



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10174 OF 2023

**STEPHAN VIJAY SAPKALE AND ANOTHER
VERSUS
THE JOINT CHARITY COMMISSIONER AND ANOTHER**

...
Mr. Girish S. Rane, Advocate for the Petitioners.
Mr. D. R. Korade, AGP for Respondents-State.
...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 11th AUGUST, 2025.**

P.C.:-

1. The petitioners impugn order dated 12.07.2022 passed by Joint Charity Commissioner, Nashik Region, Nashik in Application No.11/2015 under provisions of Section 36(1)(a) of the Maharashtra Public Trust Act, 1950, whereby prayer of petitioners to sanction permission to transfer of properties is declined.

2. Mr. Rane, learned Advocate appearing for petitioners submits that on 15.12.2014 in Annual General Meeting of Norwegian Free Evengical Mission, Chopda, Dist. Jalgaon, Resolution No.3 was passed to establish separate Trust for Dhanora and Manmad Unit for better management and protection of properties situated in those respective regions and transfer those properties to newly created Trust. In pursuance to aforesaid Resolution, Application No.11/2015 was moved before learned Joint

Charity Commissioner, which came to be rejected vide impugned order dated 12.07.2022.

3. Mr. Rane by inviting attention of this Court to Resolution dated 15.12.2014, passed in Annual General Meeting of Trust, would submit that aforesaid decisions are taken for better administration of Trust. The different properties situated at Manmad and Dhanora are decided to be separated for better administration by creating two individual Trusts. In pursuance to said decision, for Dhanora Unit, already Trust is created, eventually, application was made seeking transfer of properties standing in the name of original Trust to newly created Trust at Dhanora. The transfer is without consideration.

4. Mr. Rane would further invite attention of this Court to order dated 24.09.1992 in Application No.83/1992 passed under Section 36(1)(a) of the Bombay Public Trust Act, whereby similar decision of applicant/Trust, creating independent Trust for management of properties at Deogaon, District Jalna was entertained and approved by learned Charity Commissioner and transfer of properties to newly created Trust was permitted subject to conditions stipulated therein. Mr. Rane submits that inadvertently aforesaid order was not brought to the notice of learned Joint Charity Commissioner, when present application was heard and

decided. He would submit that if earlier similar decision of Trust is approved by Charity Commissioner in exercise of powers conferred under Section 36(1)(a) of the Bombay Public Trust Act, decision taken under Resolution dated 15.12.2014 to establish separate Trust at Dhanora and transfer of properties ought to have been approved.

5. Having considered submissions advanced, it can be observed that application of petitioners filed under Section 36(1)(a) of Maharashtra Public Trust Act is rejected mainly on two grounds. Firstly, Resolution of petitioners, hereby creating new Trust, registered vide P.T.R. No.F-5174/Jalgaon is not placed on record and secondly, from 2014 applicant/Trust itself is taking care of properties allotted to new Trust. So there is no necessity to transfer same in the name of newly registered Trust.

6. The aforesaid facts would depict that learned Joint Charity Commissioner was not convinced with bonafides behind decision of applicant/Trust to transfer properties in favour of newly formed Trust and intention behind such act. *Prima facie*, intention of Trust can be gathered from contents of Resolution dated 15.12.2014. Apparently, Trust wants to disintegrate various units, hence, decision is taken to form separate Trust for the purpose of better management of properties through local units. *Prima facie*,

ill-intention of applicant/Trust is not discernible. Apparently, transfer is without consideration. Similarly, as rightly pointed out by Mr. Rane previously similar decision of Trust is approved by Charity Commissioner under order dated 24.09.1992 passed in Application No.83/1992, by which properties of Trust were transferred to newly created Trust namely Norwegian Free Evangelical Mission India Trust, P.T.R. No.F-582, Jalna.

7. In light of aforesaid facts, this Court deems it appropriate to relegate matter for fresh consideration to learned Joint Charity Commissioner, particularly in light of previous order dated 24.09.1992 in Application No.83/1992. In result, following order is passed.

ORDER

- a. Writ Petition is partly allowed.
- b. The impugned order dated 12.07.2022 passed by Joint Charity Commissioner, Nashik Region, Nashik in Application No.11/2015, is hereby quashed and set aside.
- c. The matter is relegated back to learned Joint Charity Commissioner, Nashik Region, Nashik, who shall consider application afresh on its own merits in light of earlier decision in Application No.83/1992 dated 24.09.1992 and endeavour to take fresh decision within four months from the date of this order.

d. The petitioners shall be at liberty to place on record any additional material in support of their contentions.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/August-2025