

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.529 OF 2024
WITH
INTERIM APPLICATION NO.1097 OF 2024
IN
WRIT PETITION NO.529 OF 2024**

**WITH
WRIT PETITION NO.1181 OF 2023
WITH
INTERIM APPLICATION NO.1150 OF 2023
IN
WRIT PETITION NO.1181 OF 2023**

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Shree Revansiddha Dev Renavi Through
The Trustee & Ors ... Petitioners

V/s.

The Joint Charity Commissioner
Kolhapur & Ors ... Respondents

Mr. Anil Anturkar, Sr. Advocate i/by Mr. Ranjit Shinde,
for Petitioner in WP/529/2024.

Mr. Anil Anturkar, Sr. Advcoate i/by Mr. Yatin
Malvankar, for Petitioner in WP/1187/2023.

Mr. S. D. Rayrikar, AGP for State.

Mr. Satyjeet A. Rajeshirke, for Applicant in
IA/109/2024.

Mr. Shrishail Sakhare, for Applicant in IA/1150/2023.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 26, 2024

P.C.:

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1. Arguable questions are raised. Hence, **Rule.**
2. Prima facie it appears that based on the circulars issued by the Charity Commissioner dated 13 November 2017 and 16 November 2017, the Joint Charity Commissioner initiated *suo moto* enquiry under Section 47 of the Maharashtra Public Trust Act, 1950. The petitioner filed an objection by way of application contending that in absence of vacancy proceedings under Section 47 of the Maharashtra Public Trust Act, 1950 are not maintainable. The Joint Charity Commissioner relying on the Circular No.521 issued by the Charity Commissioner of Maharashtra State, held that in case of trustees having pujaris less than half of the total number of trustees, persons other than pujaris can be appointed as trustees, rejected petitioners objection.
3. Prima facie on perusal of the provisions of the Maharashtra Public Trust Act, 1950, it appears that Section 47 confers power on the Charity Commissioner for appointment of new trustee in case there is vacancy arising out of suspension, removal or discharge of a trust.
4. On reading of circulars dated 13 November 2017 and 16 November 2017, prima facie, it appears that the Charity Commissioner has not passed any order directing removal of the trustees who are pujaris. Only direction which Circular No.518 refers to change the scheme of trust.
5. Therefore, it is necessary to decide the amplitude of the

Charity Commissioner's power to issue circulars, in absence of enabling provisions under the said Act, save and except powers conferred under Chapter VI of the said Act. Section 41E is the power conferred on the Charity Commissioner for protection of charities which can be issued in relation to particular trust. Section 41AA is the power to issue direction in respect of hospitals. However, such power needs to be exercised as per the manner set out in sub-Section (1) of Section 41AA. In absence of enabling power, efficacy of directions issued by the Charity Commissioner needs consideration. By way of interim relief, it is directed that the proceedings before the Joint Charity Commissioner bearing Enquiry No.3 of 2018 shall remain stayed.

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6. The inspector is conducting an enquiry for appointment of trustees in absence of vacancy.

7. For the reasons stated above, in absence of vacancy, the inspector cannot hold an enquiry for appointment of new trustees; hence, by way of interim relief, it is directed that the proceedings before the inspector Enquiry No.13/Miraj/2018 dated 8 March 2018 shall remain stayed.

(AMIT BORKAR, J.)