

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

WRIT PETITION NO. 5751 OF 2016

Manmathappa Pandbappa Lokhande .. Petitioner

vs

The Charity Commissioner,
Maharashtra State, Mumbai and others .. Respondents

Mr. V. D. Gunale, Advocate for petitioner
Mr. A. P. Basarkar, Asstt. Govt. Pleader for respondents no.1 & 2
Mr. S. S. Thombre, Advocate holding for Mr. Dnyaneshwar J.
Patil, Advocate for respondent no. 3

CORAM : SUNIL P. DESHMUKH, J.
DATE : 7th June, 2016

ORDER :

1. Heard learned counsel for the parties.
2. Purporting to be aggrieved by order of rejection by Charity Commissioner, Latur dated 12-04-2016 on application no. 556/Rule 36/2015/C.C., seeking transfer of proceedings to some other joint charity commissioner or to Charity Commissioner himself, petitioner is before this court.
3. It is being submitted by Mr. V. D. Gunale, learned counsel for petitioner that as many as three applications, namely, Exhibits 17,

30 and 33, have been moved on various counts, however, besides the order 'other side to say', applications have not proceeded further and yet the charity commissioner intends to go on with proceedings, including passing of an interim order.

4. Learned counsel for petitioner submits that the petitioner apprehends that the joint charity commissioner is intending to pass an interim order which may destabilize petitioner's position in the management.

5. Learned counsel further submits that the charity commissioner, in the impugned order, has not considered that the petitioner not only apprehends orders adverse to his interest since the matter is being conducted accordingly, but that is reflected from that the joint charity commissioner is not touching three applications filed at Exhibits 17, 30 and 33 referred to above. He thus requests that apart from transfer sought, petitioner had also sought directions in the alternative that those three applications be directed to be decided.

6. Mr. Gunale submits that he refrains from making comments over the manner in which the proceedings are being conducted. He purports to object to the impugned order, contending that the charity commissioner has referred to the principles which would govern exercise of powers under section 24 of the Code of Civil Procedure, 1908 which may not absolutely control the present

proceedings. He, therefore, urges that either the proceedings be transferred or the charity commissioner be directed to decide on three applications referred to hereinabove.

7. After hearing learned counsel for the parties, it does appear to be a case wherein the charity commissioner has declined to exercise powers purportedly vested in him under rule 36 of the Maharashtra Public Trusts Rules, 1951 in his discretion. The discretion exercised does not appear to be away from the judicial principles which would govern the scenario. Besides, the reasons for which the application for transfer has been moved do not espouse conviction that the matter deserves transfer.

8. In the circumstances, I am not disinclined to entertain the writ petition.

9. Writ petition, as such, is rejected. It is, however, open for the petitioner to make proper request before the charity commissioner. If such a request is made, the same be dealt with in accordance with facts, circumstances and the law.

SUNIL P. DESHMUKH,
JUDGE

pnd