

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

WRIT PETITION NO.6305 OF 2014

[Jagannath Onduji Bhadke and others .vs. State of Maharashtra and others]

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

Court's or Judge's orders

 Shri R.V. Gaikwad, counsel for the petitioners,
 Shri D.P. Thakare, AGP for respondent nos.1 to 3,
 Shri S.P. Bhandarkar, counsel for respondent nos.4 to 7.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATED : APRIL 01, 2015.

By this petition, the petitioners challenge the judgment and order of the Assistant Charity Commissioner, Chandrapur dated 21.10.2014, rejecting an application filed by the petitioners under Section 41-A of the Bombay Public Trust Act.

On hearing the learned counsel for the parties and on a perusal of the impugned judgment, it appears that the application filed by the petitioners is rejected only by making a reference to the judgment reported in 1994 (1) Bom.C.R. 103 (Lahudas Karad .vs. State of Maharashtra) and observing that it would be necessary for the authority while issuing a direction under Section 41-A of the Act to see, whether the matter falls under Sections 32 to 41 of the Act. The Assistant Charity Commissioner has not considered the application filed by the petitioners on merits and has also not considered the decisions reported in 2011 (1) Mh.L.J. 849 (Murlidhar s/o Janrao kale and others .vs. State of Maharashtra and others) and (2012) 3 Mh.L.J. 594 (Vanmala M. Kamdi and others .vs. Deputy Charity

Commissioner, Nagpur and others). It was necessary for the Assistant Charity Commissioner to consider the facts of the case before rejecting the application filed by the petitioners. The application could not have been rejected merely by making a reference to the judgment reported in 1994 (1) Bom.C.R 103.

Since the Assistant Charity Commissioner has not decided the application on merits, the writ petition is partly allowed. The impugned order is quashed and set aside. The matter is remanded to the Assistant Charity Commissioner for deciding the application filed by the petitioners under Section 41-A of the Act, in accordance with law. Order accordingly. No costs.

JUDGE

JUDGE

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