to last revision or list prepared are entitled to present their objections/applications to Managing Committee till 31st of January with supporting documents. The Managing Committee is under obligation to decide on objections/applications by 10th of February. The Clerk/Secretary of Committee is under obligation to facilitate inspection of catalogue or other relevant information when demanded from 20th to 31st of January. The decision of Committee on objections/applications is further subject to Appeal to body of members (mazania)*." Article 27 prescribes that "*no person shall be considered to be a member (Mahajan) or associate without his prior enrollment in catalogue concerned*." Article 28 defines "*capable persons, those who have attained majority and those not suffering from any disqualification under Articles 32 or 34 of Devasthan Regulations*." Article 30 prescribes "*Appeal against irregularities and nullities of election before Administrative Tribunal within 10 days from act of election*."

10. In present case, on 13.02.2022 last election of Managing Committee was held on the basis of catalogue of Mahajans, which could

have been basis for next revision. It is not disputed that on 28.11.2024 meeting of Devasthan's Executives was called. All Committee members including President, Secretary, Treasurer and Attorney were present. Subject No.1 was about renewal of Mahajans and admission of new Mahajans. Subject No.4 was regarding acceptance of forms for admission of new members. The Secretary informed about receipt of many proposal forms for admission. The next meeting of Committee was held on 18.12.2024 in presence of all Committee members. Subject No.4 was regarding admission of new members. The Secretary/Clerk i.e. respondent no.2 suggested that applications be received upto 31st December. It was further agreed that applications be scrutinized before acceptance. It was unanimously resolved to admit and enroll new Mahajans.

11. During course of hearing of Writ Petitions, respondents were directed to produce copies of new applications received for admission to membership alongwith record of payment of membership fees. Accordingly, original record was brought before this Court and a list of members containing date of applications, receipt numbers, receipts date, names and Mahajan number is placed on record, which is marked as 'X' for identification. It shows that applications from Serial Nos.29 to 59 were received on or before 30th December 2024 and applications from Serial Nos.60 to 80 were received on 31st December 2024. From Serial

Nos.81 to 254, there is no date of receipt of applications, however all the receipts regarding membership fees are dated 31st December 2024. There is absolutely no record to indicate that applications for membership were placed before Committee for consideration and each of application is approved for admission after necessary scrutiny by Committee. The record indicates that names of all applicants are included in electoral roll without formally admitting those applicants to membership. Such admission to membership is purported to be made on the basis of omnibus Resolution dated 18.12.2024, wherein it was resolved to accept all applications to be received till 31st December 2024. Admittedly, no meeting of Committee was held after 31st December 2024 to endorse acceptance of applicants to membership.

12. Article 23 prescribes for revision of catalogue by Managing Committee till 31st December. The enrollments are required to be made in harmony with bye-laws. Article 25 prescribes for preparation of list of capable members by Secretary/Clerk in consonance with catalogue and display such list for inspection of interested persons and also publish prior notice in periodicals of Taluka, so also display same at the respective temples. Copy of list needs to be forwarded to office of Administrator till 20th of Month.

13. In present case, nothing is brought on record to show that list of capable members was given prior publication in periodicals of Taluka or

Government Gazette or it was displayed for inspection of interested persons at the temple. The record indicates that 59 members, who got knowledge about aforesaid list from office of Administrator addressed objection dated 23.01.2025 to President of Committee in terms of Article 26. On 27.01.2025 meeting of Committee was called, wherein discussion was held in respect of complaints/objections regarding addition of 254 members and it was resolved that all complaints/objections received till 31st January 2025 shall be considered on 01st February 2025. The President objected to Resolution and even he did not sign proceeding. It is apparent that, after 31st January 2025, Committee meeting was never convened to deliberate on objections to list of capable Mahajans or electoral roll.

14. It appears that, on 28.01.2025, President himself had made representation to Administrator of Devalaya complaining wrongful and illegal addition of 254 members in list of Mahajans submitted by Secretary. On 29.01.2025, Administrator communicated Managing Committee to furnish latest list of Mahajans after considering due process laid down in Devasthan Regulation. Similarly, Administrator had received complaints from Mr. Santosh Vagger and others regarding illegal enrollment of 254 members and on 30.01.2025 it was forwarded to President of Devasthan for necessary action. On 03.02.2025, President of Committee submitted list of capable members to

Administrator excluding 254 newly added members shown in list submitted by Secretary and requested Administrator to consider list of capable members as on 31st December 2024 for elections scheduled on 09.02.2025. However, on 07th February 2025, Administrator communicated to Committee that he will go by list of capable members dated 20th January 2025 submitted by Secretary and he would not deal with objections as to addition of 254 members for want of jurisdiction. Accordingly, elections held on 08th February 2025 and report of election was submitted. The list of elected candidates and second highest candidate alongwith votes received as per report of Returning Officer reads thus:

	President	**Votes Received**
1.	Shri. Adv. Vaman Jairam Pandit	**598**
2.	Shri. Aanand Pundalik Bhaidkar	**329**

	Vice President	**Votes Received**
1.	Shri. Amey Mahadev Korgaonkar	**526**
2.	Shri. Pandurang Narayan Varadkar	**401**

	Secretary	**Votes Received**
1.	Shri. Harichandra (Sushant) Sakharam Gaonkar	**566**
2.	Shri. Ashok Tilu Govekar	**536**

	Joint Secretary	**Votes Received**
1.	Shri. Kunal Kiran Dhargalkar	**390**
2.	Shri. Bipin Yashwant Chandelkar	**237**

	Treasurer	**Votes Received**
1.	Shri. Shamsunder Atmaram Pednekar	**591**
2.	Shri. Gurudas Dubla Vaingankar	**300**

Joint. Treasurer		Votes Received
1.	Shri. Vishant Uttam Keni	**529**
2.	Shir. Mahabaleshwar Chandrakant Korgaonkar	**405**

Vice. Attorney		Votes Received
1.	Shri. Sainath Gopal Raul	**383**
2.	Shri. Kunal Kishor Nagvekar	**195**

15. The aforesaid factual backdrop would clearly show that addition of 254 members (mazanes) itself was illegal, as only 80 applications for membership were received till 31st December 2024. The applications of members from Serial No.81 onward do not show date on which applications for membership were submitted, although receipts are shown to have been passed on 31st December 2024. No meeting of Committee was called for conferment of membership or after receipt of applications, there is nothing to show that applications were scrutinized or examined to be in harmony with bye-laws. Even while drawing up list of capable members (mazanes) procedure contemplated under Article 25 is ignored. Nothing is placed on record to show that list of capable members was displayed for inspection of interested persons at respective temples with prior notice published in periodicals of Taluka or any Government Gazette. It is apparent that, 59 members had raised objections to addition of 254 members. The objections were addressed to President of Committee. Such objections were discussed in meeting dated 27.01.2025, but deferred consideration till 1st February 2025 and thereafter no decision was taken on objections.

16. Although it is contended on behalf of respondents that objections/complaints dated 23.01.2025 were not titled as appeal, this Court finds that in absence of specific format of appeal, objections/complaints ought to have been considered by Committee as an appeal in terms of para 2 of Article 26 and decision ought to have been taken and communicated to objectors. In absence of such exercise, objectors/complainants cannot be faulted for not filing further appeal to body of Mahajans or Administrative Tribunal. Apparently, respondent no.2/Secretary enrolled 254 members in catalogue or list of capable members in blatant violation of procedure of enrollment under Chapter III (Section 1) of Regulations. Pertinently, Article 27 stipulates that no person shall be considered to be member (mazanes) without his prior enrollment in catalogue concerned. In present case, abrupt addition of 254 members is made in bulk without Resolution of Managing Committee endorsing their applications for enrollment, they can never be treated as members (mazanes) and could not have secured valid place in list of capable members, which has to be in consonance with catalogue. It cannot be disputed that any valid electoral process requires valid voters list prepared in terms of relevant provision of law, then only electoral process can be initiated and completed. In present case, list of voters was not prepared in consonance with law and particularly addition of 254 members was absolutely illegal. Unfortunately, Administrator, in spite of knowledge about objections to validity of list

of capable members, shown nelson's eye to objections and permitted election based on invalid voters list. As per Article 70 it was incumbent on Administrator to watch over execution of Regulation and bye-laws and strict discharge of duties by his subordinate. However, he failed to discharge his duties.

17. It is contended on behalf of respondents that if difference of votes between elected candidate and second highest candidate is considered and even it is assumed that all newly added 254 members exercised rights of franchise against elected President or Treasurer, there would be no difference on ultimate result. Therefore, interference by Writ Court would not be warranted. In support of such contentions, Mr. Kantak, learned Senior Advocate heavily relies upon observations of this Court in case of ***Shri. Damodar R. Pai Dukle, and Others Vs. Shri. Jairam alias Jayaram H.S. Bhobe and Another*** in **(*Writ Petition No.514/2004*** *decided on* ***14.12.2004*****)** and ***Shri, Bhagirath Pandharinath Gaonkar and Others Vs. Shri Devi Bhumica Devasthan Chopdem and Others*** in (***Writ Petition No.31/2008*** *decided on* ***26.09.2008***).

18. In response to aforesaid contentions, it is submitted on behalf of petitioners that fraud or fundamental illegality in preparation of voters list, which is basis of valid election would vitiate entire election process. The rules under provisions of Representation of People Act, which require that alleged irregularity must have materially affected election,

cannot be applied to present case in absence of any similar provision in Devasthan Regulations.

19. In case of ***Shri, Bhagirath Pandharinath Gaonkar and Others*** (supra) order passed by Tribunal in Devasthan Appeals was challenged, whereby election of Managing Committee was declared to be void and Administrator was directed to have fresh elections. In that case, in concluding paragraph following observations are made:

> *"In the peculiar facts of this case, it is not necessary to refer tot he decisions cited at the bar. The matter turns on the pleadings in the Election Appeals and needless to state that it being a special remedy so also it being well settled and elections cannot be set aside only by alleging irregularities without demonstrating as to how they go to the root of the matter and vitiate the election process all together, the Tribunal's Order is wholly erroneous and unsustainable in law.*

However, Tribunal's order was quashed and set aside on different grounds, particularly for absence of necessary pleadings in Appeals. Such observations cannot be considered as ratio. On other hand, this Court in case of ***Bhagwat Sojanji Sonawane and Others Vs. State of Maharashtra and Others***[1] held that once process of election appears to be fraudulent, malafide and contrary to provision of law, entire election process can be declared as vitiated. At this stage, reference can be given to observations of Supreme Court in case of ***Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha and Another Vs. State of Maharashtra and Others***[2], wherein

1 **2002 (3) Mh.L.J. 719**
2 **(2001) 8 SCC 509.**

while rejecting contentions that breach of rule in preparation electoral roll cannot be questioned in election petition before Election Tribunal, it has been observed in paragraph no.9 as under:

> *"If the contention of the appellants is that there was breach of rule or certain mandatory provisions of the Rules were not complied with while preparing the electoral roll, the same could be challenged under Rule 81 (d) (iv) of the Rules by means of an election petition. In view of that the preparation of electoral roll is part of the election process and if there is nay breach of the Rules in preparing the electoral roll, the same can be called in question after the declaration of the result of the election by means of an election petition before the Tribunal".*

20. The Devasthan Regulations provides Appeal under Article 30(7) (para) against irregularities and nullities of election before Administrative Tribunal. In present case, Appeal was filed resorting to aforesaid provision seeking declaration of nullity of election. Therefore, it would be fallacious to contend that election cannot be vitiated unless it is shown that mischief alleged shown to have materially affected result of election. Even otherwise, in present case except post of President or Treasurer margin of votes between elected and defeated candidate is less than 254 votes. Therefore, election can be said to be materially affected by addition of 254 members.

21. Next contention raised on behalf of respondent is that no challenge can be raised to voters list in election dispute, particularly when remedy contemplated under Article 26, para 2 was not exhausted.

However, as observed earlier, this Court finds that 59 members had raised objection with President of Committee to addition of 254 members. Such objections were placed for consideration in meeting of Committee dated 27.01.2025, however deferred for consideration to 01.02.2025, but no meeting was convened thereafter. As such, no decision was taken by Committee on objections to electoral roll and election process was carried further on the basis of faulty electoral roll. Apparently, there was no occasion to exhaust remedy of appeal to Mazanias under Article 26, therefore, such challenge was open to be considered by Administrative Tribunal in Election Appeal. Therefore, respondents cannot draw any advantage on the basis of observations made by this Court in case of ***Guna Gaonkar and Another Vs. Administrative Tribunal and Others***[3]**,** wherein it is observed that once appellate remedy is lost against particular action, it cannot be taken cognizance of in any lateral proceeding.

22. In present case, objections to list of capable Mahajans was also addressed to Administrator, who had relegated it to President. However, Administrator did not take further steps. In light of aforesaid discussion, this Court holds that conduct of election and declaration of its result on basis of electoral roll prepared *de-hors* mandatory provisions of Rules, which form an integral part of election process,

3 **(2006) 3 Bom CR 46**

vitiated entire election process and materially affected result of the election.

23. In result, Writ Petitions succeed and allowed in terms of prayer Clauses (A) and (B).

24. The respondent no.11-Administrator of Devalaya and Mamlatdar of Bardez Taluka shall conduct fresh election on the basis of list of capable Mahajans excluding 254 members from electoral roll within period of three months from date of this order.

25. Till newly elected managing committee takes charge, Administrator shall manage affairs of Shree Dev Bodgeshwar Sansthan.

26. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/November-2026