

Circular No.67

SUBJECT : Section 64 of the Bombay Public Trusts Act,1950, provisions of Section 64.

2. Clause (a) of section 64 provides that in an inquiry under section 19 or section 22 assessors shall be summoned to assist and advise the Deputy or Assistant Charity Commissioner. The proviso provides that if there is no contest in any such inquiry, the Deputy or Assistant Charity Commissioner may for reasons to be recorded in writing order that assessors shall not be so summoned. This means that assessors must be summoned in every inquiry started on an application filed under protest. It also means that an order must be recorded in writing that assessors shall not be summoned in every uncontested case. The provisions of section 64 are mandatory and failure to observe them vitiates the inquiry.

3. If an application is filed under protest under section 19 or section 22 and the applicant wishes to withdraw the protest at the time of the hearing a pursis in writing should be taken from the applicant withdrawing the protest and care should be taken to see that no vague or ambiguous words are used in the pursis, which could be made use of in appeal to show that the protest was not really withdrawn. After taking such pursis an order should be passed in writing stating reasons for dispensing with the presence of assessors as required by proviso to section 64(a) and this order should make clear reference to the withdrawal of the protest. This order then should be read out to the applicant and a note should be kept of having done so in the order.

4. If the above instructions are not strictly followed decisions may have to be upset in appeal as has already happened in some cases.

Dated : 10<sup>th</sup> March, 1954

D.R.PRADHAN  
Charity Commissioner,Bombay