

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5225 of 2016

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Mahanth Ram Kamal Das Son of Late Narayan Singh, Chela of Late Ram
Khelawan Das resident of Jalgovind Math, Barh, Police Station - Barh, District -
Patna

.... Petitioner

Versus

1. The Chairman, Bihar State Board of Religious Trust, 5, Vidyapati Marg, Patna
2. Gajendra Das Son of Not Known to the Petitioner, resident of Jalgovind Math,
Barh, Police Station - Barh, District - Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2, Advocate
For the Respondent-Board : Mr. Ganpati Trivedi, Sr. Advocate
Mr. Madan Mohan, Advocate
Mrs. Pallavi Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 10-07-2018

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

2. This writ petition has been filed by the petitioner
for setting aside the order dated 01.12.2015 passed by the
Chairman, Bihar State Board of Religious Trust whereby and
whereunder respondent no. 2 has been directed to take charge of
'Trustee' of Jalgovind Math, Barh (for short '*math*').



3. Learned counsel for the petitioner submitted that the petitioner was appointed as Mahanth of math on 31.01.2009 by the Bihar State Board of Religious Trust (for short 'the Board') since then, he was regularly working as trustee of the *math*. Subsequently, vide order dated 01.12.2015, respondent no.2 has been appointed as trustee of the *math* in his place. He submitted that before passing the order dated 01.12.2015, no notice was issued to the petitioner and, hence, his replacement by respondent no.2 as trustee of the *math* is bad in law.

4. *Per contra*, Mr. Ganpati Trivedi, learned Senior Advocate appearing for the Board submitted that due to the acts of omission and commission on the part of the petitioner, which were contrary to the interest of the *math*, the Board had removed him as trustee of the *math* on 04.11.2011 and had appointed the Sub Divisional Magistrate, Barh as temporary trustee in terms of Section 33 of the Bihar Hindu Religious Trust Act, 1950 (for short 'the Act') for effective management of the trust. Subsequently, in view of recommendation made by Mahanth Gajendra Das Ji of Akhil Bhartiya Akhara Parishad, Hanuman Gadhi, Ayodhya, respondent no.2 was appointed trustee vide impugned order dated 01.12.2015. He submitted that the contention of the petitioner that no notice was issued to him and he continued as trustee of the *math*



since 31.01.2009 upto November, 2015 is erroneous.

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

6. From a perusal of the order impugned, it would be evident that the *math* is a public religious trust registered under the Board.

7. It is not in dispute that the provisions of the Act are applicable to all trusts, which administer any trust property situated within the State of Bihar. The general power of superintendence of all trusts in the State is vested in the Board. The Board is required to do all things reasonable and necessary to ensure that such trusts are properly supervised and administered.

8. Section 28(2)(h) gives power to the Board to remove a trustee from his office on certain conditions. After the order of removal is received by the trustee within 90 days of communications of such order, such trustee may apply to the District Judge for varying, modifying or setting aside the order.

9. In the instant case, there is no dispute to the fact that respondent no.2 has been appointed trustee of the *math* by the Board vide order dated 01.12.2015. Prior to that, in terms of Section 33 of the Act, the Sub Divisional Magistrate, Barh was working as temporary trustee. The petitioner has not challenged the said order



before the District Judge within time stipulated under sub-section 3 of section 28 of the Act.

10. Since the petitioner had an equally efficacious statutory remedy available against the order of his removal before the District Judge under sub-section (3) of the Section 28 of the Act and he has not availed the same, he cannot raise disputed questions of fact before this Court under extraordinary writ jurisdiction.

11. In that view of the matter, I see no merit in this application. The writ petition is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2018
Transmission Date	NA

