

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) NO.887 of 2020

Shri Ganesh s/o Subhash Kharode,
aged about 45 years, Occ; Agriculturist,
R/o : Telhara, Tq. Telhara, Dist. Akola.

.... Petitioner

// VERSUS //

Joint Charity Commissioner,
Amravati Division, Amravati,
Tq and Dist. Amravati.

... Respondent

Ms M.Z. Haq, Advocate h/f Shri A.R. Deshpande, Advocate for the Petitioner
Ms Jaipurkar, AGP for the Respondent-sole/State

CORAM : ANIL S. KILOR, J.
DATED : 01.02.2023

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally by consent of both the parties.
3. In this writ petition, judgment and order dated 16.11.2019 passed by the Joint Charity Commissioner, Amravati Region, Amravati in Application No.2 of 2019, rejecting the application under Section 36 (1) (a) of the Maharashtra Public Trusts Act, 1950 filed by the petitioner-trust, is under challenge.

4. The petitioner is a public trust, namely Maroti Sansthan Trust, and as per the aims and objects of the trust, as the trust wanted to construct a Marriage Hall (Mangalkaryalay), the application under Section 36(1)(a) of the Maharashtra Public Trusts Act, was moved for permission to sell the land of the trust to generate income for construction of the Marriage Hall. The reason recorded by Joint Charity Commissioner, Amravati Region, Amravati while rejecting the application in paragraph No.8, which reads thus:

“8. According to the learned Advocate for the applicant, if the Trust is permitted to sell the properties in question, then the proceeds of the sale would be used for the construction of a Marriage Hall. But no project report has been placed on record. It has not been made clear as to when the Trust intends to start the construction of the Marriage Hall and what is the approximate construction cost. The submission is not supported by any document. Therefore, in view of such position, this Authority is of the view that this is not a fit case for granting sanction for the sale for the properties in question. ...”

5. The learned counsel for the petitioner submits that the project report was ready with the trust, however, without disclosing that the project report is necessary to determine the need of the petitioner trust,

the application came to be rejected. It is submitted that if the opportunity was given, the petitioner could have submitted the project report along with map and estimated construction cost.

6. From the above referred paragraph No.8 of the impugned order, it can be seen that only for the reasons that the project report was not submitted and the petitioner has not made it clear that when the Trust intends to start the construction and what is the approximate construction cost, the application was rejected. Hence, I find substance in the submission of the learned counsel for the petitioner that, if the opportunity was granted, the petitioner could have submitted all such details.

7. Thus, in the above referred backdrop, I am of the opinion that the matter needs to be remanded back to joint Charity Commissioner, Amravati with liberty to the petitioner to file fresh project report as the period of three and half years has already been lapsed, after the order was passed.

8. The petitioner shall prepare and submit fresh project report, including estimated construction cost and other details, before the Joint Charity Commissioner, Amravati and the same shall be considered by

Joint Charity Commissioner, Amravati while deciding the application afresh. Accordingly, I pass the following order:

- (i) The writ petition is **partly allowed**.
- (ii) The judgment and order dated 16.11.2019 passed by the Joint Charity Commissioner, Amravati Region, Amravati, in Application No.2 of 2019, is hereby quashed and set aside.
- (iii) The matter is remanded back to Joint Charity Commissioner, Amravati Region, Amravati for decision afresh.
- (iv) The petitioner is at liberty to file a fresh project report along with all details, including the estimated construction cost within four weeks from today, whereupon, the learned Joint Charity Commissioner, Amravati Region, Amravati, shall take decision considering the project report and other materials, afresh.
- (v) The application shall be decided expeditiously, in any case, within six months from the date of submission of fresh project report.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]

Digitally signed by NIRANJAN
DOMAJI THAWRE
Signing Date: 03.02.2023
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