

(2013) 07 UK CK 0046

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No. 64 of 2012

In The Matter of Constituting A Trust/Board at The Jageshwar
Dham (Jyotirlinga)

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 12-07-2013

Acts Referred:

Citation : (2013) 100 ALR 560

Hon'ble Judges : Barin Ghosh, C.J;Serves Kumar Gupta, J

Bench : Division Bench

Judgement

Barin Ghosh, C.J.—It was reported in a newspaper that the Committee of Management of Jageshwar temple has become dysfunctional and the people, who were associated with the Committee of Management earlier, are either not traceable or have shown no interest in the affairs of Jageshwar temple. It was also reported in the newspaper that the funds of Jageshwar temple have lost their trace and, on investigation, it may be found that the same are lying somewhere in the State of Uttar Pradesh. This newspaper report prompted us to initiate the present Public Interest Litigation. It has now been found that the funds of the temple have not lost their trace; they are lying with the treasury and are under the control of the District Magistrate. In addition to that, some funds are lying in three bank accounts, which remained inoperative for a very long period of time. In course of hearing the matter pertaining to tracing of the funds of the temple, it also transpired to us that, in fact, there is no one responsible for the management and affairs of the temple. We, accordingly, felt that it is high time to constitute an effective management committee of the temple and, accordingly, heard all the stake holders. In course of hearing, it transpired that a huge chunk of land, comprised in about 103 goonth villages, was dedicated by the then owners of the land for the welfare of the temple and for its management. From the judgment, rendered in Civil Suit No. 1 of 1912 on 30th August, 1912, it transpires that even around that time, there was a management committee comprising of eminent personalities of Almora to look

after the affairs of the temple. It also transpired from the said judgment that, thereby, a provision was made for appointment of a manager, who was responsible for managing the affairs of the temple. From the said judgment, it also transpires that one Tara Dutt Panda claimed that he is the head priest of the temple and the said claim, on Appeal, was rejected on the ground that in the revenue records, he could not be recorded as such. The decedents of Tara Dutt Panda have filed an affidavit and, thereby, brought on record an order of the Assistant Commissioner dated 10th December, 1899, wherefrom it appears that the claim was made by Tara Dutt Panda to record him in the revenue records of the Government as the head priest of the temple with hereditary right. This claim, though was contested and though witnesses were available in large number to support and contest the claim as recorded in the order of the Assistant Commissioner dated 10th December, 1899, the Assistant Commissioner did not go into that question, but recommended that Tara Dutt Panda be entered as the Head Pujari of the temple. Deputy Commissioner accepted the said recommendation, but as is evident from the judgment rendered on 30th August, 1912 in Civil Suit No. 1 of 1912, the Commissioner, on an Appeal, refused to accede to the said recommendation on the ground that the same could not be recorded as such in the revenue records. Be that as it may, in the present writ petition while constituting an appropriate management committee, we are not concerned, whether there, in fact, was a custom of choosing a head priest or such choice was by hereditary, as we are not deciding a suit appropriately instituted for obtaining a relief to that effect. The fact remains that apart from the said claim, so put forward by Tara Dutt Panda before the Assistant Commissioner, there is no evidence of appointment of a head pujari either by nomination or by succession or otherwise. This issue cropped up, inasmuch as, we felt that in the committee of management, there must be representation of the priests, who remain within the premises of the temple all 24 hours, who were not part of the then Committee of Management as was noticed by the Court in Civil Suit No. 1 of 1912. It must be kept in mind that Jageshwar temple is comprised of a cluster of temples and not one, having a number of deities. In many of those temples, daily puja is performed. The same is performed by different people. When we asked the Government to prepare a list of those pujaris, who perform puja in the temple, the Government came up with a list of 74 people. It has been found that these 74 people, whose names are appended in Appendix-1 to this judgment (Annexure-5 to the affidavit filed by the District Magistrate on 28.6.2013) are performing puja on daily basis. We felt that the difficulties of these pujaris must be brought to the notice of the committee of management for better management of the temple and sewa of the deities. We thought that one of these pujaris to be elected by them shall remain as one of the members of the committee for a period of three years and shall not be entitled to be so elected unless all other pujaris have been elected and discharged their functions as a member of the committee of management. The persons, whose names have been mentioned in Appendix-1 to the judgment, are those, who are performing the puja on daily basis and their occupation is to do

puja and none of them is an employee either in the private sector or in the public sector. We make it absolutely clear that there is no direction that this list will continue forever. No sooner any of them will opt out to offer puja, he will be deleted from the list. Similarly, if any of them accepts any service either in the public sector or private sector, he shall be deleted from the list. Similarly, in future, a person, otherwise competent to offer puja and showing dedication to offer puja, will be included in the list by the committee of management, but, as aforesaid, he shall be completely dedicated towards puja and his occupation shall be confined to offering puja and shall not be employed in public sector or private sector in any capacity whatsoever. It appears from the said judgment, rendered in Civil Suit No. 1 of 1912 as stated above, there is a recognized provision for appointing a manager. This manager, according to the said judgment, was to be appointed by election and the electorates were those villagers, who were then residing in those 103 goonth villages. Those lands, which were endowed to the temple, are no longer available to the temple. By reason of Z.A. and L.R. Act, those lands belong now to those who used to cultivate the same at the time when Z.A. and L.R. Act came into force. The cultivators of those lands are now free to use the yield thereof for their own use and purpose and not bound to make the same available to the temple or for its use. However, the recognized right to choose the manager vested in them. Present topography is such that it is impossible to locate those 103 goonth villages. There is no record of those goonth villages also. The revenue records have been changed. Those goonth villages have been merged into larger villages and those larger villages have been merged with even more large villages in order to make revenue villages. In the circumstances, it would not be possible to pinpoint electorates, who shall be entitled to elect the manager and, at the same time, to pinpoint a person, who shall be entitled to be appointed as manager. We, accordingly, thought that the District Magistrate shall prepare a list comprising of the names of 10 Hindu people residing in the vicinity of the temple, who are apolitical, but not pujaris of the temple and, at the same time, are regarded as having character of high integrity and, at the same time, want to work as whole time manager of the temple on being paid a remuneration at present of Rs. 20,000/- a month, to be increased or decreased in future by the committee of management as may be decided by them on the basis of need and other considerations. The word "vicinity", used above, is left to be construed by the District Magistrate in order to locate a person of the nature mentioned above. The said list shall be presented before His Excellency the Governor of Uttarakhand, who shall choose one amongst those 10 people and he shall be appointed as manager of the temple for a period of three years and as such manager would also become a member of the committee of management of the temple. Once a person is thus appointed as manager, he shall no longer be entitled to be nominated for being appointed as manager in future. Other three members of the committee of management shall be the District Magistrate, the Regional Archeological Officer, Jageshwar/Almora and a respectful Hindu apolitical resident of the district of Almora to be nominated by His Excellency the Governor of Uttarakhand. We

order accordingly.

2. We make a request to His Excellency the Governor of Uttarakhand to nominate his nominee in the committee of management as quickly as possible. The present committee of management will be constituted by the District Magistrate, the Regional Archeological Officer, Jageshwar/Almora and the nominee of His Excellency the Governor of Uttarakhand. They shall hold the election for choosing the representative of pujaris, for three years, within a month from the date of nomination by His Excellency the Governor of Uttarakhand. In the meantime, the District Magistrate shall prepare the list of those 10 people, from amongst whom, His Excellency the Governor of Uttarakhand will choose the manager. We direct the District Magistrate to prepare that list as quickly as possible, but not later than two months from today. We request His Excellency the Governor of Uttarakhand to select, amongst those 10 people, the next manager, to be appointed, of the temple, who shall be a member of the committee of management. It is made clear that the District Magistrate shall preside over the committee of management as its chairman and the nominee of His Excellency the Governor of Uttarakhand shall be the vice-president of the committee and shall preside in the absence of the chairman. It shall be open to the committee of management to remove the manager, in the event, it transpires that the manager is not discharging his duties in the manner the committee of management desires the manager to discharge such duties. Upon the manager of the committee of management being discharged, the new manager shall be appointed by holding the procedure prescribed above. In the interregnum, day-to-day management shall be looked after by the District Magistrate through his office/subordinates.

3. The entire funds, collections, donations and all properties of the temple shall vest in the committee of management and they shall be entitled to spend the same for the requirement of the temple. We request the Government of Uttarakhand to ensure auditing of the accounts of the committee of management through the Auditor General of the State of Uttarakhand.

4. With the order as above, we dispose of the PIL.

5. We make it absolutely clear, as will also be evident from the tenor of the order, that we have not gone into the question, whether there is a post of Chief Priest or any other post or whether the same is or are hereditary or otherwise. It is made clear that any dispute pertaining to administration, management and right to offer puja, etc. shall be sorted out by the committee of management and their decision, until altered by an order of the Court, shall be binding on all parties.