(2012) 08 PAT CK 0102

In the Patna High Court

Case No : CWJC No. 238 of 2001

Bharat Bhawan and Another — APPELLANT

Vs

The State of Bihar and Others — RESPONDENT

Date of Decision : 23-08-2012

Acts Referred:
Societies Registration Act, 1860 — Section 28

Citation : (2013) 2 PLJR 924

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Prasant Vedasen and Binod Kumar Ambastha, for the Appellant; Chandra Shekhar Azad, for the Respondent

Judgement

Chakradhari Sharan Singh, J.—Heard Mr. Prasant Vedasen, on behalf of the petitioners and Dr. Chandra Shekhar Azad, learned A.C. to G.A.-9, on behalf of the State of Bihar and other respondents. The petitioner i.e., Divine Light Mission (hereinafter referred to as the "Society") claims to be a society established for promotion of moral, intellectual and social interest and welfare of the members of the Society. It is aggrieved by the order dated 4.12.1998 (Annexure-6) passed by the Secretary-cum-Inspector General Registration, Bihar, Patna, whereby the registration of the Society under the Societies Registration Act, 1860 (hereinafter referred to as the "Act"), has been cancelled in exercise of power u/s 23 of the Act. The petitioner filed an appeal before the Board of Revenue which also came to be dismissed vide order dated 27.10.1999 (Annexure-7) passed by the Member, Board of Revenue. The said order dated 27.10.1999 is also under challenge in this writ application.

2. From the pleadings in the writ application, it appears that on 18.7.1983 (Annexure-3), the Society was intimated by the Assistant Inspector General of Registration, Bihar, that the Department did not have any intimation as to when the office of the Society stood shifted to Delhi as on the basis of the correspondence made by the Society it appeared to the Department that

registered office of the Society was no more located in the State of Bihar. In reply thereto the Society in its letter dated 23.8.1983 (Annexure-4), contended that the registered office was still located in Patna and it had not been shifted to Delhi. In the letter dated 23.8.1983, the Secretary of the Society took the plea that from the date of registration itself, this Society was carrying out its activities in Delhi on large scale as also in other parts of the country.

3. Thirteen years thereafter, Secretary of the Society vide its letter dated 28.8.1996 (Annexure-5) addressed to Assistant Inspector General, Registration, Bihar, stated that most of the records relating to the registered office of the Society at Patna had been taken to Delhi because of pendency of a number of litigations in Delhi. It is not apparent from the letter dated 28.8.1996 as to what was the occasion for the Secretary to write such letter to Assistant Inspector General, Registration, Bihar, Patna. In the said letter the address of the Head Office of the Society has been given 26/96 Shakti Nagar, Delhi-110007; against "registered office" however, only "Patna" has been mentioned without giving any address.

4. On 6.2.1997 (Annexure-1) a show-cause notice was issued by the Inspector General, Registration, Bihar, to the Society asking it as to why the registration of the Society be not cancelled u/s 23 of the Societies Registration Act, in view of the fact that in course of local inspection it was found that the office as Society was not functioning in the territory of the State of Bihar. The petitioner replied to the show-cause notice vide letter dated 5.3.1997 (Annexure-2) reiterating that the office of the Society had not been shifted to a place outside Bihar and it was only because of pendency of certain litigations that the records of the Society had to be taken to Head Office at Delhi.

5. The Secretary-cum-Inspector General of Registration, Bihar vide impugned order dated 4.12.1998, exercising power u/s 23 of the Act cancelled the registration mainly on three grounds:--

(a) In course of local inspection the society was not found to be functioning in its registered office and none of the records relating to the Society was available in the registered office.

(b) There was no activity of the Society in the State of Bihar and none of the members of the Society were residing in the State of Bihar.

(c) The audits of the Society had been done by Chartered Accountants located in Delhi and none of the bank accounts of the Society were operational in the State of Bihar.

6. As regards the activities of the Society outside the State of Bihar, it was held in the impugned order that main activities of the Society were being carried out in Delhi and Uttar Pradesh.

7. The Member Board of Revenue while affirming the order of the Secretary-cum-Inspector General of Registration, Bihar, cancelling the registration of the Society

added that in fact cancellation of registration was inconsequential inasmuch as the Society had been registered in Delhi and it could still pursue its objective in Bihar.

8. Learned counsel appearing on behalf of the petitioner contends that the impugned order dated 4.12-1998 is apparently based on some local inspection as referred to in the impugned order itself. No notice prior to such inspection was given to the petitioner and thus the enquiry on the basis of which the impugned order has been passed was made behind the petitioner''s back. He, accordingly, submits that the order passed on the basis of such enquiry is violative of Principles of Natural Justice and cannot be sustained.

9. Learned Assistant Counsel to G.A.-9, on the other hand contends that the petitioners failed to establish before the Secretary-cum-Inspector General of Registration, Bihar, that the office of the Society in fact was existing in the State of Bihar and that the Society was engaged in activities within the territory of State of Bihar. On the contrary, he contends, that the reply to the show-cause notice amounts to admission on behalf of the Society that its office was not functioning in the State of Bihar and it was not able to carry out the activities within the State of Bihar because of unavoidable circumstances including pendency of certain litigations in Delhi. He, accordingly, contends that in the facts and circumstances of the case, there is no violation of Principles of Natural Justice as the Society was given sufficient opportunity to explain its position. He further submits that violation of Principles of Natural Justice can be a ground for interfering with the action of the State Authorities only when such violation causes any prejudice to the petitioners which is not the position in the present case.

10. Section 23 of the Societies Registration Act as inserted by Bihar Act 2 of 1960 and amended by Bihar Act 12 of 1963 deals with cancellation of registration and reads thus:--

23. Cancellation of Registration In certain cases.--(1) Notwithstanding anything contained in this Act the Inspector General of Registration may, by order in writing, cancel the registration of any society registered under this Act whose office has ceased to be in the State of Bihar by reason of the reorganisation of States or change of the office from the State of Bihar to another State, [or whose activities are subversive to the objects of the society:]

Provided that the Inspector General of Registration shall, before passing an order, make such inquiry as he considers necessary:

[Provided further that no order or cancellation of registration of any society on the ground of the activities of the society being subversive to the objects of the society shall be passed until the society has been given a reasonable opportunity of showing cause against action proposed to be taken in regard to it.]

(2) An appeal against an order made under sub-section (1) may be preferred in

such manner, within such time and to such authority as may be prescribed and such authority shall consider and dispose of such appeals in the prescribed manner.

11. There is a finding in the impugned order dated 14.12.1998 (Annexure-6) cancelling registration that in course of local inspection the registered office of the Society was not found functional and none of the records of the Society was found in the office. On a grievance raised on behalf of the Society to the effect that the Society was not given proper opportunity to explain his case, the Member Board of Revenue had referred the matter for enquiry so that the facts were properly ascertained and examined in course of enquiry caused under the order of the Appellate Authority i.e. Member Board of Revenue it was found that main office of the Society has shifted to Delhi. There is no pleading in the writ application nor in the reply filed by the Society against the show-cause notice for cancellation of registration with regard to activities being carried out by the Society within the State of Bihar.

12. There is yet another aspect of the matter. The Member Board of Revenue in its order dated 27.10.1999 (Annexure-7) has recorded that the Society has been registered in Delhi and it can still pursue its objectives in Bihar. There is no pleading in the writ application raising dispute over this fact. It seems that the society is registered in Delhi also. There is no apparent reason nor any cogent explanation as to why the petitioner should be keen on remaining registered in two States under the Act as the dominant purpose of registration under the Act is disclosed in the preamble itself which reads as follows:--

Preamble.--Whereas it is expedient that provision should be made for improving the legal condition of societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge. 3[the diffusion of political education] or for the charitable purposes;

It is enacted as follows:

13. It is evident from the above that the Act was enacted for improving the legal condition of societies established for the purposes mentioned therein; which objective is achieved the moment a society gets registered under the Act in any State.

14. In that view of the matter, I do not find any reason to interfere with the order dated 4.12.1998 (Annexure-6) and 27.10.1999 (Annexure-7).

15. The writ application is, accordingly, dismissed.

16. Needless to say that petitioner may apply for registration under the Societies Registration Act before Competent Authority which shall consider and decide on its own merit. No order as to costs.