

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1986 OF 2018

Sandhya Shantaram Thakre, Gittikhadan, Nagpur

-vs-

Assistant Charity Commissioner, Nagpur, Civil Lines, Nagpur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. D. Abhyankar, Advocate for petitioner.
Shri V. A. Thakare, Assistant Government Pleader for
respondent.
Shri M. M. Dhandekar, Advocate for intervenors.

CORAM : A.S.CHANDURKAR, J.

DATE : June 03, 2019

Civil Application No.1334 of 2018

The applicants are permitted to intervene in the present writ petition. Civil Application is allowed and disposed of.

Writ Petition No.1986 of 2018

Heard the learned counsel for the petitioner as well as learned Assistant Government Pleader for respondent. The learned counsel for the intervenors has also been heard.

2. The petitioner is aggrieved by the order passed below Exhibit-3 in Inquiry No.1087 of 2017 whereby the learned Assistant Charity Commissioner, Nagpur has rejected the said application and has refused to pass any temporary order accepting the Change Report as

filed.

3. Shri S. D. Abhyankar, learned counsel for the petitioner by relying upon the provisions of Section 22(2) along with proviso thereto of the Maharashtra Public Trusts Act, 1950 (for short, the said Act) submits that the learned Assistant Charity Commissioner ought to have provisionally accepted the Change Report as filed in view of the fact that notices were not issued on the said Change Report. According to him by observing that such provisional orders were not warranted to be passed, the learned Authority has ignored the statutory provisions stated above. He therefore submits that the impugned order is liable to be set aside.

4. Shri M. M. Dhandekar, learned counsel for the intervenors submits that pursuant to the notices issued in the Change Report, the objectors have appeared and they have filed their reply. Similarly, other Change Reports filed on behalf of the intervenors are also pending. The said Change Reports therefore can be directed to be decided on merits.

5. Heard.

The provisions of Section 22(2) read with the proviso thereto

empowers the Deputy or Assistant Charity Commissioner to pass an order provisionally accepting the Change Report within period of fifteen days and issuing notices inviting objections thereto. In the present case such notice was not issued to the objectors as can be seen from the order dated 04/12/2017. In the impugned order it has been observed that passing of an order provisionally accepting the Change Report appeared to be unwarranted in view of pendency of earlier Change Reports.

6. Considering the fact that the objectors have now appeared in the said proceedings and are contesting the Change Report the stage for passing of any provisional order has now gone and the matter has to proceed further. By observing that the impugned order shall not come in the way of either of the parties, the writ petition is disposed of. The Change Reports between the parties are directed to be disposed of on their own merits and in accordance with law.

JUDGE