

(2007) 12 PAT CK 0019
In the Patna High Court
Case No : CWJC No. 9817 of 2006

Madhav Das and Another

APPELLANT

Vs

The Bihar State Hindu Religious Trust Board and Others

RESPONDENT

Date of Decision : 03-12-2007

Acts Referred:

Citation : (2008) 1 PLJR 102

Hon'ble Judges : Navanati Pd. Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navanati Pd. Singh, J.—The petitioner has challenged the intervention of Bihar Hindu Religious Trust Board into the affairs of the petitioner's religious trust. It appears that a dispute had earlier arisen as regard to the nature of the trust. This dispute was resolved by the Religious Trust Board and orders communicating to various persons including the petitioner. These orders are contained in memo No. 2277, dated 23.12.1993 and memo no, 4916, dated 18.1.2006 (Annexures 2 and 4 to the writ petition respectively). In this it is clearly stated that the petitioner's trust is a private trust and not a public trust. Notwithstanding that Annexure 5 (memo No. 1385, dated 19.6.2006) has been issued.

2. A counter affidavit has been filed wherein it has been stated that some persons raised some disputes about the nature of trust and the matter was once again to be examined and during interregnum, the Administrator of the Board thought it proper to form a Committee for its better management.

3. Heard the parties and with their consent this application is being disposed of at the stage of admission itself.

4. Learned counsel for the petitioner submits that earlier the Board had decided the matter in favour of the petitioner holding that it was a private trust. Now whatever be the reason once such a decision has been taken, ordinarily it ought not be opened by the Board again. The power to be exercised by the Board is not

like a tea shop. It cannot held once the provision of the Act does not apply then on being persuaded by some others at a later time hold otherwise. It is bound by its decision once taken. If anybody disagrees with the decision then it is for that person to challenge the same. It ceases to have jurisdiction to re-open the issue again and again once it has decided the same. There had to be a finality in respect of matters before the authority concerned.

5. In that view of the matter the Board's action to reconsider the matter is wholly without jurisdiction. I may note here that pending decision even otherwise, the Board would not have the jurisdiction to appoint a Committee. The power to appoint a Committee is conditioned upon or dependent upon a trust to be a religious trust. This has been held by this Court repeatedly in several decisions that the assumption of jurisdiction is dependant on the facts whether trust is a public trust or not. This has to be determined. Till such determination, no interim power can be exercised, much less, as has been sought to be exercised by Annexure 5, being a direction by the Board to the district authority of Gaya for restraining the sale of land by the petitioner.

6. Such a direction is wholly without jurisdiction and cannot be sustained. Consequently Annexure 5 is quashed. The writ petition is accordingly allowed.