

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5829 of 2017

=====

1. The Hafiz Mubarak Hussain Memorial Trust at Mirganj, PO & PS-Mirganj, District- Gopalganj, through its Secretary Ainul Hoda, S/o Late Md. Ismail, resident of Village- Salum Patti, P.S.- Uchkagaon, District-Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Govt. of Bihar, Patna.
2. The Inspector General of Registration, Bihar Patna Department of Registration, Excise & Prohibition, Govt. of Bihar, Patna.
3. The Assistant Inspector General of Registration, Department of Registration, Excise & Prohibition, New Secretariat, Bihar, Patna.
4. The Assistant Inspector General of Registration Department of Registration, Excise & Prohibition, Saran at Chhapra.
5. The Director, (Higher Secondary), Department of Human Resources, Govt. of Bihar, Patna.
6. The District Education Officer, Gopalganj.
7. The District Programme Officer (Establishment), Gopalganj

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
For the State : Mr. Anshuman Singh, A.C. to A.G.
For the I.A. : Mr. Abhinav Srivastava

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

8 02-11-2017 Heard learned Senior Counsel for the petitioner and

learned counsel appearing on behalf of the State.

The petitioner seeks to assail an order dated 21.09.2016 passed by the Inspector General of Registration, Bihar, Patna, Department of Registration, Excise and Prohibition, Government of Bihar, Patna, whereby and whereunder the petitioner's trust being the Hafiz Mubarak Hussain Memorial Trust has been cancelled without affording any opportunity of



hearing and holding that the trust is non-existent.

Learned counsel for the petitioner submits that on the basis of a report dated 06.11.2013 by which Respondent No. 7 had conducted an enquiry and, thereafter, by taking into the notice the order dated 01.07.2014 passed by Respondent No. 5, the impugned order was issued stating that the Registration No. 131/81-82 which was granted to the Society-petitioner be cancelled.

Learned counsel for the petitioner has seriously urged that the impugned order is in gross violation of the principles of natural justice and has also occasioned a statutory wrong inasmuch as Section 23 which has been introduced after Section 20 by the Bihar Amendment, clearly envisages the process of cancellation of registration in certain cases. Section 23 of the Societies Registrations Act, 1860 is being quoted hereunder for ready reference:-

“23. Cancellation of registration in certain cases.-(1) Notwithstanding anything contained in this Act the Inspector-General of Registration may, by order in writing, cancel the registration of any society registered under this Act whose office has ceased to be in the State of Bihar by reason of the reorganization of States or change of the office from the State of Bihar to another State, or whose activities are subversive to the objects of the society:

Provided that the Inspector-General of Registration shall, before passing an order, make such inquiry as he considers necessary:

Provided further that no order or cancellation of registration of any society on the ground of the activities of the society being subversive to the



objects of the society shall be passed until the society has been given a reasonable opportunity of showing cause against action proposed to be taken in regard to it.

(2) An appeal against an order made under sub-section (1) may be preferred in such manner, within such time and to such authority as may be prescribed and such authority shall consider and dispose of such appeals in the prescribed manner.

(3) The decision of the appellate authority under sub-section (2) shall be final.”

Learned counsel for the petitioner submits that there being gross violation of the principles of natural justice and being clearly violative of Section 23 of the Act, it is not necessary for the petitioner to be relegated to them to the provisions of appeal as the impugned order itself stands vitiated and is fit to be quashed. Therefore, such a preliminary objection being raised by the respondents is wholly untenable on both facts and law and is fit to be rejected. He further submits that the impugned order has seriously prejudiced the petitioner as cancellation of the registration of the Trust as a whole is wholly illegal, arbitrary and fit to be set aside.

Learned counsel appearing on behalf of the State submits that in pursuance of a series of complaints raised by certain persons, the matter was enquired into and after consideration of fact that the petitioner's Trust was not available at the place and address which was stated to be there on record, the authorities came to the conclusion that the Trust was not in



existence and was a fake one and, therefore, in view of two successive reports by the authorities, the impugned order has been passed which is wholly illegal and valid.

An intervention application bearing I.A. No. 4799 of 2017 has also been filed in this case by one Zulfekar Ali who is said to be the complainant of the case. This Court does not consider it necessary to go into the various issues of fact raised by the intervenor as at this stage, it is not inclined to issue any order or dwell into any finding of fact.

Thus, the application for intervention is not entertainable and is rejected.

Having heard learned counsel for the petitioner and learned counsel appearing on behalf of the State, it appears that in view of the statutory provisions as have already been quoted above, the petitioner's cancellation is against the law as has been stated in Section 23 of the Act.

In view of such considered opinion, the impugned order as contained in Annexure-9 dated 20.09.2016 vide File No. BS3-10351/81-1364 is quashed.

The matter is remanded back to the Inspector General of Registration, Bihar, Patna, Department of Registration, Excise and Prohibition, Government of Bihar, Patna (Respondent No. 2),



for fresh consideration of the matter in accordance with the law.

It is further directed that the petitioner will himself appear with a copy of this order and also with all relevant documents for the past five years which shall include Proceedings Book, Bank Accounts, details of Meetings and actions taken. It shall be open thereafter that the enquiry be conducted after due consideration of such documents.

The petitioner is further directed to present himself within six weeks of receipt/production of a copy of this order before the Respondent No. 2 who shall consider all documents and after giving proper opportunity decide the matter within a further period of six weeks thereafter.

With the aforementioned directions, the writ application is allowed.

(Anjana Mishra, J)

Saif/-

U			
---	--	--	--

