

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1894 OF 2026

Vikram Devkisan Sarda and Ors ..Petitioners
Versus
State of Maharashtra and Ors ...Respondents

Adv Aditi Naikare, with Pradeep Thorat, for the Petitioners.
Mr. S.L. Babar, AGP, for Respondent Nos. 1 and 2-State.
Adv Ayodhya Patki, for Respondent No.3.

CORAM: N. J. JAMADAR, J.
DATE : 9th FEBRUARY 2026

ORAL ORDER.:

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to an order dated 17th March 2025 , whereby the learned Joint Charity Commissioner, Nashik, has rejected an Application seeking amendment in the Application No. 19 of 2024, preferred by the Petitioner, to seek *ex-post-facto* sanction for borrowing for carrying out the objects of the Trust, under Section 36A (3A) of the Maharashtra Public Trusts Act, 1950 (“the Act, 1950”).
3. The learned Charity Commissioner was of the view that the Petitioner-Trust was required to make a separate application seeking *ex-post-facto* sanction for borrowing.

4. Ms. Naikare, the learned Counsel for the Petitioner submits that the course indicated by the learned Charity Commissioner would lead to multiplicity of proceedings and further delay the disposal of the application for sanction for borrowing, which under the provisions of Section 36A is required to be decided forthwith and, preferably, within a period of 15 days.

5. The Court finds that the grant of *ex-post-facto* sanction under sub-Section (3A) of Section 36A, which has been introduced by the Amendment Act 4 of 2018 with effect from 10th October 2017, is of exceptional nature. The *ex-post-facto* sanction can be granted in exceptional and extraordinary situations, where the absence of previous sanction contemplated under sub-Section (3) would result in hardship to the Trust, beneficiary or *bona fide* third party. The scope of enquiry under sub-Section (3A) of Section 36A would thus be significantly different than the enquiry under Section 36A(3) of the Trust Act, 1950.

6. Therefore, the view of the learned Charity Commissioner that, in the facts of the case, the proper course would be to file a separate Application seeking *ex-post-facto* sanction, cannot be said to be unsustainable. The apprehension on the part of the Petitioner that the proceeding may get further delayed, can be addressed by requesting the Charity Commissioner to decide the Application No. 19 of 2024 and the

Application to be filed for *ex-post-facto* sanction under sub-Section (3A) of Section 36A, simultaneously and expeditiously.

7. The Petition thus stands disposed with liberty to the Petitioner to file an Application for *ex-post-facto* sanction under Section 36A(3A) of the Act, 1950.

8. In the event, such an Application is filed, within a period of two weeks from today, the Charity Commissioner is requested to hear and decide the said Application along with the Application No. 19 of 2024, as expeditiously as possible, keeping in view the mandate contained in the proviso to sub-Section (3) of Section 36A of the Trust Act 1950.

9. It is clarified that this Court has not entered into the merits of the Application under Section 36A and all contentions of all the parties are kept open for determination.

10. Petition disposed.

[N. J. JAMADAR, J.]