

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2026 of 2016

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Kishore Kumar Singh S/o Late Yamuna Prasad Singh, resident of village -
Jogni Jaga, Post - Bariyarpur, P.S. Sakra, Distt. - Muzaffarpur, at Present
residing at Jogni Niwas, Diwan Road, Near Lohia College, P.S. Mithanpura,
Distt. - Muzaffarpur

.... Petitioner

Versus

1. The President, Bihar State Board of Religious Trusts, Vidyapati Marg,
Patna
2. The Superintendent, Bihar State Board of Religious Trusts, Vidyapati
Marg, Patna
3. The Assistant Superintendent, Bihar State Board of Religious Trusts,
Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Verma, Advocate
Mr. Suman Kumar Verma, Advocate
Mr. Anish Kumar, Advocate

For the Respondent/s : Mr. Ganpati Trivedi, Sr. Advocate
Mr. Madan Mohan, Advocate
Mr. Pallavi Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 17-04-2018

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

2. In the instant writ petition, the petitioner has prayed for



quashing of notice contained in Ref. No.3217 dated 04.01.2016 issued by the Superintendent, Bihar State Board of Religious Trusts (for short 'the Board') whereby the petitioner has been notified that the Board has partially modified its order dated 07.01.2015 passed in connection with the matter relating to Miraji Maharani Temple (for short 'Temple') and has decided to rehear the matter and the petitioner has been notified to appear before the President of the Board for rehearing on 27.01.2016 at 4 pm.

3. Learned counsel for the petitioner submitted that after hearing the parties, the Board had finally disposed of the matter vide order dated 07.01.2015. He submitted that the Board has not been conferred with any power of review under the Bihar Hindu Religious Trusts Act, 1950 (for short 'the Act') and in absence of any power of review, the Board can neither rehear the matter nor review its own order even partially.

4. On the other hand, learned counsel for the Board has submitted that though the Board has not been conferred with any power of review under the Act in exceptional circumstances, the Board may reopen the proceeding and rehear the matter. He submitted that since the petitioner had suppressed certain relevant facts from the Board, when hearing in respect of the Temple was made, an erroneous order was passed by the Board on 07.01.2015.



Hence, a decision was taken to rehear the matter. He submitted that apart from suppression of relevant facts, the Board inadvertently failed to take notice of an inquiry report, which was prepared in the proceeding on the basis of spot inquiry in presence of the parties and, thus, a decision for rehearing of the matter has been taken which cannot be held to be bad in law.

5. Replying to the submission made by the learned counsel for the respondent-Board, learned counsel for the petitioner submitted that the issue of suppression of any fact on behalf of the petitioner has not been raised in the counter-affidavit filed on behalf of the Board. He submitted that the order dated 07.01.2015 was passed by the Board after hearing the complainant and the petitioner and, thus, the question of any suppression of fact does not arise. He submitted that so far as the issue of non-consideration of the inquiry report while passing the order on 07.01.2015 is concerned, the same cannot justify the action of the respondent Board.

6. I have heard learned counsel for the petitioner and learned counsel for the respondent- Board. The moot question to be decided in this writ petition is as to whether the President of the Board having passed the order dated 07.01.2015 whereby it was held that the Temple was constructed for '*Kul Dewata*' and thus did not lie under Section 2(i) of the Act and is a private trust was justified in



issuing the notice for rehearing on the issue of properties of the Temple after modifying the previous order dated 07.01.2015.

7. I find substance in the submission made by the learned counsel for the petitioner.

8. Learned counsel for the respondents has fairly conceded that there is no provision or statutory power with the President of the Board under the Act for review of order passed by the President himself. The President of the Board exercises power of quasi judicial authority under the Act. It is well settled position in law that as far as a quasi judicial authority is concerned, it has no inherent power to review its own decision. It cannot review its own order unless power of review is expressly conferred on it by the statute under which it derives its jurisdiction. So far as question of suppression of fact is concerned, learned counsel for the petitioner has rightly pointed out that no such plea has been raised in the counter-affidavit filed on behalf of the respondents. It would be evident from the counter-affidavit filed on behalf of the respondents that they want to review the order on merits in the name of inadvertent non-consideration of enquiry report. In the circumstances, I am of the opinion that the Board acted wholly without jurisdiction in issuing the notice for rehearing of the issue of properties of the Temple after modifying the previous order dated 07.01.2015.



9. The impugned notice dated 04.01.2016 is a nullity in the eyes of law. It is set aside, accordingly. This writ petition stands allowed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.04.2018
Transmission Date	NA

