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BEFORE THE ASSISTANT CHARITY COMMISSIONER-VII,
GREATER MUMBAI REGION, MUMBAI
(Presided over by: Shri. Ram A. Lipte)

Change Report No. ACC/VII/2527/2024

Under Section 22 of the Maharashtra
Public Trusts Act, 1950

In the matter of:

"The Asiatic Society of Mumbai"

P.T.R. No. E-1020 (Mumbai)

Prof. Mangala Sirdeshpande :- Reporting trustee/
Applicant

V E R S U S

1. Shri. Pulind Samant

2. Smt. Renu Parekh

3. Smt. V.M. Chakravathy :- Intervenors /
objectors

Appearances: 1. Adv. Hemant Gandhi for Reporting
trustee.
2. Objectors are in person.

J U D G M E N T

(Delivered on 06.08.2025)

This is a change reported by applicant under Section 22 of the Maharashtra Public Trusts Act, 1950. Applicant stated that, the change has been occurred due to election of managing committee of the trust for the tenure of 2021-2023. Applicant further stated that the tenure of the previous managing committee has been completed and therefore as per provisions given under

Rule 14 of the rules and regulations the election has been conducted by the trust and the change report about newly elected managing committee has been filed by applicant. Applicant prayed that the reported change has been occurred as per the rules and regulations of the trust and therefore he is prayed that kindly accept the change report and record the same on Schedule-I of the trust.

02. After reporting this change by applicant, meanwhile, some intervenors submitted application u/s.73A of the Maharashtra Public Trust Act, 1950 to join as a party in the proceeding. In the said application they raised prima facie objection to this reported change and submitted that if the authority impleads them as a party, then to decide the inquiry on merit, they will submit the written statement in detail. Accordingly, this authority heard all the parties and after following due procedure of law all the said intervenors were allowed as a party opponent in this proceeding. Accordingly, the said objectors / opponents filed their written statement and submitted that the reported change has not been occurred as per provisions given in Rule 14 of the Rules and Regulations of the trust. They further submitted that the appointment of election officer has not been done as per law. The election officer not followed the due procedure of law and therefore, they prayed that kindly reject the change report.

03. In support of the reported change, the applicant and the opponents produced following documents:

List of documents:

Sr. No.	Description of documents	Exh. No.
1.	Application filed in Schedule - III (Change report)	1
2.	Copy of agenda dt. 25.07.2023	2
3.	Copy of notice for postponement of 219 th AGM dt. 24.08.2023	3
4.	Copy of agenda dt. 19.01.2024	4
5.	Copy of notice dt. 14.08.2023	5
6.	Minutes of 218 th Annual General Meeting dt. 27.08.2022	6
7.	Annual Report of the trust for the year 2022-2023	7
8.	Copy of list of office bearers and managing committee members	8
9.	Copy of list of board of trustees	9
10.	Copy of abstract taken from the minutes of managing committee meeting held on 15.06.2023	10
11.	Copy of abstract taken from the minutes of managing committee meeting held on 25.07.2023	11
12.	Copy of abstract taken from the minutes of managing committee meeting held on 14.08.2023	12
13.	Copy of abstract taken from the minutes of managing committee meeting held on 28.08.2023	13

14.	Copy of extract taken from the minutes of 219 th Annual General Body Meeting held on 30.09.2023	14
15.	Copy of consent letter of managing committee	15
16.	Copy of resignation acceptance letter of Mr. Dhavale dt. 27.07.2023	16
17.	Copy of resignation letter of Mr. Vilas Dhavale dt. 24.07.2023	17
18.	Copy of death certificate of Mr. Sharadchandra Gangadhar Kale	18
19.	Copy of death certificate of Mr. Eknath Atmaram Kshirsagar	19
20.	Copy of Rules and Regulations of the trust	20
21.	Copy of C.R. No. ACC/VII/2822/2022 with order dt.25.07.2023	21 to 23
22.	Copy of C.R. No. ACC/VII/3220/2022 with order dt.25.07.2023	24 & 25
23.	Copy of abstract taken from the Annual Report 2022-2023	26
24.	V.P. of Adv. Hemant Gandhi on behalf of applicant	27
25.	Application for delay condonation	28
26.	Affidavit filed by applicant in support of delay condonation application	29
27.	Evidence affidavit filed by applicant	30
28.	Copy of note for delay in submission of change report	31
29.	Copy of memorandum of address of outgoing members	32

30.	Objection letter of opponent Shri. Pulind Samant dt. 03.05.2024	33
31.	Application filed by opponent Shri. Pulind Samant under Section 73A of Maharashtra Public Trusts Act, 1950	34
32.	Say filed by Mr. Pulind Samant	35
33.	Reply filed by Applicant Prof. Mangala Sirdeshpande	36
34.	Application filed by opponent Smt. Renu Parekh under Section 73A of Maharashtra Public Trusts Act, 1950	37
35.	Application filed by opponent Smt. V.M. Chakravarthi under Section 73A of Maharashtra Public Trusts Act, 1950	38
36.	Copy of letter of Mr. Jaywant K. Patil dt. 12.06.2024	39
37.	Reply filed by Applicant Prof. Mangala Sirdeshpande	40 & 41
38.	Copy of letter of Prof. Mangala Sirdeshpande	42
39.	Say filed by Smt. V.M. Chakravarthi	43
40.	Rejoinder filed by Smt. Renu Parekh	44
41.	Application filed by Shri. Pulind Samant	45
42.	Reply filed by Applicant Prof. Mangala Sirdeshpande	46
43.	Application filed by Smt. V.M. Chakravarthi	47
44.	Say on behalf of Smt. Renu Parekh	48

04. I have perused the change report and also perused the documents filed on record as referred above in Para No.03, after perusing the change report and the documents filed on record and oral submission of the applicant and opponents following points arise for my determination in the matter: -

Sr. No.	Points	Findings
1.	Whether the changes reported in Change Report No. 2527/2024 which has been filed by the reporting trustee are legal and valid?	In negative
2.	What order?	As per final order.

REASONS FOR FINDINGS

05. This is a change reported by applicant u/s 22 of the Maharashtra Public Trust Act, 1950 about newly elected managing committee/board of trustees. Applicant submitted that "The Asiatic Society of Mumbai" is the renowned public charitable trust registered in this office by P.T.R. No.E-1020/Mumbai. For the smooth and effective administration, the trust has its approved rules and regulations. As per the provisions of said rules and regulations the trust conducted the election of managing committee members / board of trustees and submit the change report for the approval of this authority. Applicant prayed that kindly accept the change report and record the necessary entry on Schedule-I of the trust.

06. On the other hand, some intervenors raised objection to this change report and submitted that being persons having interest in the trust they have right to proceed into the matter. Their applications were allowed by this authority and they all are impleaded as a party opponent in this proceeding. The said opponents submitted that the reported election is not conducted as per the rules and regulations and therefore, the reported change is liable to be rejected.

07. A change report, whether contested or not, has to be decided after holding an inquiry in a manner provided in Rule 7 of the Maharashtra Public Trusts Rules, 1951. No change can be accepted unless this authority, as the case may be, after holding an inquiry, comes to a conclusion that the change as reported has occurred. Sub-section 3 of Section 22 requires findings to be recorded with reasons while disposing of the change reports whether there is a contest or not. In short, this is a change report inquiry and it should be decided on merit by ascertain the legality and validity of the same. Considering the above said aspects of the inquiry now it is necessary to go through the relevant record and appropriate provisions given in the rules and regulations of the trust.

08. Firstly, it is necessary to ascertain that whether change is occurred or not. As per record and proceeding the then reporting trustee stated that change is occurred as per due procedure given in the provisions of rules and regulations of the trust. On the other hand, objector challenged legality and validity of the reported change. However, the parties expressly not denied the occurrence of change. Then also as per arguments counsel of objector stated that it is a

proposed change and not occurred change. In this regard reporting trustee who supported the change draw the attention of this authority towards the election and the resolutions passed in the annual general meeting of the trust.

09. In this regard the applicant who supported the change submitted that the change that has been occurred as per law would come in to effect from the date of resolution of the general body and if any change occurs in any of the entries recorded in the register kept under Section 17, trustee shall, within 90 days from the date of the occurrence of such change, report such change to the Deputy or Assistant Charity Commissioner, as the case may be. The dictionary meaning of expression "Occur" as observed in the Black's Law Dictionary is: "To happen; to meet one's eyes; to be found or met with; to present itself; to appear; hence, to befall in due course; to take place; to arise." Giving the natural meaning to this word in Section 22 of the Act, coupled with the principle enunciated by the Apex Court that when the Act does not require that registration of any change is a condition precedent to come in to effect. Therefore, the parties contended that the change comes in to effect from the date of resolution. The enquiry postulated under Section 22 is only to ascertain the factum as to whether the change has occurred or not. In respect of this contention, this authority perused the record and proceeding and as per the copies of minutes of meeting prima facie it is seen that the change was occurred in the board of trust. But in the event, the competent authority has to ascertain that whether the reported has been occurred as per the law or not.

10. Now, though it's came on the record that prima facie the change is occurred in the board of trustees of the trust but the inquiry under Section 22 of the Act cannot be a mere factual process or one purely formal in nature. In this regard The Hon'ble Bombay High Court in the case of *Jagatnarayansingh Swarupsingh Vs Swarupsing Education Society ...* on 26.11.1979 it is held that ...

"Investigation in to the legality and validity of the change is implicit. The inquiry is a judicial process pertaining the character of judicial adjudication. An elemental requisites or the minimal requirement of a judicial inquiry and a judicial process is compliance with the principles of natural justice. These principles, though not embodies rules, constitute none the less an important facet and pivot of the judicial process. Inquiry behind the back of an aggrieved party is best avoided lest it stands vitiated. One affected must be notice and heard. Basic lacuna in that respect may well render the inquiry and or the order therein almost non est at least qua the aggrieved absent party left unheard and, therefore, unheeded."

Therefore, as per the ratio of above said landmark Judgement and settled principle of law its necessary to ascertain that whether the change which has been occurred in the constitution of the trust is legal and valid or not. Hence, to ascertain the legality and validity of the reported change it is necessary to go through the relevant provisions incorporated in the rules and regulations of the trust.

11. The relevant provisions are given as follows:

II. MEMBERSHIP

Clause 3. The Society shall consist of the following categories of members:

- (A) Individual:
- (a) Resident (Annual & Life)
 - (b) Non-resident (Annual & Life).
 - (c) Patron Life Member
 - (d) Donor Life member
 - (e) Reader Member
 - (f) Indian Student member
 - (8) Foreign Student member
 - (h) Visiting Foreign Scholar Member
 - (i) Diplomat Member
 - (j) Honorary fellow

Clause 4(A) Individual:

(a) Resident (Annual Or Life): Resident member shall be an individual who resides or has a place of business or service within the Mumbai Metropolitan Region. The annual subscription for Resident membership is Rs.3,000/- (irrespective of the month in which the membership is sought); and that of Resident Life Membership is Rs.20,000/-.

(b) Non Resident (Annual or Life): Non Resident member shall be an individual other than covered by 4(a) above. Non Resident member shall be entitled to attend the General Body Meetings of the Society and be entitled to vote, but shall not be eligible to become a member of the managing Committee or become an office bearer of the society. The annual subscription for Non-Resident membership is Rs.1,000/- and that of Non-Resident Life Membership is Rs.10,000/-.

(c) Patron Life Member: Patron Life member shall be an individual who donates Rs.1,50,000/- (Rupees One Lac Fifty Thousand only) to the Society in a lump sum and applies for a Patron Membership of the society. A patron member shall be entitled to all the right and privileges enjoyed by a Resident Life member. An application for Patron Membership may be approved by the Managing Committee.

(d) Donor Life Member: Donor Life member shall be an individual who donates Rs.5,00,000/- (Rupees Five Lacs only) to the Society in a lump sum and applies for a Donor membership of the society. A donor member shall be entitled to all the rights and privileges enjoyed by a Resident Life Member. An application for donor membership may be approved by the Managing Committee.

The amounts realized from Institutional and Resident and non Resident life membership shall be part of the Reserve Fund. Those realized from Patron and Donor Life Membership shall be credited to the Corpus Fund.

(e) Reader Member: Reader Member shall be an individual who resides or has a place of business or service within the municipal limits of Greater Bombay, Thane, Kalyan, Karjat, Virar and Navi Mumbai. The annual subscription shall be Rs.1,000/- renewable every year. The entrance fee shall be Rs.60/- which shall be credited to the reserve Fund. He/she shall be entitled to borrow not more than 4 books (3 old and one new) and 1 periodical. He/she shall not be entitled to any other rights, privileges and facilities available to other categories (i.e. Rule 4(a), (b) & (c) however he/she shall be governed by the same Rules as regards return of books and periodicals and fines as the Resident member. His/her application shall be proposed and seconded by two members of the Society of at least two years standing.

(f) Indian Student Member shall be a bonafide student of an affiliated or autonomous University or College or Constituent college or a recognized Institute as designated by the University above 18 years and shall produce his/her Identity Card of such college, university or recognized institute as designated by the University. Membership may be renewed every year subject to his producing Identify card showing that he continues to be a bonafide student as aforesaid. The annual subscription shall be Rs.500/- (for U.G. Students) and Rs.1,000/- (for PG / Ph.D. students). The entrances fee shall be Rs.60/- which shall be credited to the Reserve Fund. He shall be entitled to borrow not more than four books (three old and one new) and one periodical. He shall not be entitled to any other rights, privileges and facilities available to other categories of members. However, he shall be governed by the same Rules as regards return of books and periodicals and fines as a Resident Member. His application shall be proposed and seconded by two members of the Society of at least two years standing or it should be accompanied by a letter recommending his name by the Head of the Institution as per the proforma prescribed in the application form for admission.

(g) Foreign Student Member: Foreign Student Member shall be a bonafide student / research scholar, certified as such by a competent authority acceptable to the members of the Managing Committee, who is a foreign national

temporarily staying in Mumbai and shall produce his passport and documents showing his status as student and temporary residence in Mumbai. The annual subscription shall be Rs.5,000/- (Rupees Five Thousand only) renewable from year to year. He shall not be entitled to borrow any books or periodicals but shall be permitted to refer the books and periodicals in the designated part of the Society's premises. He shall not be entitled to any other rights, privileges, and facilities available to other categories of members.

(h) Visiting Foreign Scholar Member: Visiting Foreign Scholar member shall be a scholar certified by foreign college or university, recognized as such in India, who wants to refer to the books and periodicals. The subscription will be on a weekly or monthly basis. He shall pay Rs.1,500/- (Rupees One Thousand Five Hundred only) per week and Rs.5,000/- (Rupees Five Thousand only) per month. He shall not be entitled to borrow any books or periodicals but shall be permitted to refer the books and periodicals in the designated part of the Society's premises. He shall not be entitled to any other rights, privileges and facilities available to other categories of members.

(i) Diplomat Member: Diplomat Member shall be stationed in Mumbai and recommended by his Embassy/Consulate. He shall pay an annual subscription of Rs.20,000/- (Rupees Twenty Thousand only). He will be entitled to borrow 4 books (3 old and 1 new) and 2 periodicals. He shall not be entitled to any other rights, privileges and facilities available to other categories of members and the Embassy or the Consulate would also provide guarantee that the books borrowed from the library would be returned by the Consulate. The application in case of (f) and (g) shall be considered by the sub-committee of the Managing Committee, so appointed.

(j) Honorary Fellows:

(i) Any three members may propose to the Managing Committee the name of any person who may have contributed to promote the objects of the Society, for election by the members of the Society as an Honorary Fellow of the Society and on such a proposal the Managing Committee may, at its discretion, submit such a name or names for election at a General Body Meeting of the Society.

(ii) An Honorary Fellow, not being a member at the time of his/her election, shall not hold office but he/she shall

be entitled to receive a copy of the Society's journal and the Annual Report of the Society on the same terms as may individual member of the Society.

Clause 4(B) Institutional Membership:

(i) An Institutional Membership of the Society may be available to Educational and Research Institutions recognized by the UGC, ICSSR and ICCR or any Institution recognized as a Cultural Institution by the Government of Maharashtra or the Government of India or any Institution recognized by a statutory or notified university.

(ii) Applications for Institutional Membership shall be subject to the approval of the Managing Committee.

(iii) The subscription for Institutional Membership of the Society shall be Rs.1,00,000/- (Rupees One Lac only) and the Admission fee (non-refundable) shall be Rs.1,000/- (Rupees one thousand only) for a period of 10 years.

(iv) The Head of the member institution may operate the Institution's Book Borrowing Account personally or by issuing authorization to a staff member for this purpose. He/she may, however, if he/she so desires, nominate one or two persons belonging to his/her Institution to borrow on his/her behalf. Such nominations may be made only once in a year.

(v) The Managing Committee may, from time to time, frame rules governing the procedure for the use of the Library facilities by Institutional Members in addition to the matters already provided for in these Rules and Regulations.

(vi) The head of the Institution which is enrolled as a member will be held responsible for lost or unreturned books, periodicals etc. and all reminders for return of books, etc. will be addressed to him/her.

(vii) The Head of the Institution will be eligible to attend the General Body Meeting of the Society and vote but he/she will not be eligible for any elective office including membership of the Managing Committee.

(viii) The Institution applying for membership shall submit a copy of its Constitution, if any, and the names of its Office Bearers or Trustees.

(ix) Any scholarly contributions forwarded by the Head of the Institution, authored by

himself/herself or by any of the members of the Institutions, will be eligible for consideration of publication in the Society's Journal.

Clause 4(C) Corporate Life Member:

(i) The Corporate Member shall be a body incorporated under the Indian Law. The subscription for Corporate membership shall be Rs.3,00,000/- (Rupees Three Lacs only) for a period of 10 years. They shall be entitled to nominate two persons as members. The application for Corporate Life Membership shall be considered by the Managing Committee. The membership subscription shall be credited to the Corpus Fund.

(ii) Corporate Membership shall be accorded to such corporate bodies acceptable to the Managing Committee. The nomination of members of such corporate bodies shall be subject to the approval of the Managing Committee.

(iii) They shall have the privilege of borrowing books new and old and periodicals available to the Resident members. The nominee members shall not be entitled to any other rights, privileges and facilities available to Resident Life Members and other categories of members.

(iv) The member of such Corporate body would be continued as long as it maintains its independent identity as entered in the Memorandum of Association.

Clause 4(D) Consulate Membership:

Consulate Membership shall be foreign Consulate having office in Mumbai. The Consulate can nominate in writing one person as a member. The yearly subscription shall be Rs.10,000/- (Rupees ten Thousand only). The Consulate shall be responsible for payment of subscription and return of books and periodicals. The nominee shall be entitled to borrow four books (three old and one new) and one periodical. These members shall not be entitled to any other rights, privileges and facilities available to other categories of members.

Clause 5 (a) The Applicant for any category of individual membership should be granted Provisional Membership of that category on production of Aadhaar Card or Indian Passport and payment of necessary subscription. The membership will be confirmed after approval by the Scrutinizing Committee. Till then, the 'Provisional Member' will be treated as a Daily Member without having to pay the fee per day.

If the Scrutinizing Committee does not approve the applicant then he/she will cease to be a member and the amount will be refunded.

(b) An employee of the Society shall not be entitled to be a member during the period of employment. Thereafter, he / she may apply for membership provided he/she was not dismissed or suspended from service.

(c) Disqualification of a member. A person shall cease to be member of the Society-

(i) If he/she is a persistent defaulter. The Hon. Secretary will certify that the total number of members listed in the Annual Report does not include any such persistent defaulters.

(Note: A Member shall be deemed to be a persistent defaulter if he/she has failed to return books and periodicals despite usual reminders on one annual stock-taking occasion; or a member who has failed to pay his/her annual subscription for one year).

(ii) If he/she is convicted for an offence involving moral turpitude.

(iii) If he/she is declared insolvent.

Clause 6. (a) The General Body at its Annual Meetings every year shall elect a Scrutinizing Committee consisting of 7 members for the purpose of scrutinizing applications for membership in category 3A(a)(b) and (c). A member is eligible to contest the membership of only one Committee and for one post only from among the Committees constituted by the General Body.

(b) The scrutinizing Committee shall meet at least once in every two months, the quorum shall be three.

(c) All applications received two weeks prior to the date of meeting of the Scrutinizing Committee, must be placed before that Committee. The Scrutinizing Committee may at its discretion, call for any application received at any time before the meeting.

(d) The Scrutinizing Committee while considering the applications, may call for further information from the Proposer and the Secunder concerned and interview the candidates if necessary to determine the suitability and credentials of the applicant.

An Applicant at the time of applying for various Fellowships of the Society need not be a member

of the Society but on receipt of Fellowships he/she must take the Membership of the Society. Such applicants would be accepted on the recommendation of the Chairperson of the Medals, Fellowship, Research Grants, Honorary Fellows Committee by the Scrutinizing Committee. He/she should continue to be a member till his/her assignment is completed.

(e) The recommendations of the Scrutinizing Committee shall ordinarily be accepted by the Managing Committee. In case the Managing Committee does not accept the recommendations of the Scrutinizing Committee, there will be a joint meeting of the Scrutinizing Committee, and the Managing Committee, and the decision in respect of the applications shall be taken by 2/3rd majority of those present and voting.

(f) The Applicant for membership shall be duly informed of the decision on his/her application by the Hon. Secretary and the Convener/Chairman of the Scrutinizing Committee.

(g) The decision on the application for membership should be taken by the Scrutinizing Committee within four months from the date of the receipt of the application. The Scrutinizing Committee should report to the Managing Committee cases not decided upon within the stipulated period of six months when the Managing Committee will decide on the application.

Clause 7. The Governor of the State of Maharashtra Shall be ex-officio the Chief Patron of the Society.

Clause 8. General Body Meetings

(a) On a day, not later than 31 August, every year, to be fixed by the Managing Committee, there shall be held an Annual General Meeting (AGM) for elections as provided in article 14(a) and for the adoption of the Annual Report of the managing Committee, which shall contain a statement showing the financial position of the Society, as well as the accounts for the year ended 31st March of the year under audit and the Auditors Report as required by Rule 18, and for the transaction of any other business which the Managing Committee may consider expedient to bring to the notice of the Society. The AGM shall, in alternate years appoint two Statutory Auditors as provided under Rule 18, for the next two years.

(b) All meetings of the Society shall be convened by a circular addressed to the Resident members by the Hon. Secretary or by

any person appointed by the Managing Committee in his/her temporary absence. His circular shall be issued at least fourteen days before the date of the meeting and shall contain a statement of the business to be transacted at the meeting; and no business shall be brought forward of which notice has not been given by the preliminary circular, except with the permission of the Chairperson of the Annual General Body Meeting.

(c) A circular convening a meeting to consider the question of modifying the rules shall be sent to Non Resident members also.

(d) Any member wishing to submit a proposal to the Society may require the Hon. Secretary, or any other Officer acting for the Hon. Secretary, to insert in the statement of business, after it has been considered by the Managing Committee, to be transacted at a meeting. and this proposal shall be entered in the first circular convening a meeting which may be issued subsequent to the receipt of the proposal by the Hon. Secretary. The proposal may be moved by another member on behalf of the member giving notice, if he/she is unable to be present.

(e) In case the agenda circulated for consideration of the General Body meeting (Annual or Special) of the Asiatic Society of Mumbai is not completed on the day of such meeting the President shall adjourn the said meeting to consider the balance of the agenda to a suitable date with the consent of the house.

Clause 9. A Special General Body Meeting shall be convened by the Managing Committee, whenever necessary or on the requisition of 50 members for the consideration of any business which shall be specified; provided that no such meeting shall be held till after the expiration of fourteen days from the date of the circular convening such a special meeting. Such a special meeting shall not take up any other business for deliberation or resolution except what is mentioned in the circular convening the meeting. The date of the circular issued by the Managing Committee shall not be later than 15 days from the date of receipt of requisition.

Clause 10: Quorum for AGM:

(a) A quorum of 25 members is necessary for a General Body Meeting including AGM and Special General Body Meeting to commence the meeting;

(b) If at the commencement of the meeting the requisite number of members for fulfilling the requirement of quorum is not there then the meeting should be adjourned for 30 minutes at the same date and location;

(c) There is no requirement of quorum for the adjourned AGM. In other words, if the number of members present at the adjourned meeting is less than as per the quorum required as above, even then the meeting can commence;

(d) There is no requirement of quorum during the proceedings of the meeting. In other words, the requirement of quorum as stipulated above is applicable only at the time of commencement of the meeting.

(e) Notwithstanding anything mentioned above, the President will have powers to postpone the discussion on an issue in view of poor attendance at the meeting or for any other reasons which may have a far reaching impact on the future of the Society.

Clause 11. The President of the Society shall take the Chair at all Managing Committee and General Body Meeting at which he/she may be present shall take his/her place. In the absence of the President and the Vice President, the meeting shall elect its own Chairperson.

Clause 12. The Chairperson of a meeting shall determine all points of order which may arise, and he/she shall not vote except in the case of an equality of votes when his/her vote shall decide the question before the meeting.

Clause 13.(a) The voting shall ordinarily be taken by a show of hands, but, on the requisition of any three members present, the Chairperson shall direct a poll to be taken in such manner as may appear to him/her to be convenient.

(b) A Member who, on the day of any General Body Meeting of the Society, is in arrears of subscription, or is liable to pay any dues to the Society, shall not be entitled to participate in any way at such a meeting.

Managing Committee Meetings:

Clause 14(a) The Society shall be administered by a Managing Committee consisting of a President, four Vice-Presidents, an Hon-Secretary, who shall be the Chief Executive officer of the Society and 15 members elected

from among the Resident members, who have been members for a continuous period of not less than two years, on the date on which their nominations have been filed. The qualification of membership for continuous period of not less than two years shall be applicable to all office bearers. The nominations on the Society's official form must be supported by two members and signed by the candidate indicating his/her willingness to serve and must be received by the Society's office by the deadline set by the Managing Committee, which shall not be less than eight and more than fifteen days before the General Body Meeting.

While the President, Four Vice-Presidents and Hon. Secretary shall be elected in alternate years and hold office for two years, the 15 members of the Managing Committee shall be elected for a period of three years. One-third or five members shall retire every year after serving their period of three years and shall be replaced by five members elected for a three years term.

In addition to the elected members, there will be one each representative of the Central Government and the State Government, who will attend the meetings of the Managing Committee as well as the General Body. They will have no right to vote. Their travelling and other expenses will be borne by the respective Governments.

In addition there will be a representative of the staff on the Managing Committee, elected by the Employees. The said representative will not have the rights and privileges of an elected member including the right to vote. He/She may participate in the discussion on items of agenda of the Managing Committee concerning the employees only. His/Her tenure will be for two years and he/she shall be eligible for re-election.

return of A member who is in arrears of subscription or has any other dues payable to the Society or has been a defaulter for non books on the day of nomination, shall not be eligible to seek election to the Managing Committee. The same condition shall apply to the proposer and seconder of all candidates.

(b) No withdrawal of nomination shall be permitted within 24 hours of the time fixed for holding the Annual General Body meeting at which elections are to be held.

The Managing Committee will frame election programme and publish it on the notice board and circulate the same along with notice of the meeting of the General Body. The Managing Committee will appoint a member of the Society of at least five years' standing as Returning Officer who shall not be a member of the Managing Committee and who is not a contesting candidate. The Returning Officer will be fully in charge of the conduct of elections and his/her decision shall be final and binding on all.

No member of the Society shall hold the same office for more than three consecutive terms. Office in this context means the office of the President, the Vice-Presidents, the Hon. Secretary and the members of the Managing Committee co-opted or elected.

(c) It shall be competent to the Managing Committee:

(i) to appoint an Hon. Finance Secretary from among members of the Society for the supervision of financial affairs of the Society subject to the general control of the Managing Committee. In case the Finance Secretary is not an elected member of the Committee he/she shall be an ex-officio member of the Managing Committee.

(ii) to appoint, if necessary, not more than two Hon. Joint Finance Secretaries from among the elected members or from among the members of the Society for assisting the Hon. Finance Secretary in the performance of his/her duties. In case any or both Joint Finance Secretaries is/are not elected members of the Managing Committee, they shall be ex-officio members of that Committee.

(iii) To appoint, if necessary, an Hon. Jt. Secretary from among its own members.

(iv) The Managing Committee shall have the power to co-opt not more than two members for special reasons, who shall retire after two years.

Clause 15. In the event of a vacancy of the office bearers of the Managing Committee namely, President, Vice-Presidents and the Hon. Secretary and of the elected members of the Managing Committee it shall be filled in the next immediate election. It is further resolved that this resolution would come into effect immediately after its adoption by the General Body in its Annual General Body Meeting.

In the event that vacancy arises in the Managing Committee due to election of its members to other positions (President, Vice President/s, Hon. Secretary), the Managing Committee may co-opt from the members of the Society, to fill these vacancies. The terms of such members will be limited to the next immediate election.

Clause 16. (a) *A Member of the Managing Committee who absents himself/herself for three consecutive meetings of the Managing Committee without leave of absence from the Committee shall automatically cease to be a member of the Managing Committee. All Office bearers and members of the Managing Committee and other office bearers should at least attend 60% of the total meetings held from the end of the AGM to the end of the next AGM. If any office bearer or member of the Managing Committee fails to attend 60% of the total meetings then he forfeits his right to remain in that post.*

(b) *The Managing Committee shall have the authority to enter into contracts (except for sale of books, coins, antiques and manuscripts) on behalf of the members of the Society and no such contract shall be valid, unless the same shall have been executed by the Hon. Secretary and two members of the Managing Committee.*

(c) *Every member of the Managing Committee and every other officer shall be indemnified against all reasonable losses and expenses incurred in the discharge of his/her duties, except such as shall have happened through his/her own wilful neglect or default and each one, shall be answerable only for his/her own acts, neglects or defaults and not for those of any other person.*

The Trustees:

Clause 17. (a) *The property and funds of the Asiatic Society of Mumbai shall be vested in the Trust. Not more than Six Trustees shall be invited by the Annual General Body Meeting on the recommendation of the managing Committee to hold the office for a period of six years. One-third of the Trustees will retire every two years. However, two members of the first Board of Trustees will retire after the first two years and will be replaced by two Trustees, who will be invited by the Annual General Body Meeting on the recommendation of the Managing Committee and who will hold office for six years. Two other members of the first Board of Trustees will retire after the first four years and will be replaced by two Trustees, who will*

be recommended by the Managing Committee and invited by the AGM and who will hold office for six years. The Board of Trustees will decide the time when each of the first Trustees shall retire by rotation.

Clause 17.(b) In the event of a vacancy in the office of a Trustee, caused by death, resignation, or otherwise, the vacancy shall be filled by the appointment of a Trustee who shall be invited by the Annual General Body Meeting on the recommendation of the Managing Committee to hold the office for the unexpired portion of the six years tenure.

Clause 18. At the Annual General body Meeting at which elections to the Managing Committee are held, two Statutory Auditors shall be appointed to audit the accounts of the Society on a quarterly basis for the following two years. Such Auditors shall have access to all the books of accounts of the Society and shall report on the financial position of the Society's audited accounts and Auditor's report at the close of each financial year.

Clause 19. The election of an office-bearer, or of a member of the Committee, may be cancelled on the recommendation of three-fourths of the Committee members present and voting after a due hearing given to the office-bearer or member of the Committee concerned. The recommendation, to be effective must be confirmed by two-third vote of a General Body meeting. Pending such confirmation by the General Body, the office bearer/member shall be considered ineligible to handle management of the Society or participation in any of its sub-committees unless the Managing Committee specifies to the contrary. It shall be competent for the committee of Management to refuse to any other member the use of the Library in case of improper conduct, but in every instance in which such powers are exercised, a report of the circumstances shall be made to the next General Body Meeting held subsequent to the exclusion.

Clause 20. The Managing Committee shall meet at least once in two months and shall be summoned by the Hon. Secretary, under the sanction of the President or in his/her absence, of a Vice-President or on the requisition of any six members of the Committee. The Hon. Secretary shall, within one week of the requisition, convene the meeting of the Managing Committee.

Clause 21. No business shall be transacted by the Managing Committee at such meetings unless

six members are present. No quorum is required for an adjourned meeting.

Clause 22. The Managing Committee shall have power to appoint sub-committee for dealing with specific matters referred to them and to elect delegates to conferences or other similar gatherings, as well as representatives on other bodies. The chairman and the Convener of the Sub-Committees shall be elected by the respective committees except where the Vice-President is a member, he/she is ex-officio chairperson of that committee. In the event of difference of opinion between the Committee and the Managing Committee on issues pertaining to the specific matters assigned to the Sub-Committees, the final decision shall be taken in the joint meeting of the Sub-Committee and the Managing Committee and the Managing Committee shall not take any decision unilaterally.

12. This authority perused the relevant provisions of the rules and regulations of trust. After going through the above said relevant provisions it is seen that the standard procedure for the election is provided by the said rules.

13. Now it is necessary to see that whether the election which has been reported by present change report inquiry has been conducted as per the rules or not. In that regard on perusal of record and proceeding it is seen that the then honorary secretary issued agenda on 25.07.2023 for the 219th annual general meeting dated 26.08.2023. In the said agenda the subject of election of managing committee was inserted and accordingly the election was scheduled by the trust. Thereafter, the date of said annual general meeting was postponed due to some reason and the same has been conducted on 30.09.2023.

14. It further appears that the office bearers and members of managing committee unanimously approved the names of Adv.Gopalkrishnan as Returning Officer and Adv.Chirag Dighe or Adv.Devdatta Malshe as Assistant

Returning Officer. Later it appears that the above said persons declined the responsibility and accordingly on their place the managing committee suggested the name of Varsha Shirgaonkar and Dr.Girdhar Shetty. Thereafter, Dr.Varsha Shirgaonkar also not accepts the proposal the Dr.Shetty also not reachable. Therefore, Mr.M.S.Arun and Ms.Mashanta Romani appointed as Returning Officer and Assistant Returning Officer respectively. The reporting trustee stated that, after the appointment of returning officer, in the 219th annual general meeting dated 30.09.2023 election of office bearers and members of managing committee conducted and declared. In the said election following elections conducted-

- i) Elected Office Bearers for two years (2023-2025)
- ii) Five (5) members elected on the Managing Committee for three years (2023-2026)
- iii) Three (3) members elected on the Managing Committee for one year 2023-24 (as per Rule No.16) being the residual period of the term 2021-2024.
- iv) Two (2) members elected on the Managing Committee for two years (2023-25) (as per Rule No.16) being the residual period of the term 2022-2025)
- v) One (1) member elected on the Managing Committee for two years (2023-25) (as per Rule No.15) being the residual period of the term 2022-2025)

15. After going through the above facets of the inquiry it seems that the trust issued agenda and scheduled 219th annual general meeting for the election. The trust also appointed returning officer and assistant returning officer to conduct the election process. Accordingly, they conducted the same and report the change to this authority.

16. Now, it is necessary to see that whether the above said election has been conducted as per the above-mentioned provisions or not. In that regard it is necessary to peruse the record and proceeding.

17. Accordingly, on perusal of the Rules and entire record and proceeding firstly, it is seen that as per classification given in Clause 3 and 4(a) to 4(d) the applicant should produce the approved membership register before this authority. However, after going through the record, it seems that the original membership register has not been produced by the applicant. Therefore, in the absence of above said original membership register it is difficult to ascertain that whether the trust conducted election from legal and valid members or not.

18. Secondly, as per clause 14(b) of the Rules it appears that the Managing Committee will appoint a member of the Society of at least five years' standing as Returning Officer who shall not be a member of the Managing Committee and who is not a contesting candidate. In this context the applicant has to produce the documentary evidence about the membership of returning officer. Because on the basis of said documentary evidence this authority can ascertain that whether the returning officer was appointed having membership at least before five years. In this regard on perusal of record and proceeding it seems that the returning officer has not completed five years of membership. On the other hand, the trust also not produced the record of his membership to prove that the appointment was done as per the rules. Therefore, on the basis of available record it seems that the returning officer has not been

appointed as per the provisions given in the rules and regulations of the trust.

19. Apart from that it is also revealed that the applicant not produced the original agenda / notice book and original minute book of the annual general body meeting to verify the self-attested copies of same. Therefore, in the absence of original record of notices and meetings the applicant failed to verify and prove the contents of said notice and minutes of 219th annual general meeting dated 30.09.2023.

20. Therefore, considering the entire facets of inquiry and on perusal of entire relevant record and also after going through the relevant provisions of Rules & Regulations it reveals that the reported change has not been occurred as per the Rules and therefore, deserves to be rejected as it is not legal and valid. Hence, for point No. 1, I recorded my finding in negative and for point No.2, pass the following order:

ORDER

1. The Change Report No. ACC/VII/2527/2024 is hereby rejected.
2. Schedule - I be amended accordingly.
3. No order as to costs.

Place: Mumbai.

(Ram A. Lipte)

Date:- 06.08.2025

Assistant Charity Commissioner-VII,
Greater Mumbai Region, Mumbai.