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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 213 OF 2026
IN
FIRST APPEAL NO. 1675 OF 2025

Prashant Bhimrao Patil And Ors.Applicants/Appellants
V/s
Sachin Balaso Patil And Ors.Respondents

Mr. Chetan G. Patil a/w. Mr. Bhushan Jadhav & R.S. Rane for
Applicants-Appellants.
Mr. Umesh Mankapure a/w. Siyal Magdum, Benazir Jamadar for
Respondents.

CORAM : M.M. SATHAYE, J.
DATE : 30th MARCH, 2026

P.C. :

1. Heard learned counsel for the parties. Above appeal is admitted today. Applicants are Appellants.
2. By the present application, the Applicants are seeking interim stay to the operation, implementation, effect and execution of the impugned order dated 01.07.2025 passed by Joint Charity Commissioner, Kolhapur Division, Kolhapur in Enquiry Application No.4 of 2022. By the impugned order, the said application is allowed thereby removing all the Trustees to the Trust in question which is Maji Sainik Shikshan Sanstha, Kharkatwadi, Taluka Miraj, District Sangli. By the impugned order, an administrator is appointed who is directed not to take any policy decision and further directed to

conduct fresh elections for appointment of fresh Trustees. The impugned order also directs action under Section 37 of the Bombay Public Trusts, Act, 1950, (as it existed then, 'the said Act', for short).

3. After hearing the learned counsel for the parties for some time following undisputed facts emerge :

3.1 The executive committee/body of the Trust consists of 11 Trustees and the necessary quorum under its constitution is 6.

3.2 The application in question is filed under section 41D of the said Act seeking removal/dismissal of the Trustees on the ground of conviction of an offence involving moral turpitude, misappropriation of Trust property and acts of malfeasance, misfeasance or breach of Trust.

3.3 Admittedly, the ground of conviction under order dated 23.05.2012 passed in Reg. Criminal Case No. 161 of 2002, by Judicial Magistrate, First Class, Miraj is only against Appellant Nos.2 to 6 and not against Appellant No.1 (Mr. Prashant Bhimrao Patil).

4. Considering the number of persons who are convicted (5), it is obvious that the impugned order removes the remaining 6 Trustees, out of which 5 Trustees were admittedly never before the Charity Commissioner and 1 Trustee is not convicted. Therefore impugned order removes 5 trustees in their absence without hearing them. This is perverse and can not be sustained.

5. Learned counsel for Respondent Nos.1 to 3-Complainants

contended that so far as Appellant No. 1 is concerned (who is not convicted), there are allegations that the said person is an alcoholic who was engaged in beating the Complainants which has resulted into an FIR being filed under Section 323 and 326 of the Indian Penal Code, 1860 ('IPC', for short). It is also contended that in the audited accounts of the Trust, rent is shown to be paid to father of Appellant No.1.

6. Learned counsel for the Applicants-Appellants, on the other hand, contended that so far as the FIR is concerned, it is subject matter of an independent criminal proceedings and was not under consideration when the present impugned order was passed. He further submitted that even going by the evidence in the enquiry, it has come on the record that Appellant No. 1's father had given his building free of cost for the use of the school involved and therefore there is no merit in the contention that rent is being paid. Be that as it may.

7. *Prima facie*, there is no charge framed against any of the Applicants/Appellants regarding any act committed under the influence of alcohol or beating or about accepting rent for the school building.

8. Since the impugned order considered the criminal action which was in respect of alleged offence under Section 420 of IPC r/w. Sections 3 and 4 of Bombay Lotteries (Control and Tax) and Prize Competitions (Tax) Act, 1958 ('BL & PC, Act' for short), the contention about Appellant No.1 sought to be advanced first time in

the present first appeal, cannot be considered.

9. In that view of the matter, it is clear that even Appellant No. 1 has been removed without there being an order of conviction against him.

10. Hence, the impugned order cannot be sustained to the extent of Appellant No.1 and remaining 5 Trustees (Shivaji Nivrutti Patil, Babaso Shankar Patil, Gopal Tukaram Patil, Shrikant Shivaji Chavan & Vidya Bhimrao Patil).

11. Considering that quorum required is 6 and the impugned order also cannot be sustained for 6 Trustees, the appointment of administrator also cannot be sustained during pendency of the appeal.

12. Considering that there are allegations involved about misappropriation of the Trust property by conducting a lottery scheme for which the Appellant Nos. 2 to 6 are convicted only with fine of Rs. 800/- under Sections 3 and 4 of the BL & PC, Act, Clause No. 7 of the impugned order initiating action under Section 37 of this said Act, needs to be continued.

13. Hence, **the application is partly allowed** by passing following order, which shall operate during pendency of the appeal :

- (a) Clause Nos. 1 to 6 of the impugned order dated 01.07.2025 are stayed so far as Appellant No.1 and Shivaji Nivrutti Patil, Babaso Shankar Patil, Gopal Tukaram Patil,

Shrikant Shivaji Chavan & Vidya Bhimrao Patil are concerned.

- (b) Accordingly, Appellant No. 1 and aforesaid other 5 Trustees are restored to the position of Trustees, who can continue with the affairs of the Trust.
 - (c) It is clarified that Clause No.7 of the impugned order is not stayed.
 - (d) By way of abundant precaution, it is clarified that the present order will not come in the way of the Assistant Charity Commissioner, Sangli from deciding all pending change reports regarding Trust in question, which can be considered in accordance with law.
14. Interim application is disposed of in above terms.
15. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)