

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2403 OF 2022

Harish Sadashiv Surve

...Petitioner

vs.

The State of Maharashtra and Others

...Respondents

Mr. S.R. Ronghe, for the Petitioner.

Mr. P.P. Pujari, AGP for the State.

CORAM : N. J. JAMADAR, J.

DATE : JUNE 22, 2023

P.C.:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order dated 21st December, 2019 passed by the Joint Charity Commissioner-II, Mumbai in Revision Application No. 40 of 2020 preferred by the petitioner under section 70A of the Maharashtra Public Trust Act, 1950 (the Act, 1950) whereby the revision/application came to be dismissed affirming the order passed by the learned Assistant Charity Commissioner, VII, Mumbai in Suo Moto Inquiry No. ACC-VII/5743/2017 whereby the Bombay Presidency Education Society, the trust, of which the petitioner claims to be the President, came to be declared as de-funct and was ordered to be deregistered under the provisions of section 22(3A) of the Act, 1950.
3. The principal challenge in the petition is that the trust was

not provided an effective opportunity of hearing as the notice was not served on the petitioner in the manner contemplated by the provisions of Rule 7A of the Bombay Public Trusts Rules, 1951.

4. The learned counsel for the petitioner invited attention of the Court to the observations in the order passed by the learned Assistant Charity Commissioner in paragraph 2 which indicate that the notice under Rule 7A of the Rules was, inter alia, published on the Website and in the Newspapers. It does not appear that the notice was served on the petitioner.

5. Deregistration of a trust has drastic consequences. The petitioner, therefore, deserves an opportunity to demonstrate that the conditions precedent to order de-registration of the trust under section 22(3A) of the Act, 1950 have not been satisfied.

Hence, the following order.

ORDER

1] The petition stands allowed.

2] The impugned order as well as the order passed by the Assistant Charity Commissioner, VII, Mumbai stand quashed and set aside.

3] Suo Moto Inquiry No. ACC-VII/5743/2017 stands restored to the file of Assistant Charity Commissioner, VII, Mumbai.

4] The petitioner shall appear before the Assistant Charity Commissioner, VII, Mumbai on 20th July, 2023.

5] No separate notice be issued to the petitioner.

6] Learned Assistant Charity Commissioner, VII, Mumbai shall decide Suo Moto Inquiry No. ACC-VII/5743/2017 afresh after providing an opportunity to the petitioner.

7] Petition disposed.

8] No costs.

(N. J. JAMADAR, J.)