
(2016) 04 JH CK 0191
In the Jharkhand High Court
Case No : W.P. (C) No. 757 of 2006

Govind Prasad Sharma

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 27-04-2016

Acts Referred:

Citation : (2016) 167 AIC 346 : (2016) 3 JCR 280

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Kaushlendra Prasad, Advocate, for the Appellant; J.C. to G.P.-IV, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Aparesh Kumar Singh, J.—The original petitioner preferred this writ petition questioning the constitution of trust committee of Hari Sabha Temple Trust by the Religious Trust Board under the provisions of Bihar Hindu Religious Trust Act, 1950 alleging violation of the provisions of the Act of 1950. The impugned letter of constitution is dated 28th September, 2005 (Annexure 15) to the writ petition. The original petitioner has died during the pendency of the writ application. The applicant in I.A. No. 6370 of 2013 has sought substitution in his place claiming that Late Govind Prasad Sharma, Pujaricum Sewayat of Hari Sabha Mandir had adopted and accepted his son, the present applicant as Ghrihast-Chele after giving all sanskar according to Hindu Religion and Sanskriti, of Hari Sabha Mandir, Dumka for day to day worship of the deity of Hari Sabha Mandir and he had also authorised him to look after the management of Hari Sabha Mandir, Dumka.

2. The appointment letter issued by original petitioner, Govind Prasad Sharma in favour of his son the present applicant is enclosed as Annexure-31 stated to have been issued on 26th June, 2013 before his death on 16.7.2013. There are other legal heirs of the deceased petitioner being the widow, sons and daughters, who through I.A. No. 8201 of 2013 , have Given No Objection to the applicant being

substituted in place of sole deceased petitioner and be treated as successor Pujari-cum-Shebait of Hari Sabha Mandir, Dumka.

3. The respondents-Jharkhand State Hindu Religious Trust Board, in its counter affidavit and reply to I.A. No. 3670 of 2013 vehemently opposed the claim of the applicant as Sewayat/Pujari and trustee of Hari Sabha Mandir, Dumka. It is alleged that the original petitioner had been illegally occupying the premises as a residential building residing with his family members and one of his son, namely, Purushottam Lal Sharma, who is practicing Advocate in Civil Court, Dumka has also been running his office Chamber in the said building without any authority of the competent authority of trust. The claim of the original petitioner had been seriously disputed by the respondents, so has been the application for substitution by the present applicant. It is their categorical assertion that the post of Sewayat/Pujari is not a hereditary post and the jurisdiction to appoint Sewayat/Pujari is vested with the Jharkhand State Hindu Religious Trust Board. Therefore, the present applicant cannot be entitled to be substituted in place of original petitioner, Govind Prasad Sharma. Board is only empowered to appoint fresh Sewayat/Pujari on the basis of recommendations made by the Trust Committee. The respondent State authorities have also through their counter affidavit defended the constitution of the Committee by the Religious Trust Board. They have also alleged that the original petitioner was never appointed as Shebait/Pujari. He has created hindrances in performance of rituals in the Temple and illegally used the premises as his residence. His son Purushottam Lal Sharma has used this premises as Advocate's office.

4. As it appears, the original petitioner has relied upon Annexure-11, a Gazette Notification dated 23rd March, 1994 of the Government of Bihar under the signature of Administrator, Bihar State Religious Trust Board, Patna that he is the Sewayat/Pujari of the trust created by the author through registered deed no. 42 dated 13th July, 1908 and as per the authorisation letter issued by the previous Sewayat. This Gazette Notification relied upon by the original petitioner has been categorically answered through the statements made at para 18 of the counter affidavit of the Respondent Board stating that it is not an appointment of the original petitioner as Sewayat or trustee of Hari Sabha Mandir, rather an invitation to file an objection to all concerned that it has been declared as a Public Trust. As a matter of fact, the trust deed is not on record and there are no other documents to substantiate the contention of the original petitioner also that he had been appointed as a trustee any time before reconstitution of the committee by the respondent Board through the impugned letter dated 28th September, 2005. As is evident there are serious allegations that the premises of the trust is being used by the original petitioner for residence and thereafter by the applicant-son for his office chamber. The respondent Board had issued show cause notices upon the original petitioner and after consideration of his reply, has rejected his claim to continue as a Sewayat of the trust in question as per the minutes contained at Annexure-E dated 5th June 2006 issued by Sub Divisional Officer-cum-Chairman, Hari Sabha Mandir Religious Trust Committee. The

committee constituted by the impugned letter dated 28th September, 2005 indicates inclusion of 11 members with the Sub Divisional Officer, Dumka as its Chairman, who have been authorised to take a decision in the matter of removal of Sewayat on due consideration of the actual state of affairs in the interest of the trust.

5. Counsel for the petitioner has relied upon the provisions of Section 2(n) of the Act, 1950 which defines "trustee". However as has been observed here in above, the present applicant has not been able to substantiate his contention that he has been appointed as a trustee either under the original trust or by the Religious Trust Board under the provisions of Act of 1950 any time.

6. On being accosted of the aforesaid relevant facts and on being asked to show whether the post of Sewayat is a hereditary post in a Religious Public Trust where erstwhile Sewayat can appoint his son as legal heir to carry on activities of Sewayat, no provisions of law have been shown nor is there any such direction of the Religious Trust Board in favour of the applicant. The trust deed is also not on record.

7. In that view of the matter, after the death of the original petitioner there are no legal rights accruing in favour of present applicant in I.A. No. 3670 of 2013 to seek substitution as Sewayat/Pujari in place of original petitioner only on the strength of he being son of the original petitioner.

8. In the wake of serious allegations also made and the decision of the Committee reflected in Annexure-E to the counter affidavit referred to here in above also Annexure 22 to the writ petition, the claim of the original petitioner as a Shebait/Pujari had also been found to be untenable on specific grounds apart from the findings about misuse of premises and that no religious rituals are either performed by him as discussed in the minutes of the decision of the Committee presided over by Sub Divisional Officer-cum-Chairman, Hari Sabha Mandir Religious Trust Committee bearing Memo dated 5.6.2006.

9. In such circumstances, there is no valid reason to allow the substitution of the applicant to be impleaded in place of original deceased petitioner to prosecute the instant writ petition. Prayer made in I.A. No. 6370 of 2013 is accordingly rejected. The writ petition on the death of the original petitioner has therefore abated. Pending I.As. are accordingly dismissed.