

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 617 of 2017

- Shri Amit Sengupta S/o Late Shri S. C. Gupta, Aged About 59 Years, R/o Flat No. 301, Building No. 52, Seawood Estate, Nerul, Navi Mumbai, Maharashtra, 400706

Presently Holding the Post of Vice President of Ramkrishna Sarda Sevashram, Dharampura, Jagdalpur, Bastar (Chhattisgarh), Pin 494001

---- Petitioner

Versus

1. Ramkrishna Sarda Sevashram Through Its Secretary Swami Vimuktanand, Dharampura, Jagdalpur, Bastar (Chhattisgarh) Pin 494001
2. Mihir Mistry, Accountant, Ramkrishna Sarda Sevashram, Dharampura, Jagdalur, Bastar (Chhattisgarh) Pin 494001
3. Anil Kapre, Treasurer, Ramkrishna Sarda Sevashram, Dharampura, Jagdalpur, Bastar (Chhattisgarh) Pin 494001
4. State Of Chhattisgarh, Through The Collector, District Bastar, (Chhattisgarh) 494001
5. State Of Chhattisgarh, Through Superintendent Of Police, P.S. Jagdalpur, District Bastar (Chhattisgarh) 494001

---- Respondents

For Petitioner	Shri Prasoon Agrawal, Advocate
For Respondent-State	Shri P. K. Bhaduri, GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

16/03/2017

1. Petitioner is a trustee of the respondent No.1 Trust, which is a public trust registered under the Chhattisgarh Public Trust Act, 1951 (henceforth 'the Act, 1951'). Alleging various irregularities including financial irregularities, the petitioner submitted

representations before the Collector, Bastar and SDO (Revenue), Jagdalpur, however, no steps have been taken, therefore, the present petition has been preferred seeking direction to the respondent No.4 to initiate and hold a roving enquiry against the Trust for misappropriation of funds and financial embezzlements.

2. Section 22 of the Act, 1951 speaks about powers of the Registrar. It provides that the Registrar shall have powers -

- “(a) to enter on and inspect or cause to be entered on and inspected any property belonging to a public trust;
- (b) to call for or inspect any extract from any proceedings of the trustees of any public trust or any book or account in the possession of or under the control of the trustees;
- (c) to call for any return, statement, account or report which he may think fit from the trustees or any person connected with a public trust:

Provided that in entering upon any property belonging to the public trust the officer making the entry shall give reasonable notice to the trustee and shall have due regard to the religious practices or usages of the trust.”

3. Section 23 of the Act, 1951 provides for the procedure after receipt of the report by the Registrar (*sic* Register), which provides thus:-

- “(1) If the report of the auditor made under section 17 shows, in the opinion of the Registrar, material defects in the administration of the public trust, the Registrar may require the working trustee to submit an explanation thereon within such period as he thinks fit.
- (2) If on the consideration of the report of the auditor, the accounts and explanation, if any, furnished by the working trustee, the Registrar is, after holding an inquiry in the prescribed manner and giving opportunity to the person concerned, satisfied that

the trustees or any other person has been guilty of gross negligence, a breach of trust, misapplication or misconduct which has resulted in the loss to the public trust he shall determine -

- (a) the amount of loss caused to the public trust;
 - (b) whether such loss was due to any breach of trust, misapplication, or misconduct on the part of any person;
 - (c) whether any of the trustees, or any other person is responsible for such loss;
 - (d) the amount while any of the trustees or any other person is liable to pay to the public trust for such loss.
- (3) The amount surcharged on any trustee or other person in accordance with clause (d) of sub-section (2) shall, subject to any order of the Court under section 24, be paid by the trustee or person surcharged within such time as the Registrar may fix.”

4. In view of the above provisions, the petitioner has a statutory alternative remedy under the Act, 1951 itself, therefore, instead of preferring this petition, the petitioner should have approached the Registrar, Public Trust for redressal of the grievances.
5. In view of the law laid down by the Supreme Court in the matter of **Union of India and others vs Major General Shri Kant Sharma and another, {(2015) 6 SCC 773}**, since the petitioner has an alternative remedy, the present petition is not maintainable. It is dismissed with liberty in favour of the petitioner to approach the Registrar, Public Trust under the Act, 1951.

Sd/-

JUDGE
PRASHANT KUMAR MISHRA

Nirala