

CIRCULAR NO. 114

To,

District Government Pleader,
Assistant Government Pleader,
Sub-District Government Pleader

*SUBJECT :- Bombay Public Trusts Act, 1950, and appearance of
Pleader in Courts on behalf of Charity Commissioner,
Maharashtra State, Bombay.*

Sir,

I have the honour to draw your attention to Government Notification No.2368/E, dated 31st January, 1961 of Law and Judiciary Department published in the Gazette Extra ordinary dated 31st January, 1961 under which the provision of the Bombay Public Trusts Act, 1950 (as amended by Bombay Act No. 6 of 1960 which has come in force from 1st January, 1961 by Notification No. 30087/E, dated 31st December,1960, of Law and Judiciary Department), are made applicable from 1 st March 1961 to the class of trusts mentioned in the said Notification, dated 31st January, 1961, and situate in the Marathwada and Vidarbha Areas. Accordingly there new regional offices have been opened at Nagpur, Akola and Aurangabad.

The Madhya Pradesh Public Trusts Act, 1951, has been repealed by the Bombay Public Trusts (Unification and Amendment) Act, 1959- (Bombay Act No. VI of 1960) and by section 40 of the said Act a provision is made by adding section 86 (3) to the Bombay Public Trusts Act, 1950, which provides that the Charity Commissioner shall be deemed to be submitted for the State Government, Commissioner, Register or as the case may be, the Officer, in the legal proceedings pending before the Court on

1February, 1961. You are, therefore, requested that in case you are appearing on behalf on any of the above public authorities in any of the suits applications or proceedings in respect of charities you may draw the attention of the Courts to the aforesaid provision under which Charity Commissioner shall be deemed to be substituted as a party for the said authorities and request the court to issue notice to him under section 56-B of the Bombay Public Trusts Act, 1950.

Further I have to specially draw your attention to section 31 of the Bombay Public Trusts Act, 1950, which bard the Court to hear or decide the suits as provided therein till the trust is registered under the Act, i.e. Bombay Public Trusts Act, 1950.

Section 56-B of the said Act provides that the Court shall not proceed to determine any question affecting a public religious or charitable purpose until after notice has been given to the Charity Commissioner. It also enables Charity Commissioner to apply to the Court to make him a party to the proceedings. In case if you come across any such case where Charity Commissioner is not a party you may kindly inform the Charity Commissioner or Assistant Charity Commissioner of the region so as to enable him to consider whither Charity Commissioner should be joined a s a party.

Section 80 provides that no Civil Court shall have jurisdiction to decide or deal with any question which is to be decided or dealt with by the authorities under the Act.

Further your attention is drawn to sections 50 and 51 of the Act (which are analogous to section 92 of the C.P.C. and sections 26 and 27 of the M.P.P.T.Act 1951) whereby no suit claiming any relief specified therein shall be instituted except in conformity with the provisions thereof.

You are, therefore, requested to bring to the notice of the Court the above provisions of the Act so that the Court may issue notice to the Charity Commissioner in all such cases. After receipt of notices Charity Commissioner will issue necessary instructions for appearance or otherwise.

Further you are requested to inform the details of legal proceeding pending before the Court under sections 8,9,24,25,27 of the Madhya Pradesh Public Trust Act, 1951, so that Charity Commissioner may take necessary steps in the matter to get necessary data to issue further instructions. In all such cases you may also inform the Charity Commissioner the designation and authority of the person who was issuing instructions to you in the matter. This is necessary for getting necessary files transferred to this office.

As regards the terms of your appearance I draw your attention to the letter NO. 2935, dated 29th May, 1952 addressed by the Secretary to Government, Legal Department , Bombay , to all the District Government Pleaders and a copy of the Circular, dated 10th April, 1958, issued by this office and enclosed herewith.

You are requested to bring to the notice of the Charity Commissioner any other features that may strike you and which may arise on account of the repeal of various Acts by the Bombay Public Trusts Act, 1950.

S.C.BHAT,
Charity Commissioner,
Maharashtra State, Bombay.

Dated

CIRCULAR

Re.- Appearance in the District Courts and the Civil Courts on behalf of the Charity Commissioner.

Sir,

The attention of District Government Pleaders and Assistant Government Pleaders is invited to the letter No. 2935, dated 29th May, 1952, addressed by the Secretary to Government Legal Department, Bombay, to all the District Government Pleaders, requesting them to appear for and on behalf of the Charity Commissioner in all matters arising in the District Court and the Court of Civil Judge, in their District on the same terms as for Government, except that the bills should be submitted to the Charity Commissioner directly. It means that the Law Officers (Condition of Service) rules and the Rules for the Conduct of the Legal Affairs of Government will be applicable, and they will be paid only the taxed costs. The Government Pleaders and Assistance Government Pleaders are engaged by the Charity Commissioner in their capacity as Government Pleader, though in some cases they may have engaged by name (i.e. the Vakalathnama may be signed in favour of Government or Assistance or Sub-Government Pleader mentioning their names) and save in any case in which the Charity Commissioner otherwise directs a Government Pleader whose term of office of Government Pleader has expired shall not after the expiry of such term be entitled to appear on behalf of Charity Commissioner in any suit or Civil Proceeding which may then be pending and he shall not be entitled to any remuneration in respect of any work done by him in such suit or proceeding. The outgoing Government Pleader should hand over charge of all pending suits of Civil Proceedings to his successor.

S.C.BHAT,
Charity Commissioner, Bombay,