
(1995) 05 GAU CK 0016
In the Gauhati High Court
Case No : Civil Rule No. 206 of 1987

Hijam Ibobi Singh

APPELLANT

Vs

State of Manipur

RESPONDENT

Date of Decision : 06-05-1995

Acts Referred:

Constitution of India, 1950 — Article 26, 26, 26(d), 26(d)

Citation : (1996) 2 GLJ 362

Hon'ble Judges : H.K.Sema, J and P.K.Ghosh, J

Bench : Division Bench

Advocate : H.N.K.Singh, Advocates appearing for Parties

Judgement

H. K. Sema, J.—By this application the petitioner amongst other has assailed the byelaws of Shri Govindajee Temple Board, 1976 particularly, Rule 12 (v) and Rule 23 the ByeLaws as ultra vires the Act as well as mandate of Article 26 of the Constitution.

2. We have head Mr. HNK Singh, learned senior counsel for the petitioner.

3. In fact this Rule was heard at length on 27.11.95 but on the submission made by Mr. N. Surjamani Singh, learned senior counsel for the respondents (as he then was) that the matter is under active consideration for amendment of the rules, the matter was kept part heard. Today we are informed that no steps has been taken to amend the rules and as such, we now propose to dispose of this Civil Rule on merit.

4. Facts giving rise to filing of the present writ petition may be briefly recited. Shri Govindajee Temple Act, 1972 (Manipur Act 12 of 1972) in short the Act was passed by the Legislature to provide for the preservation of cultural tradition and for the maintenance of better administration of the Temple of Shri Govindajee at Imphal and its endowments. Section 30 of the Act empower the Board to frame Bye Laws not inconsistent with the Act. In exercise of the power conferred under clause (1) of section 30 of the Act, the Board framed Bye Laws called the Bye

Laws of Shri Govindajee Temple Board, 1976 (hereinafter the Rules). In Rule 12 (v) it provides that Umang Lal Committee will deal with matters of Pandit Loisang, Laiharaoba etc. Further, in Rule 23 of the Rules it provides that the Pandit Loisang with the 3 Gurus is incharge of the institution of customs, conventions, social taboos, rites of Umanglals, exogamy, cheiraoba etc and give directions and disputes over Punglon etc.

5. The aforesaid Rule 12 (v) and Rule 23 have been assailed on the ground that they are inconsistent with the Act as enjoined under section 30 of the Act. On the other hand, they are contrary to the Act and ultravires the mandate of Article 26 of the Constitution. It is submitted by Mr. HNK Singh that Umanglal is a separate organisation and a separate entity and it does not cover by the Shri Govindajee Temple Act, 1972. We have gone through the entire Act of Shri Govindajee Temple Act, 1972 and we do not find anywhere the word "Umanglal Committee". This would show that the Act does not cover the Institution of Umanglal. Section 30 of the Act makes abundantly clear that the Shri Govindajee Temple Board, may by laws not inconsistent with the Act. By now it is well settled principle of laws, that the Rules framed under the Act cannot be contrary to the Act. In the instant case, the Board has been empowered to frame rules under section 30 of the Act strictly in accordance with the Act. As already said nowhere in the Act the Institution of Umanglal has found place. In this view the Rule 12 (v) and Rule 23 as referred above, covering the Umanglal Institution is ultra vires the Act.

6. The Apex Court had occasions to deal with such case in the Digyadarsan Rajendra Ramdassji Varu vs. State of Andhra Pradesh & another, AIR 1970 SC 181. This is what the Apex Court has to say in paragraph 9 of the judgment that:

"The freedom of religion in the Constitution is not confined to religious beliefs only; it extends to religious practice as well subject to the restriction which the Constitution itself has laid down. Under Article 26 (b), therefore, a religious denomination or organisation enjoys complete autonomy in the matter of deciding as to what and the ceremonies are essential according to the tenets of the religion and no outside authority has any jurisdiction to interfere with its decision in such matters. Moreover, under Article 26 (d) it is the fundamental right of a religious denomination or its representative to administer its property in accordance with law; and the law, therefore, must leave the right of administration to the religious denomination itself subject to such restrictions and the regulations as it might choose to impose. A law which takes away the right of administration from the hands of a religious denomination altogether and the vest it in any other authority would amount to a violation of the right guaranteed under clause (d) of Article 26."

7. In view of the settled principle of law enunciated by the Apex Court it would clearly appear that the Board has framed the Rules contrary to the mandate of section 30 of the Act and also ultra vires the mandate of Article 26 (d) of the Constitution. In the result, Rule 12 (v) and Rule 23 of Bye Laws and other relevant provisions in the Bye Laws with regard to the functioning of Umanglal

Loisang and Laiharaoba are hereby quashed as ultra vires the Act. In the facts and circumstances of the case we pass no order as to costs.

8. Before parting with the record we are constrained to observe that for the interest of the religious denomination and upkeep, maintenance and smooth administration of religious denomination, the appropriate Government may, by a suitable legislation, pass an Act covering the Umanglal Institutions, if so advised.

With the aforesaid direction and observation, this petitions is allowed.