

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2455 OF 2020

Sadguru Shree Saibaba Mandir Sanstha
Godivali, Satara through its Trustees

...Petitioners

V/s.

Assistant Charity Commissioner,
Satara and Ors.

...Respondents

Mr. Rahul S. Kadam, for the Petitioners.

Mr. A.P. Vanarse, AGP for the Respondent No.1.

Mr. Dilip Bodake, for Respondents No.2 and 3.

CORAM : SANDEEP V. MARNE, J.

Dated : 13 September 2023.

P.C. :

1. By this petition, Petitioner-Trust challenges order dated 23 October 2019 passed by the Assistant Charity Commissioner, Satara, by which, while allowing the application filed by the Petitioner-Trust at Exhibit-36 to open the donation boxes and to deposit the amounts in the donation boxes in the bank accounts of the Trust, the Assistant Charity Commissioner has put an embargo on the Trust from operating the bank accounts in IDBI Account without its prior permission.

2. It must be observed at the very outset that the order passed by the Assistant Charity Commissioner is totally unsustainable as the same is passed in application of the Petitioner-Trust at Exhibit-36 filed for an altogether different purpose. The Assistant Charity Commissioner ought to have confined herself to the prayer made in the application at Exhibit-36. Admittedly, no application was filed by Respondents No.2 and 3 before the Assistant Charity Commissioner seeking any restraint order against the Trust for operation of the bank account. In absence of any application being made by Respondent Nos.2 and 3 to restrain the Trust from operating the bank account, it is incomprehensible as to how the Assistant Charity Commissioner could have imposed such an embargo while deciding the application filed by the Trust for altogether different purpose of opening the donation boxes. This is the first gross error in the order of the Assistant Charity Commissioner.

3. Secondly, Respondent Nos.2 and 3 have filed Application No.12/2019 before the Joint Charity Commissioner, Pune seeking restraint order against the Petitioners herein from opening the very same bank account. That application is filed under the provisions of Section 42E of the Maharashtra Public Trusts Act. The Assistant Charity Commissioner has noted the factum of filing and pendency of said Application No. 12/2019 of Respondent Nos. 2 and 3. However what is effectively done by the Assistant Charity Commissioner is to decide the prayer made in Application No.12/2019 filed by Respondent Nos. 2 and 3 before the Joint Charity Commissioner. Thus the end result of the Direction No.7 in the impugned order dated 23 October

2019 is that the Assistant Charity Commissioner has decided and allowed the prayer made in Application No.12/2019 filed before the Joint Charity Commissioner. In enquiry proceedings initiated under Section 22 of the Act, the Charity Commissioner has exercised powers under Section 42E of the Act. This is a gross jurisdictional error in the order passed by the Assistant Charity Commissioner.

4. The Writ Petition is accordingly allowed. Direction No.7 in order dated 23 October 2019 passed by the Assistant Charity Commissioner, Satara is set aside. Needless to observe that, Application No.12/2019 pending before the Joint Charity Commissioner, Pune shall be decided without being influenced by the observations made in the present order.

**NEETA
SHAILESH
SAWANT**

SANDEEP V. MARNE, J.

Digitally signed by
NEETA SHAILESH
SAWANT

Date: 2023.09.15
09:35:02 +0530