

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2948 of 2009

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Mahanth Harendra Giri Chela of late Mahanth Jagdishanand Giri of Khajwati Math
at Khajuwati Math, P.S. Magadh Vishwavidyalaya, Bodh Gaya, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the D.M. Gaya.
2. Bihar State Board of Religious Trust, Vidyapati Marg, Patna-800 001, through
its Administration-cum-Officer on Special Duty.

.... Respondent/s

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Appearance:

For the Petitioner/s : Ms. Mahashweta Chatterjee, Advocate

For the Respondent (BSBRT) : Mr. Ganpati Trivedi, Sr. Advocate

Mr. Madan Mohan, Advocate

Ms. Pallawi Pandey, Advocate

For the State : Mr. Subhash Chandra Mishra, SC-16

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 22-08-2017

Heard learned counsel for the petitioner, the State and the
Bihar State Board of Religious Trusts.

2. Initially the writ petition was filed seeking the following
reliefs:-

- i. That an appropriate writ may be issued quashing the
notification vide Memo No. 1917 dated 05.12.2008
(Annexure-10) whereby and whereunder the
Respondent No. 2 has framed a Scheme and
constituted a Committee of the Trust under Section
32 of the Act.*
- ii. That an appropriate writ may be issued commanding
the Respondent No. 2 to recognize the petitioner as
the Mahanth of the Trust since he is the only Chela
of Late Mahanth Jagdishanand Giri and he has been*



given Chadar and Pagari after his death.

iii. That any other relief/reliefs may be granted to the petitioner for which the petitioner is found entitled to.”

3. Later on due to efflux of time when the Committee constituted and Scheme framed under order dated 05.12.2008 expired, the petitioner filed Interlocutory Application No. 8906 of 2016 to challenge the appointment of temporary Trustee under Section 33 of the Bihar Hindu Religious Trusts Act, 1950 (hereinafter referred to as the ‘Act’). However, no order has been passed on the said Interlocutory Application.

4. Cutting short the matter, the grievance of the petitioner relates to constitution of a Committee of the Trust and framing of Scheme as well as for his appointment as Mahanth of the Trust in question.

5. In the considered opinion of the Court, the claim being based solely on the basis of a deed said to have been executed by the previous recognized Mahanth of the Trust in question which was unregistered, unless the deed itself is found to be genuine and, accordingly held so by a court of competent jurisdiction, in writ jurisdiction under Article 226 of the Constitution, this Court cannot place any reliance on the same, moreso since in CWJC No. 7219 of 2001, by order dated 03.07.2001, a coordinate Bench of this Court had refused to place reliance on the said deed appointing the petitioner as



Mahanth as it was an unregistered document, which was affirmed in L.P.A. No. 616 of 2001, by order dated 16.09.2008, giving liberty to the petitioner to assail the appointment of Mahanth Krishna Shankar Giri in an appropriate proceeding.

6. Thus, all these matters require taking of evidence and giving finding of fact, for which the appropriate remedy at this stage would be for the petitioner to move before the District Judge, Gaya under Section 48 of the ‘Act’.

7. In view thereof, the writ petition stands disposed off with liberty aforesaid. If the said remedy is invoked by the petitioner, the same shall be decided on its own merit without being prejudiced by the present order, in accordance with law, giving opportunity of hearing to all concerned, expeditiously, and in any case within a period of nine months from the date of its filing.

8. It goes without saying that the Board would take all necessary steps to safeguard the interest of the Trust in question, in accordance with law.

(Ahsanuddin Amanullah, J)

S.Sb/-

AFR/NAFR	N/A
CAV DATE	N/A
Uploading Date	25.08.2017
Transmission Date	N/A

