

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

WRIT PETITION NO.606 OF 2018

BHASKARRAO HILAL MORE
VERSUS
JIJABRAO TARACHAND PAWAR AND ANOTHER

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Advocate for Petitioner : Mr Patil Sandesh R.
Advocate for Respondents : Mr Deshmukh Sachin S.

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CORAM : V. K. JADHAV, J.
Dated : December 04, 2019

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PER COURT :-

1. The petitioner herein is the objector in the change report/inquiry Application No.488 of 2010. Respondents herein have filed the said change report bearing Change Report No.488 of 2010. Respondents herein have not produced certain documents initially. However, the petitioner/original objector has not raised any objection and completed the cross-examination of witnesses of the respondents. Thereafter, respondents herein have produced on record certain documents as directed by the learned Assistant Charity Commissioner, Nandurbar. Consequently, the objector has filed an application Exh.98 seeking permission to recall the

witness of the respondents for cross-examination in terms of the documents produced on record after his cross examination is over. However, by impugned order dated 31.10.2017 the learned Assistant Charity Commissioner, Nandurbar has rejected the said application. Hence, this writ petition.

2. Learned counsel for the petitioner submits that the learned Assistant Charity Commissioner, Nandurbar has rejected the application Exh.98 only for the reason that the proceeding book six in numbers are produced on record by the respondents as directed by the Assistant Charity Commissioner, Nandurbar and those proceeding books are exhibited as Exh Nos.101 to 106 and the learned Assistant Charity Commissioner, Nandurbar has accordingly rejected the application Exh.98 seeking permission to cross-examine the witness of the respondents by recalling him. Learned counsel submits that, admittedly, at the time of initial cross-examination, those proceeding books were not produced before the learned Assistant Charity Commissioner,

Nandurbar and, as such, it is the right of the petitioner to recall the witness for the cross-examination to the extent of those proceeding book produced on record at the later stage and exhibited.

3. Learned counsel appearing for the respondents supported the order passed by the Assistant Charity Commissioner, Nandurbar.

4. On perusal of the contents of the application Exh.98 and the impugned order passed thereon, it appears that after completion of the cross-examination of the objector to the witness of the respondents, respondents have produced the proceeding books in connection with the said inquiry before the Assistant Charity Commissioner, Nandurbar though directed by the Assistant Charity Commissioner, Nandurbar to that effect. Even though, those proceeding books six in numbers are exhibited, the petitioners/original objector certainly gets the right to cross-examine the witness by recalling him to the extent of those proceeding books

produced at the later stage. In view of the same, I proceed to pass the following order.

O R D E R

- I. Writ Petition is hereby allowed.
- II. The impugned order dated 31.10.2017 passed below Exh.98 by the learned Assistant Charity Commissioner, Nandurbar in Inquiry Application No.488 of 2010 is hereby quashed and set aside.
- III. Application Exh. 98 in Inquiry Application No.488 of 2010 is allowed in terms of its prayer clause and the petitioner is permitted to cross examine the witness of the respondents by recalling him to the extent of those proceeding books placed on record and marked at Exh.101 to 106 respectively and not on other grounds.
- IV. Writ Petition accordingly disposed off.

(V.K. JADHAV, J.)

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