

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13343 of 2015

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Achary Mahanth Guru Prasad Goswami, Ch/o Late Bacha Goswami, R/o-
Dhanauti Bari Math, P.S.- Siwan Mof, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Home Department, Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Superintendent of Police, Siwan.
5. The District Magistrate, Siwan.
6. Dhanauti O.P. Incharge, P.S.- Siwan Mof, District- Siwan.
7. The Bihar State Hindu Religious Trust Board through President, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Satyendra Rai, Adv.
For the BSBRT	:	Mr. Ganpati Trivedi, Sr. Adv.
		Mr. Sanjay Kr. Pandey, Adv.
For the State	:	Mr.Ravish Chandra, AC to SC 6.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 23-04-2019 Heard learned counsel for the parties.

Petitioner in the present case is seeking a writ of mandamus directing the respondents to allow the petitioner to go and reside as well as to perform his religious rites and rituals in the Bari Math at Dhanauti in the District of Siwan. The petitioner is also challenging the order dated 04.01.2014 passed by the Collector-cum-District Magistrate, Siwan (respondent no.5) by which the representation of the petitioner to allow him to go and reside and worship in the aforesaid 'Math' has been dismissed.

In order to establish his right to enter into the 'Math' premises, learned counsel for the petitioner has drawn the attention



of this Court towards the submissions recorded in the order dated 10.05.2013 passed in C.W.J.C No.175 of 2013 by a learned Coordinate Bench of this Court. Learned counsel for the petitioner submits that in the said case when the petitioner moved this Court to allow him to enter into the 'Math' premises at Dhanaut and not to restrain him in visiting the 'Math' and that the respondents should let the petitioner to perform his religious rituals inside the 'Math', learned counsel for the respondent no.7 i.e., the Bihar State Hindu Religious Trust Board took a plea that respondent no.7 has never restrained the petitioner from entering into the 'Math' alone but he was always insisting for entering into the 'Math' together with the followers. Learned counsel submits that because of the said statement made on behalf of the respondent no.'7', the criminal writ application was dismissed.

It is further submitted that the petitioner happened to be a 'Mahanth' of the 'Math', there is no reason as to why he would not be allowed to reside inside the 'Math' and to do his worships and perform the rituals.

On the other hand, Mr. Ganpati Trivedi, learned Senior Counsel representing the Bihar State Hindu Religious Trust Board submits that from Paragraph '1' of the writ application it is found that the petitioner is in fact praying for a writ of mandamus directing the respondents to allow the petitioner not only to enter



into the 'Math' but also to permanently reside there and perform his rituals. Learned senior counsel submits that on the face of the stand of the respondents in their counter affidavit saying that the petitioner had been earlier removed as a trustee of the 'Math' and the said order of removal has never been challenged by the petitioner, at this stage, the petitioner cannot claim any right to reside inside the 'Math' and claim his rights as 'Mahanth' of the 'Math'. It is submitted that so far as right to worship or to profess the religion is concerned, it is available to the members of same religion including the petitioner.

Learned Senior Counsel has further pointed out that the petitioner is a convict in at least two criminal cases and in both cases the conviction is under Section 302 IPC, the petitioner has been sentenced to undergo rigorous imprisonment for life. It is submitted that the petitioner is presently on bail and during this period he is now looking to stake his claim of 'Mahantship' of the 'Math'.

Learned Senior Counsel further submits that the petitioner had got a remedy under Section 48 of the Bihar Hindu Religious Trust Act, 1950 if he was aggrieved by the order of the Board removing him as a trustee but in this case the removal order was passed in the year, 2007 itself and the petitioner has not challenged the said order, even the remedy under Section 48 of the



Act of 1950 has become barred by limitation. The position is now all the more worst as the petitioner had sought to challenge the order of his removal by filing a writ application being CWJC No.4829 of 2009 when this Court was not pursued to entertain the said writ application, he had withdrawn the same with liberty to file an application before the Appellate Tribunal within two weeks. The order was passed in the writ application as back as on 10.08.2010. It is, thus, submitted that in the given facts and circumstance of the case, if the District Magistrate, Siwan has rejected the request of the petitioner to allow him to reside in the premises, no illegality or infirmity can be found for the same.

Having heard learned counsel for the petitioner and learned Senior Counsel for the Bihar State Hindu Religious Trust Board and on going through the averments made in the writ application, this Court finds that in fact the petitioner is claiming a right to go and reside inside the 'Math' premises of the Bari Math, Dhanauti in the District of Siwan. He is also praying for allowing him to perform his religious rights and rituals in the 'Math' without any obstacles/conditions on the entering of the petitioner. To this Court, it appears that if the relief as prayed in the writ application is allowed, it would amount to nullifying the order passed by the Board as back as in the year, 2007 which was initially challenged by him vide CWJC No.4049 of 2007. In



Paragraph '13' of the counter affidavit of respondent no.7 these facts have been categorically stated.

In the opinion of this Court, the petitioner has miserably failed to demonstrate any legal right vested in him to reside in the said premises of the Bari Math at Dhanauti. The District Magistrate, Siwan has rightly taken note of the fact that the petitioner has earlier lost his battle to get himself impleaded in the Title Suit No.1 of 1973 as the Intervention Application, Miscellaneous Appeal and the SLP all preferred by the petitioner were dismissed. In the given facts and circumstances, this Court finds no reason to grant the reliefs prayed in the writ application.

This writ application has thus no merit. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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