



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5454 OF 2024

Ashoka Education Foundation PTR.

...Petitioner.

Versus

Joint Charity Commissioner, Nashik.

...Respondent.

*Mr. Nikhil Sakhardande, Senior Advocate (thr. V.C.) along with Mr. Hrishikesh Chitaley i/b Hitesh Sangle for the Petitioner.
Mr. R. S. Pawar, AGP for the Respondent-State.*

Coram : Sharmila U. Deshmukh, J.

Date : November 26, 2024.

P. C. :

1. Heard.
2. By this petition, challenge is to the order dated 6th February 2024 passed by the Joint Charity Commissioner rejecting the Petitioner's application filed under Section 36A(3) of the Maharashtra Public Trusts Act for grant of sanction to be the co-borrower for the loan of Rs.33 crore from the Axis Bank with the main borrower, namely, the contractor engaged in the construction of school of the Trust.
3. Mr. Sakhardande, learned Senior Advocate appearing for the Petitioner would submit that this is second application filed for sanction to be the co-borrower for the loan and earlier application on identical facts was allowed by order dated 18th January 2021. Pointing

out to the findings of the Joint Charity Commissioner, he submits that one of the reasons on which the Joint Charity Commissioner has rejected the application is the absence of material documents mentioned in the said order. He submits that as the rejection is for the reason that the said documents were not placed on record by reason of which the Joint Charity Commissioner could not take any informed decision, the impugned order may be quashed and set aside and the Petitioner be permitted to place the material on record and the Joint Charity Commissioner to consider the application afresh.

4. Learned AGP would submit that in event the additional documents are placed on record, the Joint Charity Commissioner will consider the application afresh.

5. Upon perusal of the impugned order, it appears that the Joint Charity Commissioner has noted that Petitioner's application does not contain relevant details as regards the construction work of building and also the resolution of Trust placed on record does not have the necessary details.

6. Considering that the Joint Charity Commissioner was of the opinion that the necessary material is not placed on record enabling him to take an informed decision coupled with the fact that in the previous application, the sanction has been accorded and the construction of building is for the purpose of achieving the objects of

the Trust, an opportunity can be given to the Petitioner-trust to place the necessary material on record for the Joint Charity Commissioner fresh consideration of the application.

7. In the light of above, impugned order dated 6th February 2024 is hereby quashed and set aside. Application No.14 of 2023 is remitted to the file of Joint Charity Commissioner, to be considered afresh. The Petitioner is at liberty to place the necessary relevant material on record in support of its application for grant of sanction for being co-borrower. Upon the material being placed on record, the Joint Charity Commissioner to consider the Application afresh, uninfluenced by the observations contained in the order dated 6th February 2024.

8. It is made clear that this Court has not considered the validity of impugned order or merits of the case and as upon perusal of the findings of Joint Charity Commissioner it was found that the necessary material is not placed on record, this Court has quashed and set aside the impugned order and as such all rights and contentions of all the parties are expressly kept open.

9. Petition stands disposed of.

[Sharmila U. Deshmukh, J.]