

(2011) 01 PAT CK 0138
In the Patna High Court
Case No : CWJC No. 21 of 2004

Khaltu Mahto

APPELLANT

Vs

The Bihar State Board of Religious Trust and Others

RESPONDENT

Date of Decision : 24-01-2011

Acts Referred:

Bihar Hindu Religious Trusts Act, 1950 — Section 29, 29(2), 32
Constitution of India, 1950 — Article 226

Citation : (2011) 4 PLJR 113

Hon'ble Judges : Birendra Pd. Verma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Birendra Pd. Verma, J.—A counter affidavit has been filed today on behalf of respondent no. 1. Let it be kept on record.

2. Heard the parties on merit of the case.

3. The petitioner has filed the present writ petition under Article 226 of the Constitution of India raising a grievance against a communication contained in letter no. 564 dated 1.9.2003 (Annexure-3) issued under the signature of respondent S.D.O., Begusarai, addressed to the Special Officer of the Bihar State Board of Religious Trust, Patna, whereby a recommendation has been made for reconstitution of the Trust Committee for Shri Ram Janaki Thakurbari, Bagha, Begusarai, a religious trust under the meaning of the Bihar Hindu Religious Trusts Act, 1950 (hereinafter referred to as the Act only).

4. Learned counsel for the petitioner submits that from the tenor of the letter dated 1.9.2003 (Annexure-3), it appears that the Trust Committee of Shri Ram Janaki Thakurbari Religious Trust has been superseded and new committee has been constituted consisting of the persons, whose names have been disclosed in the aforesaid letter dated 1.9.2003.

5. Learned counsel appearing on behalf of the petitioner further submits that

under the provision of Bihar Hindu Religious Trusts Act, 1950, the respondent S.D.O. has not been vested with the power either to supersede the Committee of Religious Trust or to constitute a new Committee for the said trust. In his submission that power is exclusively vested in the Bihar State Board of Religious Trust, constituted under the provisions of the Act.

6. Learned counsel appearing on behalf of respondent no. 1 submits that a Committee was constituted for managing the affairs of Sri Ram Janki Thakurbari Trust as far back as in the year 1992 and some complaint has been received by the respondent no. 1 about unsatisfactory functioning and working of the said committee, of which petitioner is one of the member. In paragraph 3 and 4 of the counter affidavit, it has been categorically stated that on the basis of letter dated 1.9.2003 (Annexure-3) no final decision has been taken by the respondent no. 1 for reconstitution of the Committee and that letter has been taken to be a mere recommendation for exercising power by the Board in terms of Sections 29 and 32 of the Act. It has also been stated that in view of aforesaid recommendation dated 1.9.2003 a show cause notice was issued to the member of the Committee of the religious trust in question on 2.12.2003 (Annexure-R/1) asking them to show cause as to why the present committee be not dissolved/superseded u/s 29(2) of the Act and fresh committee be not constituted in exercise of power u/s 32 of the Act. Though, show cause was filed on behalf of the Committee by the petitioner and other members, but no final decision has been taken by the respondent no. 1.

7. After having heard the parties at length and after considering the materials available on record, this court finds that a Committee for the trust in question was constituted as far back as in the year 1992 and despite complaint/recommendation new Committee has not been constituted as yet. The impugned letter dated 1.9.2003 has apparently been treated to be mere a recommendation to the respondent no. 1. This court further finds that the entire matter requires fresh consideration by the Chairman of the respondent Board, Respondent No.1 will take into consideration all the materials available on record and after giving opportunity of hearing shall pass appropriate order under the provisions of the Act. Accordingly, this petition is disposed of with a direction to the petitioner to appear before the Chairman of respondent Bihar State Board of Religious Trust on 25th February, 2011 with a certified copy of the present order, whereafter he will pass fresh and final order either regarding dissolution of Managing Committee or for constitution of new Committee in terms of Section 32 of the Act. It is made clear that the letter dated 1.9.2003 (Annexure-3) shall be treated merely as a recommendation and not as a final order regarding dissolution of the old Committee. It is also made clear that if the petitioner does not appear before the Chairman of the Respondent Board on the date fixed, then it shall be construed that the present writ petition has finally been rejected by this Court.