

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

WRIT PETITION NO. 11635 OF 2016

Mahadeo s/o. Deorao Nagargoje .. Petitioner
Age. 61 years, Occ. Pensioner,
R/o. Behind S.B.I. Bank,
Near Bus Stand, Patoda,
Tq. Patoda, Dist. Beed.

Versus

1. The State of Maharashtra .. Respondents
Through its Secretary,
Social Justice & Welfare Department,
Mantralaya, Mumbai – 32.
2. The Assistant Charity Commissioner,
Beed.
3. Balasaheb s/o. Shankarrao Ghumre
Age. Major, Occ. Pensioner,
R/o. Pargaon (Ghumra),
Tq. Patoda, Dist. Beed.

Mr.A.N. Nagargoje, Advocate for the petitioner.
Mr.S.K. Tambe, AGP for respondent/State.
Mr.S.A. Dhengle, Advocate for respondent No.3.

CORAM : S.B. SHUKRE, J.

DATED : 17.03.2017

ORAL JUDGMENT :-

1. Learned AGP waives notice for respondent Nos.1&2.

2. Rule. Rule made returnable forthwith and heard finally by consent.

3. Learned Counsel for respondent No.3 and learned AGP for respondent Nos. 1 & 2 support the impugned order. The learned Counsel for the petitioner submits that the learned Assistant Charity Commissioner has not appreciated the fact that the petitioner was hospitalized and this reason being beyond the control of the petitioner, made the petitioner remain absent before the learned Assistant Charity Commissioner.

4. On perusal of the paper book of this petition, I find that there is substance in the argument of learned Counsel for the petitioner. Learned Assistant Charity Commissioner in such cases ought to have given some concession to the petitioner or otherwise there would be miscarriage of justice. In this view of the matter, I am inclined to allow this petition.

5. The writ petition is allowed. The impugned order dated 16.11.2016 is hereby quashed and set aside. The petitioner is permitted to appear before the learned Assistant Charity Commissioner on the next date. The petitioner shall appear before the learned Assistant Charity Commissioner on the date already fixed in the

matter and submit himself for his cross-examination by the opponent. He shall also co-operate with the Court below in expeditious disposal of the enquiry into change report filed in the year 2009 and 2011. Learned Counsel for the respondent No.3 has also assured to extend his co-operation in the matter. The enquiry into change report shall be completed and disposed of in accordance with the law within a period of six months from the date of this order.

6. Rule made absolute in above terms. No costs.

[S.B. SHUKRE,J.]