

CIRCULAR NO. 118

SUBJECT :- Guidance to the Regional Officer in respect of expeditious disposal of inquiries.

For the guidance of all Regional Officers, the Charity Commissioner, Maharashtra State, is pleased to issue the following instruction :-

1. under the Bombay Public Trusts Act there are different types of inquiries such as inquiries under sections 19,22,22-A and 39. It is desirable that as soon as a case is ripe for hearing and a date is fixed, parties may be asked whether they admit the documents, if any, or they insist on strict proof thereof. If the documents are admitted, well and good. If not, the party on whom the burden of proving the documents lies, should be asked to give the list of witnesses, who they propose to examine in proof of those documents.

2. When finally the matter is fixed for hearing of evidence, adjournment should be granted very sparingly and for sound reasons.

3. Adjournment are sometimes granted because both parties do not object with the result that the life of the inquiry in which such adjournments are granted is unduly and unnecessarily protracted. Such practice has to be deprecated Prior to the appearance of witnesses, chief matter to be considered is the convenience of the parties, and therefore, dates suitable to both the parties, should be as far as possible given. However, once a date is fixed care should be taken that the matter is heard. The healthy principle should be borne in mind that the trial should be conducted within period short enough to enable . The Regional Officer

to deal satisfactorily with the evidence. It is to be remembered that the most contested inquiries are held with the aid of assessors who are to be paid and care should be taken to see that the assessors are not unnecessarily called and sent back resulting in unnecessary loss to Government.

4. When the examination of witnesses has once begun, adjournment, except from day-to-day or very short intervals, lead to the Regional officers having to determine cases on evidence, and impressions which have been partially forgotten. If the disposal of cases is to be satisfactory and of good repute, it must be on the consideration of evidence, as fresh in the mind of the Regional Officer, as possible. If the Regional Officers and the Pleaders intelligently follow the evidence as recorded, the final arguments, can and should be delivered as soon as all the evidence has been recorded. Adjournments for the delivery of arguments, should be cautiously granted, and should never be but for very short period. it is essential that the Regional Officer should control the Examination-in-Chief, Cross-Examination and re-Examination of witnesses and try to check the tendency to prove and over prove unessential allegations so as to prevent time being taken up in eliciting, and recording unessential particulars to which no reference can usefully to be made in arguments.

5. When remarks as to the demeanor of a witness are made, it is convenient to enter them at the fact of his deposition or the memorandum of his evidence. When any question is objected to and the Regional Officer disallows, it, or allows it to be put the objection and the Regional Officer's decision, should be noted in the body of the deposition or memorandum of evidence.

6. Care should be taken to see that the roznama is properly maintained. The object of the Roznama is to show in a concise form the proceedings started in each inquiry with the date of each proceeding. It is to be a faithfully history of the case and a correct list of documents and exhibits and at the same time it should be drawn up as to show all the details of the cases, at a glance, and yet be as concise as possible. It must be written from day to day by the bench clerk and must always be kept with the record and proceeding.

7. All documents produced should be accompanied by a list mentioning serial number of each document and this list should be separately exhibited. When the documents are either admitted or proved, those documents should be separately exhibited to show that they form part of the record. While exhibiting the documents they should be detached from the list. All exhibits recorded in the proceedings should be marked in large figures in red ink or pencil on the top of the outer-sheet. Where an exhibit consists of more sheets of papers or documents than one, the number of such sheets and documents should be shown in bracket below the number of exhibits. Whenever an exhibit has been removed a slip of paper should be inserted stating the number of exhibits removed and the purpose for which it has been removed and the name of the person or designation of the officer in which custody it is or if removed and entered as an exhibit in another case its number in that case. where an exhibit is too bulky to be included in the file of exhibits, slips of paper, the size of a half sheet of foolscap should be placed in the file indicating the number of exhibit and of what it consists. In order that documents of great historic or antiquarian Value such as old Sanads or Grants, may not be injured by the endorsements required to be made, every effort should be made to prevent its being defaced by endorsements or exhibits marked

or having the seal of the court impressed upon it. In such cases if the parties agree, photographic copy may be substituted for the original or the document may be enclosed in a sealed cover, the necessary particulars being endorsed on the outside. No record or official papers should be removed from the office for any purpose/whatever otherwise than with the previous sanction of the regional Officer. When any person who has filed a general power of attorney authorising him to appear, apply or act, on behalf, of a party to the proceeding desires to have the power-of attorney returned to him during the pendency of such proceeding, it may be returned to him unless sufficient reason appears to the contrary provided that he tenders a duly certified copy thereof prepared at his expense to be substituted for the original. When a succession certificate or power of attorney is produced, it need not be filed unless the regional officer requires it to be filed. it is not filed it may be returned after inspection, but an note thereof should be made in the Roznama and the fact of the production endorsed on the documents over the signature of the regional officer. On every application an order should be endorsed showing how it was disposed of e.g., an application of summonses to witnesses might be endorsed as follows :-

"Application granted summonses to be issued " or "Application rejected because, etc....."

(enter reasons for rejection) date it and signed by the regional Officer.

8. It is essential for a correct and speedy disposal of business that there should be clear recognition of the division of the proceeding in contested matters :-

- (1) these matters which are preliminary to the trial :

(2) the actual trial. The former includes everything up to the actual trial the latter comprises only actual hearing of the cases. When that hearing is reached it should proceed to a conclusion as expeditiously as possible and the final arguments should not be postponed for long after the hearing of the evidence has closed. It is usually much better to have a weekly, in addition to a daily, notice-board. The former serves as a sufficient reminder to the Pleaders or Advocates to enable them to apply, if necessary, for adjournment before the date of hearing arises, and to be ready with their cases. The regional officer is responsible to see that urgent matters are speedily disposed of and the old matters and proceedings when ready for disposal are not postponed in favour of more recent inquiries, unless the latter are of uncontested type. Care should be taken to see that uncontested matters are not fixed on the same day on which there are contested matters and this can be done by setting aside the requisite number of working days in each week or fortnight for such matters. Regional officers should make some sort of an estimate as to the period required for disposal of each particular portion of the work and should fix dates after making such estimate, so as to ensure that the work fixed for a particular day will be done within that day. A margin may be allowed but every endeavour should be made to prevent parties and witnesses appearing in the Court and being sent away without hearing on the ground that the time of the regional officer is so occupied that no attention can be paid to them.

9. Judgment should be promptly written and delivered. All judgments and proceedings should be written only on the outer 3/4

(three quarter) margin of sheets of foolscap paper but inner 1/4 (one quarter) margin of every sheet being left blank. When Indian dates are mentioned in judgements, the corresponding English dates should be added, and in English judgments the use of words of regional language where their equivalent can be used without detriment to the sense should always be avoided. If a word in regional language is used its nearer English equivalent should be added in brackets. Care should be taken to see that applications and inquiries are properly stamped.

10. The regional officers are the heads of their respective offices and they should see that every member of the staff puts in adequate work. They should see that all the members of the staff including the Superintendent maintain daily work-sheets which should be scrutinized every week by the regional officers and twice in a month they should inspect the tables of the members of the staff and see that there are no arrears kept by them.

11. He should watch the file, specially as regards contested cases and receipts during the particular month and endeavor should be made to see that the file is reduced. It is not desirable to have too many part-heard cases on hand and as far as possible, once an inquiry is started, it should be disposed of expeditiously by continuing it from day to day.

C.P.GODSAY,
Charity Commissioner,
Maharashtra State, Bombay.

Dated :- 28th February, 1962.