



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

14 WRIT PETITION NO. 8016 OF 2024

Navalbhau Pratishtan Through Aniket Vijay Patil
VERSUS
The State Of Maharashtra & Others

AND

15 WRIT PETITION NO. 8017 OF 2024

Navalbhau Pratishtan Through Aniket Vijay Patil
VERSUS
The State Of Maharashtra & Others

- Mr. Y. A. Jadhav, Advocate for the Petitioner
- Mr. S. N. Kendre, AGP for the Respondent Nos.1 and 2/State

CORAM : R. M. JOSHI, J
DATE : MAY 05, 2025

COMMON ORDER :

1. These Petitions take exception to the order dated 08.05.2024 passed by the Joint Charity Commissioner (for short 'JCC') rejecting application nos. 28/2022 & 45/2022 respectively filed by the Petitioner under Section 36 of the Maharashtra Public Trust Act, 1950 (for short 'the Act') seeking permission to alienate the immovable property of the Trust.

2. There is no dispute about the fact that the

Petitioner is a public trust. Two applications were moved on 12.05.2022 seeking permission from the Charity Commissioner for alienation of different immovable properties belonging to the Trust. It is the case of the Petitioner that along with applications all relevant documents were placed on record including audit reports of three years prior to the date of applications so also the record in respect of the proposed expenses to be incurred for construction of building, plans, etc. The JCC by passing impugned order rejected the application essentially with observations that the Trust has failed to place on record these documents.

3. Learned Counsel for the Petitioner has drawn attention of the Court to the documents placed before the JCC indicating that the documents which are said to be not filed were in fact placed before the JCC, however, the said Authority has not considered the said documents. It is his further submission that the JCC has also committed error in applying the principles applicable to the post facto application as contemplated by Section 36(5) of the Act to the present

case when the application is filed under Section 36(1) of the Act seeking approval for alienation of immovable properties from the Charity Commissioner. It is his submission that in any case JCC has failed to take into consideration the material placed before it and rejected the applications.

4. Learned AGP sought to support the impugned orders.

5. Perusal of the impugned orders indicate that JCC has made specific observations that in application or evidence of the applicant no details of proposed building and expenditure of proposed construction is provided. With these observations, applications came to be rejected. JCC has failed to take into consideration the documentary evidence placed before it in this regard. The approach of the JCC is too technical to say that since there is no specific averments in the applications, the applications does not deserve acceptance. Perusal of applications clearly indicates purpose of the applications, so also need of the Trust to sell its property. The details of the proposed expenses are duly placed on record in form of

documentary evidence. It was always open for the JCC to permit the Petitioner to amend the applications if the documents were placed on record with regard to the need of the Petitioner Trust that alienation of the immovable property and such averments were found necessary.

6. Apart from this, the observations are made with regard to audit reports of the year 2021-22 and 2022-23 not been placed on record but the said reports were in fact duly placed before the JCC for its consideration, which are ignored. Perusal of the orders impugned also indicate that the JCC has not taken into consideration the provision of Section 36(1) in proper perspective and practically decided applications as if the same were filed for seeking post facto permission under Section 36(5) of the Act.

7. In view of above, the impugned orders cannot sustain and the same are hereby set aside. The proceedings are relegated back to the JCC for decision afresh. Petitioner is permitted to amend the applications to incorporate essential pleadings, which are duly supported by documentary evidence on record.

8. Since applications in question are filed in the year 2022 and the need of the Petitioner Trust is for the construction of the school building, the JCC is directed to decide the applications within a period of three months from today.

9. Needless to say that it is open for the Petitioner to place on record the subsequent audit reports and any other document necessary in support of the applications.

10. Petitions stand disposed of in above terms.

(R. M. JOSHI, J.)