

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.11148 OF 2014

Shri Balaji Shikshan Prasarak Mandal,
Gangakhed, Taluka Gangakhed,
District Parbhani, through its President -
Advocate Gangadhar s/o Nathrao
Mundhe, Age 35 years,
Occupation Legal Profession,
R/o N-3, C-20/1, HUDCO,
Aurangabad

.. Petitioner

Versus

The State of Maharashtra,
through the Hon'ble Ld.Joint
Charity Commissioner

.. Respondent

Mr V.D.Hon, Senior Counsel i/b Mr Anand Chawre and Mr Nilesh
Akhade
Mr S.K.Tambe, A.G.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 24th February 2015

PER COURT

1. This petition is by Trust under sub-section (3) of Section 36-A of the Maharashtra Public Trusts Act (hereinafter referred to as 'the Act') seeking permission of the authority for borrowing the amount.

2. On the earlier occasion, though the petitioner-Trust suffered the fate of rejection of similar application, however, this Court in Writ Petition No.4137 of 2014 has recorded the submissions made by the petitioner that they shall file a proper application. The application, pursuant to the order dated 27th June 2014, passed in Writ Petition No.4137 of 2014 under Section 36-A (3) of the Act suffered same fate

of dismissal, as the Joint Charity Commissioner, while dealing with the said application had noticed serious shortfalls.

3. Mr Hon, learned Senior Counsel for the petitioner, while inviting my attention to the shortfalls noticed by the Joint Charity Commissioner would urge that the shortfalls which are basis for rejecting the application for permission to borrow the amount, are already complied. According to him, the amount of Rs.92,52,612/- which is shown to be paid to sundry debtors was appropriately explained from the record. In addition to above, he submits that the banking licence of the institute from whom the petitioner-Trust is trying to borrow the amount was also placed on record. He further submits that the reasons which are cited by the learned Joint Charity Commissioner for rejecting the permission, are not germane to the cause, as from the record, every shortfalls noticed in the order impugned can be satisfied.

4. I am afraid, in exercise of extra-ordinary jurisdiction, it is not open for this Court to go into said factual matrix and appreciate the same. However, upon submissions made by learned Senior Counsel for the petitioner, I feel it appropriate to relegate this matter to Charity Commissioner or Joint Charity Commissioner working under him, who is directed to decide the said application afresh forming the order dated 29th November 2014 as basis in the form of show-cause notice. The petitioner shall report the compliance of the observations made in the said order to the Charity Commissioner or Joint Charity Commissioner to whom the present matter is assigned.

5. It shall be open for the Charity Commissioner or the Joint Charity Commissioner to whom the present matter is assigned to call for fresh compliance in the light of scheme of sub-section (3) of Section 36-A of the Act on additional issue, if any.
6. The order dated 29th November 2014 passed by the Joint Charity Commissioner, Aurangabad is hereby quashed and set aside.
7. The authority, who shall be taking matter under Section 36-A (3) of the Maharashtra Public Trusts Act is expected to decide the said application finally within a period of three months from the date of last compliance reported by the petitioner.
8. With these directions, Writ Petition stands disposed of with no order as to costs.

(N.W. SAMBRE, J.)

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