

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO.9367 of 2026

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HASMUKHBHAI DIPCHANDBHAI GAARDI & ORS.

Versus

JOINT CHARITY COMMISSIONER & ORS.

Appearance :

MR S I NANAVATI, SENIOR COUNSEL ASSISTED BY MR VANDAN BAXI WITH MS KAJAL D SHAH FOR NANAVATI & NANAVATI for the Petitioners.

MR GURSHARANSINGH H. VIRK, GOVERNMENT PLEADER ASSISTED BY MR SHAUNAK A VYAS AND MR NIKUNJ KANARA, AGP for the Respondent No.1.

MR DM DEVNANI for the Respondent No.3.

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 21/07/2026

ORDER

I have heard Mr. S. I. Nanavati, learned Senior Counsel assisted by Mr. Vandan Baxi and Ms. Kajal D. Shah for the petitioners, Mr. Gursharansingh H. Virk, learned Government Pleader assisted by Mr. Shaunak Vyas and Nikunj Kanara, learned Assistant Government Pleaders for respondent No.1 and learned advocate Mr. D. M. Devnani for respondent Nos.2 and 3.

2. By way of this petition, the petitioners have challenged the order dated 17.6.2026 passed by the learned Joint Charity Commissioner, Rajkot below application Exh.37 in Application No.42 of 2024. The center of controversy is the order dated 17.6.2026 whereby the learned Joint Charity Commissioner, Rajkot rejected application Exh.37 preferred by the petitioners to keep the proceedings in abeyance under Section 50A of the Gujarat Public Trusts Act, 1950 which are going on before the learned Joint Charity Commissioner, Rajkot.

3. According to learned Senior Counsel Mr. S. I. Nanavati appearing for the petitioners, continuation of the aforesaid proceedings would run contrary to the directions issued by this Court vide order dated 2.5.2025 passed in Special Civil Application No.6359 of 2025 which reads as under :-

“Heard Mr. S. I. Nanavati, learned senior counsel assisted by learned counsel Mr. Vandan K. Baxi for the petitioners.

Issue NOTICE returnable on 30.6.2025.

In the meantime, there shall be AD-INTERIM STAY of the direction No.(7) contained in the impugned order dated 11.10.2024.

Direct service is permitted.”

4. Learned Senior Counsel Mr. S. I. Nanavati drew attention of this Court that the direction No.7 of the order dated 11.10.2024 which is stayed by the coordinate Bench is in respect of the manner in which the General Members and the Trustees can be appointed and for tendering the Change Report accordingly. He further submitted that if the Scheme Application under Section 50A is directed and continued to be heard, in that case, the same would run contrary to the order dated 2.5.2025 passed by the coordinate Bench of this Court in Special Civil Application No.6359 of 2025 which is reproduced in foregoing paragraph.

5. Mr. Gursharansingh H. Virk, learned Government Pleader appearing for respondent No.1 as well as learned advocate Mr. Dharmesh Devnani appearing for respondent Nos.2 and 3 submitted that the aforesaid order dated 2.5.2025 was passed pursuant to an order passed below application preferred under Section 41-A by the learned Joint Charity Commissioner and hence, the proceedings under Section 50-A are altogether of a different nature and, therefore, if the proceedings under Section 50-A is kept in abeyance, the same would indicate that the real intention of the petitioners is to delay the proceedings of Section 50-A.

6. Learned Senior Counsel Mr. S. I. Nanavati vehemently opposed the aforesaid submission and submitted that in view of the fact that the aforesaid proceedings are not stayed, the resultant effect would be that the functioning of the Trust would be taken over by the other side. Therefore, the proceedings under Section 50-A going on before the learned Joint Charity Commissioner, Rajkot are required to be stayed.

7. I have heard learned counsel appearing for the respective parties and perused the record. On perusal of the record, I found that it is true that the coordinate Bench of this Court has vide order dated 2.5.2025 passed in Special Civil Application No.6359 of 2025 passed an order whereby ad-interim stay in respect of direction No.7 in respect of the order dated 11.10.2024 is granted and the aforesaid relief is still operating in favour of the petitioners. However, I cannot ignore the fact that the proceedings under Section 41-A and Section 50-A of the Gujarat Public Trust Act are of distinct nature and are in respect of two different purpose. Section 41-A of the Act is operating in

respect of power of Charity Commissioner to issue directions in respect of administration of Trust. Therefore, the exercise of powers in respect of Section 41-A would be in respect of existing scheme of the Trust which would indicate that without disturbing the existing Scheme of the Trust, the directions can be issued by the Charity Commissioner to the Trustees and other persons just to ensure that such Trust is properly administered and the income thereof is appropriately accounted for and duly appropriated and applied to the objects and purposes of the Trust, whereas Section 50-A of the Act is in respect of power of Charity Commissioner to frame, amalgamate or modify the Schemes which would indicate that in future, how the Trust affairs would be taken care of and how the Trustees are required to act or the methodology of appointment of Trustees and the functioning of the Trustees would be considered while framing Scheme under Section 50-A which would indicate that both the Sections would operate for two different purposes and, therefore, generally, the instructions issued under Section 41-A even if it is stayed by the coordinate Bench of this Court, the same would not come in the way of ongoing proceedings of Section 50-A before the concerned Joint Charity Commissioner. However, just to strike balance between the parties, the interest of justice would be served if the petitioners are directed to participate in the proceedings of Section 50-A going on before the Joint Charity Commissioner, Rajkot and the parties are directed to cooperate in the aforesaid proceedings and in case if the Joint Charity Commissioner, Rajkot upon conclusion of the aforesaid proceedings under Section 50-A pending before him passes an order which may adversely affect the present petitioners, the same shall not be implemented for a period of three weeks from the date of service of the order.

8. At this juncture, it is stated by learned advocate Mr. Devnani that in that case, whenever the aforesaid order is challenged before the appropriate authority, the respondent Nos.2 and 3 or in that case any other respondents may be permitted to draw distinction between the said Authority as to how the aforesaid order would not affect or run contrary to the directions issued by this Court while granting relief in favour of the petitioners vide order dated 2.5.2025.

The aforesaid request being a reasonable request is granted.

9. Accordingly, with the above direction, the present petition stands disposed of without interfering with the order dated 17.6.2026 passed by the learned Joint Charity Commissioner, Rajkot below application Exh.37 in Application No.42 of 2024. It is made clear that this Court has not examined the merits of the case and all the rights and contentions of all the parties are kept open.

(NIRZAR S. DESAI,J)

SAVARIYA