

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19534 of 2014

=====

Sanjay Kumar Mishra son of Late Yamunadhar Mishra, resident of Village-
Dawath, Police Station- Dawath, District- Rohtas and Sewait Panchmandir,
Dawath, P.S. - Dawath, District - Rohtas.

.... Petitioner/s

Versus

1. The Bihar State Religious Trust Board, Vidyapati Marg, Patna-1 through its President.
2. The President, Bihar State Religious Trust Board Vidyapati Marg, Patna - 1.
3. The Assistant Superintendent, Bihar State Religious Trust Board Vidyapati Marg, Patna - 1.
4. Shambhunath Mishra Son of Late Gangadhar Mishra Chariman of Dawath Panch Mandir Trust Committee.
5. Jagranath Ram Son of Late Rajpati Ram Secretary, Dawath Panch Mandir Trust Committee.
6. Smt. Sushma Devi Wife of Sri Dharmendra Singh Member of Dawath Panch, Mandir Trust Committee.
7. Sita Ram Yadav Son of Late Motilal Yadav Member of Dawath Panch, Mandir Trust Committee.
8. Ramdhyan Paswan Son of Late Hari Ram Member of Dawath Panch, Mandir Trust Committee.
9. Manoj Kumar Son of Late Kamalnath Yadav Member of Dawath Panch, Mandir Trust Committee.
10. Sheshnath Ram Son of Late Saryu Ram Member of Dawath Panch, Mandir Trust Committee.
11. Sant Pal Son of Late Gariba Pal Member of Dawath Panch, Mandir Trust Committee.
12. Sanjay Dubey Son of Late Mahendra Dubey Member of Dawath Panch, Mandir Trust Committee.
13. Banshidhar Singh son of Late Ramadhar Singh, member of Dawath Panch, Mandir Trust Committee. All resident of Village + P.O. + P.S. - Dawath, District - Rohtas (Bihar).

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Satish Chandra Mishra, Advocate
For the Respondent/s : Mr. Ganpati Trivedi, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 13-02-2015 Heard Mr. S.C. Mishra, learned counsel for the

petitioner and Mr. Ganpati Trivedi for the Bihar State Religious

Trust Board.



The petitioner is aggrieved by the order dated 12.09.2014 passed by the President / Chairman, Bihar State Religious Trust Board, Patna whereby the claim of the petitioner being re-considered in the backdrop of the direction of this Court passed in CWJC No. 2576 of 2012 (Annexure-11), has been disposed of with liberty to the petitioner to raise his grievance before the court of competent civil jurisdiction.

Facts of the case briefly stated is that consequent upon dissolution of a trust committee and appointment of the Circle Officer, Dawath in the district of Rohtas as a 'Sewait' (temporary trustee) that this petitioner moved this Court in CWJC No. 9885 of 2010 claiming trusteeship of the trust in question.

According to the petitioner his father late Yamunadhar Mishra was appointed as 'Sewait' of the trust and that the petitioner and his brother were descendants therefrom. It is taking note of the circumstances and the submissions made on behalf of the petitioner that the writ petition was disposed of by this Court with the direction to the Board to consider the claim of the petitioner for appointment as trustee until such time that the scheme is finally settled by the Board under Section 32 of the Bihar Hindu Religious Trust Act, 1950 (hereinafter referred to as the 'Act') and the rules framed thereunder.

The operative portion of the order passed by this Court in CWJC No. 9885 of 2010 runs as follows:



“Considering the submission of learned counsel for the petitioner and the legal position, that an appointment of a temporary trustee is only in circumstances where there is a bona fide dispute as to the right of any person to act as trustee and where in the opinion of the Board there is likelihood of a breach of peace or serious interference with the management of the property of such trust, this court is of the opinion that the respondent Board should consider the offer of the petitioner for appointment as a trustee until such time that a scheme is finally settled under Section 32 of the Act.

Accordingly, let an appropriate application be filed by the petitioner and his brothers offering the name of the trustee and which shall be considered and disposed of by the respondent Chairman in the backdrop of statutory provisions as provided under Section 33(1) and (2) of the Act, within a period of four weeks from the date of receipt/production of a copy of this order.”

The petitioner submits that since he did not get a copy of the order passed by this Court that it could not be produced before the Board and the President proceeded to pass the order under Section 32 of the Act constituting a trust committee which also included the petitioner. Such order was passed on 14.10.2011, a copy of which is placed at Annexure-10 to the writ petition. The petitioner complaining that he was not heard by the President



while constituting the Trust Committee under Section 32 of the Act, again moved this Court in CWJC No. 2576 of 2012 and a Bench of this Court considering the grievance directed the petitioner to file a review application before the President for consideration of the grievance of the petitioner on his application. Following the order the petitioner filed an application before the President, a copy of which is placed at Annexure-13 and the President, Bihar State Religious Trust Board by the order impugned dated 12.9.2014 has disposed of the matter on 14.10.2011 placed at Annexure-10 upholding the order passed under Section 32 of the Act. The Chairman while disposing of the application has also observed that the dispute raised in respect of the Trust would only be adjudicated upon by the competent civil court.

The petitioner being aggrieved is before this Court questioning the orders.

I have heard Mr. Satish Chandra Mishra, learned counsel for the petitioner and Mr. Ganpati Trivedi, learned counsel for the Board and although Mr. Mishra has tried to persuade this Court into interfering with the order passed by the Chairman of the Board on his review application as being contrary to the factual position and the evidence on record but considering that the order of review is merely upholding of the order passed by the Chairman under Section 32 of the Act and even while upholding

his order, the Chairman considering the dispute raised by the petitioner has opined that it requires adjudication by the District Judge in terms of Section 32(3) of the Act, I am of the opinion that the remedy so provided to the petitioner under the said provision should be first exhausted by him before he approaches this Court in its writ jurisdiction.

With the observations aforementioned, this writ petition is disposed of.

It goes without saying that any such application being filed by the petitioner within four weeks from today before the District Judge if accompanied with a petition for condonation of delay should be considered and disposed of in accordance with law on its own merits, bearing in mind that the writ petition was filed before this Court within the limitation period and the issue was pending consideration before this Court.

Considering the nature of the dispute, an expeditious disposal of the matter would be appreciated.

(Jyoti Saran, J)

S.Sb/-

U			
---	--	--	--