

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

925 WRIT PETITION NO.5289 OF 2019

**SHYAMLAL MEMORIAL EDUCATION SOCIETY UDGIR THROUGH
ITS SECRETARY V. N. SANKAYE**

VERSUS

**THE JOINT CHARITY COMMISSIONER - I MUMBAI AND I/C
CHARITY COMMISSIONER MUMBAI AND ORS**

...

Advocate for Petitioner : Mr. R. D. Biradar
AGP for Respondent: Mr. S. W. Munde

...

**CORAM : A. M. DHAVAL, J.
(Vacation Court)**

DATE : 21st May, 2019

PER COURT :

1. Heard learned advocate Mr. Biradar for the petitioner. The petitioner is challenging the order of Joint Charity Commissioner, dated 20.04.2019 requesting to transfer Enquiry No. 143/2018 and Application No.08/2018 pending before Joint Charity Commissioner, Latur, and for expeditious hearing of the same.
2. The petitioner is Secretary of the trust. There are disputes about the names of trustees and change reports are

pending. On 12.12.2018, Joint Charity Commissioner passed order in Enquiry No.143/2018 directing fresh election within three months. The petitioner is challenging this order by filing writ petition before this Court on the ground that no opportunity of hearing was given to him. Division Bench of this Court on 27.02.2019 set aside the order dated 12.12.2018 and issued directions to rehear the matter after giving opportunity of hearing to all concerned. The Petitioner as per directions filed applications before the Joint Charity Commissioner dated 05.03.2019.

3. The grievance of the petitioner is that the Joint Charity Commissioner did not give him opportunity nor given notice to other respondent and the petitioner is apprehending that the Joint Charity Commissioner will pass the order without hearing him and without following the direction of this Court. The petitioner therefore moved the I/c Charity Commissioner, Maharashtra State, Mumbai for transfer of the matter from Joint Charity Commissioner, Latur to any other Joint Charity Commissioner.

4. After hearing learned advocate Mr. Biradar, I do not

find any act on the part of Joint Charity Commissioner, Latur which can give reasonable apprehension to the petitioner to seek transfer of the matter. The parties have no right of choosing the forum and there should be genuine ground to seek transfer of matter from one authority to another. Here no material is produced which gave apprehension to the petitioner to seek transfer. The order of I/c Charity Commissioner shows some disputed facts. According to the petitioner, the Roznama dated 25.03.2019 was not correct and the Joint Charity Commissioner did not take up the dias up to the 3:00 pm. These disputed fact cannot be considered in the writ jurisdiction. No order of Joint Charity Commissioner, Latur has been produced which can justify the apprehension of the petitioner. The I/c Charity Commissioner has considered all the aspects and the writ jurisdiction in such facts cannot be invoked.

5. It is axiomatic that the order passed by this Court in Writ Petition No.1450/2019 dated 27.02.2019 is pending with Joint Commissioner, Latur for compliance and if the same is not complied, it will be the contempt. The I/c Charity Commissioner has also observed in its order that the Joint Charity Commissioner,

Latur shall decide the matter on merits as per the direction of this Court. In the light of these facts, the apprehensions of the petitioner are not real and therefore, the writ jurisdiction cannot be invoked.

6. There is a prayer for deciding the change reports. The Joint Charity Commissioner shall take appropriate decision and if those change reports are required to be decided before deciding the application, he/she shall do so. There is no pleading that the joint charity commissioner had declined to decide the applications though were required to be decided before the application under Section 41 D (4). Hence writ petition is disposed of.

(A. M. DHAVAL, J.)