

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1633 of 2017

In

C.Misc. 1984 of 2017

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Sardar Amarjeet Singh @ Amarjeet Singh, S/o Late Balwant Singh,
Resident of Village- Harmandir Gali, P.S. City Chowk, District- Patna.

.... Appellant

Versus

1. The Prabandhak Committee through its Member Shri Charanjit Singh, Son of Late Desha Singh, Resident of 4/6, Anand Puri, West Boring Canal Road, P.S.- S.K. Puri, District- Patna.
2. S. Avtar Singh Makkar, President, Sri Harimandirji Prabandhak Committee, Patna Saheb, Patna City, Patna.
3. S. Shailendra Singh, Senior Vice President, Sri Harimandirji Prabandhak Committee, Patna Saheb, Patna City, Patna.
4. Bibi Kawaljeet Kaur, Junior Vice President, Sri Harimandirji Prabandhak Committee, Patna Saheb, Patna City, Patna.
5. S. Sarjinder Singh, General Secretary, Sri Harimandirji Prabandhak Committee, Patna Saheb, Patna City, Patna.
6. S. Mahendra Singh Chhabra, Secretary, Sri Harimandirji Prabandhak Committee, Patna Saheb, Patna City, Patna.
7. The Bihar State Election Authority through its Secretary.

.... Respondents

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Appearance :

For the Appellant	:	Mr. Anjani Kumar, Sr. Advocate Mr. Kumar Alok, Advocate Mr. Rakesh Kumar, Advocate
For Prabandhak Committee:		Mr. P.K. Shahi, Sr. Advocate Mr. Vikas Kumar, Advocate
For Respondent No.7	:	Mr. Mukesh Thakur, Advocate
For Respondent Nos.2 to 6	:	Mr. Y.V. Giri, Sr. Advocate Mr. Ashish Giri, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY**

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 27-11-2017 Having heard learned counsel for the parties at length and

on going through the constitution and Bye-Laws of Sri Takhat

Harimandirji, Patna Saheb, Patna, we find that aggrieved by an



order passed on 7.11.2017 by the District Judge, Patna in a Misc. Case No.173 of 2017 wherein the District Judge exercised his power under Article 77 of the Bye-Laws, the writ petition was filed under Article 227 of the Constitution.

Having heard the submissions of the learned Senior counsels at length, we find that the power available to the District Judge under Article 77 of the Bye-Laws is an administrative power wherein any person having interest in the Gurudwara Prabandhak Committee or control over the said Committee can make a complaint by filing an application to the District Judge for such action as may be considered necessary.

On scrutiny of various provisions of the Bye-Laws, we find that the District Judge is the custodian of the Committee in question and the power exercised by the District judge under Article 77 of the Bye-Laws is nothing but an administrative power exercised by the learned District Judge in his capacity as a custodian of the Committee in this case.

That being so, a petition under Article 227 of the Constitution was not maintainable. It should have been a petition under Article 226 of the Constitution and in proceeding to deal with the matter exercising jurisdiction under Article 227 of the Constitution, the learned Writ Court has acted without jurisdiction



and has committed material irregularity.

In view of the above, we allow this appeal, quash the order dated 21.11.2017 passed by the learned Writ Court in Civil Misc. Case No.1984 of 2017.

On the basis of the oral prayer made by respondent no.1, we permit Civil Misc. Case No.1984 of 2017 to be converted into a petition under Article 226 of the Constitution.

Office to re-register the case as a petition under Article 226 of the Constitution after payment of requisite fees and court fees and making necessary correction in the body of the learned Writ Court during the course of the day and thereafter matter be placed before the appropriate Bench dealing with such issues as per the roster, day after tomorrow.

(Rajendra Menon, CJ)

N.H./-

(Anil Kumar Upadhyay, J)

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