

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3426 OF 2018

Suresh Girdhadas Modi,
aged about 60 years, Occ. President,
Shri Gopalkrishna Gorakshan Sanstha,
Jalgaon Jamod, Dist. Buldhana.

.... **PETITIONER.**

// VERSUS //

The Joint Charity Commissioner,
Amravati.

.... **RESPONDENT.**

Ms Mugdha Rohan Chandurkar, Advocate for Petitioner.
Shri D.P.Thakre, Addl.G.P. for Respondent.

CORAM : **ANIL S. KILOR, J.**
DATED : **FEBRUARY 09, 2023**

ORAL JUDGMENT :

1. Heard.

2. **RULE.** Rule made returnable forthwith. Heard finally by
consent of the learned counsel for the parties.

3. The order dated 11/12/2017 passed by Joint Charity Commissioner, Amravati in Application No. 2 of 2013 filed under Section 36 of the Maharashtra Public Trusts Act, 1950 (hereinafter referred to as “the Act”), rejecting the said application and directing registration of *Suo Motu* Revision under Section 70A of the Act to ascertain the correctness of the order passed by the Assistant Charity Commissioner, Buldana in Change Report Enquiry No. 20/2013, dated 21/03/2013, is under challenge.

4. The learned counsel for the petitioner submits that despite the favourable report of the Inspector of the Charity Commissioner, the Joint Charity Commissioner, rejected the application and did not grant permission under Section 36 of the Act to sell the land in question.

5. It is submitted that the Joint Charity Commissioner has no authority or power to initiate the *suo motu* revision proceedings, while entertaining the application under Section 36 of the Act, as done in this case. She, therefore, submits that the impugned order is erroneous and is liable to be quashed and set aside.

6. On the other hand, the learned A.G.P. supports the impugned order and prays for dismissal of the present writ petition.

7. I have perused the record and the impugned order.

8. Admittedly, the report of the Inspector is dated 20/04/2013, which was submitted to the Joint Charity Commissioner. The inspection report of the Inspector supports the case of the petitioner and it appears that without considering the said report, on certain doubts the application came to be rejected erroneously.

9. Furthermore, nothing has been pointed out by the learned A.G.P. as regards the powers of the Joint Charity Commissioner to issue direction to register the suo motu revision petition under Section 70A of the Act to ascertain the correctness of the order passed by the learned Assistant Charity Commissioner, Buldana passed in Change Report Enquiry No. 20 of 2013 dated 21/03/2013, while entertaining the application under Section 36 of the Act. Thus, on both the counts, the impugned order is illegal and bad in law.

10. Since after the report of the Inspector dated 20/04/2013 much water has flown, thereafter the valuation of the land must have been increased manifold, I am of the opinion that by quashing

and setting aside the impugned order liberty shall be given to the petitioner to apply afresh under Section 36 of the Act. Accordingly, I pass the following order:

- i) The Writ Petition is partly allowed.
- ii) The impugned order dated 11/12/2017, passed by Joint Charity Commissioner, Amravati in Application No.2 of 2013 is hereby quashed and set aside.
- iii) The petitioner is permitted to apply afresh under Section 36 of the Maharashtra Public Trusts Act, 1950 for permission to sell the land in question.
- iv) If such application is moved by the petitioner, the Joint Charity Commissioner shall decide the same, on its own merits, after affording an opportunity of hearing to the petitioner, as expeditiously as possible.

The Writ Petition is **disposed of** accordingly. No order as to costs.

(ANIL S. KILOR, J)

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