

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1864 OF 2015

Samaj Sudhar Mandal, Dhule
through its Trustees

.. Petitioners

vs.

The Charity Commissioner and anr.

.. Respondents

Mr. A.T. Gade for the Petitioners.

Mr. S.D. Rayrikar, AGP for the Respondent Nos.1 and 2.

CORAM : M. S. SONAK, J.

DATE : 05 OCTOBER 2015.

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] The challenge in this petition is to the order dated 7 October 2014, by which the Charity Commissioner has declined leave to the Petitioners to amend their application seeking permission under Section 36(1)(A) of the Bombay Public Trust Act, 1950 (said Act).

3] The reasons set out in the impugned order are that by the order dated 7 January 2014, the application seeking amendment had been allowed only partly and further this is an attempt on the part of the Petitioners to fill-up the legal lacunae.

4] In my judgment, the reasons are not sustainable. By earlier order dated 7 January 2014, the amendment had been partly

allowed. The present amendment does not relate to the part which had been earlier rejected. In fact, as pointed out by the learned counsel for the Petitioners, present amendment relates to compliance with the provisions contained in Rule 24. Further, there is no bar to carrying out of amendment to fill-up the legal lacunae. The mere grant of leave to amend does not mean that the averments proposed to be introduced by way of amendment are admitted or held as accepted. That is a matter which the learned Joint Charity Commissioner will have to decide whilst dealing with the merits of the matter.

5] In the aforesaid circumstances, the impugned order dated 7 October 2014 is set aside. The application seeking amendment is allowed. Necessary amendment to be carried out within a period of two months from today.

6] Rule is made absolute to the aforesaid extent. There shall, however, be no order as to costs.

7] All concerned to act upon the basis of authenticated copy of this order.

(M. S. SONAK, J.)

CERTIFICATE

**“Certified to be true and correct copy of
original signed Judgment/Order.”**