

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

WRIT PETITION NO. 11149 OF 2016

Naresh Rajeshwarrao Patil
and others

.. Petitioners

Versus

Charity Commissioner, Mumbai
and others

.. Respondents

Shri Prashant Nagargoje, Advocate h/f Shri R. J. Godbole,
Advocate for Petitioners.

Ms. S. S. Raut, A.G.P. for Respondents/State.

Shri Balbhim R. Kedar, Advocate for the Respondent No. 3.

CORAM : S. V. GANGAPURWALA, J.

DATE : 06TH DECEMBER, 2016.

PER COURT :

. Mr. Nagargoje, the learned counsel for petitioners submits that, application U/Sec. 41-D and 41-E of the Bombay Public Trust Act is filed before the Joint Charity Commissioner by respondents. The application suffers from basic flaw. Two persons are required to file application. Only one person has filed application. This is basic flaw in the application. Ignoring this, the proceedings are conducted and same were highly improper. The petitioners moved before the Charity Commissioner seeking transfer of the proceedings pending before the Joint Charity Commissioner, Latur to any other Joint

Charity Commissioner. The Charity Commissioner only on the ground that allegations regarding integrity are not made against the Joint Charity Commissioner, Latur has rejected the transfer application. The learned counsel submits that, other grounds were also agitated, but were not considered, such as heavy cost was imposed upon the petitioners. Even the arguments advanced before Joint Charity Commissioner are not considered. Fifty advocates have moved representation saying that, they do not want to conduct matters before him. According to the learned counsel, various grounds were raised in the application, however, Charity Commissioner has ignored said grounds. The petitioners had not made any allegations about the integrity and only on the ground that, there are no allegations of integrity has rejected the application. The same is erroneous. The Charity Commissioner be directed to consider all the grounds raised before him for transfer of the matter.

2. If any judicial order is passed, the same can be assailed before the higher forum and the judicial orders being passed one way or other cannot be a ground to transfer the proceedings. The transfer of the matter cannot be *ipse dixit*. The Court would be slow in entertaining application for transferring matter from one Court to another, unless the allegations supported by *prima facie* evidence are pointed out with regard to integrity or bias mind of a Presiding Officer. In the present case, the apprehension of the petitioners is with regard to the conduct and manner of

proceeding with the matter. Imposition of the cost is discretion of the Court. The petitioners may point out the legal aspects of the matter, which naturally every Presiding Officer is expected to consider. The Charity Commissioner has not committed any error while passing the impugned order. The writ petition as such is disposed of. No costs.

[S. V. GANGAPURWALA, J.]

bsb/Dec. 16