

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11317 OF 2019

Shree Bhairavnath Mandir Trust and ors. ... Petitioners

V/s

Joint Charity Commissioner, Pune and ors. ... Respondents

Mr.Y.P.Narvankar for the Petitioners.

Mr.P.V.Nelson Rajan, AGP for Respondent No.1.

CORAM : UJJAL BHUYAN, J.

DATE : NOVEMBER 06, 2019.

P.C.:-

1. Having regard to the nature of grievance expressed by the petitioners, court is of the view that issuance of formal notice is not necessary.

2. Heard Mr.Narvankar, learned counsel for the petitioners and Mr.P.V.Nelson Rajan, learned AGP for respondent No.1.

3. It appears that petitioners had filed application No.386 of 2016 before the Assistant Charity Commissioner, Solapur under Section 18 of the

Maharashtra Public Trust Act, 1950 for registration of the Public Trust by the name of Shree Bhairavnath Mandir Trust of which petitioners claim to be the trustees. By order dated 15th October, 2018, Assistant Charity Commissioner, Solapur granted registration. This order came to be challenged in appeal by respondent No.2 to 12. Since there was delay of 54 days in filing the appeal, an application for condonation of delay was filed which was registered as Misc.Application No.19 of 2019. Petitioners filed objection vide Ex.5. By order dated 18th June, 2019, Appellate Authority i.e. Joint Charity Commissioner, Pune Region, Pune condoned the delay subject to deposit of cost of Rs.1,000/-. It is this order which has been impugned in the present proceeding.

4. Learned counsel for the petitioners submits that appellants were not parties to the proceedings before the Assistant Charity Commissioner. They do not have the locus-standi to assail functioning of the petitioners as trustees of the public trust. Besides, no cogent reasons were assigned to explain the delay. Therefore, the Joint

Charity Commissioner ought not to have condoned the delay and should have dismissed the appeal.

5. Repelling such objection, Joint Charity Commissioner, held thus:-

“6. After perusing the pleading and documents on record I came to the conclusion that, in order to give fair opportunity to the applicants, delay may be condoned. If the delay is condoned no prejudice would be caused to the respondents. The respondents will get an opportunity to contest the appeal on merit. On the other hand, if delay is not condoned prejudice would be caused to the applicants. The applicants will be deprived from challenging the order passed in Application No.386 of 2016.

7. Considering these facts I answer point No.1 in affirmative. In the result, following order is passed.

ORDER

1. The application is allowed.
2. Delay caused in filing appeal is condoned subject to cost of Rs.1000/-.
3. After depositing the cost by the applicant appeal be registered as per rule.
4. Cost be credited to P.T.A. Fund in Pune Office.”

6. In my considered view, there is no error or

infirmity in the decision of the Joint Charity Commissioner dated 18th June, 2019. Petitioners will have the opportunity and liberty to raise all available grounds in the appeal including standing of the appellants. In such circumstances, no interference is called for. However, if such objections are raised, the same may be decided by the Joint Charity Commissioner in accordance with law. No opinion is expressed.

7. Subject to the above, writ petition is disposed of.

(UJJAL BHUYAN, J.)