

**(2009) 05 BOM CK 0023**

**In the Bombay High Court**

**Case No : Second Appeal No. 824 of 2006**

Mohd. Abdul Rasheed and Mohd. Osman APPELLANT

Vs

Deputy Charity Commissioner, Joint Charity Commissioner,  
Mohd. Gous and Gulam Ahmed Qureshi RESPONDENT

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**Date of Decision : 06-05-2009**

**Acts Referred:**

Bombay Public Trusts Act, 1950 — Section 144, 37, 38, 39, 40  
Civil Procedure Code, 1908 (CPC) — Section 100, 2(2)  
Constitution of India, 1950 — Article 14, 227

**Citation :** (2009) 93 BomCR 537 : (2009) 6 MhLj 545

**Hon'ble Judges :** P.R. Borkar, J;N.V. Dabholkar, J

**Bench :** Division Bench

**Advocate :** P.R. Katneshwarkar, for the Appellant; M.M. Joshi, for the Respondent

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## Judgement

1. The learned Single Judge (Coram : V.R. Kingaonkar, J.) by his order dated 24.4.2007 has made Reference to Larger Bench and accordingly by orders of Honourable the Chief Justice this Special Bench is constituted. The point of Reference can be summed up as follows:

Whether as against interim order of suspension passed u/s 41D(3) of the Bombay Public Trusts Act, 1950, an application to District Court and against order of District Court in such application, an appeal to High Court are tenable?

2. In Second Appeal No. 824 of 2006 the learned Judge has expressed view that application to District Court or an Appeal to this Court are not tenable against interim order passed u/s 41D(3) of the Bombay Public Trusts Act, 1950 (hereinafter referred to, "the Act of 1950"); whereas in Writ Petition No. 656 of 1999 view is expressed by the learned Judge (Coram : B.H. Marlapalle, J.) that such application to District Court and an appeal to High Court are tenable.

3. Before we proceed to the arguments advanced before us, we may reproduce Section 41D of the Act of 1950 for ready reference. It is as follows:

41D. Suspension, removal and dismissal of trustee:

(1) The Charity Commissioner may, either on application of a trustee or any person interested in the trust, or on receipt of a report u/s 41B or suo motu may suspend, remove or dismiss any trustee of a public trust, if he:

(a) makes persistent default in the submission of accounts, report or return;

(b) wilfully disobeys any lawful orders issued by the Charity Commissioner under the provisions of this Act or rules made thereunder by the State Government;

(c) continuously neglects his duty or commits any malfeasance or misfeasance, or breach of trust in respect of the trust;

(d) misappropriates or deals improperly with the properties of the trust of which he is a trustee;

(e) accepts any position in relation to the trust which is inconsistent with his position as a trustee; or

(f) is convicted of an offence involving moral turpitude.

(2) When the Charity Commissioner proposes to take action under Sub-section (1), he shall frame charges against the trustee or the person against whom action is proposed to be taken and give him an opportunity of meeting such charges of testing the evidence adduced against him, and of adducing evidence in his favour. The order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding on each charge, with the reasons therefor.

(3) Pending disposal of the charges framed against a trustee, the Charity Commissioner may place the trustee under suspension.

(4) Where the Charity Commissioner has made an order suspending, removing or dismissing any trustee and such trustee is the sole trustee, or where there are more than one trustee and the remaining trustees, according to the instrument of trust, cannot function or administer the trust without the vacancy being filled, then in that case the Charity Commissioner shall appoint a fit person to discharge the duties and perform the functions of the trust, and such person shall hold the office only until a trustee is duly appointed according to the provisions of the instrument of trust.

(5) A trustee, aggrieved by an order made under Sub-section (1), may within ninety days from the date of communication of the order of suspension, removal or dismissal, apply to the Court against such order.

(6) An appeal shall lie to the High Court against the decision of the Court under Sub-section (5) as if such decision was a decree from which an appeal ordinarily lies.

(7) The order of the Charity Commissioner shall, subject to any order of the

Court or in appeal, be final.

We may also note that Section 41D of the Act of 1950 was inserted by Maharashtra Act XX of 1971 and is made applicable with effect from 15.6.1972.

4. Heard Mr. P.R. Katneshwarkar, advocate for the appellants and Mr. M.M. Joshi, advocate for the respondents.

5. Shri Katneshwarkar, advocate for the appellants stated that as per Sub-section (5) of Section 41D of the Act of 1950 a trustee aggrieved by the order passed under Sub-section (1) may within ninety days from the date of communication of the order of suspension, apply to the District Court against such order. No specific appeal is provided in case of suspension pending disposal of charges framed against a trustee by the Charity Commissioner. He argued that Section 41D(1) and (3) of the Act of 1950 both use word "suspension" and result of both must be same. He mainly adopted the arguments which were accepted by another Single Bench (Coram : V.V. Kamat, J.) in the case of M.D. Kamble and Ors. v. Ganpat Todmah and Ors. 1992 MCR 418 to support his case that even order passed u/s 41D(3) against a trustee can be challenged by moving an application u/s 41D(5) of the Act of 1950 before the District Court and an appeal is tenable against the decision of District Court to the High Court.

6. On the other hand, Shri M.M. Joshi, advocate for the respondents relies upon the observations by the Single Bench in the Second Appeal while making Reference. He also referred to Sections 41A to 41E of the Act of 1950 and argued that Section 41A to 41E of the Act of 1950 are additional measures of control introduced in the Bombay Public Trusts Act. He also referred to Section 72 where an application to District Court can be made against certain orders and he argued that no appeal is provided against suspension pending the inquiry into charges in order to avoid multiplicity of litigation. He also argued that the suspension u/s 41D(3) of the Act of 1950 is mainly a measure to protect the trust and not a punishment imposed on trustee as in case of Section 41D(1) of the Act of 1950 under which action is taken after charges are proved. So in the circumstances of the case, according to him, no Appeal to High Court is maintainable.

7. In Writ Petition No. 656 of 1999 it was argued before the Court that since the impugned order was passed u/s 41D(3) of the Act of 1950, it was not covered by the provisions of Section 41D(5) of the Act of 1950 and it is not appealable as it is not a final order. The court observed that suspension of trustee is always temporary, at interlocutory stage, pending some inquiry and when a member is suspended, the powers are derived from Sub-section (1) of Section 41D of the Act of 1950 and hence the suspension of trustee shown under Sub-sections (1) or (3) of Section 41D of the Act of 1950 is always pending inquiry and it does not amount to removal or dismissal which is a final action and, therefore, it is held that the impugned order was appealable under Sub-section (6) of Section 41D of the Act of 1950, and, therefore, Writ Petition was dismissed with liberty to file appeal.

8. In the case of M.D. Kamble referred to above the Single Bench (Coram : V.V. Kamat, J.) considered the arguments advanced in para 13 onwards. Paras 10 and 11 discuss the reasons given by the Additional District Judge, Ahmednagar for holding that application (which is in fact an appeal) was not maintainable. The learned Additional District Judge observed that word, "suspension" used at two places; one in Sub-section (1) and other in Sub-section (3) is used under different context; one being at the termination of inquiry and other pending disposal of the inquiry and, therefore, appeal is provided against one, but not other order.

9. As per para 13 it was argued before the court that by the Maharashtra Act VIII of 1985, the Legislature has introduced Sections 41A to 41E of the Act of 1950. These Sections empower Charity Commissioner with certain drastic powers. Then Sections 41C, 41D and 41E were discussed and it is observed that it was argued that Section 41D of the Act of 1950 empowers Charity Commissioner to suspend, dismiss or remove trustee on the basis of satisfaction of requirements of the provisions of Section 41D(1)(a) to (f) of the Act of 1950. It was also argued that whether it is an order pending disposal of the charges framed against a trustee to be passed under Sub-section (3) or it is an order to be passed at final stage, in substance such a former order is also under Sub-section (1) of Section 41D of the Act of 1950. At the end of para 13 it is observed that order of suspension on one hand and removal or dismissal on the other, once having accepted that there is no difference between consequence, there cannot be any difference in regard thereto. On the other hand, it was argued before court that it is stretching too much to hold that the order under Sub-section (3) is an order under Sub-section (1) of Section 41D of the Act of 1950. After considering said arguments in para 15 and after considering Section 41D it is observed in para 16 as under:

Whether it is a suspension at the end of the inquiry or whether it is a suspension pending the disposal of the charges framed against a trustee, satisfaction of the considerations is a pre-condition either way. It cannot be even imagined as sought to be contended, that the Charity Commissioner in exercise of powers u/s 41-D Sub-section (3) of the said Act, is acting de hors the considerations u/s 41-D Sub-section (1) of the said Act. Once this conclusion is reached, there need not be any detaining in the thinking process to reach a conclusion that virtually and also-factually the Charity Commissioner while passing an Order u/s 41-D Sub-section (3) of the said Act, passes an order on the basis of doctrine of substance also, an order u/s 41-D Sub-section (1) because reading the provisions even on literally basis, this conclusion is inescapable in the sense that it cannot be legitimately thought of that suspension during the pendency of the inquiry not be dependent on satisfaction of the aspects specified in items (a to f) of Section 41-D(1). Once a conclusion is reached at whatever stage, the order is contemplated, the satisfaction of the requirements of Section 41-D Sub-section (1) of the Act, is a pre-condition, the application necessarily becomes maintainable in law in view of provisions of Section 41-D Sub-section (5) of the said Act.

10. While making Reference, the learned Single Judge observed in para 7 that the impugned order under Sub-section (3) of Section 41D of the Act of 1950 was preceded by a preliminary inquiry by Deputy Charity Commissioner. The power to suspend is available to the authority concerned as and when there is prima facie material to reach a conclusion that drastic action is necessary in order to temporarily stop functioning of some trustee/s in order to ensure that the administration of trust is not impaired. The power to suspend is sine-qua-non of the power to appoint. The trustee can be appointed by the Charity Commissioner. The suspension power under Sub-section (1) of Section 41D of the Act of 1950 is of course unbridled. The power to suspend, remove or dismiss a trustee can be exercised only when it is found that the trustee is guilty of lapses or has suffered conviction as enumerated in Sub-clauses (a) to (f) appended to Sub-clause (1). It is further observed in para 7 that Sub-section (3) empowers Charity Commissioner to place trustee under suspension against whom charges are framed. Thus such ad-interim suspension can be ordered only when charges are framed and not prior to that. In para 8 the learned Single Judge differed from view taken by earlier Single Bench that power of suspension is referable to Sub-section (1) of Section 41D of the Act of 1950. The learned Judge referred to Section 76 of the Act of 1950 and observed that where there is no specific provision under the Act of 1950 remedy is provided under CPC and appellate forum thereunder will have to be treated as implicitly available. u/s 94 of the Act of 1950 appeal against order will be only of Miscellaneous nature i.e. Miscellaneous Appeal against such order. The final order of suspension is not passed at the stage of interim suspension pending the disposal of charges. Obviously it would not be permissible to say that such ad-interim suspension order is covered by Sub-section (1) of Section 41D of the Act of 1950. Ad-interim suspension cannot be elevated to treat it as on par with the final order under Sub-section (1) of Section 41D of the Act of 1950. So as against order passed under Sub-section (3) of the Act of 1950 remedy is not under Sub-section (5), but filing a review petition before same authority or by way of writ petition, but no Second Appeal is provided.

11. As stated earlier, Sections 41A to 41E of the Act of 1950 were added to Chapter VI of the Bombay Public Trusts Act, 1950 by Maharashtra Act XX of 1971. The said chapter VIth deals with "control". Section 37 deals with powers of inspection and supervision of the Charity Commissioner, Deputy Commissioner and Assistant Charity Commissioner and other Officers authorised by the State Government. These authorities have right u/s 38 of the Act to require trustees or other persons to submit explanation on receipt of any complaint in respect of the trust or on report of auditor submitted. The Charity Commissioner also has right to issue orders on the reports received u/s 39. u/s 41 Charity Commissioner has power to order surcharge of any amount for loss caused to the trust on any person responsible for such loss. Section 41A deals with powers of the Charity Commissioner to issue directions for proper administration of the trust. Section 42 deals with power to institute inquiries on receipt of the complaint or suo motu

regarding charities and trusts. Section 41C deals with duty of a person collecting money, subscription, donations, etc. for religious and charitable purposes to inform the Charity Commissioner regarding such collection; and further inquiries which Charity Commissioner may make regarding the same. Section 41D is already reproduced above. Section 41E deals with powers of the Charity Commissioner for taking certain measures for protection of charities. We would be dealing with Section 41E in some detail at a later stage. Thus it is clear that Sections 41A to 41E were introduced subsequently for effective control on trustees and over administration of trusts and to protect interest of trusts.

12. Right to file appeal is a creature of statute. There is no inherent right of appeal. Right of appeal is not requirement of natural justice. Section 70 of the Act of 1950 is provision relating to appeals against findings and orders of the Deputy or Assistant Charity Commissioners to the Charity Commissioner. Section 70A deals with power of Charity Commissioner to call for and examine record and proceedings of any proceeding before the Deputy or Assistant Charity Commissioner. In other words, it is a revisional power. Section 72(1) provides application (which is in fact an appeal) to the District Court against decisions of the Charity Commissioner under Sections 40, 41, 41C and 43(2)(a) and (c), 50A, 70 or 70A and other related matters. However, this Section does not deal with Sections 41A, 41B, 41D or 41E. Under Sub-section (4) of Section 72 there is appeal against the order of the District Court to the High Court. So Section 72 allows appeal against certain decisions under particular Sections and it is not a general provision.

13. Similarly u/s 41E the Charity Commissioner in order to protect charities and trusts, where trust property is in danger of being wasted, damaged or improperly alienated by any trustee or any other person or that the trustee or such person threatens, or intends to remove or dispose of that property, the Charity Commissioner may grant temporary injunction and make an order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of such property for particular duration. Thereafter the Charity Commissioner has to issue notice to trustees and the person concerned, and then hold an inquiry. If there is disobedience or breach of injunction of any terms and conditions of the order passed, then the Charity Commissioner may apply to the District Court for attachment of property or even for detention of person concerned in Civil Jail for a term not exceeding six months. Under Sub-section (5) of Section 41E of the Act of 1950, an appeal is provided to District Court against the order of injunction or any other order passed u/s 41E by the Charity Commissioner. Under Sub-section (6) appeal to the High Court is restricted only to cases of attachment of property and detention in Civil prison. So no appeal to High Court is provided in other matters. So scheme of the Bombay Public Trusts Act is to provide appeals to High Court under certain situations only and there is no general provision of appeal against all orders interlocutory or final.

14. So far as Section 41D of the Act of 1950 is concerned, it may be noted that as per Sub-section (1) the Charity Commissioner may either on the application of trustee or any person interested in the trust or on receipt of report u/s 41B or suo motu may suspend, remove or dismiss trustee on any of these grounds mentioned in Clauses (a) to (f). However, as per Sub-section (2) the Charity Commissioner before taking action under Sub-section (1) has to frame charges against the trustees or a person against whom action proposed is to be taken and give him opportunity of meeting such charges by testing the evidence adduced against him and also of adducing evidence in his favour. So Sub-section (2) makes it clear that order under Sub-section (1) of suspension can only be after full inquiry and after giving opportunity to trustee or other person against whom charges are framed. It is Sub-section (3) which deals with suspension pending disposal of charges framed against trustee. So it is merely an interim or interlocutory measure. Sub-section (5) specifically lays down that as against an order made under Sub-section (1), trustee may make an application to the District Court against order of suspension, removal or dismissal. So it is abundantly clear that no application is tenable to the District Court as against order passed under Sub-section (3) of Section 41D of the Act of 1950. Sub-section (5) restricts application to the District Court only against the order of suspension, removal or dismissal passed under Sub-section (1) of Section 41D. Sub-section (6) of Section 41D of the Act of 1950 is as follows:

(6) An appeal shall lie to the High Court against the decision of the Court under Sub-section (5) as if such decision was a decree from which an appeal ordinarily lies.

Thus an appeal lies to the High Court against decision of the court under Sub-section (5) as if such decision was a decree from which appeal ordinarily lies. "Decree" is defined under CPC in Section 2(2) as follows:

"decree" means the formal expression of an adjudication which, so far as regards the Courts expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within Section 144, but shall not include:

- (a) any adjudication from which an appeal lies as an appeal from an order; or
- (b) any order of dismissal for default. Explanation :- A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final;

It may be noted that decree is not defined under the Bombay Public Trusts Act, 1950. Under the Code of Civil Procedure, decree must conclusively determine the rights of parties with regard to all or any of the matters in controversy and thus it is clear that an interim or interlocutory order cannot be a decree. So there can be no appeal to the High Court under Sub-section (6) of Section 41D of the Act

of 1950 as against interim order passed under Sub-section (3) of Section 41D of the Act of 1950. It is only against the order passed under Sub-section (1) which is final and passed after determining the rights of the parties i.e. after full inquiry into the charges as contemplated under Sub-sections (1) and (2).

15. An interim order cannot be said to be a decree and, therefore, no application can be filed in the case of any suspension pending disposal of charges framed against a trustee under Sub-section (5) to the District Court nor there shall be any appeal to the High Court under Sub-section (6).

16. If we consider Clauses (a) to (f) incorporated in Sub-section (1) of Section 41D, it is clear that some of the acts of trustee or any other person may be very serious and prejudicial to the interest of the trust and, therefore, immediate action to protect trust from further misappropriation, breach of trust or the like would be necessary. So if any order is passed under Sub-section (3) pending disposal of charges, in that case it is necessarily an interim measure to protect the trust. It would be an interlocutory order as Sub-section (3) itself speaks that such order is to remain in force till final order is passed under Sub-section (1). The legislative intention from the scheme of Chapter VI of the Bombay Public Trusts Act clearly indicates that legislature did not intend to provide application to the District Court or an appeal to the High Court (against order of District Court) against the order of the Charity Commissioner passed under Sub-section (3) of the Act of 1950. Such provision is in public interest so as to avoid multiplicity of litigation.

17. Now, it is well settled position of law as per precedents laid down by this Court that Appeal to High Court against decision in application by District Court is a second appeal and "application" to the District Court is nothing but an appeal. As per Section 100 of the Code of Civil Procedure, Second Appeal is to be entertained only in case there is a substantial question of law and there could be substantial question of law for consideration of this Court only when the charges are framed, inquired into and decided by Charity Commissioner after giving opportunity to the concerned trustee or other person. It does not appear even from the scheme of CPC that legislature ever intended that Second Appeal should be provided against interlocutory or interim orders. There is nothing in the Bombay Public Trusts Act to indicate that any different intention was in the mind of legislature when it drafted Sub-sections (5) and (6) of Section 41D of the Act of 1950. It restricted filing of application to District Court only against order passed under Sub-section (1).

18. In the case of *The Gujarat Agro Industries Co. Ltd. Vs. The Municipal Corporation of the City of Ahmedabad and Others Etc. Etc.*, , the Supreme Court observed as follows:

Right of appeal is the creature of a statute and it is for the legislature to decide whether the right of appeal should be unconditionally given to an aggrieved party or it should be conditionally given. Right of appeal which is a statutory right can

be conditional or qualified. It cannot be said that such a law would be violative of Article 14 of the Constitution. If the statute does not create any right of appeal, no appeal can be filed. There is a clear distinction between a suit and an appeal. While every person has an inherent right to bring a suit of a civil nature unless the suit is barred by statute, however, in regard to an appeal, the position is quite opposite. The right to appeal inheres in no one and, therefore, for maintainability of an appeal there must be authority of law. When such a law authorizes filing of appeal, it can impose conditions as well.

The Supreme Court in the case of Shiv Shakti Coop. Housing Society, Nagpur Vs. Swaraj Developers and Others, observed as follows:

19. It is a well-settled principle in law that the Court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. Words and phrases are symbols that stimulate mental references to referents. The object of interpreting a statute is to ascertain the intention of the legislature enacting it. (See *Institute of Chartered Accountants of India v. Price Waterhouse*.) The intention of the legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. As a consequence, a construction which requires for its support, addition or substitution of words or which results in rejection of words as meaningless has to be avoided.

19. We are in agreement with the arguments advanced by Shri M.M. Joshi, advocate that the object of Sub-section (3) is to protect trust from misappropriation, criminal breach of trust or other act of trustee prejudicial to the interest of trust; whereas action of punishment under Sub-section (1) is directed against trustee or other person by way of punishment of suspension, removal or dismissal. It is true that ordinarily suspension is pending inquiry and is not intended to be a final order like removal or dismissal, but if we consider Sub-sections (1) and (3) together it appears that suspension for particular period is also contemplated as a punishment. Suspension for particular period could be considered as lesser form of punishment of removal or dismissal. It will have to be conceded that the Bombay Public Trusts Act does not lay down removal or dismissal as disqualification from again becoming trustee of a public trust. In fact that is one of the infirmities in the Bombay Public Trusts Act. The legislature ought to have laid down what would be the consequence of removal of trustee, as distinguished from his dismissal; whether the trustee would be disqualified or debarred from becoming trustee for ever, or he would be entitled to contest an election to the office of trustees even after such order of removal or dismissal. However, suspension can have such effect. Suppose if tenure of trustee elected is three years and trustee is suspended for six years he would not be entitled to hold office of trustee for such period and thus indirectly would not be able to contest election during such period.

20. We are also in agreement with the argument advanced by Shri M.M. Joshi

that suspension under Sub-section (3) is not a punishment, but interim measure to protect such trust pending inquiry into the charges levelled against such trustee. Under Sub-section (3) paramount consideration appears to be interest of trust and not punishing the trustee.

21. Ordinarily while interpreting the statute the court should give effect to the intention of legislature as expressed in the words used by it and no outside consideration can be called in aid to find that intention. Reading Section 41D as a whole clearly indicates that suspension under Sub-section (1) is a punishment awarded after full inquiry and after opportunity to the trustee; whereas suspension contemplated under Sub-section (3) is an interim measure to protect the trust from acts of such trustee pending such enquiry. It is also well settled principle of interpretation that courts have to endeavour to find out the exact sense in which the words have been used in a particular context. They are entitled to look at the statute as a whole and give an interpretation in consonance with the purposes of the statute and what logically follows from the terms used. The modern method of interpretation is purposive or functional and the literal rule of interpretation is out of vogue. In this case the language of Section 41D of the Act of 1950 is plain and unambiguous and conveys a definite meaning. There is no occasion for resorting to any other interpretation to hold that power of suspension under Sub-section (3) is derived from power laid down in Sub-section (1).

22. We may also invoke the Mischief Rule as lucidly explained in Heydon's case. It is the duty of the Judge to make such construction of a statute as shall suppress the mischief and advance the remedy. In this case by allowing application to District Court under Sub-section (5) as against order passed under Sub-section (3), the purpose of legislature to expedite the inquiry into the charges framed would be defeated. The trustees against whom order of suspension was passed under Sub-section (3) would resort to filing of application to District Court and then appeal to High Court even against interim orders and thus prolong the inquiry into the charges framed against them. It may be noted that the circumstances mentioned in Clauses (a) to (f) are of serious nature and there may be occasion when trust would require immediate protection against the acts of trustee.

23. While observing that application would be before "Court" (District Court) against suspension u/s 41D(3) and also (second) appeal to High Court. Learned Single Judges were of the view that suspension ordered under Sub-section (3) was referable to Sub-section (1). With due respect, learned Brother Judges may have expressed so, by taking into account that considerations for suspension orders either under Sub-sections (1) or (3) are same as enlisted in clauses (a) to (f) of Sub-section (1). But in doing so, it is lost sight of the fact that suspension under Sub-section (1) is penalty for proven charges, whereas suspension under Sub-section (3) is temporary measure to protect the trust from the alleged misconduct of trustees of possible loss or damage.

24. Viewed from this angle, we are in agreement with the view expressed by the Honourable Single Judge (Coram : V.R. Kingaonkar, J.) in this Second Appeal in the order dated 24.4.2007. We hold that the suspension under Sub-section (3), which is necessarily an interim measure directed to protect the trust, is different from suspension under Sub-section (1) of Section 41D of the Act of 1950, which is in the nature of punishment imposed after due inquiry and after giving full opportunity to the concerned trustee or other person. Both cannot be equated. No application under Sub-section (5) is maintainable against interim order of suspension passed under Sub-section (3) by the Charity Commissioner. No appeal lies against such order to this Court under Sub-section (6). The remedy is either by way of review to the Charity Commissioner who passed the order or by way of Writ Petition under Article 227 of the Constitution of India. Accordingly we answer the question referred to us in this appeal.