

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR

CAO NO. 1097 OF 2014 AND MCA ST. NO. 21813/2014 IN  
WRIT PETITION NO. 1657 OF 2012

(Shri Shankarrao Ganpatrao Nagrale & Ors. vs. The Assistant Charity Commissioner, Chandrapur & Ors.)

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Office Notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's orders

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**CORAM : B.P. DHARMADHIKARI &  
A.P. BHANGALE, JJ.  
JANUARY 12, 2015.**

Heard Shri Ravi Pande with Shri Bhandarkar,  
learned counsel for the applicants/ petitioners.

The original petitioners in Writ Petition No. 1657 of 2012 seek condonation of delay of 354 days in moving application for restoration of that writ petition. The reason given is, listing of the matter on 28.06.2013 escaped attention of the office of the learned counsel, therefore, the objection could not be removed within the stipulated time.

Shri Patil, learned counsel for Respondent Nos. 2 to 7 as also Shri Kankale, learned AGP for respondent No. 1 are strongly opposing any intervention by this Court. They state that the impugned order was passed in December 2011.

At this stage, we are not concerned with the order which is impugned in the petition. The reason given by the petitioner for condonation of delay does not appear to be incorrect. The reason given is that listing of

the matter escaped attention and hence there is delay. We, therefore, do not see any malafides in the matter. Delay is, therefore, condoned and the Registry is directed to register MCA.

**MCA STAMP NO. 15084 OF 2014**

This court today has condoned delay. After hearing the respective counsel for the respondents and for the reasons recorded therein while condoning delay, we recall the order dated 28.06.2013. However, at the request of the learned counsel for the petitioner, writ petition is taken up for admission immediately. The Registry to restore Writ Petition No. 1657 of 2012.

**WRIT PETITION NO. 1657 OF 2012**

Writ Petition is heard for admission with the consent of the parties.

The challenge is to the common order dated 19.12.2011 passed under Section 41(A) of the Bombay Public Trust Act, 1950. The petitioners as also Respondent Nos. 2 to 7 have filed counter applications against each other seeking directions for better administration of the Trust.

A perusal of directions issued by Respondent No. 1 shows that non applicant No. 4 i.e. present petitioner No. 4 was directed to transact financially with applicants in Application No. 6 of 2011 i.e. present Respondent Nos. 2 to 7 and to start operating the Bank

account of the hostel. This arrangement was to continue till final adjudication of Change Report Case Nos. 108 of 2011, 80 of 2011 and MCA No. 79 of 2011.

By another direction, Respondent No. 2 – Mahadeo was directed to enter 9000 sq. feet of Land Survey No.58/2, Total Area 21 R. at Mouza Chanda Rayyatwari, Taluqa & District – Chandrapur as trust property in Schedule – I. Thus, this direction is apparently not against the present applicants.

Insofar as Bank transaction is concerned, period of more than three years has expired. It cannot be accepted that the bank account would not have operated for such a long period. The provisions of Section 41(A) of the Bombay Public Trust Act, 1950, enable party to obtain urgent protection for preventing loss to the property of the trust and other similar contingencies. That contingency is no longer in existence after expiry of period of three years. If there is any misappropriation, maladministration or any other similar misconduct causing loss to the property of the trust, the petitioners can always move fresh application under the provisions of Bombay Public Trust Act.

Hence, in writ petition at this juncture, we find no case made out warranting interference. Writ Petition is accordingly disposed of. No costs.

**JUDGE**

**JUDGE**