

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9260 of 2022

Dr. Bimala Shankar Mishra @ Bimala Shankar Mishra Son of Late Ram
Nagina Mishra Resident of Mitralok Colony, Pandey Patti, P.S.- Muffasil,
P.O.- Boksa, District- Buxar, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The Inspector General, Prison Bihar, Patna.
3. The District Magistrate Buxar, Bihar.
4. The Superintendent of Police Buxar, Bihar.
5. The Superintendent of Jail Central Jail, Buxar, Bihar.
6. The Jailer Central Jail, Buxar.
7. The Sub- Divisional Officer Buxar, Bihar.
8. The Circle Officer Buxar, Bihar.
9. The Bihar State Religious Trust Board Through its Secretary, Vidyapati Marag, Patna- 800001.
10. The President Bihar State Religious Trust Board, Vidyapati Marag, Patna- 800001.
11. Union of India through the Secretary, Ministry of Jal Shakti, New Delhi- 110001
12. The Secretary, Ministry of Jal Shakti, New Delhi- 110001

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar, Adv.
For the UOI	:	Mr. Anshuman Singh, CGC
For the State	:	Mr. Anjani Kumar, AAG-4

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 17-02-2023



Heard Mr. Sanjeev Kumar for the writ petitioner and Mr. Anjani Kumar, learned Additional Advocate General No.4, for the State.

This writ application for issuance of a writ in the nature of mandamus commanding upon the respondents to throw open Lord Baman Temple to public has been entertained by this Court on several occasions.

It has been urged by the writ petitioner that Lord Baman, who is the 5th incarnate of Lord Vishnu, is the principal deity of the temple, which is situated inside the Buxar Jail premises. It always depends, it has been argued, upon the wishes of the jail Authorities/Administration to open such temple for public worship as and when situation so arises especially during special days of festivities.

The suggestion of the writ petitioner is that since the temple is located at the outer extremity of the jail premises, a boundary wall could be erected, covering the area of the temple, which could then be dedicated to the



temple only and that would not cause any security risk for the jail Administration.

Considering this aspect of the matter, a Co-ordinate Bench of this Court took into account the suggestions offered by the parties and also called for affidavits in that regard from various stake holders including Bihar State Board of Religious Trust, Patna, the District Magistrate and Superintendent of Police of Buxar and the Jail Superintendent, Buxar.

It was agreed upon by the parties that the temple be given a face-lift and necessary/appurtenant structure be made to attract tourist as also open the temple for the public on all days to offer their prayers but, only after due permission of the authorities.

It further appears from one of the orders of this Court that a Committee has already been constituted; a priest designated and a Bank account opened for the maintenance of the temple.



The Inspector of the Bihar State Religious Trust Board has also made a visit to the situs of the temple and has found that it could be secluded by erecting a wall so that it does not cause any security hazard for the Jail Administration.

We are satisfied with the efforts made by the District Administration, specially an effort of the District Magistrate to take help from "Namami Gange" Project for beautification of the surroundings.

We do not wish to entertain this petition any further for two reasons. Article 25 of the Constitution of India provides freedom of conscience and free profession, practice, and propagation of religion. A Hindu religious institution of a public character could be thrown open to all classes and sections of Hindu but, such decision of the Government, which would be a temporal issue, is circumscribed by conditions of public order, morality and health and other provisions of Para-III of the Constitution of India.



As it appears from the pleadings, the temple in question is not a denominational temple and there is no dispute inter-se for control of its affairs. All that the petitioner wants is a continuous ingress and egress to the temple for offering worship for which the State administration is contemplating and has worked in that direction.

No doubt, a person has a right to visit a temple but, if such temple is situated inside the jail premises, it would only be the decision and call of the Government whether to throw it open to public. It purely falls under the domain of temporal/secular aspect of the governance for which no mandamus can be issued.

However, we note with satisfaction that steps have been taken towards that end, viz. maintenance of the temple and making efforts for opening it for the public at large, subject to conditions that would be in consonance with and not in derogation of the public safety of the Institution of Jail.



We do not wish to say any further.

The petition is consigned.

(Ashutosh Kumar, J)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.02.2023
Transmission Date	

