
(2011) 06 PAT CK 0028
In the Patna High Court
Case No : CWJC No. 1373 of 2008

Jagdish Bharti

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 22-06-2011

Acts Referred:

Bihar Hindu Religious Trusts Act, 1950 — Section 43

Citation : (2011) 3 PLJR 677

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ahsanuddin Amanullah, J.—Heard Mr. Suman Kumar Verma, learned counsel for the Petitioner. Nobody appears for the Board nor the State of Bihar.

2. The Petitioner has challenged the notice contained in Reference No. 714 dated 31.7.2007 issued by the Bihar State Board of Religious Trusts, Vidyapati Marg, Patna by which the Board has asked him to give, evidences/documents in support of his title over the temple in the District of Sheohar.

3. The Petitioner has also subsequently filed two interlocutory applications for staying of the said notice. During the pendency of this petition an I.A. petition and also a second I.A. petition has been filed. In view of the fact that this Court proposes to dispose of the writ petition itself, no order needs to be passed on the said two I.A. applications.

4. From the records it appears that copy has been served both upon the State as well as the Respondent Board. The short question involved in this case is whether notice could have been issued by the Bihar State Religious Trusts-Board u/s 43 of the Bihar Hindu Religious Trusts Act, 1950. The matter had already been decided by the competent authority in Case No. 44 of 1957 in which with regard to the same temple it has been held that it is the private property of the Petitioner meaning thereby that it is not a public trust. The impugned notice states that it

is a completely erroneous presumption inasmuch as the very opening line refers to the temple as being a public temple. Further, in the body of the said impugned notice it is said that after the amendment the power has been given to the Board to decide whether a temple is public or private. In the opinion of this Court such assumption is also totally erroneous because there is no provision to reopen an already concluded proceeding especially in view of the fact that the remedy available to the Board has not been availed. There is no scope of interference in the matter by the Board now as per the existing law.

5. In that view of the matter, without going into the other details, this Court finds that the notice is totally arbitrary and beyond jurisdiction and thus cannot be sustained.

6. For the reasons mentioned above the writ petition is allowed and the impugned notice is hereby quashed.