

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 9778 OF 2021**

Dr J J Madgum Trust ...Petitioner  
*Versus*  
Charity Commissioner, State of Maharashtra & ...Respondents  
Ors

---

**Dr Uday Warunjikar, for the Petitioner.**  
**Mr PG Sawant, AGP, for the Respondent-State.**

---

**CORAM    G.S. Patel &  
              Madhav J. Jamdar, JJ.**  
**DATED:    11th January 2022**

**PC:-**

1. Rule. Respondents waive service. By consent, Rule is made returnable forthwith and the matter is taken up for hearing and final disposal.

2. The Writ Petition is directed against an order dated 28th December 2021 in a Review Application filed by the Petitioner Public Trust. The impugned order is passed by the Charity Commissioner, Mumbai.

3. The Application for Review was of an earlier order of 18th November 2021. By that order, the Charity Commissioner, Mumbai

ARUN  
RAMCHNDRA  
SANKPAL

Digitally signed by  
ARUN  
RAMCHNDRA  
SANKPAL  
Date: 2022.01.12  
12:02:28 +0530

rejected the Petitioner's Application for grant of ex-post facto sanction of a loan of Rs. 10.10 crores obtained by the Petitioner from Religare Finvest Limited.

4. The Review was sought on the basis that the loan from Religare Finvest Limited was being repaid and had been repaid. The Petitioner had since obtained a loan from ICICI Bank Limited at a far more favourable rate of interest. It is this loan for which ex-post facto sanction was required.

5. By the order under review, the Charity Commissioner seems to have held that there was no exceptional or extraordinary situation that resulted in hardship to the Trust. This completely misses the point. Even a difference of 3% to 4% interest on a large loan has a significant impact on a borrowing of a Public Charitable Trust.

6. The other reason given was that Religare Finvest Limited was not a nationalised or scheduled bank. But ICICI Bank Limited is very much a scheduled bank. This aspect seems not to have been considered at all by the first order under review order.

7. The impugned order on the Review Petition ought to have addressed these matters. Its failure to do so is unsustainable.

8. We quash and set aside the impugned order of 28th December 2021.

**9.** Exhibit “1” in MA No. CC/106/2021 is restored to file. We direct the Charity Commissioner, Mumbai to hear and decide the Review Application on its merits uninfluenced by the previous orders. He shall do so at his earliest convenience and preferably on or before 31st January 2022.

**10.** The Petition is disposed of in these terms. There will be no order as to costs.

**11.** All concerned will act on production of a digitally signed copy of this order.

**(Madhav J. Jamdar, J)**

**(G. S. Patel, J)**