

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

WRIT PETITION NO.1097 OF 2023

**KHANDESH COLLEGE EDUCATION SOCIETY, THROUGH ITS
TRUSTEE AND OTHERS**

VERSUS

THE JOINT CHARITY COMMISSIONER, NASHIK

...

Advocate for Petitioners : Mr. Ajay G. Talhar

AGP for Respondent : Mr. S.N. Morampalle

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 10th MARCH, 2023

PER COURT :

1. Petitioner is aggrieved by the order dated 08/07/2022, passed by Joint Charity Commissioner, Nashik Region, Nashik, in Misc. Application No.01/2022, thereby rejecting application filed by the petitioner under section 35 of the Maharashtra Public Trusts Act, 1950, for permission to investment surplus trust money in registered mutual funds.

2. Having heard learned advocate for petitioners and learned Additional Government Pleader for State and after going through the impugned order, only ground on which the application filed by petitioner is rejected is that petitioners/applicants have not mentioned in their application name of mutual funds or the exact amount which they want to invest therein. Even in their resolution dated 22/01/2022 also they have not mentioned name of mutual

funds and the amount. It is only mentioned that surplus amount would be invested but exact figure is not stated.

3. In the impugned order, the statement of learned advocate for petitioners is reflected that applicants have Rs.5,38,02,349/- as surplus amount and out of that 25% amount they want to invest in mutual funds.

4. It is also clear from record that petitioners filed affidavit of the Joint Secretary of petitioner Society dated 22/04/2022, wherein they have given names of the mutual funds in which they intend to invest the said amount as:-

- (i) SBI Mutual Fund-
 - a) SBI Balanced Advantage Fund
 - b) SBI Equity Hybrid Fund
 - c) SBI Equity Saving Fund
- (ii) Nippon India Mutual Fund-
 - a) Nippon India Asset Allocator Fund – Growth
 - b) Nippon India Balance Advantage Fund – Growth
- (iii) Axis Mutual Fund-
 - a) Axis Balanced Advantage fund – Growth,
 - b) Axis Equity Hybrid Fund – Growth
 - c) Axis Multicap Fund – Growth.

5. In view of the statement of learned advocate for petitioners reflected in the impugned order and in view of the statement made in the affidavit of the Joint Secretary of the Petitioner Society dated 22/04/2022, the Joint Charity Commissioner has committed error in rejecting permission to the

petitioners. Non application of mind on the part of Joint Charity Commissioner while rejecting the said application is apparent on the face of record. Impugned order, therefore, cannot be sustained. Hence, the following order:-

ORDER

- (I) Writ petition is allowed.
- (II) Misc. Application No.01/2022 is hereby allowed in terms of prayer clause 'ब'.
- (III) 25% of the surplus amount quoted in the aforesaid paragraphs shall be invested by the petitioners in the mutual funds mentioned in the affidavit of Joint Secretary of petitioner society, dated 22/04/2022.

(NITIN B. SURYAWANSHI, J.)