

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

WRIT PETITION NO. 5797 OF 2012

1. Mahaling s/o Bapurao Bhise
age 50 years, occ. Service
r/o Old Mondha, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.
2. Manmath s/o Madhavrao Kendre
age 57 years, occ. Service
r/o Vakil Colony, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.

.. PETITIONERS

VERSUS

1. The Charity Commissioner,
Maharashtra State, Dr. Annie Besant Road,
Varali, Mumbai.
2. The Assistant Charity Commissioner,
Parbhani Division, Parbhani.
3. The Venkatesh Vidyalaya Shikshan Sanstha
Through Secretary,
Shivaji Chowk, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.

.. RESPONDENTS

Mr. M.V. Ghatge, advocate for petitioners.
Mr. P.S. Patil, AGP for the State.
Mr. D.J. Choudhari, advocate for respondent no. 3.

=====

**CORAM : R.M. BORDE &
A.I.S. CHEEMA, JJ.
DATE : 27th JANUARY, 2016.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.
2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.

3. Petitioners are objecting to the order passed by the Assistant Charity Commissioner on 19.04.2012 recalling the order passed earlier directing the parties to submit new scheme in respect of management of the trust. Earlier order passed by the Assistant Charity Commissioner on 07.01.2012 has been recalled by him in view of pendency of several change reports tendered by the rival parties. On perusal of the reasons recorded in the order dated 19.04.2012, we find it reasonable for the Assistant Charity Commissioner to direct consideration of pending change reports instead of directing the parties to tender new scheme. Petitioners contend that there are several illegalities committed by the management in performing functions of the trust. If the allegations are true and correct, there are modalities provided under the Act for redressal of such grievances. So far a recall of order passed by the Assistant Charity Commissioner on 07.01.2012 is concerned, it is contended by petitioners that the Assistant Charity Commissioner has issued directions recalling the earlier order on 19.04.2012 without extending an opportunity of hearing to petitioners. It was logical and proper for the Assistant Charity Commissioner to issue appropriate directions after extending an opportunity of hearing to all the parties concerned. Since the Assistant Charity Commissioner, while issuing directions on 19.04.2012, has not extended opportunity of hearing to petitioners, we deem it appropriate to direct the Assistant Charity Commissioner to hear petitioners and thereafter proceed to pass appropriate orders.

4. Order passed by the Assistant Charity Commissioner on 19.04.2012

is quashed and set aside and the concerned authority is directed to pass appropriate order in the matter, after extending an opportunity of hearing to petitioners and any other interested party. The Assistant Charity Commissioner shall pass appropriate order as expeditiously as possible, preferably within a period of three months from today. Rule made absolute to the extent specified above.

(A.I.S. CHEEMA)
JUDGE

(R. M. BORDE)
JUDGE

dyb