

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 609 OF 2019

NANDKUMAR LAXMANRAO GIRHE
VERSUS
THE ASSISTANT CHARITY COMMISSIONER,
JALNA AND ANOTHER

...
Mr. N.B. Khandare, Advocate for petitioner
Mr. S.N. Kendre, AGP for respondent-State
Mr. V.V. Deshmukh, Advocate for respondent no.2
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 23-01-2019

ORDER :

1. Heard learned counsel for parties.
2. Looking at the events and nature of proceedings and age of respondent no. 2, though prosecution of matter does not appear to be punctually adhered to, in the discretion of the Assistant Charity Commissioner, he has passed impugned order, allowing application Exhibit – 61 in enquiry no. 797 of 2010.
3. Learned counsel for petitioner submits that while order dated 08-10-2018 had been self-speaking and self-operating, and consequently on default in the conditions referred to in the said order as observed in the conditions thereunder, order about no further examination-in-chief and evidence close order would be revived.

4. Learned counsel Mr. Deshmukh submits that respondent no. 2 is 80 year old person, his mobility has been affected due to old age and in the circumstances, there might have been certain aberration unremitting prosecution of the matter. He also submits that observations of the court and contents of application Exhibit – 61 may not be exactly compatible, however, human errors may receive their due. He submits that while the discretion has been exercised in favour of respondent no. 2 and the same, in the circumstances, being justifiable, may not be intercepted.

5. Having regard to the facts and circumstances and the matter has been pending since 2010, and also having regard to age of respondent no. 2, it appears that some due to the same will have to be given. In the circumstances, it is not a case wherein impugned order dated 03-01-2019 passed below Exhibit – 61 by learned Assistant Charity Commissioner, Jalna in enquiry no. 797 of 2010 deserves to be meddled with in discretionary powers of this court, however, henceforth, respondent no.2 shall take extra and ultra care to punctually prosecute the proceedings.

6. In the circumstances, inconvenience to the petitioner can be taken care of by imposing costs of Rs.10,000/- (Rs. Ten

Thousand) in addition to the one as referred to under order dated 08-10-2018.

7. As such, respondent no. 2 shall deposit a sum of Rs.10,000/- (Rs. Ten Thousand) towards costs, to be paid to petitioner. Costs be deposited with the authority within a period of three (3) weeks from the date of receipt of writ of this order. Enquiry be proceeded with expeditiously and the same be disposed of within a period of three (3) months from the date of receipt of writ of this order.

8. Writ petition accordingly stands disposed of.

[SUNIL P. DESHMUKH]
JUDGE

arp/