

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 6803 of 2014

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Mahanth Ram Sobhit Das Chela Of Late Mahanth Garabhu Das, Resident Of Shree
Ram Janaki Thakurbari, Village Pawara, Police Station Singhia, District Samastipur

.... Petitioner/s

Versus

1. The Bihar State Hindu Religious Trust Board , Vidyapati Marg, Patna through Its
Chairman.
2. The Chairman, Bihar State Hindu Religious Trust Board, Vidyapati Marg, Patna.
3. The Managing Committee through its Secretary, Shree Ram Janaki Mandir,
Pawara, Police Station Singhia, District Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner	:	Ms. M. Chatterjee with Mr. Shamir Kumar Sinha and Mr. Ram Nibash Prasad, Advocates
For the BHR Trust Board	:	Mr. Ganpati Trivedi, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 03-03-2017

Heard learned counsel for the petitioner and the
respondents no. 1 and 2.

The petitioner has moved the Court against the order
contained in Memo No. 958 dated 24.08.2013 passed by the
respondent no. 2 by which he has been removed from the post of
Mahanth of Shree Ram Janaki Thakurbari, Pawara in the district of
Samastipur.



Learned counsel for the petitioner submitted that he was the Mahanth of the trust in question from long back and on the basis of an application made by the residents, the Trust was registered by the respondent no. 1 and by notification dated 16.07.2009, a Managing Committee of 11 persons was constituted to run the affairs of the Trust. Learned counsel submitted that the Managing Committee of the Trust of which he was not made a member, removed the petitioner from the post of Mahanth due to which he had moved before the Bihar State Board of Religious Trusts (hereinafter referred to as the 'Board') and under Memo No. 878 dated 24.07.2009, the respondent no. 2 had written to the respondent no. 3 stating that the petitioner would continue as Mahanth till he does not satisfy the conditions for removal under Section 28(2)(h)(iii) of the Bihar Hindu Religious Trusts Act, 1950 (hereinafter referred to as the 'Act'). Learned counsel submitted that as per terms and conditions of the constitution of the Committee contained in notification dated 16.07.2009, all administrative and financial matters were entrusted to the Managing Committee of which the petitioner was not even a member, much less having any such power, either on the administrative or financial side. Learned counsel submitted that when allegations were made against him with regard to him having entrusted the land of the Trust in favour of his sons, he had



categorically taken the stand that as per the terms of the notification constituting the Managing Committee, he had no power to take any such decision, as he was only performing the rituals in the temple of the Trust. Learned counsel submitted that the impugned order has been passed only on the erroneous ground that at one point of time when the petitioner had written to the Board, he had stated that there was about 30 bighas of land belonging to the Trust whereas in his subsequent communication, he had stated that there was about 22 bighas of land and presumption has been drawn that the same was with the object of misleading the Board and that he had misused the property of the Trust. Learned counsel submitted that the removal of the petitioner under Section 28(2)(h)(vi), is also improper for the reason that the same relates to removal of a trustee from his office, if such trustee alienates immovable property of the Trust in contravention of the Act or misappropriates fund of the Trust. It was submitted that when the admitted position is that a separate Managing Committee was formed and vested with all administrative and financial control of the Trust, the petitioner cannot be asked to explain matters which fall within the jurisdiction of the Managing Committee, of which the petitioner was not a member.

Learned counsel for the respondents no. 1 and 2 submitted that first of all the petitioner was never a Mahanth as he has



not given any evidence in support of such claim and further that only a celibate person can occupy the post and the petitioner admittedly is married having children. Learned counsel submitted that the petitioner was only allowed to perform the rituals in the temple and was never made a permanent Mahanth, for which steps were being taken. Learned counsel submitted that against the petitioner the Managing Committee had complained and in that background, the impugned order removing him as Mahanth was passed. He submitted that the word 'Mahanth' has been used in a non-technical and loose form and would not connote the appointment of a trustee under the Act. Learned counsel further submitted that the order dated 08.04.2009, when the claim of the petitioner for being appointed as Mahanth was declined as well as the order dated 16.07.2009 constituting the Managing Committee for the Trust indicating vacancy of the post of Mahanth, not having been challenged by the petitioner, it would be deemed that he had accepted the position and, thus, the impugned order has not done anything beyond what was already the position existing and not challenged. Learned counsel submitted that by the impugned order, the temporary arrangement by which the petitioner was allowed to perform the rituals in the temple, has been stopped. Learned counsel submitted that thereafter since the Managing Committee earlier constituted was not found to be performing its



duties, after supersession, a temporary trustee has been appointed under Section 33 of the Act.

Having considered the rival contentions, in the considered opinion of this Court, the impugned order cannot be sustained. Without going into the factual aspects of the matter, with regard to the petitioner being Mahanth from before or being actually appointed as Mahanth, the Court would only rely on the records of the Board itself, more specifically, the letter dated 24.07.2009 where, in specific terms, it has been written that the petitioner would remain the Mahanth till he does not satisfy the conditions for his removal under Section 28(2)(h)(iii) of the Act. This letter being subsequent to even the constitution of the Managing Committee, leaves no scope for any further interpretation, since as far as the Board is concerned, prior to 24.07.2009, the petitioner was accepted as a Mahanth and further that in the same letter the relevant provision of the Act was also quoted which deals with the conditions for removal of a Mahanth (trustee). Show cause asked by the Board with regard to him having illegally settled 41 bighas of land of the Trust with his sons and the reply of the petitioner that he cannot be charged for the same as such power was given by the Managing Committee constituted by the Board itself, and not to the petitioner, appears to be a valid defence, for, prior to issuance of show cause, there is nothing on record to show that such



power was ever given to the petitioner or he was allowed to exercise such power. Nothing has been brought to the notice of the Court or is on record to indicate that the petitioner had exercised such power, despite the notification constituting the Managing Committee, and if so, what steps the Board had taken to rectify such illegality by taking appropriate action against the petitioner, in accordance with law. Thus, the reason assigned in the order for removal of the petitioner from the post of Mahanth and invocation of Section 28(2)(h)(vi) of the Act cannot be sustained in the present facts and circumstances of the case, as discussed above.

In view thereof, the writ petition stands allowed. The order contained in Memo No. 958 dated 24.08.2013 passed by the respondent no. 2, is set aside. However, the Board is at liberty to take appropriate action, as may be required, in accordance with law.

(Ahsanuddin Amanullah, J)

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