

CIRCULAR No. 150

SUBJECT- *Manner of Dealing complaint from Charity Commissioner's Office of from Government.*

It has come to the notice of the Charity Commissioner that prompt actions are not being taken while making inquires proposing actions or perusing them delegently, in respect of complaints received by the Organisation. It is also noticed that the papers are tossed from table to table or from Regions Office to Head Office or vice-versa and different actions are proposed from time to time with the result that there is no proper and effective action taken in the matter for years together inspite of reminders from Government or by this office. This state of affairs is not at all desirable from the point of view of the reputation of the Department. It is therefore necessary to issue certain instructions. As soon as a complaint is received by this Office directly or through Government or by Regional Office, directly or through Charity Commissioner, proposed scrutiny should be made at the initial stage so as to facilitate an inquiry on proper lines in respect of complaint made against the working of the trust or trustees thereof so as to have sufficient material at our disposal to take different suitable action.

After such preliminary scrutiny different action that may be taken by this Organisation should be considered those which could be immediately taken should be started with waiting for the result, or report of the inquiry to be made by Inspector. For instance, if the trustees are found not to had filed Change Reports or Accounting Returns regularly in time immediate notices be issued to show cause why prosecution should not be sanctioned and if either there is no reply or it is found that they are evading to reply, within the time given immediate steps should be taken to move Charity Commissioner to sanction prosecution under section 83 . Similarly if it is initially found that there is no trust deed or scheme for the Trust and if the complaints are not so serious so as to invite a suit to be filed, immediate steps should be taken to ask the trustees to move the Charity Commissioner to frame a scheme under section 50-A within stipulated time and if the trustees fail to do so, the Regional Officers should move the Charity Commissioner alongwith their report to start a Suo Motu Scheme Proceeding.

Similarly, if it is found that in the rust, there is accumulated surplus income, immediate surplus inquiry should be made and proposals should be submitted to the Charity Commissioner for issuing a surplus notice and taking further appropriate proceedings.

All the above actions should not be delayed for the receipt of final report of the Inspector in respect of an inquiry.

On receipt of the report of the inquiry, the Regional Officers should assess the evidence collected by the Inspector and the points involved in the inquiry and if there are any short comings in collecting the evidence or in not inquiring any aspect of the case, the same should be got rectified at the at stage so that further back reference from the Head Office could be avoided. The Regional Officers should apply their mind the to the report of the Inspector, and should send the report with his own remarks.

On receipt of the report, the Regional Officers should give anxious consideration to the facts of the case, the report and evidence collected and should prima facie decide as to whether he should proceed under sections 38, 39 or to recommend the Charity Commissioner to file a suit. If he finds that filing of a suit is necessary to meet the ends of justice, he should immediately refer the matter to the Charity Commissioner without proceeding under sections 38 and 39 so as to expedite the filing of a suit. However in this behalf he should also himself or through Inspector verify whether any realtors are ready to file such a suit and if comes across some such relators, directions should be given to them to apply to the Charity Commissioner under section 51. However, in such cases, our action under sections 38 and 39 should not be stayed till suit is actually filed.

By separate Circulars it has already been impress on all concerned that inquires of the Inspectors should not take a very long time and should not be hap-hazard and incomplete. The Regional Officers should, therefore, fix a time line and should watch from time to time that inquires are complete within the time specified.

All concerned should also note that if any avoid and default is found on the part of anybody to follow this instruction, necessary actions would be taken against all such concerned. It may be noted that this department is

being severaly criticised by some persons, on account of the delay in taking suitable action against the erring trustees.

Dated, 27th December 1971.

M.D.KAMBLI,
Charity Commissioner,
Maharashtra State, Bombay
