



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

36 WRIT PETITION NO. 11034 OF 2024

MANSOOR KHAN AJMER KHAN MULTANI & ANR.

VERSUS

ASEF KHAN NAWAJ KHAN MULTANI & ORS.

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Advocate for the Petitioner : Mr. Kulkarni Shripad Sheshrao

Advocate for Respondent 1 : Mr. Abhinay Dilip Khot

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CORAM : ARUN R. PEDNEKER, J.

Dated : October 07, 2024

PER COURT :-

1. Heard.
2. By the present writ petition, the petitioners/ original respondent Nos. 1 and 2 challenges the impugned order dated 6.9.2024 below Exh. 21 in Application/Enq. No. 4/2024 passed by the Joint Charity Commissioner, (hereinafter referred to as "Jt.C.C." for short) Aurangabad.
3. It is the case of the petitioners that on 8.8.2024 in Application/Enq. No. 4/2024, the petitioners appeared before the Jt.C.C., Aurangabad through their advocate, however, Vakilpatra could not be filed till 4.16 p.m. on behalf of the petitioners. The Jt. C.C. proceeded to pass exparte order against the present petitioners. Thereafter, again on 16.8.2024 advocate for the petitioners filed Vakilpatra on behalf of the present petitioners and prayed to set aside the exparte order. However, the said request was rejected as it was not accompanied by reply. Hence, the petitioners challenges the impugned order 16.8.2024 passed by the Jt.C.C., rejecting

the request of the petitioners for setting aside the exparte order dated 8.8.2024.

4. It was submitted by the advocate for the petitioners that he was not able to file reply on the same day. Under such circumstances, the Jt.C.C. held that no purpose would be served, if the application is allowed and as such, rejected the application Exh. 21. Hence, the present writ petition is filed.

5. The learned counsel for the petitioners relied upon the judgment of this Court in the case of **Sharad Dattatraya Kulkarni Vs. The Joint Charity Commissioner dated 7.1.2023 passed in Writ Petition No. 11478/2022**, wherein in identical facts situation, the impugned order passed by the Jt.C.C. was set aside and matter was remanded back to the Jt.C.C. for deciding it afresh.

6. The learned counsel for the respondent No. 1 has, on instructions of his client, who is present before the Court, has fairly submitted that the matter may be allowed and it be remanded back to the Jt.C.C. by permitting the petitioners to file their reply. The learned counsel for the respondent No. 1 has tendered the affidavit in reply, which is taken on record.

7. Considering the submissions made above, the impugned order dated 6.9.2024 below Exh. 21 in Application/Enquiry No. 4/2024 passed by the Jt.C.C., Aurangabad is set aside and the matter is remanded back to the Jt.C.C. to decide the the application afresh. The petitioners are permitted to

file their reply/written statement to Application/Enquiry No. 4/2024 filed under section 41-D of the Maharashtra Public Trust Act. The petitioners to file their reply by 11.10.2024 before Jt.C.C.

8. The learned counsel for the respondent No. 1 has submitted that the proceedings before Jt.C.C. be expedited. In view of the fair submissions made by the learned counsel for the respondent No. 1, Jt.C.C. Aurangabad is directed to decide the pending application under section 41-D as expeditiously as possible. Parties to cooperate in deciding the matter before the Jt.C.C. The writ petition is disposed of accordingly.

(ARUN R. PEDNEKER, J.)

ssc/