

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16814 of 2022

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Suraj Kumar @ Lal Babu son of Late Babu Narayan Das @ Das Babu,
Resident of Mohalla- Belwarganj, P.S.- Alamganj, Patna City, Dist.- Patna-
800007.

... .. Petitioner/s

Versus

The President, Bihar State Board of Religious Trusts Vidyapati Marg, Patna-
800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Choudhary, Advocate Mrs. Priyanka Kumari, Advocate Mr. Kulanand Jha, Advocate Mr. Rakesh Tiwary, Advocate
For the Respondent/s	:	Mr. Ganpati Trivedi, Sr. Advocate
For the State	:	Mr. Jeetendra Narayan, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT

Date : 05-07-2023

Heard Mr. Alok Kumar Choudhary, learned Counsel
for the petitioner and Mr. Ganpati Trivedi, learned Senior
Counsel appearing for the respondent.

2. The present writ petition has been preferred for
quashing of the order dated 26.09.2022 (Annexure 6) passed by
the President, Bihar State Board of Religious Trusts, Patna by
which the petitioner has been directed to submit the details of
income and expenditure account and bank account for the last
five years to it.

3. The case has chequered history. In the **Court of**
Authority under section 43 of the Bihar Hindu Religious



Trust Act, 1950 (henceforth for short ‘the Trust’), a case no. 35 of 1963 was registered in which the President of ‘the Trust’ was the petitioner while the present petitioner herein was the opposite party.

4. The prayer was to declare that the public temple situated in Belwarganj under Gulzarbagh Police Station in the District of Patna is a Public Trust.

5. After hearing both the sides on 19.09.1964, the following order was passed:-

“On a consideration of the evidence on the record and the circumstances of the case I hold that the petitioner has failed to prove that the temple in question is a public temple rather the circumstances go to show that it is a private temple of the opposite party. The petition is accordingly rejected but the parties will bear their own costs.”

6. Aggrieved, the Religious Trust Board preferred Title Suit No. 130 of 1964/54 of 1970 which was taken up by the Court of learned Additional Sub Judge II, Patna and vide an order dated 30.08.1974, the learned Court allowed the said suit holding the same to be a Public Trust property and the concluding part is incorporated hereinbelow:-

“Thus let the suit be decreed on compensation with Advocates and Advocate’s Clerk



fee Rs. 32/- and Rs. 5/- respectively is allowed. It is hereby declared that the temples in suit and the properties attached to it are Hindu Religious Public Trust property and as such the order passed by the authority under section 43 of the Act is illegal and the same is not binding on the plaintiffs and consequently the same is set aside.”

7. It was now the turn of the petitioner herein to move before the Patna High Court in First Appeal No. 633 of 1974 which was taken up by a co-ordinate bench (Hon’ble Mr. Justice Mungeshwar Sahoo, as his Lordships then was) and vide an order dated 14.12.2016, the First Appeal was allowed and paragraphs 20 and 21 are incorporated hereinbelow:-

“ 20. In view of my above discussion, I find that the plaintiff failed to prove that that the temple and its properties endowed are the public trust. On the other hand the defendant appellant has been able to prove that the temple in question is private temple and deity installed in private deity of appellants family from the very inception and it is still the family idol and the properties attached thereto are of the properties of the idol of the appellant. The finding of the trial Court on this point is, therefore, reversed. The authority has therefore, passed the order according to law under Section 43 of the Religious Trust Act. Ultimately, I



find that the temple in question is not a public trust rather it is private trust of the appellant.

21. In the result, this First Appeal is allowed. The impugned Judgment and Decree are hereby set aside and the plaintiff respondent's suit is dismissed.”

8. The aforesaid details have been incorporated in the order only to show that the dusts were settled in the matter as according to the petitioner, ‘the Trust’ never preferred any petition against the said order which thus became final.

9. However, ‘the Trust’ was not ready to lose the battle and in came the order dated 26.09.2022 issued by the President of ‘the Trust’ by which he has directed the petitioner to submit the details of income and expenditure account as also bank account from the last five years.

10. On 18.04.2023, an earlier bench of this Court while directing ‘the Trust’ to file counter affidavit had given interim protection to the petitioner.

11. Today, on call, learned Senior Counsel submits that the same could not be filed. He however, concedes that in view of the fact that an order is in favour of the petitioner in First Appeal No. 633 of 1974 (Annexure 3 to the petition), the President of ‘the Trust’ erred in issuing the order dated



26.09.2022.

12. Having gone through the rival submissions, this Court has no hesitation in observing that the President of ‘the Trust’ Board has exceeded his jurisdiction by flouting the order of the Patna High Court in First Appeal No. 633 of 1974 by issuing the order dated 26.09.2022.

13. This despite the fact that according to the learned Counsel for the petitioner, he submitted written reply incorporating all these facts including the order passed in First Appeal No. 633 of 1974 in reply to the notice dated 26.09.2022.

14. This Court refrains from making any comment on the conduct of the President.

15. Needless to say, the order dated 26.09.2022 passed by the President of the Board has to go which is accordingly quashed.

16. The writ petition stands disposed of.

(Rajiv Roy, J)

Neha/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	07.07.2023
Transmission Date	

