GAHC010192972023

2026:GAU-AS:17394

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5013/2023

NIBARAN KALITA
S/O- LATE TANU RAM KALITA, R/O- SANTIPUR OF NALBARI TOWN, WARD NO. 7, P.S. AND DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM AND 30 ORS
NOTICE THROUGH THE CHIEF SECRETARY, ASSAM, DISPUR.

2:THE DISTRICT COMMISSIONER
NALBARI
ASSAM

3:SMT. BARNALI DEKA
DISTRICT COMMISSIONER
NALBARI.

4:SMT. CHAYANIKA THAKURIA
ADC
NALBARI.

5:KUNKUM DAS
FINANCE AND ACCOUNTS OFFICER
D.C. OFFICE
NALBARI

6:JAYANTA MALLA BARUAH
HONBLE MINISTER
PUBLIC HEALTH ENGINEERING
SKILL AND ENTREPRENURESHIP AND TOURISM
ASSAM
DISPUR.

7:MADAN MALAKAR
R/O- PALLA ROAD
P.O.
PS. AND DIST. NALBARI
PIN- 781335.

8:MANOJ KUMAR CHOUDHURY
S/O- LATE KANAK CHOUDHURY
PERMANENT RESIDENT OF NATIRAM ROAD
GOPAL BAZAR
NALBARI TOWN
DIST. NALBARI ASSAM

9:SRI SRI NALBARI HARI MANDIR
NALBARI
REP. BY ITS PRESIDENT
SRI ASHOK KUMAR SARMA
FORMER MLA

S/O LATE LAKHI NATH SARMA
BARKURA
BARAMA ROAD

WARD NO. 8 OF NALBARI TOWN

DIST. NALBARI

10:SHRI NAGEN DEKA
GENERAL SECRETARY OF SRI SRI NALBARI HARI MANDIR
S/O LATE TARINI DEKA
R/O VILL- DIGHELI
P.O. BAR DIGHELI
P.S. NALBARI
DIST.NALBARI

11:SRI BANASHWER DAS
S/O SISHURAM DAS
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

12:SRI SUBHASH DEBNATH
S/O LATE PRAMOD DEBNATH
NALBARI HARI MANDIR
N.T. ROAD NALBARI
DIST. NALBARI

13:SRI SUBODH DEKA
S/O LATE KRISHNAKANTA DEKA
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

14:SRI KESHAB BARMAN
S/O LATE BIPIN BARMAN
NALBARI HARI MANDIR
N.T. ROAD
NALBARI DIST. NALBARI

15:SRI PRADIP CHOUDHURY
S/O LATE AMULYA CHOUDHURY
NALBARI HARI MANDIR
N.T. ROAD
NALBARI DIST. NALBARI

16:SRI MALAY MAHANTA
SO LATE SARAT MAHANTA
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

17:SRI KAILASH MEDHI
S/O LATE GIRISH MEDHI
NALBARI HARI MANDIR
N.T. ROAD
NALBARI DIST. NALBARI

18:SRI ASHOK DAS
S/OLATE GIRIDHAN DAS
NALBARI HARI MANDIR
N.T. ROAD
NALBARI DIST. NALBARI

19:SRI SHISHU HALOI
S/O LATE MUARAM HALOI
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

20:SRI HAREN HALOI
S/O LATE SARAT HALOI

NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

21:SRI RATUL ROY
S/O LATE SUREN ROY
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

22:SRI GIRISH TAHBILDAR
S/O LATE POHARURAM TAHBILDAR
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

23:SRI AJAY DAS
S/O LATE ARUN KUMAR DAS
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

24:SRI SUKUMAR SARMA
S/O LATE UPENDRANATH SARMA
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

25:SRI PAKAJ BARMAN
S/O LATE HAREN BARMAN
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

26:SRI TAPESWAR DAS
S/O LATE KESAB DAS
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

27:SRI SARBESWAR KALITA

S/O LATE BHABIT KALITA
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

28:SRI NARESWAR KALITA
S/O LATE SAMBARU KALITA
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

29:SRI PARESH BARMAN
S/O LATE UMESH CH. BARMAN
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

30:SRI GANESH TAMULY
S/O LATE NABIN TAMULY
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

31:DIPAK BARUAH
S/O LATE ANANTA BARUAH
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

32:SRI NALINI KANTA SHEEL
S/O MAHENDRA SHEEL

RESIDENT OF VILLAGE-TILANA
PO-MUGKUCHI
DIST.-NALBARI

33:SRI NIRA BARUAH
W/O LATE RAMEN BARUAH
RESIDENT OF WARD NO. 4
DOL GOBINDAPUR
NALBARI TOWN
PO-MILANPUR
DISTRICT-NALBARI

34:SRI NAMITA BHATTACHARJYA
W/O LT. BIBEKANANDA BHATTACHARJYA

R/O WARD NO. 11 (HAJO ROAD)
NALBARI TOWN
PO-NALBARI
DIST.-NALBARI

35:SRI JOHN KUMAR BARMAN
S/O SRI NARAYAN CHANDRA BARMAN

VILL-DOULGOBINDAPUR
NALBARI TOWN
WARD NO. 4
PO-MILANPUR
DISTRICT-NALBARI

36:SRI HEMANTA KUMAR DAS
S/O LT. UMESH CHANDRA DAS

VILL-KHUDRACHENIKUCHI
PO-NANKARBHOYORA
DISTRICT-NALBARI

37:SRI DWIPEN KALITA
S/O LT. AJIT KALITA

VILL-SANDHA
PO-SANDHA
DIST.-NALBARI

38:SRI MOHAN HALOI
S/O-LT. ARABINDA HALOI

VILL.-MOIRADANGA
PO-CHENGNOI
DIST-NALBARI

39:SRI MINTU TAMULI
S/O-HARMOHAN TAMULI

VILL-TILANA
PO-MUGKUCHI
DIST.-NALBARI

40:SRI AKSHAY DEKA
S/O LT. NARAYAN DEKA

VILL-KENDUKUCHI
PO-BARKHANAJAN
DIST-NALBARI

41:SRI ANUP DAS
S/O-SRI BIPIN DAS

VILL-NT ROAD
NALBARI TOWN
WARD NO. 1
PO-NALBARI
DIST.-NALBARI

42:SRI DHIRAJ DAS
S/O-LT. SARBESWAR DAS

VILL.-NALBARI TOWN
WARD NO. 2
(MALIKUCHI)
PO.-NALBARI
DISTRICT.-NALBARI

43:SRI DILJIT BARMAN
S/O-LT. DAKHYARAM BARMAN

VILL.-NANKARBHOYORA
PO.-NANKARBHOYORA
DISTRICT.-NALBARI

44:SRI DIGANTA LOCHAN SARMA
S/O. LT. RAMOSH CHANDRA SARMA

VILL.-BIDYAPUR
NALBARI TOWN
WARD NO. 2
PO.-NALBARI
DISTRICT-NALBARI

45:SRI DHRUBA JYOTI SARMA
S/O.-LT. JITENDRA NATH SARMA

VILL-NALBARI TOWN
SHANTIPUR
COLLEGE ROAD
(JITENDRA PATH)
WARD NO. 7
PO.-NALBARI

DISTRICT-NALBAR

Advocate for the Petitioner : MR D CHOUDHURY, MR M CHOUDHURY,MRS A K CHOUDHURY

Advocate for the Respondent : GA, ASSAM, MS. N RAJMEDHI (3,4),MS. B S GOYAL (R-3,4),MS. P N SUMI (R-3,4),MS B CHAUHAN (R-3,4),MR. A J HAZARIKA (R-3,4),MR P NAYAK (r-7,8,11,20,30),MR. B GOGOI (r-7,8,11,20,30),MS. PADMINI BARUA (r-7,8,11,20,30),MS. RUKMINI BARUA (r-7,8,11,20,30),MS P DAS (r-7,8,11,20,30),MR A CHALIHA (r-7,8,11,20,30),MR. R BORPUJARI (r-7,8,11,20,30),MR. B CHOUDHURY (R-6),MS S MOCHAHARI (r-10,12-19,21-23,27,28),MR. S DUTTA (r-10,12-19,21-23,27,28),MR S DUTTA (r-10,12-19,21-23,27,28)

BEFORE

HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Petitioner	:	Mr. D. Choudhury, Advocate.
For the Respondents	:	Mr. D. Saikia, Additional Advocate General, Assam assisted by Mr. D. Nath, Senior Government Advocate, Assam. Mr. T. J. Mahanta, Senior Counsel assisted by Mr. B. Choudhury, Advocate for the respondent No. 6. Mr. P. Nayak, Additional Advocate General, Assam assisted by Mr. R. Barua, Advocate for the respondent Nos. 7, 8, 11, 20 and 30.
Date on which Judgment is Reserved	:	10.11.2026
Date of pronouncement of Judgment	:	**25.11.2026**
Whether the pronouncement is of the operative part of the Judgment	:	NA.

Whether the full Judgment has
been pronounced : Yes.

JUDGMENT & ORDER (CAV)

(A.D.Choudhury, J)

1. Heard Mr. D. Choudhury, learned counsel for the petitioner. Also heard Mr. D. Saikia, learned Advocate General, Assam assisted by Mr. D. Nath, learned Senior Government Advocate, Assam, representing the District Commissioner; Mr. T. J. Mahanta, learned Senior Counsel, assisted by Mr. B. Choudhury, learned counsel for the respondent No. 6; and Mr. P. Nayak, learned Counsel, for the respondent Nos. 7, 8, 11, 20 and 30.

2. The petitioner, a life member of Sri Sri Hari Mandir, Nalbari, has approached this Court challenging the resolution dated 22.07.2023, whereby the Executive Committee of Sri Sri Hari Mandir was dissolved, and the Deputy Commissioner took charge of the institution through an ad hoc committee until a new committee was formed.

3. By amending the writ petition, the petitioner has also challenged certain subsequent proceedings, including the Special General Body Meeting of the Sri Sri Hari Mandir Committee dated 12.08.2023, the amendment to the Constitution, the constitution of the ad hoc committee, and the subsequent election of the Executive Committee.

4. The case of the petitioner is that Sri Sri Hari Mandir is a religious institution established and maintained by the Hindu community, and its affairs are governed by a written constitution.

The Constitution provides for a General Body and an elected Executive Committee, which is entrusted with the management of the institution, its properties, accounts, religious ceremonies, and festivals.

According to the learned counsel for the petitioner, the institution has been administered through its own elected body, and the District Administration has no authority to dissolve such a

committee or assume control of its affairs.

5. The learned counsel for the petitioner contends that the institution is entitled to protection guaranteed under Article 26 of the Constitution of India. It is submitted that the right of a religious denomination to manage its own affairs in matters of religion and to administer its property cannot be taken away by an executive order.

6. It is argued that the Constitution of the institution provides for an organised body of members, a distinct identity, and a system of management, and that the affairs of the institution must be conducted in accordance with its own constitution.

7. Elaborating his submission, learned Counsel for the petitioner has relied upon the decision of the Supreme Court in **Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt**, reported in **AIR 1954 SC 282**. It is submitted that the expression "religious denomination" is confined to a body following a religion different from the larger religion to which it belongs. A denomination or sect may exist within Hinduism itself. The learned counsel for the petitioner contends that the institution has a common religious character, a recognised organisation, and a distinct name, and that the members are associated with the institution to maintain and advance its religious activities.

8. Reliance is also placed on **S.P. Mittal v. Union of India**, reported in **AIR 1983 SC 1**, to contend that the essential requirements of a religious denomination are a common faith, a common organisation, and a distinctive name. According to the learned counsel for the petitioner, the Constitution of Sri Sri Hari Mandir, its membership structure, and the elected Managing Committee satisfy these requirements.

9. It is submitted that the fact that the institution also undertakes charitable, educational, and cultural activities cannot deprive it of its religious character or protection under Article 26. A religious institution, it is argued, does not cease to be a religious denomination merely because it undertakes activities beyond the performance of religious ceremonies.

10. The learned counsel for the petitioner further submits that the institution's constitution has to be understood as a whole. Its provisions relating to membership, conduct of religious festivals, management of properties, and constitution of the Executive Committee demonstrate that the institution is not an informal gathering of devotees, but an organised body having its own

identity and system of administration.

The right to manage the affairs of the institution, according to the petitioner, necessarily includes such right to determine who should administer it and in what manner, subject to the Constitution and law.

11. It is further contended that even assuming that the institution is not a religious denomination within the meaning of Article 26, the Deputy Commissioner could not have dissolved the Executive Committee or taken over its administration without any authority of law, violating the petitioner's rights under Article 25 of the Constitution of India.

12. It is argued that the fact that some members approached the Deputy Commissioner with their grievances against the duly constituted committee could not confer upon him a power which the law did not vest in him.

The District Administration, at the highest level, could receive complaints, conduct an inquiry into the alleged financial irregularities, and take steps permissible under law but it could not assume the functions of the General Body or substitute its own arrangement for the executive committee constituted under the Constitution.

13. The learned Counsel for the petitioner countered the respondents' stand that one reason for taking such action was complaints filed by two General Body members alleging that the tenure of the Executive Committee had expired on 22.03.2022. The learned counsel for the petitioner argues that the expiry of the tenure did not authorise the Deputy Commissioner to dissolve the committee or take over the affairs of the institution. The appropriate course is for the aforesaid two members to seek a General Body Meeting in accordance with the Constitution and elect a new committee. It is submitted that the earlier committee's failure to convene such a meeting could not confer administrative jurisdiction upon the Deputy Commissioner.

14. The learned counsel for the petitioner has also questioned the manner in which the resolution dated 22.07.2023 was adopted.

It is contended that the inquiry report was read out at the meeting and the existing committee was dissolved without affording its members an opportunity to explain the alleged financial irregularities. Such action, according to the learned Counsel for the petitioner, has serious civil consequences and is contrary to the principles of natural justice, inasmuch as an administrative

decision involving civil consequences must conform to the principles of natural justice.

15. The learned counsel for the petitioner has further challenged the proceedings of the Special General Body Meeting dated 12.08.2023 and the amendments made to the Constitution.

It is submitted that the meeting was held under the chairmanship of the Deputy Commissioner and that several important provisions of the Constitution were altered, including the objects of the institution, composition of the Executive Committee, voting rights, election procedure, tenure of office, and quorum of the General Body.

16. According to the petitioner, the subsequent ad-hoc committee and the election were consequences of the initial assumption of control by the District Administration and therefore cannot be sustained, since the original action was without any authority of law.

The learned Counsel for the petitioner has specifically referred to clause 18 of the original Constitution, which provides that an amendment or incorporation of any clause or sub-clause requires the support of a two-thirds majority of the members present at the General Body Meeting, and that the resolution for amendment must be included in the agenda.

It is contended that the amendments made on 12.08.2023 were substantial and altered the basic structure of the institution.

The petitioner also questions the admission of additional life members, the subsequent preparation of the electoral roll, and the conduct of the election.

17. Per contra, Mr. D. Saikia, learned Advocate General appearing on behalf of the District Administration, submits that the tenure of the Executive Committee had expired on 22.03.2022 and no General Body Meeting was convened thereafter for the election of a new committee. The society's registration also expired on 24.03.2022, and in these circumstances, two life members, Sri Nagen Deka (Respondent No. 10) and Sri Madan Malakar (Respondent No. 7), approached the Deputy Commissioner with grievances regarding the management and financial affairs of the institution. An inquiry was conducted, and a subsequent General Body Meeting was convened to facilitate the reconstitution of the managing body. It is submitted that the Deputy Commissioner did not act *suo motu* and was not powerless to respond to the members' grievances under the prevailing circumstances.

18. The learned Advocate General also disputes the claim that the institution constitutes a religious denomination, contending that its objects are wider and are intended for the welfare of not only Hindu people but other religions and communities, rather than the propagation of any distinct religious faith.

19. Having considered the submissions, the principal question that arises is whether the petitioner has been able to establish that Sri Sri Hari Mandir or its managing body constitutes a religious denomination within the meaning of Article 26 of the Constitution of India.

20. Article 26 confers certain rights upon every religious denomination or any section thereof, subject to public order, morality, and health. These include the right to establish and maintain institutions for religious and charitable purposes, to manage its own affairs in matters of religion, to own and acquire property, and to administer such property in accordance with law.

The protection under Article 26 is thus available to a religious denomination or a section thereof. However, the fact that an institution is associated with religious activities does not itself establish that it is a religious denomination.

21. The Supreme Court considered the scope of the expression "religious denomination" in **Shirur Mutt** (supra).

The Court explained that a religious denomination is a collection of individuals classed together under the same name, having a common faith and organisation, and designated by a distinctive name.

The Court also recognised that within Hinduism there may be different religious sects and denominations. Therefore, a body need not profess a religion different from Hinduism in order to qualify as a religious denomination. A sect within Hinduism may also claim protection under Article 26, if the essential characteristics of a denomination are established.

22. The requirements were further explained in **S.P. Mittal** (supra).

The Supreme Court identified three essential characteristics: (i) A collection of individuals having a system of beliefs or doctrine which they regard as conducive to their spiritual well-being, that is, a common faith; (ii) A common organisation; and (iii) A distinctive name by which the body is known.

23. These requirements have to be considered together. The existence of an organisation and a distinctive name alone would not be sufficient unless the essential element of a common religious faith is also established.

24. In **Durgah Committee, Ajmer v. Syed Hussain Ali**, reported in **AIR 1961 SC 1402**, the Supreme Court explained the distinction between a religious denomination and persons who merely visit or participate in the activities of a religious institution. The fact that persons of a particular religion assemble at a place of worship or participate in religious festivals does not, on its own, make them a religious denomination. The denominational character of the body claiming protection must be established.

25. In **Shirur Mutt** (supra), the Supreme Court also explained the distinction between matters of religion and secular administration. Matters concerning religious doctrines, rituals, observances, ceremonies, and modes of worship stand on a different footing from the administration of property and other secular activities associated with a religious institution.

Article 26(d) expressly makes the administration of property subject to law. The right to manage religious affairs cannot be equated with an unrestricted right to administer property or conduct all secular activities without regulation.

26. Applying the aforesaid principles to the present case, there can be no dispute that Sri Sri Hari Mandir is a place of Hindu worship and that religious ceremonies and festivals are conducted there. Its constitution also provides for an organised membership and an executive committee.

27. However, the next question is whether the persons associated with it constitute a distinct denomination having a common faith or system of beliefs, requires examination.

28. Clause 14 of the Constitution of Sri Sri Hari Mandir provides for life membership and general membership to persons professing the Hindu religion above the prescribed age and upon payment of a stipulated contribution.

Clause 15 declares the Mandir to be a public institution of Hindus and permits every person professing the Hindu religion to participate in the festivals conducted within its premises, irrespective of whether such person is a member or contributor.

29. These provisions indicate that the institution is open to the wider Hindu community and that

participation in its religious festivals is not confined to a distinct group of persons possessing a separate denominational identity.

30. The objects of the institution enumerated in the Constitution are also relevant in this context.

They are not confined to the propagation of any particular religious doctrine or observance of tenets of a distinct religious sect. The objects extend to education, culture, moral values, social welfare, and other charitable activities under Clause 3 (a), 3(b) and 3(c).

The Constitution also contemplates activities for the benefit of persons belonging to other religious communities, i.e. Sikh, Jain, and Buddhist, under Clause 3(e).

The institution thus appears to be intended for the benefit and advancement of Hindu people and for pursuing wider social and charitable objects, rather than for preserving or propagating a distinct denominational faith.

31. This Court is conscious that an institution does not cease to be a religious denomination solely because it undertakes charitable or secular activities. A religious denomination may certainly pursue such activities.

The conclusion recorded hereinabove in the present case does not rest merely on the presence of secular objects in the Constitution. It rests on the absence of materials demonstrating a distinct sect, *sampradaya*, religious doctrine, or system of belief which distinguishes the members of Sri Sri Hari Mandir from the larger Hindu community.

Admittedly, it conducts different Hindu religious festivals, the main one being “Ras Mahotsav”, and is open to the general Hindu community, irrespective of whether one is a member.

32. The existence of a common organisation and the name "Sri Sri Hari Mandir" cannot substitute the essential requirement of a common denominational faith. The petitioner has not placed any material to demonstrate that the members of the institution follow a distinct religious system or constitute a separate religious body within Hinduism. The fact that members are associated with the management of a temple and participate in religious ceremonies is not sufficient to satisfy the test laid down by the Supreme Court in **Shirur Mutt** (supra) and in **S.P. Mittal** (supra).

33. In the circumstances, while the religious character of Sri Sri Hari Mandir as a place of worship is not in dispute, the petitioner has failed to establish that the institution or its managing body

constitutes a religious denomination or a section thereof within the meaning of Article 26 of the Constitution. Therefore, the protection claimed under the said provision is not available on the material placed before this Court.

34. Having held so, the other grounds of challenge may now be considered.

35. The material on record disclosed that the Executive Committee (since dissolved) was constituted for a term of three years as prescribed in Clause 9(ka) of the Constitution and its tenure expired on 22.03.2022. Even the extended period provided under the said provision of the Constitution had ended by that time. There is no dispute that after expiry of its tenure, the executive committee continued to function; no general body meeting was convened for election of a new Executive Committee, nor was any general member, including the petitioner, called to one.

36. There is another important circumstance. Sri Sri Hari Mandir Samiti was registered under the Societies Registration Act, 1860 on 23.03.2009. The certificate placed on record shows that its validity, which had earlier been extended, expired on 24.03.2022.

The subsequent certificate issued by the Registrar of Societies records that renewal was approved only on 29.10.2024 with validity up to 28.10.2027.

Thus, during the period when the tenure of the Executive Committee had expired, the society's registration had also lapsed and was not renewed until 29.10.2024.

37. Though the petitioner contends that Sri Sri Hari Mandir Samiti is not a registered society, the record reflects otherwise. In the absence of any challenge to the certificates of Registration, this court presumes their genuineness.

Be that as it may, the aforesaid facts show that the earlier committee had not taken effective steps to constitute a successor committee or to ensure renewal of the registration before its expiry.

38. In this background, Sri Nogen Deka and Sri Modon Malakar, both life members of the institution, approached the Deputy Commissioner. Their grievance related to the absence of a successor committee and financial mismanagement of the institution, more particularly in holding the proposed Ras Mahotsav for that year. The record also discloses that concerns had

been raised regarding non-maintenance and non-production of accounts for the relevant period and certain transactions relating to the Ras Mahotsav.

39. Upon receiving the grievance, the Deputy Commissioner caused an inquiry through a team of officers. The inquiry report was thereafter placed before the meeting held on 22.07.2023.

40. The learned Advocate General has submitted that the Deputy Commissioner cannot be regarded as powerless in a situation where members of an institution approach the district administration complaining that the tenure of its managing committee has expired, no general body meeting has been convened for election of a successor committee, and the financial affairs of the institution require examination.

The submission of the learned Advocate General is that the District administration did not act suo motu or with any intention to displace a functioning committee. The members themselves approached it, and its intervention was intended to address the administrative vacuum and facilitate the constitution of a new managing committee, which has considerable force in light of the circumstances leading to the intervention.

41. A public authority, when approached by the members complaining of serious irregularities in the administration of an institution and the absence of a managing committee having a substantive mandate, cannot be expected to remain indifferent to the grievance.

42. Therefore, the circumstances in which the district administration was approached are relevant in examining the nature and purpose of the impugned proceedings.

At the same time, it must be made clear that a request by a member cannot, on its own, confer upon the Deputy Commissioner a statutory power which law does not vest in him. The expiry of the tenure of the Executive Committee and the lapse of the registration of the society also do not confer any statutory authority upon the Deputy Commissioner to dissolve the committee or permanently take over administration of the institution.

43. Therefore, the Court does not accept the proposition that the Deputy Commissioner possessed unrestricted power to assume management of the institution merely because certain members had approached him.

The distinction between the circumstances which occasioned the intervention and the source of

legal authority must always be maintained.

44. Therefore, the resolution dated 22.07.2023 has to be understood in its factual setting. The tenure of the earlier committee had already expired. No fresh committee had been constituted by the general body. The members had approached the Deputy Commissioner raising grievances regarding the administration and financial affairs of the institution.

The resolution contemplated an interim management until formation of a new committee. It also provided for handing over accounts and records, ascertaining liabilities, maintaining day-to-day affairs, and convening a general body meeting.

45. Thus, the proceedings, when read as a whole, disclosed that the immediate object was to ensure continuity of the administration and facilitation of reconstitution of the managing body, and not to confer upon the district administration a permanent right to administer the institution.

The earlier Executive Committee had no subsisting tenure on the date of the impugned resolution. The petitioner has not claimed that he was a member of that committee or that he was personally deprived of any office he held. He also did not take any recourse, as provided in the Constitution, to hold a general body meeting.

46. Therefore, the fact that the resolution described the existing committee as dissolved cannot be viewed in isolation from the fact that its prescribed tenure had already expired. The petitioner has not demonstrated how such resolution deprived him of any subsisting right to continue in the management of the institution or his right to continue as a life member.

This circumstance is relevant in considering the condition for establishing an enforceable right to obtain the relief of certiorari and the consequential directions sought in the writ petition by the petitioner.

47. The proceedings of the Special General Meeting dated 12.08.2023 are of particular significance.

The notice dated 02.08.2023 was issued by Sri Nogen Deka and Sri Modon Malakar, both life members of the institution, describing themselves as conveners, which is also permissible under Clause 18 of the pre-amended Constitution of Sri Sri Hari Mandir.

The meeting was held under the chairmanship of the Deputy Commissioner. The Minutes

record that the quorum was ascertained based on the register signed by the life members.

A proposal was prepared in consultation with the members of the earlier executive committee and was placed before the house.

The members present expressed their views and the resolutions were thereafter adopted.

48. The meeting did not merely approve the interim arrangement made on 22.07.2023. It also considered the future constitutional and administrative structure of the institution. The members resolved to admit additional life members, amend the object of the institution, alter the composition of the executive committee, modify the election procedure and term of office, and amend other provisions of the constitution.

An election committee was also appointed, and an ad hoc committee was constituted to manage the affairs of the Mandir until formation of a regular Executive Committee.

49. Thus, the members themselves undertook the exercise of reconstituting the institution and providing for its future administration.

50. Therefore, in the aforesaid factual background, the fact that the meeting was held under the chairmanship of the Deputy Commissioner does not establish that the resolutions adopted therein were decisions of the district administration. The petitioner's contention that the entire subsequent process was merely an act of the district administration, therefore, is not borne out of the minutes.

51. The pre-amended Constitution, particularly Clause 18, provides that amendment of any clause or sub-clause requires the support of a two-thirds majority of the members present at the general body meeting and that the resolution for amendment shall be included in the agenda.

52. The minutes of 12.08.2023 record that the resolution was unanimously adopted after discussion. The petitioner has not been able to place material to establish that the prescribed majority was lacking. Further, the petitioner himself was not present in the aforesaid general body meeting though he is admittedly a life member. Therefore, in the absence of such material, this Court is not inclined to presume violation of Clause 18 merely because the minutes do not separately record numerical particulars of the voting. The minutes also record that the quorum was ascertained based on a register signed by the life members.

53. It is true that the amendment increasing quorum from 101 to 201 life members cannot be applied retrospectively to determine the validity of the meeting at which the amendment itself was adopted. The quorum of the meeting dated 12.08.2023 had to be determined under the unamended provision. However, the petitioner has not produced any material to establish that the quorum required under the then existing Constitution was not present.

54. The petitioner admittedly did not participate in the special general meeting dated 12.08.2023. It is true that his non-participation does not take away his right to question a decision which is otherwise illegal. However, the members were called upon to deliberate upon the future management of the institution, amend its Constitution, and constitute a new management arrangement. The petitioner did not participate in those deliberations. In the absence of material establishing a violation of mandatory provisions of the Constitution or that the resolutions were imposed on the members by the district administration, the petitioner cannot succeed merely by pointing out that the Deputy Commissioner presided over the meeting. More particularly, this Court would not, in exercise of its power of judicial review, enter into disputed questions of fact relating to the meeting dated 12.08.2023.

55. The subsequent record discloses that the process initiated at the meeting dated 12.08.2023 proceeded towards constitution of a regular Executive Committee. The life members and voter lists were prepared, objections were invited, nominations were received, and an election was held on 29.10.2023, followed by declaration of result on 30.10.2023.

56. Thus, the ad hoc committee constituted at the meeting dated 12.08.2023 was only an interim management, whereas the subsequent election resulted in the constitution of a regular managing body. The institution was also subsequently registered as a society on 29.10.2024.

57. The challenge to the subsequent amendment and election also involves questions concerning membership, preparation of electoral roll, eligibility of members, validity of resolutions, and compliance with the Constitution. These matters require examination and evidence of original membership registers, proceedings of general meetings, and election records. Such dispute cannot be determined by this Court in exercise of its power of judicial review.

58. It is by now well settled that election disputes are ordinarily to be pursued through the remedies available under law and are not, as a matter of course, to be adjudicated in writ proceedings. Though the principle does not impose an absolute bar of jurisdiction under Article

226 of the Constitution of India, disputes concerning membership, electoral rolls, eligibility, and conduct of internal elections ordinarily require examination of relevant rules and records in the present case.

59. The petitioner in the present case has not been able to establish any ground warranting interference with the subsequent election, in exercise of this Court's extraordinary jurisdiction. Therefore, this Court must consider the entire course of events and not the resolution dated 22.07.2023 in isolation.

60. In view of the above, this Court finds that the petitioner has not been able to make out a case for interference with the subsequent proceedings and decisions. It would not be appropriate to disturb the present managing arrangement merely on the basis of the petitioner's challenge, when the earlier committee's tenure had expired, and the members thereafter proceeded to constitute a new managing committee.

61. For the reasons recorded above, the petitioner has failed to establish an entitlement to reliefs sought. The challenge to the resolution dated 22.07.2023 and subsequent proceedings, including amendments to the Constitution and the election, does not call for interference in the exercise of the jurisdiction under Article 226 of the Constitution of India.

62. Accordingly, the writ petition stands dismissed.

63. It is clarified that dismissal of this writ petition shall not be understood as conferring any permanent authority upon the district administration to administer the affairs of Sri Sri Hari Mandir, nor shall the observations made hereinabove be treated as a declaration that every amendment to the Constitution or every aspect of subsequent election is beyond challenge before the competent forum, and the petitioner shall be at liberty to approach the appropriate forum.

JUDGE

Comparing Assistant