



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 4119 of 2023

Avinash S/o Ganpatrao Shegaonkar

Versus

Assistant Charity Commissioner, Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.D.Abhyankar, Advocate for the petitioner.

Shri B.M.Lonare, AGP for the respondent/State.

CORAM : ANIL S. KILOR, J.

DATED : 29th FEBRUARY, 2024.

1. The rejection of Misc. Civil Application No.333 of 2018 filed under Section 83 of the Maharashtra Public Trust Act , 1950 (in short hereinafter referred as “the Act, 1950”) for sanction to institute the prosecution for the offences punishable under the Act, 1950, came to be rejected vide impugned order dated 20th February, 2023 by the learned Assistant Charity Commissioner, Nagpur, which is the subject matter of challenge in this writ petition.

2. Despite the fact that, the specific allegations were made and all the details of the inquiry report and the findings recorded by the Inspector, have stated in the application under Section 83 of the Act, 1950 with

the names of the persons who were trustees at the relevant time, the Learned Assistant Charity Commissioner erroneously observed that the allegations are not specific allegations.

3. When the petitioner seeks to initiate prosecution on the basis of sufficient material on record, against the trustees who were in the office at the relevant time on grant of such permission, it is the matter of investigation. The investigating agency can find out the person guilty of the alleged offence.

4. However, despite a detailed report submitted by the Inspector, sufficiently disclosing the illegalities, the learned Assistant Charity Commissioner, Nagpur, ignored it.

5. In that view of the matter, I am of the opinion that the order dated 28th February, 2023 needs to be quashed and set aside and to remand the matter back to the Assistant Charity Commissioner to decide the same afresh after taking into consideration the facts narrated in paragraphs 4, 5 and 6 of the application under Section 83 of the Act, 1950.

6. The petitioner is at liberty to apply for joining the trustees who were in the office of the trust at the relevant time. If such application is moved, the

Assistant Charity Commissioner may decide on its own merit.

7. Accordingly, I pass the following order.

- i. The writ petition is partly allowed;
- ii. The order dated 20th February, 2023 by the Assistant Charity Commissioner, Nagpur is hereby quashed and set aside;
- iii. The matter is remanded back to the learned Assistant Charity Commissioner, Nagpur for deciding the same afresh.

Civil Application (CAW) No. 2621 of 2023

As the matter has already been remanded back to the Assistant Charity Commissioner, Nagpur, the application is disposed of with liberty to the applicants to file appropriate proceedings before the appropriate authorities as available under the law.

[ANIL S. KILOR, J.]