

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7502 of 2014

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Manoj Kumar, son of Bande Lal Yadav, resident of village-Gajipaita, P.O.-
Biratpur, P.S.- Sonbarsa (Raj), District - Saharsa.

.... Petitioner

Versus

1. The State of Bihar through Secretary, Urban Development Department
2. The Chairman, Bihar State Board of Religious Trusts, Vidyapati Marg, Patna.
3. Parmanand Singh, resident of village Biratpur, P.S. Saharsa, District - Saharsa.
4. Madan Prasad Singh, resident of village-Biratpur, P.S.-Saharsa, District - Saharsa.
5. The District Magistrate, Patna.

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Bidhanesh Misra, Advocate Mr. Rajendra Kumar Jha, Advocate Mrs. Tanuja Mishra, Advocate
For the Respondent-State	:	Mr. Mukund Mohan Jha, AC to GP-27
For the Private Respondent	:	Mrs. Mahashweta Chatterjee, Advocate
For the Respondent-Board	:	Mr. Shekhar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 14-05-2018

Heard learned counsel for the petitioner, learned
counsel for the Bihar State Religious Trust Board and learned
counsel for the private respondents.

2. In the instant writ petition the petitioner has
prayed for quashing of the order dated 03.03.2014 passed by the
Chairman, Bihar State Board of Religious Trusts to the extent that it



has been held that Chandi Asthan Mandir would be accepted as located in Biratpur, Saharsa in accordance with Section 28(2)(u) of the Bihar Hindu Religious Trust Act (for short 'the Act'). The petitioner has also prayed for issuance of a direction to the Chairman of the Bihar State Board of the Religious Trusts (for short 'the Board') to affirm the order dated 07.03.2013 whereby it was held that Chandi Asthan Mandir is being registered in as located in Gajipaita, Saharsa based on a request by the villagers.

3. In order to challenge the order impugned dated 03.03.2014, learned counsel for the petitioner submitted that the Board has no jurisdiction to decide dispute related to the place where the Mandir is situated or located as the provision of the Act does not confer any power upon it to decide the location. He submitted that the impugned order has been passed ignoring the documentary evidence such as Khatiyani which was on record and, thus, the same order is bad in law and on facts.

4. On the other hand, learned counsel appearing for the Board submitted that the writ petition is not maintainable in the eye of law in view of the provision prescribed under Section 28(2)(u) of the Act. He submitted that from the relief as prayed for in the writ application, it would be manifest that the petitioner is aggrieved with the impugned order only to the extent whereby it has



held that Chandi Asthan Mandir is situated at Biratpur. He contended that the aforesaid finding contained in the order dated 03.03.2014 is based on reasonings and grounds mentioned in the said order and there is nothing on record to suggest that the findings are contrary to the evidence on record.

5. Learned counsel appearing for the private respondents submitted that the findings recorded in the impugned order are based on the record of Archaeological survey and other relevant books produced at the time of hearing. She submitted that the findings of fact recorded by the Board cannot be challenged by way of the writ petition as it would not be possible for this court to decide such disputed facts in a summary proceeding under Article 226 of the Constitution of India.

6. I have heard learned counsel for the parties and perused the record.

7. Having gone through the records of the case, I find that order passed by the Board is based on the evidences led before it. The Board has been vested with the power of general superintendence of religious trust in the State and is required to do all things reasonable and necessary to ensure that such trusts are properly administered.

8. Under Section 28 (2)(u) of the Act, when a dispute



as to whether any trust is a public or a private trust in accordance with the definition under Section 2(1) of the Act and other ancillary disputes are decided, the person aggrieved has a remedy under Section 28(2)(u) itself before the competent court i.e. civil court.

9. In the opinion of this Court, the dispute raised herein can be decided properly after appreciating the oral and documentary evidences by the competent civil court. The petitioner ought to have availed the statutory remedy available under the Act.

10. In that view of the matter, looking at the statutory provision of the Act and the disputed questions of fact, I am not inclined to entertain the petition under Article 226 of the Constitution. It is dismissed, accordingly.

11. However the petitioner would be at liberty to avail remedy before the competent civil court in accordance with the law for the redressal of his grievance.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2018
Transmission Date	NA

