



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

WRIT PETITION NO. 1056 OF 2018

(Rushiji s/o Sambaji Raut and another ..vs.. Vijay s/o Syhriram Bagmare and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Rashmi Gurnule, Counsel h/f. Ms. Kirti Satpute, Counsel for the
petitioners,
Mr. J.Y. Ghurde, AGP for respondent No.2.

**CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.**

DATED : 06-08-2024

Heard the learned Counsel for the parties.

2. It appears that the petitioners, who are the recorded trustees, preferred an application under Section 41-A of the Maharashtra Public Trusts Act, 1950 (for short, "the Act") for issuance of direction to respondent No.1 who was recorded Secretary in earlier regime to produce original record of the Trust.

3. Instead of deciding the said application in the light of prayer made therein, the Assistant Charity Commissioner has passed the impugned order thereby directing the registered trustees to submit audit reports and also issued show cause notice for prosecution.

4. It appears that we have no doubt that the Assistant Charity Commissioner in the given case is very much armed with the powers to issue show cause notice

under Section 67 of the Act as has been observed in the impugned order, however, what is required to be noticed is the respondent-Assistant Charity Commissioner should have adjudicated the cause which was brought before it by the petitioners before issuing the directions to submit the audited accounts and also the show cause notice for prosecution.

5. In that view of the matter, we deem it appropriate to quash and set aside the impugned order dated 06-12-2017 passed by respondent No.2. The application under Section 41-A of the Act once stood restored to the file of respondent No.2, before whom the petitioners are directed to appear on 26-8-2024, it is directed to decide the said application of the petitioners and thereafter if so required, may take recourse to the provisions of Section 67 of the Act or for issuance of directions to the recorded trustees to submit the audite reports.

6. The petition stands partly allowed.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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