



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

WRIT PETITION NO. 7548 OF 2023

(Prashant s/o Uttamrao Janolkar Vs. Dy. Charity Commissioner, Akola & Ors.)

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

Court's or Judge's orders.

Shri C.A. Joshi, Counsel for the petitioner.

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CORAM : ANIL L. PANSARE, J.
JULY 23, 2024

The learned Counsel for the petitioner seeks permission to delete respondent no.1.

2] Permission is granted. Respondent no.1 be deleted forthwith.

3] Heard the learned Counsel for the petitioner. None appears for respondent nos. 2 and 3, though served.

4] The challenge is to order dated 25/10/2023 passed below Exh. 442 by the Assistant Charity Commissioner – 1, Akola, in Inquiry No. 48/2008.

5] The petitioner is a reporting trustee. The objector – respondent no.2 is under cross-examination. Pending cross-examination, respondent no.2 filed an application to discard a part of evidence, which relates to the Executive Meeting held on 9/12/2007.

6] It appears that certain material was brought on record against respondent no.2 in cross-examination. Respondent no.2, by filing the aforesaid application, has made request to discard said part of cross-examination.

The Assistant Charity Commissioner has allowed the application and has discarded the question in respect of the Executive Meeting dated 9/12/2007.

7] This finding is contrary to the law of evidence. Once the witness has deposed certain facts, it is impermissible to discard the evidence. It will be further impermissible to restrict cross-examination on a specific point. In a given case, this objector may raise objection to a question put up in the cross-examination, which will have to be dealt with by the Assistant Charity Commissioner in accordance with law of evidence. However, the Assistant Charity Commissioner should be mindful of the fact that cross-examination is meant for testing veracity of witness and to find out the truth.

8] In any case, once certain material has been brought on record in cross-examination, that part of evidence cannot be discarded by raising a plea that witness is old and got confused.

9] The impugned order is, therefore, unsustainable and is accordingly quashed and set aside. The Assistant Charity Commissioner shall permit the petitioner to cross-examine the witness in accordance with law of evidence.

10] The Writ Petition is disposed of in above terms.

(ANIL L. PANSARE, J.)

Sumit