

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18451 of 2021

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Sri Sant Bhawan Ram @ Balak baba, Organizer Cum International Secretary,
Universal Satyug Stage India Nayas, Registered Society having its
Collectoriate Ghat Patna and Its Branch Office at Dhanuskutir Asthan,
Harihar Chetra Sonepur District Saran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar.
2. The Home Commissioner-Cum-Secretary, Govt. of Bihar.
3. The Director General of Police, Govt. of Bihar.
4. The District Magistrate, Govt. of Bihar. Patna.
5. The Senior Superintendent of Police Bihar, Patna.
6. The Deputy Superintendent of Police, P.S. Shastrinagar Bihar, Patna.
7. The Station House Officer, P.S. Shastrinagar, Patna.
8. The President/Chairman, Bihar Religious Trust Board, Vidyapati Marg, Patna.
9. The Superintendent, Bihar Religious Trust Board, Vidyapati Marg Patna.
10. Sri Kishore Kunal, Secretary, Sri Mahavir Asthan Nayas Samiti, Mahavir Mandir, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Sugandha Prasad, Advocate
For the Respondent/s : Mr.Pawan Kumar, AC to AG

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE A. M. BADAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-10-2021

This petition was filed on 25.10.2021, which was registered and listed immediately, and is taken up today for hearing.

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-



- (i) For the issuance of an appropriate writ/ writs, order/orders, direction/ directions, commanding and directing the Respondent State authorities including writ in the nature of Rule NISI as to whether the Respondent no.4 (District Magistrate, Patna) without making proper verification of the alleged written complaint made by Sri Kishore Kunal (Private Respondent no.10) the so called Secretary, Mahavir Asthan Nyas Samiti, may legitimately impose curfew like situation, at Sheikhpura Matth/Mahavir Mandir Patna Junction with the deployment of Magistrates/Police force/Fire brigade etc thereby stalling the meeting convened, under the banner of "Bihar Rajya Dharmik Nyas Pradesh, Nyasdhari Sangh-cum-Khad Darshan Vishwa Akhara Parishad" with the promulgation of prohibitory order dated 07.09.2021 contained in Annexure-1 to this petition. Smacks of brutal annihilation and ruthless oppression & suppression of the fundamental rights granted under Article 19(1)(a),(b),(c),(d),(e),(g),21 &14 of the Constitution of India which remained under seized for 3 days (8,9,10 of Sep.2021) without any lawful legitimate and valid reason requires to be dealt with



severely infringes their fundamental rights as in all fairness the liability of a State to pay an adequate compensation acting arbitrarily and fanciedely at the behest of Private Respondent no.10 the most powerful bureaucrat of the country having far and wide nexus with the public authority and politicians may not be consigned and placed under the carpet, on the sheer premises that:-

"The public authority entrusted with the statutory function cannot act negligently under our constitution, sovereignty is vested in people. Every limb of the Constitution machinery is obliged to be public oriented, no functionary in exercise of statutory power can claim immunity except to the extent protected by the statute itself."

"Democracy needs the power of truth to survive. The power of truth of one's religious faith and worship-the State cannot alone be determined of truth in democracy."



Vis a vis sans any output of intelligence agency in this regard suffers from the vice of arbitrariness actuated with malice and to sub serve the interest of Private Respondent no.10, and hence, the indulgence of Lordships is solicited at this juncture.

- (ii) For issuance of writ in the nature of certiorari as to why the accountability be not fastened against the D.M. acting in collusion with the Private Respondent no.10 for misusing the State machinery continuously for 3 days with coming operation like so called blue star operation pressed into service at the said religious place, paralyzing the movement altogether of the law abiding citizen, as if,

"A storm had just passed away by and washed away everything of their peaceful assemblage at the said Sheikhpura Matth, requires to be probed with the Constitution of a "Facts Finding Committee" be made under monitoring of this Hon'ble Court, for



causing uncalled for mass unrest and commotion under fucillades of abusing its authority.

- (iii) For the issuance of writ in the nature of Mandamus, calling upon the Government machinery, the Respondent 1st set as to under which mysterious circumstances, the deployment of massive force and the Magistrate deputed pursuant to the order of D.M., Patna contained in Annexure-1 at the said religious place and that is too at the cost of public exchequer, for no legitimate reason, whatsoever, ended in fiasco, with no such apprehended danger of breach of peace as reported.

Vis a vis the damage and loss so sustained squandering of public money requires to be recovered from the erring officials of the State machinery executed at the behest of the said , ~~bureaucrat~~ (Private Respondent no.10), fixing accountability for their arbitrary acts of omission and commission, precluding them to hold their

arranged meeting scheduled to be held on 09.09.2021 to elect their office bearer of the said "KhadDarshan Parishad" with an opening of their one of its branch office at Sheikhpura Matth.



- (iv) For issuance of writ in the nature of Mandamus as to why the erring officials and staff of Government machinery and the Private Respondent no.10 be not proceeded with in accordance with law for hurting their religious faith and sentiment, not to have their peaceful assemblage and to hold meeting for election of their office bearers-with the establishment of their office branch opening under the banner Bihar Rajya Dharmik Nayas Parishad, Nayasdhari Sangh cum Khad Darshan Vishwa Akhara Parishad at Sheikhpura, Patna.
- (v) For issuance of writ in the nature of Mandamus calling upon the Respondent no.4 (D.M. Patna) regarding the action taken report on the rogatory petition of the petitioner's dated 08.09.2021 seeking permission from the District Administration maintaining norms of COVID-19, may kindly be granted, to be held on the scheduled date (09.09.2021) at Sheikhpura Matth to open their branch aforementioned contained in Annexure-3 to this petition, which was belatedly obtained after hard pursuit and rambling as on 10.09.2021, and accordingly the meeting as proposed was held, peacefully in presence of the Sub-Divisional Magistrate, Patna with the election of their office bearer, amounts to sheer abuse of the power vested to the said authority.



(vi) For the issuance of an appropriate writ/writs, order/orders, direction/directions for commanding the concerned Respondent State machinery in the nature of certiorari as to why the high power committee be not set up to make enquiry as against the Private Respondent no.10 for misusing his authority while posted as Administrative cum Superintendent and President of the Religious Trust Board making open loot of the Trust fund of Lord Mahavir Ji and remain instrumental to alienate/sale/lease/transfer etc of the immovable property of the deity of Lord Mahavir Ji Patna Junction/Sheikhpura Matth/Ismailpur Matth with the embezzlement, ^{of} misappropriation and mismanagement relating to Sri Mahavir Mandir, Patna Junction, and managed the show by taking over the management and affairs of the said Temple and its allied branches with acquisition of vast wealth disproportionate to his known source of income by flouting all the norms and procedure of the Religious Trust Act, during stint of service rendered by him in the Religious Trust Board by master minding the whole show with the formation of 11 Members Committee known as "Mahavir Mandir Nayas Samiti" having no sanction of law requires to be probed as against the fraudster/racketeers well grooved in



misappropriating and misutilization of the Trust Fund of Lord Mahavir Ji by all such sundry and diabolical mechanism in the whole episode.

- (vii) For the issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Mandamus for calling upon the Respondent State machinery (Respondent 1st set & 2nd set) as to why high power committee having specialized in the matter of accounts/auditing and other financial management and legal compliances framed under "Bihar Religious Trust Board Act" prescribed under Section 28(n) to hold enquiry relating to the administration of Religious Trust (Mahavir Mandir Patna Junction) and its allied branches be not constituted as against the Private Respondent no.10 his being made the Secretary of the newly constituted 11 Members Committee of "Mahavir Asthan Nayas Samiti" since 1990 till date have got to be conducted as there has been



mismanagement/misutilization of Trust fund couple with alienating/transferring/selling/leasing out the property, in his name by all the said _deceit and fraud of the deity of Lord Mahavir Ji with an acquisition of vast wealth out of income and resources of the said assets of Lord Mahavir Ji both during his stinct of service being appointed as the President of the said Religious Trust Board during the said period (2010-2015) and also while holding the post of Administration cum Superintendent of said Religious Trust Board during the period of 2006-2010 and thereafter acting as the Secretary of the said "Mahavir Asthan Nayas Samiti" with the formation of the new Committee in the year 1990 and as reported, operating a newly form Committee the so called "Mahavir Mandir Nayas Samiti" illegitimately having no sanction of law as prescribed under the said Religious Act.



(viii) For the issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Mandamus for calling upon the Respondent as to why the Respondent Authorities, Govt. of Bihar be not called upon as to under which mysterious circumstances the Private Respondent no.10 (Sri Kishore Kunal IPS) was appointed as the President of the Religious Trust Board in the year 2010 contrary to the prescribed Act under chapter-2(8) Clause-B which clearly envisage that the persons who are having a member of Bihar Civil Services, (Executive or Judicial Branch) or a member of Bihar Judicial Services or the Indian Administrative Service, may only be nominated/made as the members of the Board, including the President shall be appointed by the State Government, hence any such appointment on the post of President is a nullity in the eyes of law.

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Vis a vis any such order/decision taken by the quo warranto President be declared nonest in operative and null and void while grabbing the chair of the President of the Board.

- (ix) For the issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Mandamus for commanding the Respondent Authorities as to why the false implication in a murder case of is Mahanth Ram Gopal Das appointed Mahanth in succession to the office of Mahanthship Patna Junction Mahavir Mandir by the "Nirvani Akhara Ayodhya Ji" be not reopen and reinvestigated by the Apex Agency of the Country like CBI in the interest of Justice, equity and fair play.
- (x) For the issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Mandamus for commanding the Respondent Authorities as to why the Respondent Government



machinery be not called upon to show cause as to why the complaint of appointed Suryawansi Das @ Falahar Baba duly appointed Mahanth of Lord Mahavir Mandir by the Mukhdali Pujari being ousted at the behest of Private Respondent (Sri Kishore Kunal) who remained subjected to humiliation by calling his caste name in full view of the Public offering prayer in the said Temple and the staff and management of the said Temple was being subjected to hurling abuses like anything by the said accused (Sri Kishore Kunal) and regular complaint was made to the Parent Body of "Nirvani Akhara Ayodhya Ji" and also to the Government of India, and the State Government, and its machinery, but no case on his said complaint, registered by the SHO Kotwali P.S, and the matter presently litigating before the SDM cum Lok Niwaran Forum Patna requires to be taken up at this juncture with the intervention of this Hon'ble Court, for registering an FIR against the culprit

accused (Sri Kishore Kunal) in the interest of Justice and fair play.

- (xi) For any other order/ orders, direction/ directions, relief/ reliefs to which the petitioner may be entitled to under the facts of the case as well as the cost be awarded to the petitioner.



The Hon'ble Supreme Court in ***D. N. Jeevaraj Vs. Chief Secretary, Government of Karnataka & Ors, (2016) 2 SCC 653***, paragraphs 34 to 38 observed as under:-

“34. The learned counsel for the parties addressed us on the question of the bona fides of Nagalaxmi Bai in filing a public interest litigation. We leave this question open and do not express any opinion on the correctness or otherwise of the decision of the High Court in this regard.

35. However, we note that generally speaking, procedural technicalities ought to take a back seat in public interest litigation. This Court held in *Rural Litigation and Entitlement Kendra v. State of U.P.* [*Rural Litigation and Entitlement Kendra v. State of U.P.*, 1989 Supp (1) SCC 504] to this effect as follows: (SCC p. 515, para 16)

“16. The writ petitions before us are not inter parties disputes and have been raised by way of public interest litigation and the controversy before the court is as to whether for social safety and for creating a hazardless environment for the people to live in, mining in the area should be permitted or stopped. We may not be taken to have said that for public interest litigations, procedural laws do not apply. At the same time it has to be remembered that every technicality in the procedural law is not available as a defence when a matter of grave public importance is for consideration before the court.”

36. A considerable amount has been said about public interest litigation in *R&M Trust* [*R&M Trust v. Koramangala Residents Vigilance Group*, (2005) 3 SCC 91] and it is not necessary for us to dwell any further on this except to say that in issues pertaining to good governance, the courts ought to be somewhat more liberal in entertaining public interest litigation. However, in matters that may not be of moment or a litigation essentially directed against one organisation or individual (such as the present litigation which was directed only against Sadananda Gowda and later Jeevaraj was impleaded) ought not to be entertained or should be rarely entertained. Other remedies are also available to public spirited litigants and they should be encouraged to avail of such remedies.



37. In such cases, that might not strictly fall in the category of public interest litigation and for which other remedies are available, insofar as the issuance of a writ of mandamus is concerned, this Court held in *Union of India v. S.B. Vohra* [*Union of India v. S.B. Vohra*, (2004) 2 SCC 150: 2004 SCC (L&S) 363] that: (SCC p. 160, paras 12-13)

“12. Mandamus literally means a command. The essence of mandamus in England was that it was a royal command issued by the King's Bench (now Queen's Bench) directing performance of a public legal duty.

13. A writ of mandamus is issued in favour of a person who establishes a legal right in himself. A writ of mandamus is issued against a person who has a legal duty to perform but has failed and/or neglected to do so. Such a legal duty emanates from either in discharge of a public duty or by operation of law. The writ of mandamus is of a most extensive remedial nature. The object of mandamus is to prevent disorder from a failure of justice and is required to be granted in all cases where law has established no specific remedy and whether justice despite demanded has not been granted.”

38. A salutary principle or a well-recognised rule that needs to be kept in mind before issuing a writ of mandamus was stated in *Saraswati Industrial Syndicate Ltd. v. Union of India* [*Saraswati Industrial Syndicate Ltd. v. Union of India*, (1974) 2 SCC 630] in the following words: (SCC pp. 641-42, paras 24-25)

“24. ... The powers of the High Court under Article 226 are not strictly confined to the limits to which proceedings for prerogative writs are subject in English practice. Nevertheless, the well-recognised rule that no writ or order in the nature of a mandamus would issue when there is no failure to perform a mandatory duty applies in this country as well. Even in cases of alleged breaches of mandatory duties, the salutary general rule, which is subject to certain exceptions, applied by us, as it is in England, when a writ of mandamus is asked for, could be stated as we find it set out in *Halsbury's Laws of England* (3rd Edn.), Vol. 11, p. 106:

‘198. Demand for performance must



precede application.—As a general rule the order will not be granted unless the party complained of has known what it was he was required to do, so that he had the means of considering whether or not he should comply, and it must be shown by evidence that there was a distinct demand of that which the party seeking the mandamus desires to enforce, and that that demand was met by a refusal.’

25. In the cases before us there was no such demand or refusal. Thus, no ground whatsoever is shown here for the issue of any writ, order, or direction under Article 226 of the Constitution.”

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the Respondent Nos. 4, 5 and 8 namely the District Magistrate, Patna; The Senior Superintendent of Police, Patna and The President/Chairman, Bihar Religious Trust Board, Vidyapati Marg, Patna respectively to consider and decide the representation which the petitioner shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the Respondent Nos. 4, 5 and 8 namely the District Magistrate, Patna; The Senior Superintendent of Police, Patna and The President/Chairman, Bihar Religious Trust Board, Vidyapati Marg, Patna



respectively shall consider and dispose it of expeditiously and preferably within a period of four months from the date of its filing along with a copy of this order.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of four months from the date of its filing along with a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in



accordance with law and with reasonable dispatch;

(f) Liberty reserved to the petitioner to approach the Court, if the need so rises subsequently on the same and subsequent cause of action;

(g) We have not expressed any opinion on merits. All issues are left open;

(h) The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(A. M. Badar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	27.10.2021
Transmission Date	

