



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

WRIT PETITION NO.953/2025

Sharad Mahadeorao Gedam .Vs. Shrikrishna Narayanrao Pande and Ors.

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

Court's or Judge's orders

Mr. S. D. Abhyankar, Advocate for petitioner.
Mr. A. P. Thakare, Advocate for respondent No.1.
Mr. A. G. Mate, A.G.P. for respondent No.23.

CORAM : ANIL L. PANSARE, J.

DATE : JUNE 11, 2025

After having heard at length, it appears that by impugned order, the Deputy Charity Commissioner, Nagpur has, though heard the parties on the point of maintainability of the application filed by respondent No.1 under Section 50A of the Maharashtra Public Trusts Act, 1950 and though has referred to various authorities cited by both sides, decided to hear the application on merits along with Exh.-1.

2. Thus, the Deputy Charity Commissioner has heard the application on merit, recorded arguments made by both the sides, referred to the judgments cited and despite such fact, has decided to once again hear the application on merit along with Exh.-1. This has been done for no good reason.

3. The question put forth by petitioners-intervenors before the Deputy Charity Commissioner is that since the bye-laws are in existence for proper administration of the Trust, application under Section 50A will be not maintainable because framing of scheme would be not necessary. As against, the argument of respondent No.1 is, whether or not there are bye laws in existence, once the application under Section 50A is filed, the Charity Commissioner will have to see whether there are reasons to believe that in the interest of proper management/administration of a public Trust, scheme should

be settled and to arrive at a conclusion, the Charity Commissioner will have to consider the bye laws of the society and, therefore, merely because of existence of bye laws one cannot argue that the application for framing scheme is not maintainable.

4. That being so, the Deputy Charity Commissioner, to my mind, ought to have decided the issue of maintainability of application, which is of the nature of preliminary objection and it goes to the root of the case. Moreso, when he has, in detail, noted arguments and judgments of both the sides. What was then left was to render, final verdict. He, however, avoided to do so for no valid reason.

5. The Deputy Charity Commissioner shall, therefore, decide the application Exh.-72 before proceeding further. The petition is disposed of in terms of the above. No order as to costs.

(Anil L. Pansare, J.)