

(2008) 06 BOM CK 0051

In the Bombay High Court

Case No : Writ Petition No. 2123 of 2008

Rajendra Somaji Waghade

APPELLANT

Vs

Digamber Bahuddeshiya Apang Kalyan Shikshan Sanstha and
Another

RESPONDENT

Date of Decision : 13-06-2008

Acts Referred:

Bombay Public Trusts Act, 1950 — Section 70

Citation : (2008) 5 ALLMR 222 : (2008) 6 BomCR 88

Hon'ble Judges : Chaudhari A.B., J

Bench : Single Bench

Advocate : Mahesh Rai, for the Appellant; A.M. Deshpande, A.G.P., for the Respondent

Judgement

Chaudhari A.B., J.—Heard Mr. Rai, learned Counsel for the petitioner. Rule. Heard finally by consent of parties. A.G.P. waives notice for respondent No. 2. It is not necessary to issue notice to respondent No. 1.

2. This petition is being disposed of in view of the decision of this Court in the case of Rajkumar Zape and Others Vs. Shantaram Amrutrao Waghmare, Sanjay Shriram Mankar, Bhiku Devidas Gawande and Joint Charity Commissioner, Amravati Region, . In the present petition, the petitioner has challenged the order condoning delay of two years in filing the Change Report before the Assistant Charity Commissioner, Bhandara. The learned Counsel for the petitioner fairly brought to my notice the judgment in Rajkumar's case, supra, and submitted that it has been held in the said judgment that appeal lies u/s 70 of the Bombay Public Trusts Act against an order rejecting application for condonation of delay. The learned Counsel, however, vehemently argued that in case of acceptance application for condonation of delay or order condoning delay, appeal may not be maintainable and that is why he has approached this Court in writ petition.

3. Considering the submissions made by the learned Counsel for petitioner in the

light of the law laid down in Rajkumar's case, supra, and having regard to the provisions of Section 70 of the Bombay Public Trusts Act, I find that there is no provision anywhere inserted by the Legislature u/s 70 of the Bombay Public Trusts Act prohibiting filing of appeal against the orders granting application for condonation of delay and condoning the delay. In the absence of any such provision, I hold, on the analogy as in Rajkumar's case, that appeal also lies against an order condoning the delay in filing Change Report. In that view of the matter, the present petition is disposed of. Petitioner is granted liberty to file appeal before Joint Charity Commissioner within 30 days from today. The period spent in this writ petition shall be considered as good and sufficient cause for condoning delay by the Joint Charity Commissioner, Petition disposed of.