

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4946 of 2014

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Mahanth Dukhharan Das Chela of Late Mahanth Awadh Das, Kabir Panthi Math
Village- Barahi, P.O.- Barahi, District- Samastipur.

.... Petitioner/s

Versus

1. The President, Bihar State Board of Religious Trusts, Vidyapati Marg, Patna- 1.
2. Bihar State Board of Religious Trusts through its President, Vidyapati Marg, Patna- 1.
3. The President, Bihar State Board of Religious Trusts, Vidyapati Marg, Patna- 1.
4. Mahanth Deep Narayan Das, Kabir Panthi Math, Achraya Asthan, Laxmipur Bagicha, P.S.- Rosra, District- Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Ranjan Sinha, Mr. Suraj Narayan Yadav and Mr. Ranjeet Kumar Yadav, Advocates
For the Board	:	Mr. Shekhar Singh, Advocate
For the Private Respondent No. 4	:	Mr. Basisth Narayan Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 15-09-2017

Heard learned counsel for the petitioner; Bihar State Board of Religious Trusts (hereinafter referred to as the 'Board') and respondent no. 4.

2. At the very outset, learned counsel for the petitioner submitted that the sole petitioner has died. It was further prayed that he may be permitted to be substituted.

3. The writ petition has been filed seeking the following reliefs:

“(i) For quashing of the order dated 27.12.2013 passed by the President of the Bihar State Board of Religious Trusts (hereinafter referred to as “The Trust”) whereby the



whereunder the claim of the petitioner for the recognition on the post of Trustee of Barari Math has been rejected on the basis of infringement of condition mentioned in Hukumnama written by Mahanth Awadh Das and further directed that Mahanth Deep Narayan Das will hold the post of trustee continuously after holding that Barahi Math is a branch of Rosra Acharya Math.

(ii) For directing the respondent president of the trust to appoint the petitioner on the post of trustee of Barahi Math after quashing of annexure-1.

(iii) For grant such other relief (s) for which the petitioner is found to be entitled in the facts and circumstances of the case.”

4. In view of the fact that the basic grievance of the petitioner in question is his removal as the *Mahanth* of the trust in question. Though in the said order, there may also be a finding by the President of the Board with regard to the nature of the trust, in the considered opinion of the Court, once the petitioner, who has moved the Court for him being made the *Mahanth* is no more, the said office not being hereditary, has to be filled up in terms of the will of the donor and in accordance with law. There cannot be any substitution in the said matter as the claim being totally personal, extinguishes, the moment the person dies. However, this should not mean that the issue which should have been either decided or raised by the petitioner, who may have died, cannot be gone into in any other proceeding by another person, who was not a party to any of the proceedings on which such orders came to be passed.



5. In view thereof, the writ petition stands disposed off as infructuous.

6. However, as observed above, the disposal of the present writ application shall not preclude any person, who may claim to be appointed as a *Mahanth* of the trust in question and any finding given in the order impugned relating to either the nature of the trust or its status i.e., whether it is an independent *Math* or managed by any another *Math*, or otherwise, shall not act as *res-judicata* or a final finding of fact on such point and the same shall be open to adjudication before the competent authority/forum/Court, in accordance with law, as and when the occasion arises.

(Ahsanuddin Amanullah, J.)

P. Kumar

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