

CIRCULAR NO. 188

SUBJECT :- Institution of the Inquiries under Section 41-B of the Bombay Public Trusts Act, 1950..

Under Sub-section (2) of section 41-B of the Bombay Public Trusts Act, 1950 it has been provided that the Officers mentioned in sub-section (1) viz., the Charity Commissioner, or the Deputy or Assistant Charity Commissioner, may either hold the inquiry himself or entrust such inquiries to an Officer authorised under sub-section (1) of section 37. It has been observed that at times an Inspector or an Officer authorised under section 37 is entrusted an inquiry without regular and formal Order having been issued in this behalf. The wording under sub-section (2) of section 41-B clearly indicates that regular and formal order for entrusting an inquiry is necessary. Besides under sub-section (4) it has been provided that the Officer holding such inquiry may take evidence on oath or may require the person giving evidence to make and subscribe a declaration on solemn affirmation of the truth of the matters about which he is being examined. Since there is a fundamental difference between a limited inquiry or inspection and supervision contemplated under section 37 and an inquiry under section 41-B (with the exercise of all powers under section 37), the latter are wider in range, more important and have a legal sanctity and as such should be instituted in appropriate cases by regular and formal orders. The Superintendents and staff members dealing with the miscellaneous complaints and Government References regarding complaints into affairs of trust should be instructed specifically to note that papers should not be transferred to an Inspector in a Regional Office or to a Deputy or Assistant Charity Commissioner or to an Inspector in the Head Office for inquiry and report on more noting and without a regular and formal Order about institution of inquiry under section 41-B being issued by the Charity Commissioner or Joint Charity Commissioner in the Head Office or by the Deputy or Assistant Charity Commissioner in the Regional Office, as the case may be, in appropriate cases so that statements of trustees or parties will get statutory sanctity.

P. S. Dhamane
Charity Commissioner,
Bombay

Dated :25th July, 1974.