



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 11287 OF 2026

Kumar Chintaman Ketkar & Ors. .. Petitioners
V/s.
Charity Commissioner, Maharashtra State,
Mumbai & Ors. .. Respondents

WITH
INTERIM APPLICATION (L) NO. 13136 OF 2026
WITH
INTERIM APPLICATION (L) NO. 13373 OF 2026
IN
WRIT PETITION (L) NO. 11287 OF 2026
WITH
WRIT PETITION (L) NO. 9462 OF 2026

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Deepak Tanaji Pawar .. Petitioner
V/s.
The Asiatic Society of Mumbai & Ors. .. Respondents

Mr. Atul Damle, Senior Advocate a/w Mr. Nirav Shah i/b Mr. Swarup Patil for
Petitioners in Writ Petition (L) No. 11287 of 2026

Dr. Milind Sathe, Advocate General a/w Ms. Nazia Sheikh, AGP for Respondent nos.
1 & 4 (State of Maharashtra) in both Writ Petitions.

Ms. Druti Datar for Applicant/Intervenor in IAL/13136/2026.

Mr. Vikram N. Walawalkar for Applicant/Intervenor in IAL/13373/2026.

Shri. Surendra Kulkarni, present in person.

CORAM : FARHAN P. DUBASH, J.
RESERVED ON : 17th APRIL 2026
PRONOUNCED ON : 23rd APRIL 2026

JUDGMENT:

1. At the request of the learned Advocate General, since both the Writ Petitions challenge the same orders, by consent of parties, these matters are tagged together and it is agreed that they can be disposed of, by a common order.
2. Rule. Rule made returnable forthwith. Considering the urgency in these matters, by consent of all parties, it is agreed that the same be disposed of, at the stage of admission itself.
3. The present two Writ Petitions invoke the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India by challenging two orders (both, operative and reasoned) dated 13th March 2026 (**impugned orders**) passed by Respondent No. 1 / Charity Commissioner, Maharashtra, concerning the administration and affairs of a Public Charitable Trust known as *The Asiatic Society of Mumbai* / Respondent No. 1 (**Asiatic Society**) which is probably, the oldest public research library in Mumbai, founded in 1804.
4. A brief chronology of relevant facts is set out hereunder:
 - i) Elections to the posts of office bearers of Asiatic Society were last held in September 2023. The Change Report filed in respect of the said elections came to be rejected by an order dated 6th August 2025 passed

by the Assistant Charity Commissioner. An Appeal bearing no. 262 of 2025 challenging the said order is stated to be pending before the Charity Commissioner.

- ii) On 9th September 2025, the Managing Committee of Asiatic Society **(Managing Committee)** issued a Notice convening its 221st Annual General Meeting **(AGM)** on 27th September 2025. However, elections were not announced in the said notice which instead informed the members that “*The election date will be announced later.*”
- iii) Accordingly, on 27th September 2025, the AGM was held when it was resolved that elections would be conducted on 8th November 2025 **(Elections – 2025)**.
- iv) Thereafter, in its meeting dated 3rd October 2025, the Managing Committee declared an Election Programme for Elections – 2025 providing for elections of its office bearers, *namely* President, four Vice-Presidents and Honorary Secretary, for the period 2025–2027; election of five members of the Managing Committee for the term 2025–2028; and filling up one vacancy in the Managing Committee for the residual term of 2025 – 2027.

- v) On 31st October 2025, the Charity Commissioner passed an Administrative Order directing the Returning Officer (who was appointed to conduct the Elections – 2025 on 8th November 2025) to consider the membership list which was finalised at the AGM held on 27th September 2025 and thereafter scrutinised on 3rd October 2025.
- vi) However, this order was subsequently quashed and set aside by this Court in Writ Petition No. 15028 of 2025 by an order dated 6th November 2025 on the ground that when Elections – 2025 were already declared on 3rd October 2025, there was no occasion for the Asiatic Society to file proceedings under Section 41A of the Maharashtra Public Trusts Act, 1950 (**said Act**) before the Charity Commissioner. However, whilst setting aside the said Administrative Order, this Court has expressly recorded that it has not decided the issue of membership in any manner and clarified that parties were at liberty to make their submissions in that regard in accordance with law.
- vii) Thereafter, Elections – 2025, which were originally scheduled to be held on 8th November 2025 came to be postponed from time-to-time,

primarily on account of issues relating to the non-finalisation of the voters' list.

- viii) Ultimately, at a meeting held on 20th February 2026, the Managing Committee proposed Elections – 2025 be held on 14th March 2026, in accordance with the Election Programme that was already announced on 3rd October 2025 and on the basis of nominations already completed prior to 8th November 2025. A notice to this effect was also issued to its members on 26th February 2026. In this notice, it was mentioned that *“All members/Applicants should have paid their Membership Subscription on or before 26th November 2025 to be eligible to vote.”*
- ix) In the meantime, it appears that in the session of the Maharashtra State Legislature that commenced on 23rd February 2026, certain questions were raised concerning the workings of the Asiatic Society, which resulted in Legislative Assembly Questions (LAQ) being sought from the Charity Commissioner on various issues including *inter alia* discrepancies in voters' list, postponement of elections, missing books, etc. Immediately thereupon, Shri. K.D.Talokar (Inspector-5) was deputed to investigate into these issues and report back to the Charity Commissioner.

- x) The said Inspector is stated to have visited the premises/office of the Asiatic Society for inspection and also met some of its office bearers and recorded their statement/s. Accordingly, the said Inspector is stated to have submitted his report dated 27th February 2026 (**Inspector Report**) to the Charity Commissioner which *inter alia* confirmed that approximately 2050 books were found to be missing from the Asiatic Society. This was followed up with a fresh report dated 9th March 2026.
- xi) On 9th March 2026, a hearing was held before the Charity Commissioner in Appeal No. 262 of 2025 when some of the office bearers of Asiatic Society including *inter alia* President, Vice-President and Officiating Hon. Secretary were also present. During this hearing, the said office bearers were stated to have been apprised with the findings in the Inspector Report Inquiry No. 03 of 2026 and at their request, the hearing was adjourned to 11th March 2026.
- xii) On 11th March 2026 when the said office bearers appeared before the Charity Commissioner, they informed him that Elections – 2025 to the Asiatic Society had already been declared on 14th March 2025 and

further that, its Managing Committee had already appointed Dr. Prasad Akolkar as the Returning Officer for conducting the elections.

- xiii) Upon this, the Charity Commissioner issued a notice to the said Returning Officer on the same date, requesting him to remain present the following day viz. on 12th March 2026. The Charity Commissioner is stated to have heard the submissions made by the said Returning Officer who appeared on 12th March 2026 and informed him that the voters' list was not yet made available to him and would be made available only later the same afternoon.
- xiv) In the above circumstances, the Charity Commissioner has passed the impugned orders dated 13th March 2026. By the impugned orders, the Charity Commissioner has *inter alia* constituted a committee comprising a nominee appointed by him as a '*fit person*' together with 5 members of the Managing Committee of the Asiatic Society (**committee**) to manage its day-to-day affairs till the constitution of a duly elected Managing Committee. The impugned orders further directs constitution of a sub-committee consisting of the said *fit person* and 3 members of the Managing Committee of the Asiatic Society¹ (**sub-committee**) for

¹ Out of the 5 Managing Committee members appointed to manage its day-to-day affairs since the other 2 members have sought to contest the elections

preparation of a list of valid and eligible voters for the purpose of elections to the Asiatic Society, as per the provisions contained in its Rules and Regulations. The impugned orders also directs the sub-committee to endeavour preparation of the voters' list, within a period of two months from the date of the order and then directs the said *fit person* to conduct the said elections within a month of the publication of the final voters' list under the supervision of the Deputy Charity Commissioner, H.O., Mumbai.

SUBMISSIONS OF THE PETITIONERS

5. Mr. Atul Damle, learned Senior Advocate who appears on behalf of the Petitioners submits that the impugned orders are required to be set aside since the same were passed in breach of principles of natural justice since no details and/or particulars of the Inspector Report were given by the Charity Commissioner to Asiatic Society and its Managing Committee. He further asserts that no prior notice and/or hearing was also afforded to them before the impugned orders came to be passed.
6. He also relies on the earlier order dated 6th November 2025 passed by this Court and submits that by the impugned orders, the Charity Commissioner has once again, sought to interfere with the issue of membership of Asiatic

Society and the Elections – 2025 that was scheduled to be held on 14th March 2026 by its Managing Committee. He states that the Charity Commissioner had no power to pass the impugned orders and issue the directions contained therein.

7. He submits that the Charity Commissioner has also incorrectly discarded the voters' list that was finalised by the Scrutinising Committee and approved by the Managing Committee. He submits that all members who have been recommended and approved prior to 20th February 2026 when it was resolved by the Managing Committee to schedule Elections – 2025 on 14th March 2026 are required to be considered in the finalised voters' list. He therefore submits that the impugned orders are liable to be quashed and set aside.

SUBMISSIONS OF RESPONDENT NOS. 1 & 4

8. In response, Dr. Milind Sathe, the learned Advocate General for the State of Maharashtra supports the impugned orders passed by the Charity Commissioner. He invites my attention to the provisions of Sections 47, 69, 36A r/w Section 3 of the said Act and submits that in the facts of the present case, the Charity Commissioner had full power and authority to pass the impugned orders. Moreover, he relies on the amended provision of Section 30A of the said Act, and submits that upon expiry of the tenure of the trustee,

he/they cease to perform functions and discharge the duties as a trustee, unless re-appointed and submits that in the present case, they have continued to act.

9. He points out that since elections to the posts of office bearers of Asiatic Society were last held in September 2023, as per Rule No. 14 of its Rules and Regulations, the tenure of the elected office bearers and 5 members of its Managing Committee came to an end in September 2025 and as a result, the Managing Committee could not have acted/functioned thereafter.
10. He points out that the procedure for grant of membership to the Asiatic Society is governed by Rules Nos. 6(a) to 6(g) of its Rules and Regulations whereunder the General Body, at its Annual General Meeting is required to elect a Scrutinizing Committee consisting of seven members, which in turn, is empowered to scrutinise the membership applications and recommend eligible applicants to the Managing Committee, who are then required to consider such recommendation and approve the membership at its subsequent meeting. He further points out that the tenure of the Scrutinising Committee which was elected at the previous AGM on 28th September 2024 came to an end on 27th September 2025. However, he submits that notwithstanding this, and taking advantage of the postponement of Elections – 2025, the

Scrutinising Committee has *suo motu* decided to not only continue its working thereafter, but has also recommended about 1467 applications for membership, most of which were not subsequently approved by the Managing Committee. As against this, he is at pains to highlight that during the entire one year tenure of the same Scrutinising Committee from 28th September 2024 till 27th September 2025, they had approved and recommended only about 349 members. He further points out that notwithstanding such anomalies, the names of these 1467 applicants have been included in the finalised voters' list for Elections - 2025.

11. Without prejudice to the above, in any event, the learned Advocate General submits that the Managing Committee had no legal right or authority to continue in management of Asiatic Society after rejection of their Change Report on 6th August 2025. Despite this, he submits that the Managing Committee has not only continued to function but has also taken decisions other than those that are required for the day-to-day administration of the Asiatic Society.
12. He therefore submits that when all these illegalities and irregularities came to light in the Inspector Report, the Charity Commissioner was wholly justified in intervening in the matter and passing the impugned orders.

ANALYSIS & FINDINGS

13. I have painstakingly perused the entire record that is before this Court in both Writ Petitions. At the outset, it is required to be noted that the Petitioners, who have challenged the impugned orders are neither the office bearers of Asiatic Society nor its Managing Committee members but are members who are stated to be directly concerned and affected by the impugned orders which they allege, interferes in the electoral process of Asiatic Society and its administration. This assumes importance since one of the main allegations of the Petitioners in support of their challenge to the impugned orders is violation of principles of natural justice since they contend that no proper notice and/or hearing of the Inspector Report was afforded to the (Managing Committee of the) Asiatic Society prior to the passing of the impugned orders. However, this is not so. Upon careful perusal of the material placed before this Court, it is revealed that not only did the Charity Commissioner give adequate and advance notice to the Office Bearers of Asiatic Society, but had also adjourned the hearing that was held on 9th March 2026, at their request, so as to afford them time to consider the Inspector Report. Moreover, hearings were held before the Charity Commissioner on multiple days *viz.* 5th March 2026, 9th March 2026, 11th March 2026 and finally, on 12th March 2026 before the impugned orders came to be passed on 13th March 2026. On all these days,

save and except the last date on which the Returning (Election) Officer - Mr. Prasad Akolkar had appeared, not only were some of the office bearers of the Asiatic Society personally present before the Charity Commissioner but were also represented by lawyers. Additionally, statements/affidavits were also filed by them, which were considered by the Charity Commissioner whilst passing the impugned orders. All these details and information were not pointed out to this Court on 8th April 2026, when an order granting urgent ad-interim reliefs came to be passed.

14. Coming to the functioning of the Managing Committee, this Court is in agreement with the submissions made by the learned Advocate General that after rejection of their Change Report on 6th August 2025, the Managing Committee had no legal right or authority to continue in management, more so when, the tenure of the elected office bearers came to an end in September 2025. As a result, the Managing Committee could not have acted and functioned thereafter. Notwithstanding this, the record reveals that it not only continued to function but has also taken decisions other than those that are required for the day-to-day administration of the Asiatic Society, for example, admission of members, etc. This is entirely impermissible. The same also applies to the Scrutinising Committee of Asiatic Society which has *suo motu*

decided to continue its working, notwithstanding the fact that its tenure came to an end on 27th September 2025 and during such period, proceeded to recommend about 1467 applications for membership, which names have since also been included in the finalised voters' list for Elections – 2025 despite there being no proper approval thereof by the Managing Committee.

15. Considering these irregularities, the Charity Commissioner appears to have correctly instituted an inquiry into the affairs of Asiatic Society pursuant to the LAQ's, which resulted in the Inspector Report Inquiry No. 3 of 2026. The Petitioners have neither been able to point out any infirmity in this exercise nor in the resultant order passed by the Charity Commissioner who appears to have heard the parties and meticulously considered all the submissions that were advanced before him and then passed by the impugned orders. In the bargain, he has considered the various issues of membership, functioning of the Managing Committee and Scrutinising Committee, Elections – 2025 before analysing the relevant provisions of the said Act under which, he has aptly issued appropriate directions as an interim arrangement for effective management and administration of the affairs of Asiatic Society. In the process, he has also afforded a prior hearing to the parties involved inasmuch as, the hearings that were held before him were not only in the said Inspector Report Inquiry No. 3 of 2026 but also in Appeal No. 262 of 2025 which

challenged the order dated 6th August 2025 rejecting the Change Report filed by Asiatic Society after elections were held on 30th September 2023. He has noted the submissions made by the Advocates and taken them into consideration whilst passing the impugned orders.

16. In the bargain, he has given detailed reasons as to why the effect, operation and implementation of the resolution dated 20th February 2026 to hold Elections – 2025 of the Asiatic Society on 14th March 2026 has been stayed. The Petitioners have been unsuccessful in pointing out any reason which would suggest that such action is bad in law and/or requires interference from this Court. No case of patent illegality or manifest arbitrariness is made out by the Petitioners which would warrant interference by this Court.

17. The Charity Commissioner has sufficient powers under Section 36A, Section 69 and Section 3 of the said Act to issue directions to ensure that the affairs of the Asiatic Society are administered in accordance with its Rules and Regulations and also in accordance with the provisions of the said Act. The Charity Commissioner also has sufficient powers under Section 47 of the said Act to pass orders putting an interim arrangement into place for the smooth functioning of the Asiatic Society. In the present case, by passing the impugned orders, the Charity Commissioner has done exactly that and

nothing more. No interference is warranted in the impugned orders. No case for the same has been made out.

18. Considering the above, both Writ Petitions are dismissed. There shall be no order as to costs.
19. All pending Interim Applications taken in the present Writ Petitions if any, also stand disposed of in terms of this order, and all interim orders passed therein, if any, shall stand vacated.

(FARHAN P. DUBASH, J.)

20. After the order was pronounced in Court, Mr. Shah, learned Counsel who appears on behalf of the Petitioner seeks a stay of the order. However, considering the observations that are made in the order I am afraid that Application for stay cannot be acceded to and is accordingly rejected.

(FARHAN P. DUBASH, J.)

Shubham Gadhavepatil