

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8037 OF 2025**

Rajarshri Shahu Chhatrapati Shikshan
Prasarak Mandal ... Petitioner
vs.
Deputy Charity Commissioner and others ... Respondents

Mr. Prashant Bhavke for petitioner.

Mr. P. V. Nelson Rajan, AGP for respondent No.1-State.

Mr. Yuvraj Narwankar for respondent No.2.

**CORAM : MANISH PITALE, J.
DATE : 25th JUNE, 2025**

P.C. :

. Heard learned counsel for the petitioner.

2. By this petition, the petitioner has challenged an order dated 22.04.2025 passed by the Deputy Charity Commissioner at Exhibit 62, thereby only partly allowing the application. It is the case of the petitioner that the application ought to have been allowed in its entirety, in the light of an earlier order passed by the office of the Deputy Charity Commissioner itself.

3. It is brought to the notice of this Court that the change report proceedings before the Deputy Charity Commissioner were restored by an order dated 12.01.2024 passed by this Court in Writ Petition Nos.9198 of 2023 and 9228 of 2023. The petitioner had moved an application at Exhibit 37 seeking direction for production of original documents, in the light of the controversy that arose between the parties, from police authorities as certain documents were seized by

the police in pursuance of an FIR, some documents from the office of the Charity Commissioner and some documents with the concerned bank, as there were allegations made with regard to the genuineness of signatures.

4. The said application at Exhibit 37 was allowed by an order dated 22.07.2024 and the petitioner was directed to deposit requisite charges and *bhatte* for issuance of witness summons.

5. It appears that since the witnesses were not forthcoming, the petitioner insisted upon warrants being issued and in this situation, the Deputy Charity Commissioner passed an order on 24.09.2024, holding that instead of insisting upon the witnesses being brought before the authority, the petitioner was at liberty to apply to the concerned entities for obtaining copies and producing the same in the pending proceedings.

6. It is the case of the petitioner that in pursuance of the said permission granted by the Deputy Charity Commissioner, the police authorities as well as office of the Charity Commissioner made available true copies, which could be produced before the Deputy Charity Commissioner, but the bank refused to provide such true copies.

7. In this backdrop, the application at Exhibit 62 was filed seeking permission to lead secondary evidence in the matter. As noted hereinabove, the application was partly allowed. Insofar as the documents lying in the bank's custody are concerned, the prayer for leading secondary evidence was rejected only on the ground that the petitioner failed to produce proof of having applied to the bank for

supplying such true copies.

8. The learned counsel for the petitioner submitted that since the petitioner had approached the bank on the basis of the direction issued by the Deputy Charity Commissioner, the approach adopted in the impugned order was hyper-technical and on this ground alone, the impugned order deserves to be set aside, with a further direction that the application at Exhibit 62 may be allowed in its entirety, paving the way for leading secondary evidence, even in respect of the documents lying in the bank's custody.

9. The learned counsel appearing for the contesting respondent No.2 submitted that the proceedings before the Deputy Charity Commissioner are at final stage and that the petitioner has left no stone unturned in delaying the matter, despite the fact that this Court, while disposing of the earlier writ petitions, had specifically directed that no unnecessary adjournments would be sought and that the parties would co-operate for early disposal of the change report. It was submitted that the documents, on the basis of which grievance is being raised by the petitioner, are documents that cannot be categorized as public documents and in that light, the grievance is not genuine and that in any case, it is raised with the intention of further delaying the proceedings before the Deputy Charity Commissioner.

10. Having considered the rival submissions and upon perusal of record, this Court is of the opinion that in the light of the earlier orders passed by the Deputy Charity Commissioner itself, on 22.07.2024 at Exhibit 37 and subsequent order dated 24.09.2024, pursuant to which the petitioner applied to the bank for supplying

true copies, it appears a bit surprising that the Deputy Charity Commissioner, while allowing the prayer for the other documents, rejected the prayer for leading secondary evidence with regard to the documents lying in bank's custody, only on the ground that the proof of the petitioner having moved an application before the bank, was not produced. There is substance in the contention raised on behalf of the petitioner that this amounts to a hyper-technical approach, which would deprive the petitioner of an opportunity to lead secondary evidence, while such a prayer has been granted in respect of other documents, particularly when the application at Exhibit 37 was allowed in the context of all such documents.

11. Hence, this Court is of the opinion that the impugned order cannot be sustained and therefore, the petition deserves to be allowed.

12. Accordingly, the petition is allowed and the application filed by the petitioner at Exhibit 62 before the Deputy Charity Commissioner is allowed in its entirety.

13. The petitioner shall now take immediate consequential steps before the Deputy Charity Commissioner and it would be ensured that merely because the present petition has been allowed, the proceedings do not languish before the Deputy Charity Commissioner.

14. The change report pertains to the year 2021 and the term of the elected body in respect of which the change report has been filed, shall expire in the year 2026, thereby indicating the urgency in the matter. There is substance in the contention raised on behalf of the

contesting respondent No.2 that in the light of the earlier order passed by this Court, the proceedings before the Deputy Charity Commissioner ought to reach finality at the earliest.

15. In view of the above, the Deputy Charity Commissioner is directed to take up the proceedings in respect of the said change report in an expeditious manner and to dispose of the same on or before 31.08.2025. It is made clear that no extension of time shall be granted.

16. It is also made clear that this Court has not commented upon the relevancy or otherwise of the subject documents.

(MANISH PITALE, J)

Priya Kambli