

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17322 of 2022

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Santosh Kumar Jha @ Santosh Jha Son of Ranjit Jha, Resident of Village- Hirni, Ward No. 5, Police Station- Kusheshwar Asthan, District- Darbhanga, Bihar. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Ministry of Law and Justice, Government of Bihar, Patna.
4. The President, Bihar State Board of Religious Trust, Vidyapati Marg, Patna.
5. The Divisional Commissioner, Darbhanga Division, Darbhanga.
6. The District Magistrate-cum- Collector, Darbhanga.
7. The Additional Collector, Darbhanga.
8. The Sub- Divisional Magistrate, Kusheshwar Asthan, Darbhanga.
9. The Deputy Collector Land Reform, Kusheshwar, Darbhanga.
10. The Circle Officer, Kusheshwar Asthan, District- Darbhanga.
11. Babu Kant Jha, Son of Gopal Jha, Resident of Village- Dhobouliya, Police Station- Kusheshwar Asthan, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pankaj Kumar Jha, Advocate
For the Respondent/s	:	Mr.Prashant Pratap (Gp2)
For the Board	:	Mr. Ganpati Trivedi, Sr. Advocate
For respondent no.11	:	Mr. Madan Mohan, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 23-07-2024 Heard Mr. Pankaj Kumar Jha, learned counsel for the petitioner, Mr. Ganpati Trivedi, learned Senior Counsel appearing for the Bihar State Religious Trust Board (henceforth for short 'the Board'), Mr. Madan Mohan, representing the respondent no.11 as also Mr. Prashant Pratap, learned G.P.-2.

2. The petitioner has prayed for grant of the following reliefs:

(i) to issue an appropriate writ/s order/s



or direction/s for quashing the Memo No.4691 dated 18.01.2022 passed by the President, Bihar State Board of Religious Trusts, Patna, whereby and under the Board has appointed the Respondent No. 10 as the Vice President of Shri Baba Kusheshwar Nath Mahadev Mandir Trust, Darbhanga;

(ii) to further issue an appropriate writ/s order/s or direction/s for appoint the petitioner as the Vice President of Shri Baba Kusheshwar Nath Mahadev Mandir Trust, Darbhanga because he is actively working for the interest of the said trust as like a member but illegally his name has not been recommended by the committee under the influence of the Respondent No. 10;

(iii) for further this Hon'ble Court may adjudicate and hold that the order passed by the President, Bihar State Board of Religious Trusts, Patna, is bad



*in law, void, illegal and not sustainable
in the eye of law;*

*(iv) for further pass such other order or
orders as your Lordship may deem fit
and proper in the facts and
circumstances of the case.*

3. On 9.8.2023, when the matter was first taken up,
this Court passed the following order:

*Heard Mr. Pankaj Kumar Jha,
learned counsel for the petitioner as
also learned AC to GP-2 and
learned junior counsel to Mr.
Ganpati Trivedi, who represent 'the
Trust Board'.*

*This application has been preferred
for the following reliefs:*

*(i) to issue an appropriate writ/s
order/s or direction's for quashing
the Memo No.4691 dated
18.01.2022 passed by the President,
Bihar Statel Board of Religious
Trusts, Patna, whereby and under*



the Board has appointed the Respondent No. 10 as the Vice President of Shri Baba Kusheshwar Nath Mahadev Mandir Trust, Darbhanga;

(ii) to issue an appropriate writ/s order/s or direction/s for appoint the petitioner as the Vice President of Shri Baba Kusheshwar Nath Mahadev Mandir Trust, Darbhanga because he is actively working for the interest of the said trust as like a member but illegally his name has not been recommended by the committee under the influence of the Respondent no. 10;

(iii) for further this Hon'ble Court may adjudicate and hold that the order passed by the President, Bihar State Board of Religious Trusts, Patna, is bad in law, void, illegal and not sustainable in the eye of



law;

For the ends of justice, it is important that 'the Trust Board' file a comprehensive counter-affidavit bringing on record:

(i) what are the process/procedure for constituting a Committee, especially permanent Committee.;

(ii) why instead of permanent Committee, temporary Committees are being constituted for a limited period;

(iii) only after constitution, the details of those having been nominated are asked for.

Beside the paragraph wise reply to the petition, the aforesaid questions also have to be answered alongwith documents.

Meanwhile, issue notice to the respondent no. 10 through both process i.e. ordinary as well as



*registered cover with A/D for which
requisites etc. must be filed within a
period of one week failing which the
application shall stand rejected
without further reference to the
Bench.*

*Let the counter-affidavit come
within a period of four weeks, the
question of interim order shall be
decided on the next date of hearing.*

4. Here it is to be noted that due to serial numbers wrongly inscribed by the writ petitioner, twice serial number 1 exists and as such respondent no.11 has been mentioned in the writ petition as respondent no.10.

5. The case has now come full circle after almost one year and presented again before this Court. The counter affidavit is still not part of the record and in that background, this Court wanted to impose heavy cost but learned Senior Counsel representing 'the Board' submits that it is in process and will be filed in no time. Accepting his words and after taking the copy of the learned Senior Counsel, this Court finds that in paras-6 and 7, it has been stated that there is no specific procedure



prescribed under the Bihar Hindu Religious Trust Act, 1956 (henceforth for short 'the Act') for constituting the Committee.

6. It is necessary to incorporate paras-6 and 7 of the counter affidavit:

6. That it is stated that there is no specific procedure prescribed under the Bihar Hindu Religious Trust Act, 1950, for short the Act, for constituting a trust committee under Section 32 of the Act.

7. That as per the practice maintained in the office of the Board, whenever a necessity for constituting a trust committee arises, the President of the Board, issues letter to the Local Administrative authorities under which the Religious Trust situate to send the name of 11 persons having interest in the Trust in question with no criminal antecedent and at the same time having no adverse



*interest on the Trust and its
properties.*

7. Learned Senior Counsel upon query whether in the absence of any specific procedure prescribed under 'the Act', 'the Board' on its own took any initiative for formulating the rules and procedure for formation of the permanent Committee across the State, the answer is in negative.

8. It is surprising that 'the Board' manning more than thousands of 'Maths'/temples/Thakurbaries do not have any rules/procedure for constitution of the Committee which has given leverage to the locals manning the 'Maths'/temples as also the officials sitting in 'the Board' to act according to their own whims.

9. It is high time that certain guidelines/rules comes into picture to be applicable to each and every Maths/temples registered with 'the Board', till necessary amendments are made incorporating the rules and the procedure for the constitution of the permanent Committee.

10. In the case of **Mahanth Parmanand Saheb @ Acharya Mahant Parmanand Das vs. the State of Bihar and others (C.W.J.C. No. 24051 of 2019)** and analogous cases, this Court had disposed of the matter on **7.8.2023** and it would



be appropriate to incorporate paras-**12 to 15** of the said order:

12. This Court has observed how the Chairman of 'the Trust Board' is functioning and in that case, when it is rotating the Committee every now and then, for his every cause of action inasmuch as whenever he decide to constitute a temporary Committee for a limited period according to his own whims and caprices, this Court cannot direct the petitioners to keep challenging the same before the appropriate Court. It is important to note that in most of the cases, the Chairman alone passes the order. Further, there are orders constituting temporary Committees and not any gazette notification, the said plea cannot be accepted. The preliminary objection is thus rejected.

13. The Trust Board' is directed to



take immediate steps for finding permanent solution to the concerned 'Math', seek names from the Collector, Patna as also the Sub-Divisional Officer, Patna City, issue an 'Aam Soochna' (general notice) in the locality/area/newspaper where the 'Math' is situated so that the prominent and respected citizen's names having no criminal antecedent is/are presented before it and a permanent Committee is constituted under the Chairmanship of the Collector, Patna. The Trust Board will ensure that no person with criminal antecedent and/or against whom financial embezzlement allegation to 'Math' has been made be part of the permanent Committee. The Committee so constituted must be approved/notified by the Board Members.



14. The said exercise has to be completed within a period of three months from today. The orders dated 23.09.2019 (CWJC No. 24051 of 2019) and 11.05.2022 (CWJC No. 9415 of 2022) passed by the Trust Board' shall remain in abeyance and will merge with the final order relating to constitution of permanent Committee.

15. The two writ petitions stand disposed of with the aforesaid observations.

11. In the light of the facts incorporated above, the time has now come to extend this direction to all the further constitution of the permanent Committee to be made by 'the Board' across the State. This direction is being given in the backdrop of the fact that 'the Board' in its counter affidavit in the present case has recorded that they do not have any specific procedure prescribed under 'the Act'. It is to be noted that during the course of the proceeding, it was informed that the counter-affidavit has been filed. Office to do the needful.



12. This Court accordingly directs that henceforth, for the constitution of the Committee in any 'Math'/temple/thakurbari, once 'the Trust Board' makes request to the Collector of the district to provide names of the prominent citizen of the area with no criminal antecedent, under the direction/supervision of the Collector, the Sub-Divisional Officer will issue general notice (आम सूचना) in the locality/area as also get it published in the newspaper (*cost of which has to be borne by 'the concerned Math/temple/thakurbari'*) inviting application/requesting the prominent citizen having no criminal antecedent to present their respective names for the constitution of permanent committee of the Math/Temple/ Thakurbari.

13. Once the applications are received, the Sub-Divisional Officer will shortlist the names, check their criminal antecedents as also other information about him/her from the Police Station(s) and thereafter, present it before the Collector. The Collector of the district, thereafter shall forward 'the Trust Board' the list. The process be completed in six weeks.

14. 'The Board' thereafter, in its meeting chaired by the President and attended by the members of 'the Trust Board' will take the necessary decision. The precedent that has been followed by 'the Board' of constituting the Committee under the



Presidentship of the Sub-Divisional Officer shall continue inasmuch as the President of the permanent Committee shall be Sub-Divisional Officer of the area where the Math/Thakurbari/temple is situated.

15. One of the clause constituting the permanent Committee must be to present all the incomes/expenses made in the Math/Thakurbari/temple to 'the Trust Board' for its routine evaluation every three months.

16. There shall be a permanent Bank account in a Nationalised Bank where all the donations to be deposited and the account shall be operated under joint signatures.

17. It is made clear that all the financial transaction will be made only through the joint signatures out of three of the officials i.e. the President, Secretary and Treasurer. In case, the President is not one of the Signatory to the Bank Account, the statement of Account of the Bank alongwith all the income/expenses shall be submitted before the Sub Divisional Officer every month.

18. The necessary notification constituting the permanent committee shall be issued by the President only after the same has been approved by the members of 'the Trust Board'.



19. All such temporary/interim Committees, which are presently functioning across the States, steps should be taken to constitute permanent committees and it is expected that by 31st of December, 2024, the permanent Committees will come into existence in the State of Bihar and by 1st of January, 2025, it will start functioning.

20. 'The Trust Board', in next two weeks will be issuing a formal request to all the Collectors of the districts across the State where the Temples/Maths/Thakurbari existing with the request to provide list in six weeks.

21. So far as the petition is concerned, lots of water has flown down in the ganges and the matter remained pending for long inasmuch as in the month of December, 2022, the petition was filed whereafter it was earlier taken up on 9th of August, 2023 and now on 23.07.2024.

22. The matter relates to Kusheshwar Sthan temple in the district of Darbhanga and learned counsel for the petitioner submits that the respondent no.11 (wrongly inscribed as respondent no.10) who actually was not part of the Committee, after the death of the Vice-President, Amar Nath Jha, got himself included in it. He further submitted that despite him being the Vice-President, is actually enjoying all the financial/



administrative power only for his own benefits. This has greatly affected the development of the temple.

23. Learned counsel submits that the respondent no.11 has criminal antecedent and the concerned Court has taken cognizance against him in a case lodged under Kusheshwar Sthan P.S. Case No. 08/2012 and thus 'the Board' itself did not follow its own guidelines according to which no person with criminal antecedent background can be the member of the temple/Math/Thakurbari.

24. Learned counsel appearing on behalf of the Vice-President, Babu Kant Jha (respondent no.11), Mr. Madan Mohan disputes the said contention of the petitioner and submits that he/his family are taking all steps for the betterment of the temple. However, he has no answer to the charge levelled by the petitioner that Babu Kant Jha is facing criminal charges.

25. Learned Senior Counsel representing 'the Trust Board' submits that one of the signatory to the financial transaction is the Sub-Divisional Officer of the said area. If the Secretary is given the second financial power as has been averred in the order aforesaid already, it will be better for the development of the Committee.

26. Kusheshwar Sthan Temple, Darbhanga is an



important temple and now that the 'Sawan' month has come, it becomes more important that for the religious purposes, when the people keep visiting the temple, it gets proper attention and is taken care of so that the devotees do not face any problem in offering their prayers.

27. In that background, this Court directs the Sub-Divisional Officer, Birol, Darbhanga who is the President of the said temple to take immediate steps and from tomorrow (24.7.2024) onwards, he/she shall be having complete control of the temple till the 'Sawan' month comes to an end with the 5th Monday.

28. The Bank (where the account of the temple exist) will also be informed tomorrow itself about the change of Guard and the two signatories (till the constitution of permanent committee) of the Bank Account shall be the President and Secretary.

29. The petitioner being the Vice-President, he has a role to play and can always serve as an adviser guiding both the Secretary as also the other members for the betterment of the temple.

30. So far as the Committee is concerned, it has been informed by the learned counsel for the respondent that it is



coming to an end on 4th November,2024.

31. In that background, when the general directions have already been issued, immediate steps be taken in the light of the observation aforesaid and the Trust Board shall see to it on 5th of November, 2024, a permanent Committee (not another temporary/interim committee) comes into existence.

32. If any temporary/interim Committee is constituted after the life of the present committee comes to an end on 04.11.2024, and/or, the present Committee gets an extension, it will be deemed to be violation of the Court's order.

33. As the order has been passed in the open Court, learned Senior Counsel, Mr. Ganpati Trivedi submits that he will be communicating the order to the office of Sub-Divisional Officer, Biraul, Darbhanga in course of the day.

34. Mr. Prashant Pratap, learned G.P.-2 submits that he shall also be informing the S.D.O, Biraul about the present order.

35. The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

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