

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (C) No. 2150 of 2011**

1. Jogendra Verma, son of Shri Satyanarayan Verma, aged about 36 years, resident of Civil Lines, Raigarh (c.G.)
2. Chandra Sekhar Verma, son of Shri Satyanarayan Verma, aged about 35 years, resident of Civil Lines, Raigarh (C.G.)

**---- Petitioners****Versus**

1. State of Chhattisgarh, through the Secretary, General Administration/Revenue Department, D.K.S. Bhawan, Mantralaya, Raipur.
2. The Collector, District Raigarh (C.G.)
3. The Sub Divisional Officer, Raigarh (C.G.)
4. Seth Kirodimal Dharmada Trust, Sadar Bazar, Raigarh through its Chairman Shri Ramesh Kumar Moda, S/o Late Purshottam Das Moda, aged 62 years, resident of Sadar Bazar, Raigarh (C.G.)

**---- Respondents**


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For Petitioners : Shri B.P. Sharma & Hari Agrawal, Advocate.  
 For State : Shri Ratan Pusty, Govt. Advocate.  
 For Respondent No. 4 : Shri Atanu Ghosh, Advocate.

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order On Board****15/01/2018**

(1) This writ petition is directed against the order dated 4.4.2011 passed by the Sub Divisional Officer by which a shop held by respondent No. 4 has been directed to be sealed by the said authority.

(2) Learned counsel for the petitioners submits that the order of the Sub Divisional Officer passed on 04-04-2011 directing the premises to be sealed, is illegal, without jurisdiction and without authority of law. He further submits

that under the statutory scheme of the Public Trust Act, the Registrar, in case of mismanagement of trust property, could only make a reference to the District Judge and the Court alone is competent to pass injunction or any kind of prohibitory order, therefore, the impugned order is liable to be set aside.

(3) Per contra, counsel for the State would support the impugned order.

(4) Shri Atanu Ghosh, counsel for respondent No. 4 would submit that order of the Sub Divisional Officer directing the shop of respondent No. 4 to be sealed, is illegal, without jurisdiction and authority of law.

(5) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(6) Power of Registrar is provided in Section 22 of the Chhattisgarh Public Trust Act, 1951 (henceforth "Act, 1951"), which states as under:-

**"22. Power of the Registrar.-** 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 trustee;

(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.”

(7) Section 26 of the Act, 1951 provides for application to Court for directions whereas Section 27 of the Act, 1951 provides Court's power to hear application, which state as under:-

**“26. Application to Court for directing.-** (1) If the Registrar on the application of any person interested in the public trust or otherwise is satisfied that,-

- (a) the original object of the public trust has failed;
- (b) the trust property is not being properly managed or administered; or
- (c) the direction of the Court is necessary for the administration of the public trust;

he may, after giving the working trustee an opportunity to be heard direct such trustee to apply to Court for directions within the time specified by the Registrar.

(2) If the trustee so directed fails to make an application as required, or if there is no trustee of the public trust or if for any other reason, the Registrar considers it expedient to do so, he shall himself make an application to the Court.

**(27) Court's power to hear application (1)** On receipt of such application the Court shall make or cause to be made such inquiry into the case as it deems fit and pass such orders thereon as it may consider appropriate.

**(2)** While exercising the power, under sub-section (1) the Court shall, among other powers, have power to make an order for;-

- (a) removing any trustee;
- (b) appointing a new trustee;
- (c) declaring what portion of the trust property or of the interest therein shall be allocated to any particular object of the trust;
- (d) providing a scheme of management of the trust property;
- (e) directing how the funds of a public trust whose original object has failed, shall be spent, having due regard to the original intention of the

author of the trust or the object for which the trust was created;

(f) issuing any directions as the nature of the case may require.

(3) Any order passed by the Court under sub-section (2) shall be deemed to be a decree of such Court and an appeal shall lie therefrom to the High Court.

(4) No suit relating to a public trust under Section 92 of the Code of Civil Procedure, 1908 (V of 1908), shall be entertained by any Court on any matter in respect of which an application can be made under Section 26.”

(7) A careful perusal of both the provisions would show that if the Registrar, Public Trust is satisfied that the direction of the Court is necessary for the administration of the public trust, he may direct the trustee to apply to Court for directions within the time specified by him and if the trustee so directed fails to make an application as required, Registrar can himself make an application to the Court and the detailed procedure for hearing the application has been prescribed in Section 27 of the Act, 1951 *but* no power is conferred upon the Registrar, Public Trust in the said provision enabling him to seal the subject premises.

(8) In view of the aforesaid discussion, the order of Sub Divisional Officer (Registrar, Public Trust) directing the premises to be sealed is held to be illegal and without jurisdiction and authority of law, which is liable to be and is hereby quashed. However, this will not prevent the respondent No. 3 to proceed in accordance with law under Section 26 & 27 of the Act, 1951.

(9) The writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)  
Judge

D/-