

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

WRIT PETITION NO.460 OF 2020

(Abdul Rajjak s/o Abdul Taji Vs. Mohammed Mobin s/o Mohd. Mousin and another)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri Anand Parchure, Advocate for Petitioner.
Shri S.D. Abhyankar, Advocate for Respondent No.1.
Shri A.M. Kadukar, AGP for Respondent No.2.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 22nd JANUARY, 2020.

1] I have heard the learned Advocates for the petitioner, respondent no.1 and the learned AGP on behalf of respondent no.2.

2] Issue is, as regards the order dated 23.12.2009 passed by the learned Joint Charity Commissioner, Nagpur below Exh.4 in Appeal No.1015/2019, which is impugned in this petition.

3] There is no dispute that the petitioner has preferred an appeal under Section 70 of the Maharashtra Public Trusts Act challenging the order dated 05.12.2019 passed by the learned Assistant Charity Commissioner, Nagpur (wrongly typed as Chandrapur in paragraph 1 of the impugned order) by which Change Report Enquiry No.1464/2017 has been rejected. The petitioner moved Exh.4 seeking *ad-interim* protection. The learned Joint Charity Commissioner has reproduced the contentions of the parties in paragraph 1 to 4 and has passed a cryptic

order in paragraph 5, which reads as under:

5. As to Point No. 1 and 2:-

I Read the contents of appeal memo vis-a-vis the submissions made by the learned counsel appearing on behalf of both parties, it is seen that the order passed by the lower authority in Change Report Inquiry No. 1464/2017 on 05.12.2019 is in negative nature. In such circumstances, it is not necessary and justified to stay the effect and operation of the impugned order. Therefore, I answer the Point No.1 Negative and proceed to pass the following order-

ORDER

1. Application Exh.4 stands rejected.
2. Parties be informed accordingly.

Nagpur

Dated :- 23.12.2019

Sd/-

(A.S. Kolhe)

Joint Charity Commissioner,
Nagpur.

4] It is settled law that an order to be passed by a judicial officer should reflect that the material placed before the Court has been considered, the judicial officer has applied its mind to the material available and having understood the controversy, has assigned reasons for supporting his conclusion.

5] While considering the conclusion in paragraph 5 reproduced above, I record my displeasure for the manner in which the order has been passed. No judicial officer, while considering such a controversy, is expected to observe that as the lower authority has passed an order which is in

negative nature, it is not necessary and justified to stay the effect and operation of the impugned order. I deem it appropriate to counsel the learned Joint Charity Commissioner to avoid passing such orders and he should take the pains of going through the material placed before him and should assign specific reasons to support his conclusion while delivering a judicial order.

6] In view of the above, notwithstanding the strenuous submissions of the learned Advocate for respondent no.2, which would amount to supplanting or supplementing reasons which are not available in the impugned order, the impugned order is quashed and set aside. The application Exh.4 shall stand remitted to the file of the learned Joint Charity Commissioner, Nagpur in the pending Appeal No.1015/2019.

7] The litigating parties shall appear before said authority in the said proceedings on 24.01.2020, which is the next scheduled date in the appeal. The litigating parties are at liberty to address the mind of the learned Joint Charity Commissioner on Exh.4. If required, written notes of submissions can also be filed and after the conclusion of the oral submissions on or before 29.02.2020, the learned Joint Charity Commissioner shall endeavour to decide Exh.4 as expeditiously as possible and preferably within four weeks thereafter.

(Ravindra V. Ghuge, J.)