

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10060 of 2014

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Gopal Prasad son of Late Lala Prasad Resident of Mohalla - Ward No. 10,
Bhabhua, P.O. & P.S. Bhabhua, District - Kaimur

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Kaimur at Bhabhua
2. The Collector, Kaimur at Bhabhua
3. The Bihar State Religious Trust Board, Vidyapati Marg, Patna through its
Chairman
4. The Chairman, State Religious Trust Board, Vidyapati Marg, Patna
5. The Block Development Officer, Bhabhua
6. The Sub - Divisional Officer, Bhabhua

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Saurendra Pandey, Advocate
Mr. Rajesh Kumar Mishra, Advocate

For the Bihar State
Religious Trust Board : Mr. Shekhar Singh, Advocate

For the State : Mr. Ravi Bhardwaj, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 13-08-2018

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

2. This writ petition has been filed by the petitioner for
setting aside the order dated 26.09.2013 passed by respondent no. 4
and consequential order dated 10.10.2013 passed by respondent no.2
by which the representation of the petitioner challenging his removal
from the post of Manager of Kanni Ram Kejariwal Dharamashala,
Bhabhua (for short ' trust') has been confirmed.



3. The case of the petitioner is that he was appointed as Manager of the trust on 09.01.2002. His appointment was made permanent in the meeting of the trust held on 14.08.2003. The defaulter tenants of the trust made a complaint against him on which the District Magistrate Bhabua initiated a case against him, which was dismissed by order dated 03.11.2006. Thereafter, the aggrieved tenants took shelter of the Bihar State Religious Trust Board (for short 'the Board') by approaching the Chairman. The Chairman got the matter enquired into. Subsequently, vide order dated 12.01.2007, the District Magistrate set aside his removal order. Thereafter, the tenants took shelter of the Board by approaching its chairman, who got the matter enquired into and, on his letter dated 17.10.2007, a show-cause was asked from the petitioner by the District Magistrate, vide letter dated 13.06.2008 through the Block Development Officer. The petitioner submitted his reply to the show-cause before the Block Development Officer. The District Magistrate sought for a report from the Block Development Officer and, in response to that, the Block Development Officer gave his findings, vide his letter no. 159 dated 28.04.2009. Thereafter, the then District Magistrate, after hearing the petitioner and the Block Development Officer and, on perusal of all the documents on record, exonerated the petitioner from the charges, as leveled in the letter dated 17.10.2007 by the Chairman of the



Board. Subsequently, a new District Magistrate assumed charge of Bhabua. The Chairman of the Board sent another letter dated 11.05.2011 to the District Magistrate. The District Magistrate without verifying the records and opinion of the Block Development Officer and the erstwhile District Magistrate, vide his order dated 26.09.2011, removed the petitioner from the post of Manager of the trust. Being aggrieved by the order of Chairman and the consequential order passed by the District Magistrate, Bhabua, the petitioner challenged the same before this Court, vide C.W.J.C No. 421 of 2013, which was disposed of, vide order dated 14.01.2013 directing the petitioner to file a fresh representation before the Chairman of the Board for reconsideration of the matter. In compliance of the order of this court, the petitioner filed a representation before the Chairman of the Board along with the order dated 14.01.2013 passed by this Court in C.W.J.C No. 421 of 2013. After hearing the parties and perusing the documents furnished by the petitioner, the Chairman of the Board, vide impugned order dated 26.09.2013, removed the petitioner from the post of Manager and rejected his representation.

4. It has been submitted by the learned counsel for the petitioner that the representation of the petitioner was rejected on erroneous grounds. The Chairman of the Board failed to appreciate that the appointment of the petitioner had been made permanent by



the trust Committee on 14.08.2003. He pleaded that the Chairman of the Board and the District Magistrate had no jurisdiction to interfere with the appointment of the employees of the trust. He has further pleaded that the Chairman of the Board exceeded his jurisdiction in directing for removal of the petitioner ignoring the findings of his predecessors.

5. Per contra, learned counsel for the Board submitted that the writ petition is misconceived. It was the petitioner, who had approached this Court earlier, vide C.W.J.C No. 421 of 2013, which was disposed of by order dated 14.01.2013 with liberty to the petitioner to file a fresh representation before the Chairman of Board for reconsideration of the matter and, pursuant to the said order, the petitioner filed a representation before the Chairman and, after giving proper opportunity of hearing to the petitioner, the impugned order has been passed. He submitted that there is no illegality in the order, as the same was passed, as per direction issued by the Court. He contended that the trust in question is a public trust. He pleaded that earlier also, vide order dated 28.06.2005 passed in C.W.J.C No. 6757 of 2005, it was held by this Court that the same is required to be managed in the manner conducive for public interest. This Court had directed the Collector, Kaimur, Bhabua to take over the management of the trust to remain in the helm of the affairs of the trust for a period



of two years. He submitted that Chapter-5 of the Bihar Hindu Religious Trust Act, 1950 (for short 'the Act') prescribes powers and duties of the Board. Section 28 thereof prescribes the general powers and duties of the Board under which the general superintendence of all religious trust in the State has been vested in the Board.

6. Learned counsel for the State has adopted the submissions made by the learned counsel for the Board.

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

8. It would appear from the record that earlier one Navin Kumar Ojha had approached this Court in C.W.J.C No. 6757 of 2005 in respect of the trust. In the said case, vide order dated 28.06.2005, this Court held that the collector, Bhabua shall take over the management of the trust and shall remain in the helm of affairs of the trust for a period of two years. It was also directed in the said writ petition to complete the full audit of the trust and institute an appropriate proceeding against appropriate persons, who shall be found to have defalcated the money and assets of the trust. Pursuant to the order passed by this Court, the District Magistrate, Kaimur at Bhabua was appointed as temporary trustee for one year under Section 33 of the Act by order dated 17.10.2007. In the said order, it was noticed that the proposal to appoint the petitioner and one



Chandradev Prasad temporarily for six months was received by the Board for approval. Subsequently, the approval was made only for a period of six months and that too on temporary basis. Thereafter, neither any proposal of extension of their services was ever received in the Board nor any such thing was approved. Accordingly, in the order contained in Memo No. 1130 dated 17.10.2007, as contained in Annexure-B to the counter affidavit filed on behalf of respondent nos. 3 and 4, it was observed that their services had automatically come to an end. Since the petitioner continued to work without any approval, vide order 26.09.2011, he was ordered to be removed passed by the District Magistrate, Kaimur, Bhabhua. The said order was challenged by the petitioner before this Court vide C.W.J.C. No.421 of 2013, which was disposed of on 14.01.2013 with liberty to the petitioner to file a fresh representation before the Chairman of the Board for reconsideration of the matter. Pursuant to the order passed in the aforesaid writ petition, the petitioner filed a representation before the Chairman, which was rejected, vide impugned order dated 26.09.2013 by him after giving adequate opportunity of hearing to the petitioner. Thus, it was manifest that the order impugned was passed by the Chairman of the Board on the representation of the petitioner pursuant to the direction issued by this Court. Thus, the petitioner cannot be allowed, at this stage, to challenge the jurisdiction of the Chairman of



the Board in the matter in question. Moreover, the District Magistrate has simply passed a consequential order, which can also not be held to be bad.

9. In view of the discussions made above, I see no merit in this application. The application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./SkSuman.

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.08.2018
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