

CIRCULAR NO. 242

SUBJECT :- *Direction about Deputy/Assistant Charity Commissioner while holding inquiries under Various provisions of the Bombay Public Trusts Act, 1950.*

Complaints have been made to the Charity Commissioner that Deputy/Assistant Charity Commissioner while holding inquiries under various provisions of the Bombay Public Trusts Act, 1950, do not follow any definite procedure with the result the parties suffer great hardship. A request has been made that instructions be issued so that there will be uniform procedure followed by all the Officers working under the Act.

The provisions which require holding of quasi judicial inquiries in prescribed manner are incorporated in Sections 19,22,22A,23 and 39 of the Act. Section 73 only empowers the officers holding inquiries to exercise powers of the Civil Court in respect of matters relating to summoning and enforcing attendance of persons for examining them on oath and other incidental matters. Rule 7 of the Bombay Public Trusts Rules, 1951 *inter alia* provides that except as otherwise, provided in the Act and the said Rules, inquiries under Section 19,22,22A,28,29,30 etc. shall be held, as far as possible, in accordance with the procedure for trial of suits in the Small Causes Courts under Presidency small Causes court Act, 1882 or Provincial Small Causes Courts Act, 1887 as the case may be. These Acts in their turn again provide that such procedure shall be the procedure prescribed in the Code of Civil procedure. Therefore, as far as possible in all quasi judicial inquiries under the Act, provisions of code of civil Procedure are to be followed.

Generally in contested inquiries, questions arise regarding following different stages in order to regulate the manner of holding such inquiries. In order to facilitate the smooth trial, after the written statement is filed a date be fixed for parties to file list of documents, if any, on which they intend to rely. After such documents are produced, before the recording of oral evidence, parties should be asked to admit/ deny the documents produced on record. Whatever documents are admitted should be first exhibited so that only those documents which are not admitted will be required to be proved by the respective parties. This is necessary because in Appeals, the Appellate Authority will know which are the admitted documents and which are

denied but proved at the trial. this will also ensure that oral evidence is restricted only to disputed facts.

At the time of admitting documents on record, the question of relevance should also be considered so that the record is not burdened by irrelevant evidence and parties will also know the evidence that is going to be considered while giving the decision.

All the Officers are, therefore, directed to follow these instructions scrupulously while holding quasi judicial inquiries so that no scope will be left for any complaints by parties or Advocates.

B.V.CHAVAN,
Charity Commissioner,
Bombay.

Dated :-