

નકલ માટે અરજી કરનારનું નામ શ્રી. કાંતિલાલ નાયી  
નકલ અરજી મળ્યાની તારીખ 30/7/16  
અધિકારી  
નકલ તૈયાર કર્યાની તારીખ 21/7/16  
અધિકારી  
નકલ પુરી પાડવાની તારીખ 21/7/16  
જેને નકલ આપવામાં આવેલ છે તેનું નામ શ્રી. વિનોદકુમાર પારેક  
અધિકારી

BEFORE THE CHARITY COMMISSIONER,  
GUJARAT STATE, AHMEDABAD

Scheme Application No. 24 of 2010

Applicant(s): Kantilal K. Nayi & Ors.

Vs.

Objector(s): Vinodkumar D. Parekh & Ors.

Advocate(s) for the Applicant(s):- Mahesh Bhavsar

Advocate(s) for the Objector(s):- Ilyas Vohra, P. J. Kanabar,  
B. R. Dholariya

Subject:- Gujarat Vanand Seva Sangh

Registration No. A/1824/Ahmedabad

Seen  
30-7-16

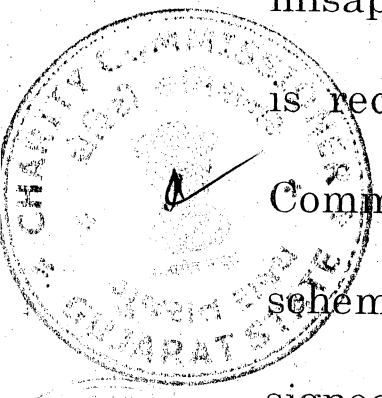
Seen  
Mahesh  
Tshirwad  
Ahmedabad  
30/7/2016

**Order below Exh. 1**

1. The present application has been filed by the applicants u/s. 50(a) of the Bombay Public Trusts Act, 1950 (hereinafter referred to as an "Act" in short).
2. The trust is in the name of Gujarat Vanand Seva Sangh, duly registered under Registration No. A/1824/Ahmedabad and the jurisdiction of the trust is whole of Gujarat State.
3. The object of the trust is to unite community, social reformation, monthly publication and educational activities. For the purpose of administration of the trust, a temporary trust-deed was prepared in the year 1957 on the basis of the resolution of the General Body on 24.5.1958. Thereafter, on 10.6.1959, there were some amendment in the trust-deed and on the basis of the amended trust-deed, the administration was going on. It has been further contended that there are some adverse provisions in the constitution which causes inconvenience and



smooth administration of the trust. In the new scheme, it has been proposed that if any person is desirous to be member of the trust, he must be a person of Vanand Community (Barber). It has been also proposed that the representative of donors is also incorporated. Moreover, initially at present, the trust is running on the basis of 9 trustees and in place of 9 trustees, it was decided that 31 trustees must be there. The nomination fees was initially fixed at Rs. 1 while in the new scheme that fees comes to Rs. 10 and periodically the office bearers are authorized to enhance nomination fees. For the purpose of removing the chances for misappropriation and mismanagement, the scheme is required to be introduced and the Ld. Charity Commissioner is fully authorized to approve the said scheme, hence, the application is submitted and signed by one Mr. Nanubhai M. Vanand in capacity of trustee as well as secretary of the trust on 23.8.2010.



5. Alongwith the application, various documents have been produced. At Exh. 3 wherein the proposed scheme/trust-deed/constitution have been produced. At Exh. 6, the applicants lodged application that there is no controversy between the parties and/or any members of the Vanand Community regarding unanimous resolution passed for the purpose of introducing a new scheme and it is not necessary to publish new scheme for inviting objections. At Exh. 9, a proposed scheme has been attached duly signed by 9 trustees and it has been agreed that the first new trustees who have signed the proposed scheme will be treated as first trustees of the trust. Thereafter, it can be ~~seen~~<sup>seen</sup> at Exh. 10 that some of the life time members of the trust, they have lodged application and they <sup>were</sup> are desirous to make submissions, hence, time may be granted. The matter was adjourned for the purpose of reply. Meanwhile at Exh. 12 to 14, Mr. Vinodbhai Dashrathbhai Parekh, Mr. Jayram Purshottam Nayi and Mr. Amrutbhai Sendhabhai Nayi have filed their affidavits respectively and consented that initially

they have taken some objections but if the scheme is approved, they have got no objection. Thereafter, off and on the applicant namely Mr. Nanubhai Vanand insisted that further proceedings be carried out as it is not necessary to publish notice in the newspaper and attached scheme be declared new scheme of the trust.

6. The public notice was published in the Sandesh Daily Newspaper on 2.11.2010 for the purpose of showing intention of the trust. At Exh. 23 all the 9 trustees have given their consent letters to become first trustees of the trust. On the basis of the consent letters, my Ld. predecessor was pleased to allow the application of the applicants and all the 9 trustees were declared as first trustees of the trust. The trust deed as proposed was allowed as per an order dated 18.12.2010.

7. Now, in this matter after order of the then Ld. Charity Commissioner, various litigations have taken place which required to be taken a note. The

marathon litigations have taken places which are narrated as under:-

- Whatever order passed by the Ld. Charity Commissioner, allowing Scheme Application No. 24/2010 vide order dated 18.12.2010, Mr. Kantibhai K. Nayi, Mr. Amrutbhai S. Limbachiya and Mr. Ganeshbhai K. Nayi preferred Civil Misc. Application No. 51/2011 u/s. 72 of the Bombay Public Trusts Act, 1950 before the Hon'ble City Civil Court against the above said order of the then Ld. Charity Commissioner dated 18.12.2010.

- Simultaneously, Mr. Narsinhbhai C. Paladia, Mr. Jashvantlal C. Limbachia, Mrs. Chandrikaben M. Vaja and Mr. Manubhai N. Bhatiya, all the life time members have also preferred the Civil Misc. Application No. 993/2011 for condonation of delay of 198 days before the Hon'ble City Civil Court and Hon'ble City Civil Court passed order on 1.9.2012



wherein the said delay condonation application was dismissed.

- The Hon'ble City Civil Court, Ahmedabad was pleased to pass an order on 25.9.2012 in Civil Misc. Application No. 51/2011, quashing and setting aside order of the Ld. Charity Commissioner.
- On 25.9.2012, against the said order of the Hon'ble City Civil Court, the First Appeal No. 3464/2012 was preferred by the trustees of the trust before the Hon'ble High Court of Gujarat and the Hon'ble High Court of Gujarat was pleased to pass an order on 6.12.2012.

Mr. Jashvantlal C. Limbhachia, Mrs. Chandrikaben N. Vaja and Mr. Manubhai N. Bhatiya preferred Special Civil Application No. 16838/2012 before the Hon'ble High Court.

Meanwhile, the trustees of the trust preferred Misc. Civil Application (Review) No. 1686/2013 before the Hon'ble High Court.



- On the basis of the order passed by Hon'ble High Court on 6.12.2012, the Ld. Charity Commissioner passed an order on 19.7.2013 below Exh. 52 and a public notice was again issued in the Gujarat Samachar Daily in Ahmedabad and Baroda edition.
- The Review Application No. 1686/2013 filed by the trustees was dismissed as the public notice was issued in the newspaper on 27.7.2013.

8. There were some objections and for the purpose of scrutiny of the objections, a joint meeting was held on 20.10.2013 wherein various suggestions of the objectors were taken into consideration and necessary modification was made in the draft scheme which was produced before the Ld. Charity Commissioner by filing application below Exh. 286.

Mr. Kantibhai K. Nayi was directed to deposit Rs. 60,000/- in the PTA fund at the Office of the Ld. Charity Commissioner on or before 26.11.2013. The proposed scheme/notice of Mr. Kantibhai Nayi was to be published in the newspaper but if he fails to

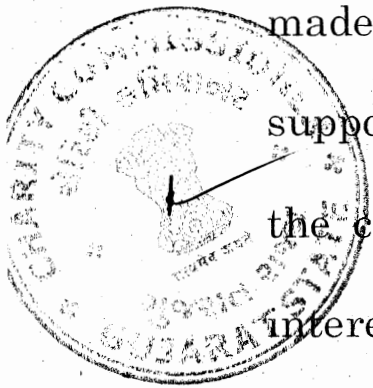
deposit the amount then the final hearing will be kept on 27.11.2013 and 4.12.2013. Meanwhile, the Ld. Charity Commissioner was pleased to pass an order below Exh. 288 on 20.11.2013 wherein he was pleased to issue directions to Mr. Amrutbhai Nayi to deposit Rs. 1,500/- in the PTA fund at the Office of the Ld. Charity Commissioner on or before 26.11.2013 and with this condition, his application was allowed. The objector namely Mr. Jayrambhai Parshottambhai Nayi and other life members preferred Special Civil Application No. 18015/2013 before the Hon'ble High Court challenging the order passed by the Ld. Charity Commissioner below Exh. Nos. 273, 282 and 288. The Hon'ble High Court was pleased to pass an order in SCA No. 16838/2012 on 12.1.2014.

9. Ld. advocate Mr. P. J. Kanabar appearing on behalf of the respondents, lodge an application in the matter below Exh. 299 on 4.2.2012 to take cross-examination of the witnesses but the Ld. Charity Commissioner was pleased to pass an order and the

said application was rejected. Against that order the objector namely Mr. Jayram and other life members of the trust preferred Special Civil Application No. 2223/2014 before the Hon'ble High Court of Gujarat. The Hon'ble High Court of Gujarat passed orders in SCA Nos. 18015/2013 and 2223/2014 on 30.3.2015 wherein an interim direction appears to have been issued by the Hon'ble High Court and on behalf of the applicants, it has been declared that both of the SCAs are still pending before the Hon'ble High Court but there is no any stay order of the Hon'ble High Court. Further, the Hon'ble High Court has directed dispose off the matter within stipulated time, hence, the matter is required to be proceeded further and it may be seen that for the purpose of proper administration of the trust, the scheme is required to be framed. Now, these are the events happened in this matter.

10. After perusing the entire record, it appears that some persons have supported version of the applicants for the purpose of framing scheme. It has been contended that for the smooth administration of

the trust, it is necessary to frame a scheme. It has been further contended that the trust is running as per the old trust-deed which has not been registered uptill now. It indicates only scope, object and some other issues, moreover, as far as smooth administration and election of the trust is concerned, old constitution is causing various inconvenience. As per the old trust-deed, the trustees were having no voice as they were not authorized to interfere in the day to day administration. In view of this, administration of the trust was resulted in malpractice and mismanagement. Thereafter, various litigations have been lodged, no doubt the matter has been settled but the persons have not made payment of full amount. Various other supporting versions have been narrated. These are the contentions of the supporting beneficiaries and interested persons. I therefore, produce names of persons who are supporting beneficiaries:-



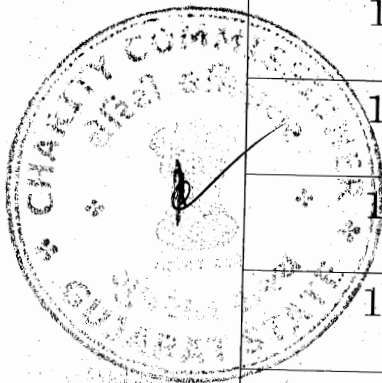
Exh. No.	Name of Supporting Beneficiary
102	Pravinchandra R. Parekh
103	Rajendrakumar N. Parekh

104	Yogeshbhai N. Parekh
105	Ashokkumar A. Vaidh
106	Vasantray P. Kalola
107	Harshadbhai M. Vanand
108	Limbhachiya K. Mayurdhvaj
109	Manoj J. Vaidh
110	Narendrakumar I. Parekh
111	Jayeshkumar G. Limbhachiya
112	Pravinbhai L. Nayi
113	Dangruchiya Shankarlal
114	Bhavanbhai A. Nayi
115	Dahyabhai V. Limbachiya
116	Sharma Piyushbhai
117	Sureshbhai M. Parekh
118	Nimeshkumar J. Vanand
119	Kanubhai. R. Parekh
120	Natvarbhai M. Nayi
121	Tarunkumar M. Parekh
122	Shihora Jashvantlal
123	Trikamlal Nayi
124	Jayantilal S. Nayi
125	Dashrathbhai G. Limbhachiya
126	S. H. Kareliya

127	Ramanbhai P. Sharma
128	Chaturbhai S. Nayi
129	Dharmendrakumar C. Nayi
130	Prahaladbhai V. Nayi
131	Natvarlal S. Nayi
132	Sharma Krunal
133	Govindbhai S. Parekh
134	Bharatkumar S. Nayi
135	Amrutbhai K. Nayi
136	Nayi Hardikkumar
137	Vinodkumar P. Parekh
138	Girishbhai N. Sharma
139	Kamleshbhai B. Sharma
140	Lataben C. Parekh
141	Sharma Dilipkumar
142	Gaurav U. Vanand
143	Dilipbhai M. Sharma
144	Bhogilal M. Parekh
145	C. M. Parekh
146	Rajnikant M. Parekh
147	Manubhai S. Limbachiya
148	Babubhai K. Vanand
149	Manubhai I. Sharma

150	Hiteshkumar N. Nayi
151	Umeshbhai J. Vanand
152	Naranbhai M. Vanand
153	K. J. Sharma
154	Manubhai B. Vanand
155	Harishbhai M. Parekh
156	Dashadiya Babubhai
157	Bharatkumar D. Limbachiya
158	Nayi Mukeshbhai
159	Vidhalbhai S. Parekh
160	Shankarbhai D. Vanand
161	Rajendrakumar H. Parekh
162	Bhupendrabhai P. Vanand
163	Kantibhai C. Limbachiya
164	Parekh Ishvarlal
165	Sureshbhai H. Sharma
166	Manubhai S. Parekh
167	Jayantibhai T. Parekh
168	Chandubhai F. Sharma
169	Somabhai M. Vanand
170	Navnitbhai D. Parekh
171	Mahendrabhai N. Parekh
172	Sharma Rajendrabhai

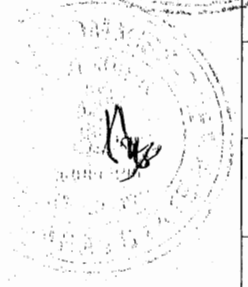
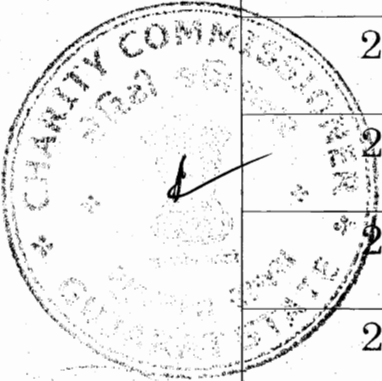
173	Kantilal G. Sharma
174	Limbachiya Sarojben
175	Vanand Shivabhai
176	Vanand Rajnibhai
177	Amrutlal N. Sharma
178	K. J. Sharma
179	Nayi Ramabhai
180	Nayi Maheshbhai
181	Nayi Narendrakumar
182	Rameshkumar I. Nayi
183	Kanubhai Vanand
184	Govindhbai S. Parekh
185	Rambhai B. Vanand
186	Arunbhai S. Nayi
187	Kiritkumar P. Limbachiya
188	M. S. Vanand
189	Ashvinbhai K. Nayi
190	Babulal Nayi
191	Sharma Harshadbhai
192	Rambhai D. Vanand
193	Bhavesbhai J. Vanand
194	M. S. Vanand
195	Jayantibhai H. Vanand





196	Bhupendrabhai Kantibhai Vanand
197	Sharma Rajendrakumar
198	Dineshbhai Vanand
199	Parekh Jayantibhai
200	Dinubhai A. Parekh
201	Parekh Prakashchandra
202	Pravinbhai H. Parekh
203	Manubhai S. Limbachiya
204	Manubhai I. Sharma
205	Jayantibhai B. Vanand
206	Shankarlal F. Nayi
207	Mafatbhai M. Vanand
208	Pritesh D. Parekh
209	Nayi Pankajbhai
210	Sharma Ronak
211	Lalbhai K. Parekh
212	Mafatlal V. Parekh
213	Hasmukhlal B. Parekh
214	Somabhai H. Nayi
215	Parekh Bharatbhai
216	Manubhai C. Parekh
217	Mukeshbhai N. Vaidh
218	Harshadbhai Manibhai Vanand


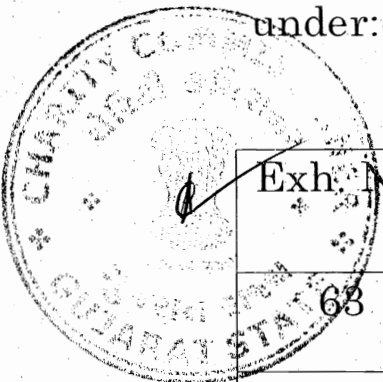
219	Mayurbhai N. Nayi
220	Parekh Sandipkumar
221	Harshadbhai C. Parekh
222	Vanand Kanjibhai
223	Pushpaben G. Sharma
224	Limbachiya Komal
225	Anilbhai C. Nayi
226	Narayanbhai M. Vanand
227	Manubhai D. Sharma
228	Arvindkumar S. Danmi
229	Jayantibhai K. Limbachiya
230	Hiralal M. Parekh
231	Pramod K. Vaidh
232	Dalsukhram N. Sankhariya
233	Balubhai Parekh
234	Rameshbhai K. Vanand
235	Prahaladbhai N. Sharma
236	Rameshchandra S. Vaidh
237	Baldevbhai G. Vaidh
238	Kishor K. Parekh
239	Kanubhai S. Vaidh
240	Pramukhlal M. Parekh
241	Chandulal M. Dholakiya



242	Bajatima
243	Natvarlal K. Limbachiya
244	Jayantibhai K. Solanki
245	Jayantibhai N. Sharma
246	Hasmukhbhai K. Nayi
247	Ambalal I. Vaidh
248	Babulal M. Mandalvala
249	Vanand Balvantbhai
250	Shantilal S. Parekh
251	Chandrakant I. Parekh
252	Babubhai K. Limbachiya
253	Jayantilal M. Parekh
254	Madhusudan C. Suryavala
255	Suryakant Prushottambhai
256	Nayi Shankarlal
257	Pankajbhai A. Parekh
258	Gopalbhai M. Limbachiya
259	N. H. Nayi
260	Ramanbhai R. Parekh
261	Parekh Yogeshbhai
262	Vinaykumar Nayi
263	Dasrathbhai V. Vaidh

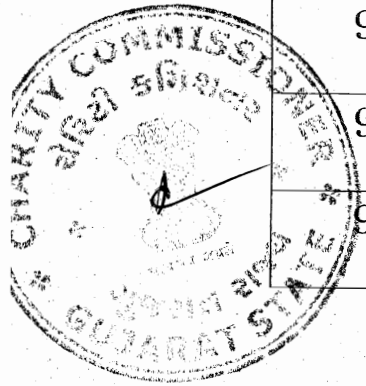
11. Most of the persons who have filed their affidavit supporting version of the applicants, they have filed their affidavit alongwith photograph and residential address. They have contended that if scheme is not framed, the smooth administration of the trust is not possible and various other contentions have been raised. It has been narrated that looking to the administration on the basis of old and unregistered trust-deed, it adversely affects the smooth administration of the trust.

12. While on behalf of the objectors various persons have filed their objections. Names of the objectors are as under:-



Exh. No.	Name of Objector
63	Vinodkumar D. Parekh
65	Jayram Purshottam Nayi
66	Amrutbhai Shivrambhai Limbhachiya
67	Kantibhai K. Nayi
68	Ganeshbhai K. Nayi
69	Haribhai K. Bhatiya

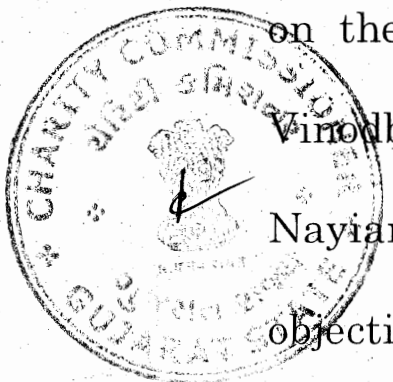
80	Rajendra R. Parekh
81	Ramanlal M. Vanand
82	Anilbhai C. Limbhachiya
83	Atmaram B. Nayi
84	Ramanbhai G. Sharma
85	Chhaya M. Parekh
86	Indravadan A. Nayi
87	Krushnakant B. Jadav
88	Govind K. Nayi
89	Bharat B. Sharma
90	Ashvinbhai A. Sharma
91	Manubhai N. Bhatia
92	Govindbhai V. Nayi
93	Balmukundbhai D. Sharma
94	Devendra L. Contractor
95	Sanjaykumar M. Bhatiya
96	Ravi Bhatiya



13. All most all the objections were ordered to be fixed for hearing by my Ld. Predecessor. Whatever objections as submitted, most of the objections are without formation and no any identity proof is affixed alongwith.



14. At this stage I am constrained to observe that in this particular matter I have tried my level best to see that some amicable solution may arrive between the members of the community for the smooth administration of the trust, created for the welfare of the community. For that reason, the Ld. Charity Commissioner has tried to convene periodical meetings, both the groups have convinced to ignore inter-say ego. Ultimately, the matter was proceeded according to law. I have perused the entire file in 4 bunches. One thing is required to be taken in to consideration that initially when the trust was pleased to pass the resolution for framing the scheme, there were some persons objected but later on they withdrew their objection. At Exh. 12 Mr. Vinodbhai Parekh, at Exh. 13 Mr. Jayrambhai Nayand at Exh. 14 Mr. Amrutbhai Nayi, such objections were withdrawn by filing an affidavit. My Ld. predecessor (Mr. H. M. Dholakiya) was pleased to issue a public notice at Exh. 22 in the newspaper. Thereafter, he was pleased to frame the scheme on 18.12.2010. The said order came to be challenged



before the Hon'ble City Civil Court by way of Civil Misc. Application No. 51/2011 and the Hon'ble City Civil Court on 25.9.2012 quashed and set aside the order of the Ld. Charity Commissioner, hence, aggrieved appellants preferred First Appeal under No. 3464/2012 before the Hon'ble High Court. The Hon'ble High Court (Coram:- Hon'ble Mr. Justice, Rajesh H. Shukla) on 6.2.2012 passed a detailed order directed Ld. Charity Commissioner to decide the Scheme Application afresh after taking into consideration the judgment of Dr. Chhotubhai L. Patel Vs. State of Gujarat, reported in 2007, 2, GLR Page 1716. It was observed that the Ld. Charity Commissioner shall give opportunity to both sides for hearing and the Hon'ble High Court was pleased to direct the Ld. Charity Commissioner to disposed off the Scheme Application No. 24/2010 within 4 months. Simultaneously, it was directed by the Hon'ble High Court not to take major decision with regard to the trust-object and no any major expenses be made without permission of the Ld. Charity Commissioner if need arises. The crux of the order of

the Hon'ble High Court is to decide the Scheme Application after affording opportunity to both parties and decide the Scheme Application afresh. In this matter so far as expenditure need is concerned, an application appears to have been filed at Exh. 37 and my Ld. predecessor was pleased to decide the said application. In the Records and Proceedings, it appears that one Mr. J. C. Limbchiya, Amrutbhai Vanand, Kantibhai Nayi, Amrutbhai Limbachiya, Haribhai all of them filed their objections.

15. My Ld. predecessor was pleased to pass necessary order on 19.7.2013 for the purpose of issuing public notice, inviting objections and suggestions of public at large. On the basis of said public notice, the person who are in support of the proposed scheme and those who are against the proposed scheme, their names have been narrated as above. Ld. advocate Mr. Kanabar has filed detailed objection at Exh. 328 which has been simultaneously affirmed by Mr. Kantibhai Kachrabhai Nayi. It has been objected that the Scheme Application must be rejected in the

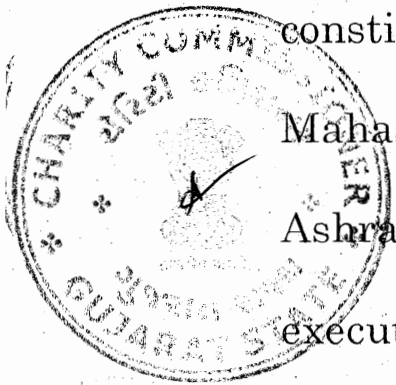


interest of justice. It has been further objected that the trust has its constitution unanimously by the Mahasamiti of the trust as back as on 1.12.1957 at Ahmedabad and has been approved on 27-28.01.1958 and on 24.5.1958 in its Annual General Meeting held at Khambhat, Dist.: Anand. The trust is running smoothly and managed without any problem whatsoever and under the circumstance the scheme application is required to be rejected forthwith. Whatever suggestions made by the applicants, lacks bonafides of the applicants and hence, cannot be accepted. The proposals as a whole do not subscribe to the real object and purpose of the trust and have no logic to go ahead. Whatever change as sought in 6 different types of the membership in the trust constitution to make it into 3 is bound to lead monopoly of moneyed people in the trust. the applicants have proposed to make provision of paying Rs. 11,000/- for the membership as Donor and on paying Rs. 1,000/- for the Life Membership and further on paying or Rs. 10/- plus the annual subscription towards Valand Vikas to become Annual

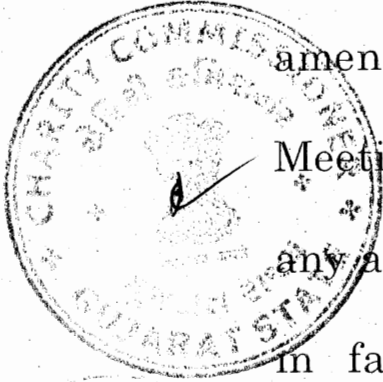
Member which certainly centers around the matter of the person's financial capacity and such situation in a public trust where the main object and purpose is the upliftment of the Valand Community as a whole the same will be frustrated and besides will lead to the creation of difference amongst the caste fellows as against the person's human qualities. In the sphere of management of the trust the proposal to make a provision for 9 persons at Life Time Trustees for whom somebody donates Rs. 5 lacs or more is bound to create some sought of reservation and this group of 9 persons in the trust is bound to dominate the trust for all time to come. The proposal of deletion of the provisions having in the original constitution of Mahasamiti and to delete the Mahasamiti and different types of memberships like Ashraydatas, Sahayak and Subhechhak and the executive committee is bound to the proposed scheme is bound to generate nepotism, favouritism and preferential treatment by the applicants in the trust. The idea to make the Board of Trustees of 31 persons in the public trust in place of 9 persons has no logic.

The right to become member as per Clause 4 of the proposed scheme provides for membership in the trust on the basis of the fact that the person concerned should belong to Gujarat State and is interested in the object and activity of the trust and should fill in the form prescribed by the trust. In this regard crave leave to refer the relevant provision of the constitution i.e. Clause 4 which provides the eligibility of a member who should be of the age of 18 years and more and should be a believer in the object and the activity of the trust. It is to be noted that alongwith the proposed scheme, the applicants have not provided the format of prescribed form. There are members of the trust staying in entire State of Gujarat as well as in the State of Maharashtra and abroad too. The registered members in the trust therefore, should have a notice about the proposed scheme, moreover, the list of members as on 16.9.2008 is there with the trust. It has been objected that the office bearers of the trust, they will perform the duty and whatever proposed amendment pertaining to the disbursement of the expenditure

Member which certainly centers around the matter of the person's financial capacity and such situation in a public trust where the main object and purpose is the upliftment of the Valand Community as a whole the same will be frustrated and besides will lead to the creation of difference amongst the caste fellows as against the person's human qualities. In the sphere of management of the trust the proposal to make a provision for 9 persons at Life Time Trustees for whom somebody donates Rs. 5 lacs or more is bound to create some sought of reservation and this group of 9 persons in the trust is bound to dominate the trust for all time to come. The proposal of deletion of the provisions having in the original constitution of Mahasamiti and to delete the Mahasamiti and different types of memberships like Ashraydatas, Sahayak and Subhechhak and the executive committee is bound to the proposed scheme is bound to generate nepotism, favouritism and preferential treatment by the applicants in the trust. The idea to make the Board of Trustees of 31 persons in the public trust in place of 9 persons has no logic.



from more than 20 to 25 thousand, it is dangerous. The powers to take disciplinary action against the person concerned is sought to be entrusted to the Board of Trustees as against the trust constitution provisions that such matters will be scrutinized by the Executive Committee on its recommendation. The Mahasamiti may take disciplinary action were require democratic and would rule out any arbitrariness. The powers to entrust the amendments in the trust-deed sought to be entrusted to the Executive Committee and the same are to be approved in the General Board as against the Constitution provisions to have such powers with the Mahasamiti and further approval of such amendment are to be passed in Annual General Meeting are required democratic and would rule out any arbitrariness. The powers sought to be entrusted in favour of the Board of Trustees to appoint Editor/Publisher of Valand Vikas and the appointment of one advisor in the trust again are bound to generate nepotism and favouritism in the trust. The Scheme Application is therefore, liable to



be rejected. In the constitution the powers vested in Mahasamiti which is to be elected by the General Board and from amongst the General Board, the President , 5 Vice-Presidents, 2 Secretaries, 2 Jont-Secretaries, a treasurer, an Auditor, a Journalist and a Publisher will get elected for one year. However, in the proposed scheme the applicants have sought to eliminate Mahasamiti which would consist of 75 members and besides have proposed appointment of 22 more trustees for five years by the general board and 9 more trustees who are recommended by the persons who donate Rs. 5,00,000/- or more and accordingly the board of trustees will be of 31 trustees.

16. Ld. Advocate Mr. Kanabar has strongly objected that the Scheme Application has no valid sanction of the trust and particularly as per the provisions of the constitution of the trust. A notice dated 14.4.2009 for holding a meeting of Mahasamiti on 10.5.2009 at Khambhat to Consider the proposed resolutions with a to view change the basic provisions of the

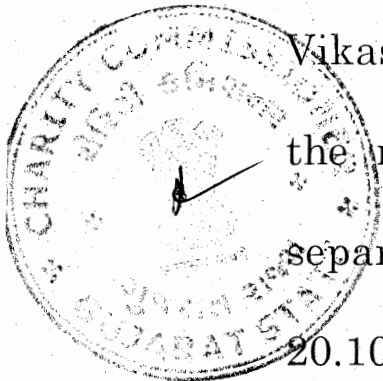
constitution and the autonomy. It further transpires that the resolution said to have been passed on 19.5.2009 in Mahasamiti Meeting was further sought to be straightway proposed to be moved by way of Change Report under Resolution No. 10, dated 28.11.2009. It also transpires that, on the basis of these resolutions the applicant No. 2 herein submitted a Change Report No. 565 of 2009 before the Ld. Deputy Charity Commissioner u/s. 22 of the Act. The Ld. Deputy Charity Commissioner was pleased to reject the aforesaid Change Report on 6.2.2010. it has been contended that the provisions of Code of Civil Procedure are not applicable to the Scheme Application proceedings is completely false and thoroughly misconceived. The ratio of the judgment in case of Dr. Chhotubhai L. Patel Vs. State of Gujarat (Supra), reported in 2007, 2, GLR Page 1716 is not followed. The trust has been registered on 21.2.1959. The main object of the trust is to run the activity relating to education and providing scholarships and other financial help to the needy students and to run hostels and to do all

possible activities for the development of the Valand Caste's people in all respects. The trust passed constitution in its General Board Meeting dated 24.5.1958 unanimously. It is also to be noted that the factum of the constitution of the trust has been notified in the PTR. It transpires that the office bearers of the trust were facing difficulties managing the administration of the trust especially in the matter of election, pursuant to which a resolution was passed in the year 2000 and a committee under the Chairmanship of Shri N. G. Vaja, a retired Deputy Collector, was constituted. The committee submitted the report and recommended the changes.

Accordingly a public notice was published in Valand

Vikas in the issue of August, 2004 and the copies of the notice was also given to all the members by separate communications. The first meeting dated 20.10.2004, amended constitution was passed and a

Change Report No. 825 of 2005 was submitted before the Ld. Deputy Charity Commissioner, Ahmedabad on 8.8.2005. It appears that another Change Report No. 1132 of 2006 was also submitted by the trust





before the Ld. Deputy Charity Commissioner, Ahmedabad. The Change Report No. 825/2005, due to some mistake, it was withdrawn on 22.2.2007 by the reporting trustee. Various other contentions have been raised that the Scheme Application requires to be dismissed.

17. Section 50(a) of the Bombay Public Trusts Act, 1950 act provides meaning of words "Necessary and Expedient":- This is a power conferred under the Act in a special contingency when it is necessary or expedient to frame a scheme in the interest of a public trust. the Hon'ble High Court of Gujarat has explained the words " Necessary and Expedient" .The term "Necessary" means what is indispensable, needful, essential. The term has a precise meaning and connotation and there is nothing vague or nebulous about it. The term "Expedient" has no doubt a wide ambit and given large scope to the exercise of power. But this expression has also a recognized connotation in the eye of law. the dictionary meaning of the term "expedient" in the

context in which it is used and which is most fitting is useful for affecting a desired result, fit for suitable for the purpose. The provisions of this Section came into force in the State of Maharashtra and Gujarat in the year 1961. The Ld. Charity Commissioner is empowered by the legislature to frame the scheme without suit being filed. The Section 50(A) reads as under:-

**Section 50 (A):- Power of Ld. Charity Commissioner to frame, amalgamate or modify the scheme:-**

*“Notwithstanding anything contained in Section 50, where the Ld. Charity Commissioner has reason to believe that in the interest of the proper management or administration of a public trust, a scheme should be settled for it, or where two or more persons having interest in a public trust, make an application to him in writing in the prescribed manner that, in the interest of the proper management or administration of a public trust, a scheme should be settled for it, the Ld. Charity Commissioner may if after giving the trustees of such trust due opportunity to be heard, he is satisfied that it is necessary or expedient so to do, frame as scheme for the management or administration of such public trust.”*

**GROUNDS FOR FRAMING THE SCHEME:-**

Generally, following are the grounds which the Ld. Charity Commissioner takes into consideration while making order for framing the scheme:-

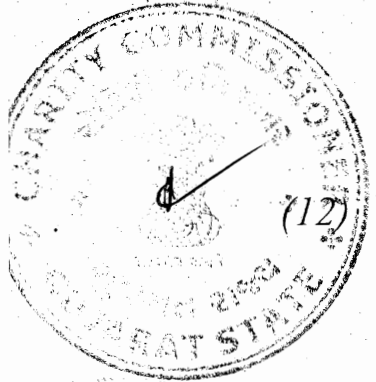
- (1) Where there is no proper management of a public trust and it is desirable for the efficient and proper management of the trust to frame a scheme;
- (2) Where accounts are not properly and regularly kept;
- (3) Where the trustees have been continuously negligent in getting accounts audited in time as prescribed under law;
- (4) Where the public trust is managed by a sole trustee and even though the trust has large income, still it runs in deficit;
- (5) Where the sole trustee appropriates income of the trust on himself and/or on his family;

context in which it is used and which is most fitting is useful for affecting a desired result, fit for suitable for the purpose. The provisions of this Section came into force in the State of Maharashtra and Gujarat in the year 1961. The Ld. Charity Commissioner is empowered by the legislature to frame the scheme without suit being filed. The Section 50(A) reads as under:-

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- (6) Where the sole trustee derives benefit from the trust property;
- (7) Where the sole trustee claims interest adverse to the trust;
- (8) Where the sole trustee misuses the trust funds;
- (9) Where the sole trustee acts against the tenets of the trust;
- (10) Where trustees continuously contravene the provisions of the Bombay Public Trusts Act, 1950.
- (11) Where the objects of the trust are not carried out.
- (12) Where the sole trustee uses or deals with the trust property for his own profit or for any other purposes unconnected with a public trust;
- (13) Where the trust is managed by a sole trustee and the trust property is in danger of being wasted by him; etc.



18. I have perused the original trust-deed which has been produced alongwith the Scheme Application and thereafter, I have also perused the Scheme Amendment Application attached alongwith. Those who have taken objections, were initially filed an affidavit supporting proposed amendment in the constitution but reasons best known to the vested interested person, how they have changed their views. I am of the view that whatever amendment as the applicants are desirous at Exh. 330 will not cause prejudice to the objectors. Ultimately, the proposed amendment in the constitution will be useful for the welfare of the institution and to meet with the object of the trust, hence, there is no logic and/or any legal objections of the objectors. If we may see the proposed amendment, it will certainly serve the better management of the trust activities and its object.

19. I therefore, pass following order:-

\* \* \* \* \* ORDER \* \* \* \* \*

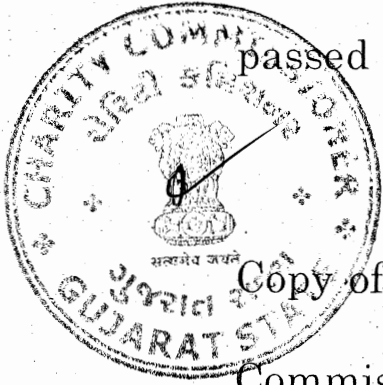
The present application u/s. 50(A) of the Bombay Public Trusts Act, 1950 for the trust namely Gujarat Vanand Samaj Seva Sangh, duly registered under Registration No. A/1824/Ahmedabad is hereby allowed.

The draft/proposed scheme produced at Mark 286/1 is hereby approved for better administration of the trust and the same is annexed herewith this order alongwith my signature.

નકલ ખર્ચ રૂ. 203-૫૦  
મુકાબલ ખર્ચ રૂ. 01૨-૫૦  
પેપર ખર્ચ રૂ. 039-૦૦  
કુલ ખર્ચ રૂ. 333-૦૦

Looking to the facts and circumstances, no order is passed as to cost.

આથી પ્રમાણિત કરવામાં આવે છે કે  
આ ખરી નકલ છે. તા. ૨૭/૭/૨૦૧૬  
અધિકારી  
ચેરીટી કમિશનરશ્રીની કચેરી  
ગુજરાત રાજ્ય, અમદાવાદ



Copy of this order be sent to the Ld. Deputy Charity Commissioner and the trustees of the trust for information and necessary action.

Place: Ahmedabad.

Date: 30.7.2016



(Y. M. Shukla)

Charity Commissioner  
Gujarat State, Ahmedabad.

નકલ કરનાર.....  
મુકાબલ કરનાર.....  
પેપર ખર્ચ.....