

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13584 of 2021

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Shri Mahavir Asthan Nyas Samiti near Patna Junction, P.S.- Kotwali, District Patna through its Secretary namely Acharya Kishore Kunal, aged 71 years (Male) S/o Late Sri Ramchandra Prasad Shahi.

... .. Petitioner/s

Versus

1. The Bihar State Board of Religious Trusts Vidyapati Marg, P.S. Budha Colony, District Patna through its President.
2. The President, Bihar State Board of Religious Trusts, Vidyapati Marg, P.S. Budha Colony, District Patna through its President.
3. Sri Mahendra Das S/o not known at present residing at Sri Ram Janaki Hanuman Mandir, Shekhpura Math, Baily Road, P.S.- Shastri Nagar, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Shanu, Advocate
For Resp. No. 1	:	Mr. Ganpati Trivedi, Sr. Advocate
For Resp. No. 3	:	Mr. Kumar Mirtunjay, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 20-06-2024

Heard Mr. Kumar Shanu, learned counsel for the petitioner, Mr. Ganpati Trivedi, learned senior counsel appearing on behalf of respondent no. 1 and Mr. Kumar Mirtunjay, learned counsel appearing on behalf of the respondent no. 3.

2. The present writ petition has been filed for the following reliefs;

“i. To issue a writ in the nature of certiorari to quash/set aside the order dated 05.06.2021 passed by the President of the Bihar Board of Religious Trust Patna (hereinafter referred to as Board) whereby and where under the learned President without providing any opportunity to the petitioner passed the impugned order behind its back and appointed Sri Mahendra Das as



trustee of the Sri Ram Janki Hanuman Mandir, Sheikhpura Math, Bailey Road, Patna as contained in Memo No. 481 dated 05.06.2021.

ii. To issue a writ in the nature of Mandamus commanding the respondents particularly respondent no. 2 from interfering the management of the Sri Ram Janki Hanuman Mandir, Sheikhpura Math, Bailey Road, Patna.

iii. To pass any other writ or writs, order or orders, direction or directions for which the petitioner is entitled to in the facts and circumstances of the case.”

3. Learned counsel for petitioner submits that the petitioner has challenged the order dated 05.06.2021 passed by respondent no. 2 whereby the respondent no. 3 has been recognized as a Mahant of Sri Ram Janki Hanuman Mandir, Sheikhpura Math, Bailey Road, Patna.

4. Learned counsel for the petitioner further submits that from perusal of the impugned order issued by respondent no. 2 is void *ab initio* and without jurisdiction inasmuch as under Section 48 of the Bihar State Religious Trust Act, 1950 (hereinafter referred to as the “Trust Act”), the District Judge is competent to appoint trustee. As per Section 33 of the Trust Act, Board can appoint only temporary trustee for the period of one year under certain condition but even the statutory conditions have not been followed at the time of passing of the impugned order in the present case.

5. Learned counsel for the petitioner submits that



from perusal of the impugned order it appears that the previous Mahant, Sri Ramgopal Das had died about 11 years back i.e. on 09.12.2011 but the respondent no. 3 has been appointed on the basis of request made by him in February , 2021 for his appointment as trustee. He further submits that after the death of the previous Mahant in the year 2011, Sri Ram Janki Hanuman Mandir, Sheikhpura Math, Bailey Road, Patna was being managed and controlled by the petitioner but at the time of passing of the impugned order the petitioner was not given any notice and the present impugned order has been passed in violation of principle of natural justice. Even before 2011, the Ram Janki Mandir was being managed and controlled by the petitioner through the Trust Committee.

6. Learned counsel for the petitioner submits that from perusal of the impugned order dated 05.06.2021 (Annexure-1), it appears that the respondent no. 1 had not given any information about the passing of the order in favour of the respondent no. 3 to the petitioner. And while passing the impugned order dated 05.06.2021 the respondent no. 1 had not given any opportunity to the petitioner to submit his reply on the application filed by the respondent no. 3 and while passing the impugned order the respondent no. 1 has ignored the fact that



the petitioner had filed the Case No. 09 of 2009 in the Court of Bihar Hindu Religious Trust Tribunal, Patna, under Section 43B of the Act after due permission of the Board. Sri Gopal Das challenged the maintainability of the application and the matter travelled up to L.P.A. Bench of Hon'ble High Court vide order dated 01.10.2012 passed in L.P.A. No. 1406 of 2012 remanded the matter before the tribunal clearly stipulating that the nature of the Trust properties or individual property shall be governed by the decision of the tribunal where the matter is said to be pending. It appears that the order dated 05.06.2021 has been passed in the teeth of the order dated 01.10.2012 passed in L.P.A. No. 1406 of 2012 which suggests that the impugned order dated 05.06.2021 is against the direction of the Hon'ble High Court. While passing the impugned order the respondent no. 2 failed to consider that the proceeding of the Case No. 09 of 2009 is pending in the Court of Bihar Hindu Religious Trust Tribunal, Patna where dispute between the respondent no. 3 and one other person namely, Rakesh Kumar Bhatt is pending and in that said proceeding Bihar State Religious Trust Board is also a party as Opposite Party No. 3. The respondent no. 2 or the Board has no power and authority to interfere in the management of Sri Ram Janki Hanuman Mandir, Sheikhpura, Bailey Road, Patna



because it is the subordinate branch of Mahavir Mandir and as acknowledged in the impugned order and the respondent no. 2 or the Board has no power to appoint respondent no. 3 as trustee because there is no such provision in the Bihar Hindu Religious Trust Act for appointment of trustee in subordinate branch. The Board has only power to appoint a temporary trustee for a maximum period of one year under Section 33 of the Act when there is a vacancy and dispute. By the Amendment of 2007 the Board got the power to appoint a trustee against the vacancy created by the removal of a trustee under Section 28(2)(h) of the Act. But in the present case neither there was a vacancy nor the president has any power and jurisdiction to appoint trustee for an indefinite period. And the order impugned is beyond jurisdiction and the same is bad in law.

7. Apart from that it appears from the impugned order that the president of the Board has no power, authority or jurisdiction to decide any issue between the period COVID 19 in which the State Government has strictly prohibited to take any final decision. But the reason best known to the respondent no. 2 he has passed the impugned order during the period of COVID 19 which suggest the misplaced enthusiasm on his part.

8. Mr. Ganpati Trivedi, learned senior counsel



appearing on behalf of the respondent no. 1 & 2 submits that it appears that the respondent no. 3 has suppressed the material facts from the Board and obtained the order dated 05.06.2021 on the basis of earlier order dated 14.09.2009 passed by the Board but the fact of the matter is that the Board's order dated 14.09.2009 has already been quashed by this Hon'ble Court in CWJC No. 1509 of 2010 dated 25.04.2011.

9. Mr. Kumar Mirtunjay, learned counsel appearing on behalf of respondent no. 3 submits in support of the impugned order that the temple of Sri Ram Janki Hanuman Mandir was a public temple and public are worshipping in the temple and this temple was declared public trust by Bihar Hindu Religious Trust Board on 10.10.2011 and the Mahant Ram Gopal Das sold entire temple land on 12.12.2008 to one Dr. Arun Kumar Singh and the matter is pending before the Court of District Judge, Patna under Section 48 of the Bihar Hindu Religious Trust Act for setting aside the sale deed executed by the Mahant Ram Gopal Das and the case bearing Misc. Case No. 233 of 2009 is still pending for consideration before the learned District Judge, Patna for final disposal and for declaring the sale deed executed by Late Mahant Ram Gopal Das as null and void against the interest of public trust namely Ram Janki



Hanumanji Math, Sheikhpura, Patna.

10. Having heard the rival submissions of the parties and from perusing the impugned order it appears that the respondent no. 2 has mentioned that Sri Ram Janki Hanuman Mandir, Sheikhpura, Patna is a branch of Mahavir Mandir, Patna Junction but despite that neither he has issued any notice to the petitioner nor he has given any opportunity to the petitioner at the time of passing of the impugned order and the impugned order has been passed in violation of the principle of natural justice. Apart from that the Sri Ram Janki Hanuman Mandir was being managed and controlled by the petitioner through the Trust Committee since long back. The respondent no. 2 has no power to appoint permanent trustee under the Act and therefore, the impugned order is without jurisdiction.

11. In view of the aforesaid, the order dated 05.06.2021 (Annexure-1) is set aside and the writ petition stands allowed.

(Rajesh Kumar Verma, J)

Vanisha/-

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

