

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2671 OF 2024**

Rukhminibai Pratisthan Mumbai through its ... Petitioner
Trustee Sanjay Ramchandra Gawande

versus

The Joint Charity Commissioner 2 and ors. Respondents

Mr. Anilkumar Patil along with Mr. Zeel Jain, Advocate for the Petitioner.
Ms. Snehal Jadhav, AGP for Respondent-State.

CORAM : R. M. JOSHI, J.

DATE : 11th SEPTEMBER, 2024.

P.C. :

1. Heard finally at the stage of admission by consent of both sides.

2. This petition takes exception to the order dated 7th December 2023 passed by the Joint Charity Commissioner in Application No.63 of 2021 filed under Section 36(1)(a) of Maharashtra Public Trusts Act, 1950 (for short "the Act").

3. The petitioner is a public charitable trust and intends to purchase land for starting a agricultural school. A resolution was passed by the Board of Trustees on 9th January 2021 for sale of another land for raising funds for purchase of land for starting agricultural school. According to the petitioner, tender notice was published in regional as well

as English newspapers on 12th February 2021. On 16th March 2021, the highest bid was accepted. It is thereafter, an application was moved for seeking permission of the Charity Commissioner under Section 36(1)(a) of the Act. The said proceeding, however, was dismissed by the Charity Commissioner by passing impugned order.

4. Learned counsel for the petitioner has drawn attention of this Court to the application filed before the Charity Commissioner and the order impugned. It is his submission that the said authority has committed an error in appreciating the facts on record. According to him, the application indicates that the trust is desirous of commencing an agricultural school and not agricultural college and if it is so, 50 Acres land would never be required for the said purpose as observed in the order. Apart from this, it is pointed out that there is incorrect fact mentioned with regard to the earnest amount not being deposited by the successful bidder. Similarly, it is contended that the reason recorded by the authority for rejection of the application i.e. number of Fixed Deposits with trust is also not relevant as the trust has other educational institutions including a military school and for that purpose, Fixed Deposits are required to be maintained. Thus, it is his submission that it is a fit case for causing interference in the impugned order.

5. Learned AGP supported the impugned order by drawing attention of the Court to the observations made by the Charity Commissioner indicating that the sale has been proposed on the basis of

ready reckoner, which is much less than the amount which can be actually fetched from sale of subject land. She has also placed reliance on the observations made by the authority indicating the maintenance of number of Fixed Deposits held by Trust and, therefore, according to her, permission for the sale of the land has been rightly rejected.

6. Perusal of the record indicates that the application filed under Section 36(1)(a) of the Act clearly indicates that the trust was intending to start agricultural school on the land situated at Village Bhagur, Taluka Dindori, District Nashik, admeasuring 2H 2R. Undeniably, the formalities as completed with regard to the auction of the said properties were complied and that the highest bid was accepted. The statement of account indicates that the earnest money was also deposited by the successful bidder. As such, the observations made by the Charity Commissioner about non-payment of earnest money is does not depict correct facts. Since the petitioner is interested in starting an agricultural school, it may not require 50 acres of land as observed by the authority in the order impugned. The authority ought to have sought explanation from petitioner about Fixed Deposits held and the purpose of maintaining the same. Without seeking any explanation, the fact of holding Fixed Deposits would not per se become ground for rejection of application.

7. It is thus clear that the Joint Charity Commissioner has failed to take into consideration the material relevant facts while passing the impugned order, as such, the order cannot sustain. It is, therefore,

necessary to relegate the application No.63 of 2021 for decision afresh in accordance with law.

8. Learned Joint Charity Commissioner is requested to decide this application within a period of 120 days from the date of intimation of this order.

9. The petition stands allowed in above terms.

10. It is clarified that observations made by this Court in this order will not bind the Joint Charity Commissioner while deciding the application on merit.

(R. M. JOSHI, J.)