



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3072 OF 2019

1. Manvi Hakka Sanrakshan and Jagruti
 (Registered under Societies Act)
 Having Address at Flat No.31,
 Sharda Heritage Survey No.31,
 Sinhgad Road, Pune – 411 051
 Through Vikas Kuchekar, President
 of Manvi Hakka Sanrakshan Jagruti

2. Abhishek Subhash Haridas
 Vice President of Manvi Hakka
 Sanrakshan Jagruti A/4-3, Anchal
 Housing Society Opp. Rahul Nagar,
 Kothrud, Pune – 411 038

...Petitioners

Versus

1. Charity Commissioner of Maharashtra
 State Garment House, 3rd Floor,
 Dharmaday Ayukta Building,
 Worli, Mumbai – 400 018

2. The Chairperson
 Maharashtra State Human Rights
 Commission 9, Hajarimal Somani Marg,
 Opp. Near Chhatrapati Shivaji Terminus,
 Mumbai, Maharashtra – 400 001

3. Joint Charity Commissioner,
 1, BS Dhole Patil Path,
 Pune, Maharashtra – 411 001

4. State of Maharashtra
 Through Charity Commissioner

...Respondents

Dr. Abhishek Subhash Haridas a/w Mr. Vikas Shravan Kuchekar for
 Petitioners-in person present.

Mr. Abhay Anturkar, appearing as an *Amicus Curiae*.

Mr. A. I. Patel, Addl. G. P. a/w Mr. S. L. Babar, AGP for Respondent-
 State.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

RESERVED ON : 29 November 2024

PRONOUNCED ON : 6 December 2024

JUDGMENT (Per Jitendra Jain J):-

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.

Challenge:-

3. By this Writ Petition under Article 226 of the Constitution of India, the Petitioner-Trust has challenged the Revised Circular No.543 dated 04 July 2018 issued by the Charity Commissioner, Maharashtra State, Mumbai. The said Circular directs notices to be issued to the Trustees of the Trust which use the phrases “*Bhrashtachar Nirmulan Mahasangh*”, “*Bhrashtachar Virodhi Andolan*”, “*Bhrashtachar Mukta Bharat*” or “*Human rights*” in the title of the Trust name and further directs them to remove the same.

4. This Court on 10 October 2024 requested Advocate Mr. Abhay Anturkar to appear as an amicus curiae to assist the Court. Although he is an outstation counsel, Mr. Abhay Anturkar readily and graciously accepted the request. The Court appreciates the assistance given by the learned Advocate, who, with his arguments, research, and written

submissions, which will be discussed in the course of our judgment, assisted the Court in deciding the issue raised for our consideration.

Submissions of the Amicus Curiae:-

5. The learned amicus curiae submitted that the reasoning given for issuing the impugned Circular runs contrary to the definition of “Charitable Purposes” as defined by Section 9 read with Section 2(13) of the Maharashtra Public Trusts Act, 1950. He further submitted that under the Maharashtra Public Trusts Act there is no provision akin to Section 4(3) of the Companies Act 2013 or Section 3-A of the Societies Registration Act, 1860 which provides for prohibition of registration with undesirable names or those showing patronage of the Government. He further submits that the said Circular does not refer to the Section of the Maharashtra Public Trusts Act or the source of power under which it has been issued. Learned Amicus Curiae relied upon the Supreme Court's decision in the case of *CIT vs. Andhra Chamber of Commerce*¹, *Laxman Balwant Bhopatkar (since deceased) by Another Vs. The Charity Commissioner, Bombay*² and *State of Bombay and Others Vs. Hospital Mazdoor Sabha and Others*³ in support of his submissions. Learned Amicus Curiae, therefore, submitted that the impugned Circular is bad in law.

1 1964 SCC OnLine SC 109

2 1962 SCC OnLine SC 290

3 1960 SCC Online SC 44

Submissions of the State-Respondent:-

6. Mr. Patel, learned Additional Government Pleader supported the issuance of the Circular and submitted that by using the phrases enumerated in the Circular, the general public gets an impression that the Organisation / Trust has powers to deal with the issues of corruption and human rights, and thereby results into a false impression being created in the minds of the general public. It was with these objectives and the representation received that the impugned Circular was issued in the public's interest. He further submitted that the State has been taking action against the Trusts, which impersonates as if they have the powers of the State to deal with corruption and human rights. Mr. Patel further submitted that this Circular has been issued for superintendence and administration of the Maharashtra Public Trusts Act and, therefore, the Circular cannot be held to be bad in law.

Analysis & Conclusions:-

7. We have heard learned counsel Mr. Anturkar as amicus curiae and Mr. Patel, Additional Government Pleader and with their assistance have perused the documents annexed to the petition and brought to our notice. We have also heard the Petitioner, who appeared in person.

8. Before we delve into the issue raised for our consideration, it would be apt to reproduce the English translation of the impugned Circular No.543 dated 4 July 2018, which reads as under:-

(Translation of a photocopy of a Revised Circular No.543 dated 04.07.2018, typewritten in Marathi)

Exhibit - 'A'

*Outward No.. 3964/2018.
Office of the Charity Commissioner.
3rd Floor, 83, Dr. Annie Besant Road,
Worli, Mumbai – 400 018.
Tel. No. 24935434, 24935490
Date : 04th July, 2018.*

Revised Circular No.543, Date 04.07.2018

All Officers working in the State are hereby informed that various Organizations under the names “Bhrashtachar Nirmulan Mahasangh”, “Bhrashtachar Virodhi Andolan” or “Bhrashtachar Mukta Bharat” and such other names have been registered in the State. In fact, eradication of corruption is the duty of the Government and the Government Machinery has powers to take action against the corruption. However, some Organizations, just because of having words viz. “Bhrashtachar Virodhi” in their titles, deem that they have powers with them or with their Organizations to take action against the Officers or persons facing complaints of corruption and take actions against them. As a result, people in general are cheated and the names of such Organizations are misused. As per the decision given by the Hon’ble Bombay High Court, eradication of corruption cannot be a social objective of any Organization.

If human rights are violated then, for seeking reliefs or for taking cognizance in respect thereof, the Government has set up an Office for protection of human rights. Various Organizations have words viz. “Human rights” in their title and because of the names of such Organizations, people are cheated or such names are misused. The In-Charge Chairman of the Human Rights Commission, Maharashtra, has sent a letter to this Authority and has requested therein to take action against those Organizations having the said words in their titles. Eradication of corruption or (Protection of) Human rights cannot be the objective of any Organization or such words cannot be used in the title of such Organizations. As per the provisions of the Maharashtra Public Trusts Act, these objectives cannot be the social, religious or educational objectives. In fact, the Government Machinery has powers to take action in eradicating the corruption or against violation of human rights. Therefore, Notices should be issued to the Trustees of such registered Organizations and they should be directed to remove the words viz. “Bhrashtachar Nirmulan” or “Bhrashtachar” and “Human Rights” from the titles of their Organizations and if the Trustees of such Organizations refuse thereto then, appropriate action as per the provisions of Maharashtra Public Trusts Act should be taken against them.

(Signature Illegible)

(S. G. Dige)

Charity Commissioner,
Maharashtra State, Mumbai.

Copy :

- 1) *Circular File*
- 2) *All Joint Charity Commissioners,*
- 3) *All Deputy Charity Commissioners,*
- 4) *All Assistant Charity Commissioners,*
- 5) *Computer Branch, Head Quarter (For uploading this Circular on Web-site)*

9. On a reading of the Circular, the reasoning for issuing the same appears to be that eradication of corruption is the duty of the Government and the Government machinery has powers to take action against the corruption and, therefore, by using the phrases enumerated therein, the Organisation / Trust assumes to itself the power to take action against the persons facing corruption complaints and, therefore, the names of such organisation results into misuse. The said Circular further states that eradication of corruption and protection of human rights cannot be social, religious or educational objective of any organisation as per the decision of the Bombay High Court. It also refers to a letter addressed by the Chairman of the Human Rights Commission on this issue for taking action against those organisations having the words “human rights” in their title. It is in this context that we are called upon to test the legality of the impugned Circular.

10. Section 9 of the Maharashtra Public Trusts Act, 1950 reads as under :-

9. *Charitable purposes.*

[(1)] *For the purposes of this Act, a charitable purpose includes-*

(1) relief of poverty or distress;

(2) education: (3) medical relief;

(3A) Provisions for facilities for recreation or other leisure time occupation (including assistance for such provision), if the facilities are provided in the interest of social welfare and public benefit, and

(4) the advancement of any other object of general public utility, but does not include a purpose which relates -

(b) exclusively to religious teaching or worship.

[(2)] *The requirement of this section that the facilities are provided in the interest of social welfare shall not be treated as satisfied, unless-*

(a) the facilities are provided with the object of improving the condition of life for the persons for whom the facilities are primarily intended; and

(b) either-

(i) those persons have need of such facilities as aforesaid by reason of their youth, age, infirmity or disablement, poverty or social and economic circumstances, or

(ii) the facilities are to be available to the members of the public at large.

(3) Subject to the said requirement, sub-section (1) of this section applies in particular to the provision of facilities at village halls, community centres and womens' institutes, and to the provision and maintenance of grounds and buildings to be used for purpose of recreation and leisure time occupation, and extends to the provision of facilities for those purpose by the organising of any such activity.

(emphasis supplied)

11. Section 9 of the Maharashtra Public Trusts Act, 1950 (the said Act) defines charitable purpose to include relief of poverty or distress; education; medical relief; provision for facilities for recreation or other leisure time occupation if the facilities are provided in the interest of social welfare and public benefit and *advancement of any other object of general public utility*, but does not include a purpose which relates exclusively to religious teaching or worship.

12. The phrase “*advancement of any other object of general public utility*” is of a broad amplitude. The word ‘*general public utility*’ is not capable of a precise meaning, but it is well settled that public utility means public purpose. ‘General’ means pertaining to a whole class; ‘public’ means the body of people at large, including any class of the public; and “utility” means usefulness. Therefore, the advancement of any object of general public utility would mean benefit to the public in all sections of the public as distinguished from an individual or group of individuals would be of charitable purpose.

13. The expression “*any other object of general public utility*” is of the broadest connotation and, therefore, the definition given under Section 9 of the said Act is of much wider application than understood in English law. The expression “*object of general public utility*” would include all objects which promote the welfare of the general public. It cannot be said that the purpose would cease to be charitable even if public welfare is intended to be served, thereby including taking steps to urge or oppose legislation. If the primary purpose is the advancement of objects of general public utility, it would remain charitable even if an incidental entry results into political domain for achieving that purpose. An object of public utility need not be an object in which the whole of the public is interested. It is sufficient if a well-defined section of the public benefits by the object. An object beneficial to a section of the

public is an object of general public utility and the object doesn't need to be to benefit the whole of mankind.

14. The impugned Circular since it states that as per the provisions of the said Act, the objective of eradicating of corruption and protecting of human rights cannot be social, religious or educational; the objective is contrary to the definition of charitable purposes as defined by Section 9 of the said Act inasmuch as the impugned Circular ignores and does not take notice of Clause 4 of Section 9 of the said Act which states that charitable purpose would include the advancement of any other object of general public utility. This Circular also does not provide any details of the reference of the judgment of the Bombay High Court, which states that such an objective cannot be a social objective of any organisation. Mr Patel also could not produce any such decision for our perusal.

15. The issue is not whether such objective of eradication of corruption and protection of human right is a social objective or not, but the issue is whether it is a charitable purpose as defined by Section 9 of the said Act. Therefore, in our view on the face of it the basis of issuing the impugned Circular is contrary to the definition of charitable purpose as defined by the said Act and, therefore, such a Circular cannot stand the test of legal scrutiny. The views expressed by us is in consonance with settled decisions of the Supreme Court on the

“advancement of any other object of general public utility” which the learned amicus curiae has relied upon and holds the field even today. Now we propose to analyse how “corruption and protection of human rights” satisfy the test of general public utility.

16. In recent times, corruption has become cancerous which affects not only the common people who cannot use the said means to get what they are legally and rightfully entitled to, but corruption also impairs the growth of the country’s economy and functioning of the bureaucracy. The effect of corruption is that a person is denied his rightful and legal entitlement because he decides or cannot afford to bribe the officials. The economic effect of corruption is that such amount escapes the flow of money in the official / formal economy and results into a parallel economy which further deprives the State of its rightful use by way of taxes and consequently the growth of the economy which taxes recovered could have been used for development of infrastructure, public welfare, etc. Such a practice is also contrary to the Prevention of Corruption Act, 1988.

17. We cannot lose sight of the fact that corruption affects both, the common man and the economy at large, and no such practice should be prevailing or be encouraged. This analysis leads to the satisfaction of the test of general public utility. We have discussed this for coming to a conclusion that an organisation set up for fighting

corruption or eradication of corruption would certainly fall within the phrase 'advancement of any other object of general public utility' for the purposes of Section 9 of the said Act and, therefore, any other interpretation would be contrary to and in the teeth of the said provision and, therefore, the Circular to the extent that it states the eradication of corruption cannot be a social objective of any organisation, is contrary to the definition of charitable purpose for which the organisation is registered under the said Act.

18. The legal concept of human rights is widely defined in Section 2(d) of the Protection of Human Rights Act, 1993 to mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the international covenants and enforceable by Courts in India. The phrase "human rights" has to be widely construed under the constitutional framework of our country and if an organisation is formed to take up the cause of the people whose rights are affected then, we see no reason why such an organisation cannot be treated as "charitable purpose" as more detailed analysed hereinabove in our discussion on the definition of the charitable purpose.

19. Corruption and human rights are closely associated with each other. Corruption is detrimental to all areas and aspects of human wellbeing, in particular human rights held by all individuals. Thus

effective protection and guarantee of human rights necessarily includes mitigating systematic problems such as corruption. Corruption has significant negative effects on all areas of human wellbeing and is perceived as one of the major problems, jeopardising economic development, the functioning and legitimacy of Government institutions and processes, the rule of law and validity of the State itself. The concept of human rights is equally complex and it deals with civil and political rights such as the right to a fair trial and right to participate in the Political Process, Economic, Social and Cultural Rights, such as the right to health and the right to education, Collective or group rights such as self-determination and the right to development. The strong link between corruption and human rights violation is emphasised by numerous policy experts, practitioners and institutions and the same is echoed by United Nations in its various research papers. The efforts of eradicating corruption and protecting human rights is not only taken at the micro level, but even at macro and international level by various associations.

20. We agree that an organisation formed for fighting corruption cannot take law in its own hands since the enforcement and redressal of the grievance has to be in accordance with the law, and there are enough machinery and enforcement agencies which are formed for examining the issue of corruption. For example, the Prevention of

Corruption Act, 1988 is one such Act which deals with this issue. The machinery provided under these Acts will have to be triggered by the organisation which is fighting corruption.

21. The Organisation / Trust cannot certainly impersonate to be the organisations which have been empowered to enforce such laws. For such kind of organisations, certainly the State has to take action for taking the law in its own hands. Mr. Patel fairly states that the State has been taking action against such organisations. However, merely because the Organisation's / Trust's title bears the phrases referred to in the Circular would not mean that all such organisations take law in their hands and take action against the officers facing charges of corruption. Therefore, merely because such phrase is used in the title of the Trust would not mean that such Organisation / Trust is functioning as a kangaroo Court and if any such Trust / Organisation is acting like a kangaroo Court, then certainly the State rightly has to take action by curbing the activities of such kangaroo Courts but not by forcing to change the name.

22. The authorities under the said Act are not powerless if it comes to their notice that any Trust is impersonating the State by its activities and necessary action can be certainly taken. Mr. Patel, learned Additional Government Pleader has stated that they have taken action curbing the activities of such kangaroo Courts. Sections 37 and 41B

gives powers to the authorities under the said Act for conducting enquiries, inspection and supervision. Therefore, there are enough safeguards provided under the Trust Act to take action against the Trust if such Trust acts as a kangaroo Court or impersonates the State Government or State instrumentalities.

23. Whether the title of the Trust includes or does not include the phrases used in the Circular would not make any difference, if a Trust not bearing such phrases in the title still runs kangaroo Courts, but on the contrary the phrases used in the Circular if found in the title of the Trust would give an indication to the common people that such Trust has been formed for taking up the cause of corruption and human rights with the appropriate authorities. The use of these phrases nowhere would give any impression that such Organisation or Trust has the power to take action against the person who is facing corruption charges or who is violating human rights.

24. One of the reasons in the Circular states that eradication of corruption and protection of human rights is the duty of the Government and the Government machinery has powers to take action for its eradication or protection respectively and, therefore, the need for issuing the impugned Circular. Certainly, the State has the power to take action against the person who is charged with corruption or who violates human rights but for taking up the cause of corruption or

violation of human rights, if a Trust is formed then certainly that cannot be a ground for directing such Trust to remove the phrases which are used in the Circular. If the reasoning given in the Circular is accepted then it would mean that there would hardly be any Trust formed because the definition of Trust includes relief of poverty or distress; education; medical relief; etc. and under the Constitution of India and the fundamental rights granted by the Constitution of India, it is the duty of the State to protect the people from poverty, give education and medical relief. However, inspite of the directive principles of State policy and fundamental rights enshrined in the Constitution of India, we have Trusts formed for medical relief, education, poverty, etc. Therefore, the reasoning given in the impugned Circular on this count also does not appeal to us.

25. Now we propose to analyse the provisions of the Maharashtra Public Trusts Act on the issue raised for our consideration. Section 18 of the said Act provides for registration of public trust to be made by way of an application to the authorities under the Act and the application shall contain *inter alia* various information including the designation by which the public trust shall be known. On receipt of the said application, an enquiry is conducted by the authorities under the Act and only on completion of the enquiry and on the satisfaction of the authorities that a registration is granted, entries are made in the register

maintained for the said purpose. Section 21(2) states that the entries so made shall be final and conclusive subject to the provisions of this Act or subject to any change recorded. Section 22 deals with the provisions relating to change and the procedure to be followed. This change has to be at the behest of the Trustee which results into change in the entries recorded under Section 21, and on enquiry and satisfaction of such a change same has to be recorded in the register. Rule 8A of the Maharashtra Public Trusts Rules provides that when the name of any Trust is changed the authorities would record the same in the register maintained and a fresh certificate would be issued.

26. On a reading of the provisions of the Act, we are of the view that once the authorities issue certificate of registration under the Act they do not have the power to direct the Trustees to change the name of the Trust. If the name of the Trust gives an impression of it belonging to the Government or patronage by the Government then the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 can certainly be invoked by the authorities under the said Act of 1950.

27. Mr. Anturkar is right in making his submission that Section 3A of the Maharashtra Societies Registration Act, as amended by the State of Maharashtra, provides for the prohibition against the registration of societies with undesirable names, and such a provision does not exist under the Maharashtra Public Trusts Act. Similarly, Section 4(3) of the

Companies Act, 2013 provides that a company shall not be registered with the name which contains any word or expression which is likely to give the impression that the company is anyway connected with or having the patronage of the Central Government or State Government or any local authority, etc.

28. If the intention of the Maharashtra Public Trusts Act was to prohibit the use of the phrases mentioned in the impugned Circular then the legislature would have made similar provision like the Companies Act or the Maharashtra Societies Registration Act empowering the authorities under the said Act not to register such Trust. In the absence of any such provision, we do not think that the Charity Commissioner was justified in issuing the impugned Circular. Even otherwise, mere use of the name 'prevention of corruption' or 'protection of human rights' would not mean that the Trust can be said to have any patronage from the State. These are phrases of general use rather than indicating any impersonation of the State machinery. At the most, Respondent No.1 could have suggested that below the name of the Trust in the bracket it may be mentioned as "Non-Government Organisation NGO". But we still doubt whether this could be done by simply issuing a circular without any statutory support to back the same.

29. Section 22(1) of the Maharashtra Public Trusts Act, 1950 provides for change when same is desired in the interest of the administration of public trust. In our view, the phrase “administration of public trust” would mean the Trust is not functioning properly and it is working of the Trust that requires a change which is contemplated under Section 22(1), for example, the Trustees are not discharging their duties properly etc. would fall within the phrase “administration of trust”. Therefore, changing name at the behest of and on directions of Charity Commissioner would not fall within the provisions of Section 22(1) of the Maharashtra Public Trusts Act, 1950. If however, the Trust works like kangaroo Courts then it is the actual working of the Trust which would require a change and which can be changed under Section 22(1) of the said Act. It will be on a case to case basis that the authorities under the Act would require to enquire into such an eventuality. Therefore, in our view, the impugned Circular cannot fall within the provision of Section 22(1) read with Section 69(a) of the Maharashtra Public Trusts Act.

30. We may also refer to the following two decisions rendered in the context of Emblems and Names (Prevention of Improper Use) Act, 1950 wherein it is observed that the name ‘South India Textiles’ does not signify sanction / approval or patronage of the Government merely because the phrase ‘India’ is used or the word ‘India / National / Bharat’

used in conjunction with other words in the name of the Entity etc. It cannot be construed by itself to be improper use of the name within the said Act nor does it suggest patronage or support of the Government of India or the Government of State;

(i) *South India Textiles and Ors. Vs. Government of A.P and Ors.*⁴ &

(ii) *New Indian Public School Society Vs. State of Rajasthan*⁵

31. We may also refer to the decision of the learned Single Judge in case of Mr. *Abdul Rahman s/o Mohammed Syed, Managing Trustee, Human Rights Watch Vs. The Inspector of Police & Anr.*⁶, where the Madras High Court had dismissed the writ petition challenging Circular issued by the Sub-Registrar wherein a similar direction of not using the name “Human Rights” was issued. The Madras High Court after referring to the Full Bench decision of Tamil Nadu State Human Rights Commission and by referring to Section 9(2)(c) Tamil Nadu Societies Registration Act, 1975 dismissed the writ petition upholding the circular.

32. In our view, this decision would not be applicable to the facts of the present case inasmuch as in the present case, the provision of Maharashtra Public Trusts Act is invoked whereas before the Madras High Court, the provisions for consideration was the Tamil Nadu Societies Registration Act, 1975 and most specifically Section 9(2)(c)

4 AIR 1989 Andhra Pradesh 55

5 AIR 2016 Rajasthan 62

6 (2015) 5 Mad. LJ 218

where after the word “Council”, the word “Human Rights” was inserted. We have already observed above by analyzing the Maharashtra Public Trusts Act that there was no provision which empowers the Charity Commissioner to direct the Trust to change their name. Therefore, the said decision is not applicable to the facts of our case.

33. We make it clear that we have been called upon to decide the issue only insofar as the Maharashtra Public Trusts Act is concerned. Our judgment should not be treated as laying down any law under any other Act which is not the subject matter for our consideration.

34. In view of above, we quash the revised Circular No.543 dated 4 July 2018. However, Respondents are free to take any action in accordance with law if it is found that any trust or organisation registered under the Maharashtra Public Trusts Act, 1950 are acting like kangaroo Courts or impersonating themselves by way of their activities as instrumentalities of this State. This Petition is disposed of in above terms without any order for costs.

We may end by saying *“Naam me kya rakha hai, kaam dekhna chahiye. Agar kaam galat ho to sakht karvaai karni chahiye”*.

(नाम मे क्या रखा है, काम देखना चाहिये. अगर काम गलत हो तो सख्त कारवाई करनी चाहिये).

(Jitendra S. Jain, J.)

(M. S. Sonak, J.)