

VERDICTUM.IN

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.13907-13908 OF 2024

(Arising out of SLP (C) Nos.16967-16968/2022)

AVINASH APPASAHEB DANDAWATE & ORS.

APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

RESPONDENT(S)

WITH

CIVIL APPEAL NOS. 13099-13100 OF 2024

(Arising out of SLP(C) No. 17492-17493/2022)

O R D E R

Leave granted.

2. Heard learned counsel appearing for the parties.

3. The issue in these appeals concerns the appointment of Members of the Committee of Management of Shree Sai Baba Sansthan Trust (Shirdi) (for short 'the Trust'). The Constitution of the Committee of Management is provided under section 5 of the Shree Sai Saba Sansthan Trust (Shirdi) Act, 2004 (for short 'the 2004 Act'). As can be seen from the Preamble, the object of enacting the 2004 Act was to provide for better management, administration, governance and control of the Trust to enable it to undertake wider welfare activities for the public. We may note that the Trust was registered under the Maharashtra Public Trust Act, 1950.

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4. Section 5 of the 2004 Act reads thus:

"5. (1) For the purpose of management of the Sansthan Trust, on or after the appointed day, a Committee to be called "the Shree Sai Baba Sansthan Management Committee" shall be constituted by the State Government as provided in sub-section (2).

(2) The State Government shall, by notification in the Official Gazette, appoint, a Chairman, Vice-Chairman and not more than [fifteen] other members to constitute the Committee as envisaged under sub-section (1) Provided that, out of the total number of members not less than one member shall be a woman and one member shall be from the socially and economically weaker sections.

[Provided further that, out of the total number of members, not less than eight members including the Vice-Chairman, shall be persons having educational background with professional or specialized knowledge, qualifications and practical experience in one or more of the fields such as law, Business Management, Public Administration, Engineering, Architecture, Public Health, Medicine or Rural Development.]

(3) The President of the Shirdi Nagar Panchayat shall be the ex-officio member of the Committee.

(4) Subject to the other provisions of this Act, the Committee shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued."

(underline supplied)

5. Section 8 lays down the conditions for being a Member which reads thus:

"8. A person to be appointed as a member of the Committee shall be

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(a) the permanent resident of the State of Maharashtra; and
(b) a devotee of Shree Sai Baba and shall, prior to his appointment as a member make such declaration in the prescribed form."

Section 9 lays down disqualifications.

7. We are also concerned with the Shree Sai Baba Sansthan Trust(Shirdi) (appointment of Members of Management Committee and Forms of Declarations)Rules, 2013 (for short 'the said Rules). Rule 3 of the said Rules deals with the appointment of the Committee of Management, which reads thus:

"3. Appointment of Committee.-(!) In accordance with the provisions of sub-section (2) of Section 5 of the Act, the State Government shall appoint to the Committee, persons,-

(i)who are permanent residents of the State of Maharashtra;
(ii) who are devotees of Shree Sai Baba; and
(iii) from the following categories, namely:-

Category	Number of Members
A Woman	not less than 1
B. Socially and Economically weaker sections	not less than 1
C. Persons possessing professional or specialised knowledge within the meaning of sub-section (2) of Section 5 of the Act	not less than 8
D. General	upto 7:

Provided that, the number of members to be appointed shall not

exceed 17 (including the Chairman and Vice-Chairman).

(2) The person belonging to category 'C' above shall consist of not less than eight persons having educational background with professional or specialized knowledge, qualifications and practical experience in one or more of the following fields, namely:-

(i) Law;(ii) Business Management, Accountancy, Economics, Finance or Public Administration ;
(iii) Engineering; Architecture ;
(iv) Public Health; Medicine ;
(v) Rural Development:

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Provided that, the Committee shall consist of at least one person from each of the fields mentioned at Serial Nos. (i) to (iv) above and not more than one person from the field mentioned at Serial Nos. (v) above. Provided further that the persons to be appointed under category C above shall possess the minimum qualifications and experience specified in column (3) of the Schedule.

(3) The person belonging to category "D" above shall consist of upto seven persons who shall be either Patrons or Life Members of the Bhakta Mandal.

Provided that, due regard may be had while making appointments in category "D" to all or any of the following factors:-

- (i) possession of a bachelor's degree ;
 - (ii) residence in Shirdi or in the Ahmednagar District ;
 - (iii) contribution made by the person to a social or educational cause or to social or educational development.
 - (iv) that the person is a Member of Parliament representing Shirdi or a Member of the State Legislature representing the Shirdi Assembly Constituency."
- (emphasis added)

8. By the impugned judgment, the High Court has set aside the appointment of the Members appointed in accordance with Section 5, which was made under the order dated 16.09.2021. The operative part of the impugned judgment reads as follows:

"(a) The impugned order dated 16th September 2021 passed by the Principal Secretary, Law and Judiciary Department, Mantralaya, Mumbai appointing the respondent nos.3 to 14 as Members of Managing Committee of Shree Sai Baba Sansthan Trust, Shirdi Taluka Rahata, District Ahmednagar is quashed and set aside.

(b) We direct the State Government to constitute a new "the Shree Sai Baba Sansthan Management Committee" within a period of eight weeks from today in accordance with the provisions of section 5 of the Act of 2004 and in line with the principles laid down by this Court in the judgments referred to aforesaid.

(c) We direct that, until the State Government constitutes a new Committee, the affairs of the "Shree Sai Baba Sansthan Trust, Shirdi" shall be supervised, monitored and looked after by a committee consisting of :

A) The Principal District Judge, Ahmednagar.

(B) The Collector, Ahmednagar.

(C) The Chief Executive Officer of Shree Sai Baba Sansthan Trust Shirdi.

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(d) The Principal District judge, Ahmednagar shall be the Chairman of the Committee and rest of the two officers shall be the Members of the Committee. The Management Committee shall hold meetings as per the agenda prescribed and as per the requisition issued by the Principal District Judge, Ahmednagar.

(e) The ad-hoc committee appointed by this Court would continue till a new management committee is constituted by the State Government in the manner prescribed aforesaid.

(f) The ad-hoc committee appointed by this Court is directed not to take any major financial decision in respect of the management of the affairs of the Sansthan without permission of this Court.

(g) Public Interest Litigation Nos. 98 of 2021 and 100 of 2021 are allowed in the aforesaid terms. No order as to costs."

9. We have carefully perused the detailed findings recorded by the Division Bench of the High Court of Bombay. As a matter of fact, the Bombay High Court found that all the Members appointed by the State Government had political affiliations or political connections. In fact, the findings recorded by the High Court from paragraph No.141 onwards indicate that in the case of each Member, after examining the material on record in detail, the Court came to a conclusion about their political connections.

10. It is true that under the provisions of the 2004 Act and the said Rules, having political affiliation or connection is by itself no disqualification. However, the Court has examined the entire process and has concluded that persons belonging to the same class of having political affiliations/connections have been appointed. In short, those who do not have political connections have been excluded. This makes the entire process questionable. It becomes arbitrary being violative of Article 14 of the Constitution.

11. Consistent with the object of the 2004 Act of providing better Management, Administration, Governance and control of the Trust to enable it to undertake wider welfare activities of the public, the Rules and in particular, Rule 3(ii) provides that persons belonging to Category (c) shall consist of persons having an educational background with professional or specialized knowledge, qualifications and practical experience in one or more of the fields which include law, Business Management, Engineering, Architecture, Public Health, Rural Development, etc. Even from Categories A to C mentioned in Rule 3 (i), the object appears to be to have the members who will be able to ensure better Management, Administration and Governance of the Trust. In fact, subject to categorization made in Rule 3, the object must be to appoint the best possible candidates while giving representation to various categories mentioned in Rule 3(ii). In fact, the proviso to sub-rule (ii) of Rule 3 makes it very clear that the Committee shall consist of at least one person from each of the categories mentioned at serial Nos.1 to 4 in sub-rule (ii) and not more than one person from the fields mentioned at serial no. 5 above. The object seems to be that the Management must consist of the best possible persons from different fields so that their experience is helpful in achieving the objectives of the Trust. If appointments are made only of those who have political connections, the same will be arbitrary.

12. Looking at the counter filed by the State before the High Court, we find that no endeavour has been made to select the best

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possible candidates amongst several who applied by giving effect to what is provided in Rule 3 of the Rules.

13. It is in that context when the High Court found that only those who have political affiliations/connections were chosen by the State, the High Court came to the conclusion that the process needs to be set at nought by setting aside the appointments. The High Court has not recorded any conclusion that having an affiliation with a political party or having a connection with a political party is a disqualification. The High Court has found fault with the decision-making process. The entire emphasis of the High Court is that the State Government must ensure that the best possible persons are chosen to occupy the posts of Members of the Managing Committee. The State must keep in mind that if the best available persons are not appointed, it will amount to defeating the very object of enacting the 2004 Act.

14. Considering the nature of findings recorded by the High Court and subject to what we have observed above, we find that this is not a fit case where this Court should interfere. If the process of selection is properly conducted by choosing the best possible persons within the framework of the Rules, it will help the cause of the Trust. The process of selection must be made in a fair and transparent manner. Otherwise, it will expose itself to the vice of arbitrariness.

15. Hence, subject to what is observed above, we concur with the view taken by the High Court, and accordingly, the appeals are dismissed.

16. There is no positive finding recorded by the High Court that any of the Members whose appointments have been set aside has incurred disqualification in terms of the provisions of the 2004 Act.

17. The original file submitted to this Court in terms of the order of this Court shall be returned to the learned counsel representing the State.

.....J.
[ABHAY S. OKA]

.....J.
[AUGUSTINE GEORGE MASIH]

NEW DELHI;
NOVEMBER 26, 2024

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ITEM NO.3

COURT NO.5

SECTION IX

**S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS**

**Petitions for Special Leave to Appeal (C) Nos.16967-16968/2022
[Arising out of impugned final judgment and order dated 13-09-2022
in PIL No. 98/2021 and 13-09-2022 in PIL No. 100/2021 passed by the
High Court of Judicature at Bombay at Aurangabad]**

AVINASH APPASAHEB DANDAWATE & ORS.

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

Respondent(s)

**(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
143155/2022, APPLICATION FOR SUBSTITUTION ON IA 216539/2023, IA No.
66809/2024 - APPLICATION FOR TRANSPOSITION, IA No. 136573/2024 -
APPROPRIATE ORDERS/DIRECTIONS AND IA No. 67362/2024 - INTERVENTION
APPLICATION)**

WITH

SLP(C) No. 17492-17493/2022 (IX)

**(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
140693/2022, FOR APPLICATION FOR SUBSTITUTION ON IA 216603/2023,
FOR APPLICATION FOR TRANSPOSITION ON IA 66327/2024 AND FOR
INTERVENTION APPLICATION ON IA 67485/2024)**

Date : 26-11-2024 These matters were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

For Petitioner(s) Mr. Vishnu Sharma A.S., AOR

**Mr. Jayanth Muth Raj, Sr. Adv.
Mr. Vinodh Kanna B., AOR
Mr. Pradeep Kumar Kar, Adv.
Mr. V. Purushothaman Reddy, Adv.**

**Mr. V. Giri, Sr. Adv.
Mr. B. Vinodh Kanna, Adv.
Mr. M.R. Abhilash, Adv.
Mr. Pradeep Kumar Kar, Adv.
Mr. Rahul Narang, Adv.
Ms. Rao Vishwaja, Adv.
Mr. Harshed Sundar, Adv.
Mr. Nihar Dharmadhikari, Adv.
M/S. M R Law Associates, AOR**

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For Respondent(s) Mr. Tushar Mehta, Solicitor General
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, Adv.

Mr. Kishor Lambat, Adv.
Mr. Kashmira Lambasted, Adv.
Ms. Kashmira Lambat, Adv.
Ms. Suja Joshi, Adv.
M/S. Lambat & Legiteam, AOR

Ms. Pradnya Talekar, Adv.
Mr. Ajinkya Kale, Adv.
Mr. Pulkit Agarwal, AOR
Mr. Anubhav Lamba, Adv.
Mr. Sudhanshu Kaushal, Adv.
Ms. Vishakha Patil, Adv.
Mr. S.B. Talekar, adv.
Mr. Alok Abhinav, Adv.

Mr. Somiran Sharma, AOR

Mr. Vishnu Sharma A.S., AOR

Mr. Sachin Patil, Adv.
Mr. Sunny Jadhav, Adv.
Mr. Sunil Kumar Verma, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Applications for substitution and transposition are allowed.
2. Leave granted.
3. Appeals stand dismissed in terms of signed order.
4. Pending application(s) shall stand disposed of.

(RAJNI MUKHI)
COURT MASTER (SH)
(Signed order is placed on the file)

(AVGV RAMU)
COURT MASTER (NSH)