

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

956 CIVIL APPLICATION NO.12071 OF 2019
IN WP/11403/2018 WITH CA/13664/2019 IN
WP/11403/2018

SHIVSHANKAR SHIKSHAN PRASARAK MANDAL
HARISHCHANDRA TANDA THROUGH PRESIDENT
VERSUS
THE DEPUTY CHARITY COMMISSIONER NANDED AND
OTHERS

...

Advocate for Applicants : Mr. Thombre S.S.
AGP for Respondents-State : Mr. A.S.Shinde.
Advocate for Respondent No.2 : Mr. N.G.Kale.

...

CORAM : V. K. JADHAV, J.
DATE : 22.11.2019

PER COURT :-

1. Heard both the sides.
2. It appears that in terms of the order dated 15.01.2018 passed by Deputy Charity Commissioner, Nanded which is impugned in the Writ Petition, the Commissioner of Disabled Maharashtra State, Pune has issued show cause notice to the trust for cancellation of the registration required to run the special school for disabled person. It further appears that by invoking the powers under Section 38, the learned Deputy

Charity Commissioner, Nanded has issued directions for carrying out the special audit. It is manifest that in terms of the provisions of Section 39, after receipt of the said report of the special audit and on the basis of the explanation submitted for the same by the trustees, the Deputy Charity Commissioner has to record the findings as to whether the trust has been guilty of gross negligence, breach of the trust, misappropriation or misconduct which resulted in loss to the trust. The Deputy Charity Commissioner, Nanded has yet to arrive at the said conclusion and record the findings in terms of the provisions of Section 39 of the Maharashtra Public Trust Act, 1950.

3. In view of the same, the Civil Application No.13664 of 2019 seeking addition of Respondent No.3 Commissioner of Disabled person as party respondent to the Writ Petition is allowed in terms of prayer clause 'B'.

4. Issue notice to Respondent No.3 – Commissioner of Disabled in Civil Application No.12071 of 2019, returnable on 06.12.2019. The learned AGP waives notice for respondent No.3 and seeks time.

5. In view of the discussion above, the notice issued by

Respondent No.3 dated 27.09.2019 shall not be given any effect till the next date of hearing.

(V. K. JADHAV, J.)

...

vmk/-