
(2010) 12 CHH CK 0009
In the Chhattisgarh High Court
Case No : Writ Petition No. 2362 of 2000

Ghamand Singh

APPELLANT

Vs

The Commissioner, Bastar Division and Others

RESPONDENT

Date of Decision : 01-12-2010

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2011) 2 CGLJ 64

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—The instant petition is basically under Article 227 of the Constitution of India, challenging legality and validity of the order dated 30.12.1994 (Annexure P-7) passed by the Sub Divisional Officer (Revenue), Jagdalpur, (for short "the SDO") and order dated 18.8.1999 (Annexure P-10) passed by the Commissioner, Bastar Division, Jagdalpur, (for short "the Commissioner") whereunder, the order passed by the Sub Divisional Officer was confirmed.

2. The grievance of the Petitioner is that the Petitioner was appointed as Pujari of Sheetla Mata Temple, Jagdalpur (for short "the Temple"), as against the death of his father Shri Sooraj Singh on 25.9.1966, for a period of six months on temporary basis. The Petitioner continued till the order dated 30.12.1994 was passed by the SDO. Thus, the removal of the Petitioner from the post of Pujari, is contrary to the well established principle of law, as the Petitioner has acquired the right to the post on account of long practice as Pujari.

3. Shri Jain, learned Counsel appearing for the Petitioner, submits that the SDO as well as the Commissioner have ignored completely the facts that the order dated 18/11/1986 (Annexure P/3) passed by the Manager, Temple Estate, Jagdalpur, (for short "the Manager") clearly stated that the Puja of the Temple

would be done in accordance with its established tradition. Shri Jain further submits that Puja in accordance with the tradition means, the Puja has to be performed by two persons, as it was done by the parents of the Petitioner and Respondent No. 5.

4. On the other hand, Shri Sharma, learned Counsel appearing for the Respondent No. 5, submits that the Petitioner was appointed only for a temporary period by order of the Manager on 25.9.1966, thereafter, continuation of the Petitioner was unauthorized. On 17.11.1986 (Annexure P-2), the Respondent No. 5 was appointed as Pujari on account of the fact that the Petitioner declined to handover the charge of Puja to the Respondent No. 5, an order was passed on 18.11.1986 by the Manager, directing the Petitioner to handover the entire charge/responsibility of Pujari of the Temple to the Respondent No. 5.

5. Shri Sharma, further submits that Puja karya would be in accordance with the established tradition, does not mean that there should be two Pujaries, as earlier there were two Pujaries and the Petitioner is claiming the post of Pujari on the basis that his father was also working as Co-Pujari. Tradition means, the method of performance of Puja, not by any specific persons or by one or two persons.

6. Shri Sharma further contends that the impugned order dated 30.12.1994, is a consequential order when despite the order dated 18.11.1986, the Petitioner continue to interfere with the performance of Puja by Respondent No. 5. The SDO by impugned order dated 30.12.1994, did not pass any order in respect of the status of the Petitioner or Respondent No. 5. Only the Petitioner was restrained from interfering with the performance of Puja by the Respondent No. 5. The reagainst, the revision and appeal filed by the Petitioner were rightly dismissed.

7. Shri Roy, learned Panel Lawyer appearing for the State supports the orders passed by the authorities below.

8. Having heard learned Counsel appearing for the parties, perused the pleadings and documents appended thereto, there is no dispute that the Petitioner was appointed only for a period of six months on temporary basis. The Petitioner, even if, it is presumed that the Petitioner continued to work, but he never made an application or approached the authorities to appoint him on regular basis. The Petitioner accepted the position, as appointment on temporary basis.

9. The subsequent order dated 17.11.1986 (Annexure P-2) passed by the Deputy Collector, makes it clear that the Respondent No. 5 was appointed as Pujari in place of his father. There is no period prescribed and as such, it appears to be on regular basis. The order of appointment of the Respondent No. 5 was fortified by the subsequent order dated 18.11.1986 (Annexure P-3) passed by the Manager, wherein it was clearly stated that the Respondent No. 5 was appointed as Pujari, directing the Petitioner to hand over the full charge and responsibility to the Respondent No. 5.

10. The Petitioner accepted the position, as the Petitioner did not challenge the said order till he was directed by the SDO, in an application filed by the Respondent No. 5, not to interfere with the performance of Puja by the Respondent No. 5, holding that the Petitioner was never legally appointed as Pujari of the Temple. The impugned orders were thereafter confirmed by the Collector in revision vide order dated 30.8.1995 (Annexure P-8) and in appeal by the Commissioner vide order Annexure P-9. The Petitioner failed to establish that whether the Petitioner was ever appointed on regular basis and the order appointing Respondent No. 5, as Pujari and subsequently directing the Petitioner to hand over the charge and responsibility of the Temple on 18.11.1986, was never challenged and as such, the same has attained finality.

11. The order passed by the S.D.O. was confirmed by the Collector in revision and further by the Commissioner in appeal, which was based on the order of the appointment of the Respondent No. 5 and by subsequent order directing the Petitioner to hand over the charge and responsibility of the Pujari to Respondent No. 5 establishes that the Respondent No. 5 alone was appointed as Pujari of the Temple and as such, there is no infirmity, illegality or any factual error warranting interference by this Court in exercise of its power under Article 227 of the Constitution of India.

12. Looking from other angle, there is inordinate delay and laches of more than 14 years, which remains unexplained. It is well settled Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the Petitioner and such delay is not satisfactory explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. (See: State of M.P. and Others Vs. Nandlal Jaiswal and Others, , Chairman, U.P. Jal Nigam and Another Vs. Jaswant Singh and Another, State of Punjab and Anr. v. Balkaran Singh (2006) 12 SCC 709 , Yunus (Baboo) A Hamid Padvekar Vs. State of Maharashtra through its Secretary and Others, , Tridip Kumar Dingal and Others Vs. State of West Bengal and Others, , Smt. Shashibala Gandhrala v. State of Chhattisgarh and Ors. WP (S) No. 7222 of 2006).

13. For the reasons and analysis aforesaid, the petition is bereft of merit and is dismissed. No order as to costs.