

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8348 OF 2023

Shri. Shankar Shivling Jangam ...Petitioner

V/s.

The Joint Charity Commissioner ...Respondent
Kolhapur Region, Kolhapur

Mr. Abhijit Adagule a/w Mr. Kush M. Lahankar for
Petitioner.

Mr. C.D. Mali, AGP for State.

CORAM: MADHAV J. JAMDAR, J.

DATE: 20th October 2023

P.C.:

- 1.** Heard Mr. Adagule, learned Counsel appearing for the Petitioner.
- 2.** The Petitioner challenges the legality and validity of order dated 22nd August 2017 passed by the Joint Charity Commissioner, Kolhapur Region, Kolhapur in Application No. 01 of 2017 filed under Section 83 of the Maharashtra Public Trusts Act, 1950 ("MPT Act").
- 3.** By the impugned order, in exercise of powers conferred under Section 83 of the MPT Act read with Government Resolution No. CHS/1033/(83)-VI dated 30th March 1984,

sanction has been accorded for prosecution of the Petitioner for the offence punishable under Section 32 read with Section 66 of the MPT Act.

4. The impugned order records that a complaint was filed regarding misappropriation of the Trust's fund viz. Shri. Mallikarjun Devasthan Trust, Kupwad, Taluka Miraj, District Sangli and pursuant to the same, an enquiry was initiated vide Enquiry No. 134/2015. The Inspector conducted the enquiry and submitted his detailed report to the learned Deputy Charity Commissioner, Sangli on 31st December 2015. The report *inter alia* records that an amount of Rs.17,38,126/- was in the fixed deposit and same was transferred to the saving bank account and said amount was withdrawn from time to time and on 4th January 2007, the balance amount was Rs.16,757.58. The report also places on record several irregularities. In the impugned order dated 22nd August 2017 passed by the learned Joint Charity Commissioner, Kolhapur Region, Kolhapur, it is observed that the material on record substantiates the enquiry report.

5. It is the contention of learned Counsel appearing for the Petitioner that although the impugned order records that inspite of opportunities, the Petitioner has failed to rebut the charges, no notice whatsoever has been given to the Petitioner. However,

learned AGP is right in pointing out that the order records that notice was issued to the Trustees, however, the same returned back with remark "not claimed". Therefore the Trustees are deemed to have been served.

6. Apart from that, it is significant to note that the impugned order is dated 22nd August 2017 and the petition has been filed on 9th March 2022. The explanation given in paragraph 4 on page 12 of the petition is totally inadequate. In fact the material on record shows that the Petitioners were aware about the enquiry proceedings and the impugned order. Therefore there are delay and latches in filing the Writ Petition.

7. In any case, this is not a case where any interference is warranted under Articles 226 and 227 of the Constitution of India. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

(MADHAV J. JAMDAR, J.)