

Arjun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10099 OF 2023**

Shri. Gopalkrishna S. Pillai ...Petitioner

V/s.

Ld. Charity Commissioner, ...Respondents
State of Maharashtra at Mumbai & Anr.

Mr. Ashok T. Gade a/w Riya John & Navin Rathod, for the
Petitioner.

Mrs. V. S. Nimbalkar, AGP, for the Respondent-State.

**CORAM : MADHAV J. JAMDAR, J.
DATED : DECEMBER 15, 2023**

JUDGMENT:

1. Heard Mr. Gade, learned Counsel appearing for the
Petitioner and Mrs. Nimbalkar, learned AGP for the Respondent-
State.

2. The challenge in the present Writ Petition filed under
Articles 226 and 227 of the Constitution of India is to the legality
and validity of the Order dated 24th February 2020 passed by the
learned Charity Commissioner, Maharashtra State, Mumbai in
Appeal No.CC/1079/2019 (“**impugned Order**”) as well as the Order
27th December 2017 passed by the learned Assistant Charity
Commissioner-V, Greater Mumbai Region, Mumbai

3. By the impugned Order, the Appeal was dismissed and the
said Appeal has been filed against the Order of the learned

Assistant Charity Commissioner dated 27th December 2017, by which the Trust namely “Byculla Lalbaug Malayali Samajam” stands de-registered.

4. It is the contention of learned Counsel appearing for the Petitioner that the said Trust was registered in the year 1978. It is his submission that the impugned Order has been passed without giving any notice to the Petitioner.

5. Mrs. Nimbalkar, learned AGP, submits that notice is uploaded on the Website of the Charity Commissioner as well as the notice was published in Newspaper and, the same is in compliance with the Rules.

6. Mr. Gade, learned Counsel appearing for the Petitioner pointed out Sub-Rule 3 of Rule 7A of the *Bombay Public Trusts Rules, 1951* (“**said Rules**”). Rule 7A(3)(c) of the said Rules contemplates that the Deputy or Assistant Charity Commissioner shall give or cause to be given public notice of such inquiry and the same also to be issued to the person in occupation or possession of such property.

7. It is the contention of learned Counsel appearing for the Petitioner that the Petitioner is in possession of the property and particulars of the same are available on the record of the Charity Commissioner. The Order passed by the learned Assistant Charity Commissioner as well as the impugned Order passed by the

learned Charity Commissioner do not show that Rule 7A(3)(c) has been complied with.

8. Mrs. Nimbalkar, learned AGP submitted that the notice published on the Website of the Charity Commissioner as well as published in the News Paper, 'Punya Nagari' are sufficient compliance.

9. However, Rule 7A(3)(c) contemplates that the notice be served on the person in occupation or possession of such property. There is nothing to show that the said notice is served on the Petitioner.

10. Admittedly, the Petitioner-Trust is registered since the year 1978 and the decision of de-registration of the said Trust cannot be taken without giving a proper notice. It is also to be noted that the said Order has been passed in a *Suo Moto* Inquiry.

11. Accordingly, the Order dated 27th December 2017 passed by the learned Assistant Charity Commissioner-V, Greater Mumbai Region, Mumbai in *Suo Moto* Inquiry No.ACC/V/3203/2017 in the case of "Byculla, Lalbaug Malayali Samajan", P.T.R. No.F-4948 (Mum) as well as the Order dated 24th February 2020 passed by the learned Charity Commissioner, Maharashtra State, Mumbai in Appeal No.CC/1079/2019 are quashed and set aside.

12. The Petitioner to appear before the learned Assistant

Charity Commissioner-V, Greater Mumbai Region, Mumbai on 15th January 2024 at 11:00 a.m. in *Suo Moto* Inquiry No.ACC/V/3203/2017.

13. The learned Assistant Charity Commissioner to decide the said *Suo Moto* Inquiry after giving a proper opportunity to the Petitioner.

14. The Writ Petition is disposed of in the above terms with no order as to costs.

15. It is clarified that this Court has not considered the merits of the case and all the contentions on merits are expressly kept open.

[MADHAV J. JAMDAR, J.]