

(2013) 03 JH CK 0109
In the Jharkhand High Court
Case No : WP (C) No. 6812 of 2012

Mahadeoshal Sewa Samitee	Vs	APPELLANT
The State of Jharkhand and Others		RESPONDENT

Date of Decision : 08-03-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 2 JLJR 465

Hon'ble Judges : P.P. Bhatt, J

Bench : Single Bench

Advocate : Arun Kumar, for the Appellant; Mahesh Tiwary and Sahazanand Sharma, for the Respondent

Final Decision : Disposed Off

Judgement

P.P. Bhatt, J.

I.A. No. 1124/13

The present Interlocutory application is ordered to be disposed of, as the same : has become infructuous.

I.A. No. 1139 of 2013

The present interlocutory application has been filed by the intervener (Anna Chetra, Mahadeo Shal Mandir, Goelkera) seeking intervention in the instant application as party respondent and thereby for a "direction to the parties not to intervene in the benevolent "Anna Program" being occasioned by the intervener organization in the said premises.

For the reasons stated in this application, supported by an affidavit, this Court is of the view that the present application is required to be allowed. Accordingly, the same is allowed. Consequently, the intervener-respondent is required to be given an opportunity to put forward his case.

I.A. No. 1139/13 stands disposed of.

WP(C) No. 6812 of 2012

1. The petitioner, by way of filing the instant writ petition under Article 226 of the Constitution of India, has prayed for quashing and setting aside the order dated 2.11.12 passed by the Deputy Commissioner, West Singhbhum contained in Memo No. 1477(B) dated 2.11.12. Heard the learned counsel for the parties and perused the order impugned dated 2.11.12 (Annexure-5 to this petition) passed by the learned Deputy Commissioner, West Singhbhum, Chaibasa.

2. Learned counsel for the petitioner submitted that the learned Deputy Commissioner, having no power under the law, has issued the order impugned and therefore, the order passed by the learned Deputy Commissioner, West Singhbhum is bad in law and the same requires to be quashed and set aside. It is further submitted that the said order has been passed without following the due process of law and without affording any opportunity of being heard to the petitioner. Learned counsel for the petitioner, in support of his submissions, has referred to and relied upon the judgments rendered in the case of Ananda Mohan Pandey and Ors. vs. The Bihar State Hindu Religious Trust Board and Ors. reported in the case of (1993) 2 BUR 771 and Pitambar Thakur and Others Vs. The Bihar State Board and Others .

3. As against this, the learned counsel for the respondent State by referring counter affidavit filed by the Assistant Deputy Commissioner, Chaibasa, pointed out that the decision dated 2.11.12 has been taken by the Deputy Commissioner, West Singhbhum, Chaibasa keeping in mind the prevailing law and order situation over there and also keeping in view of the arrangement during the Shrawani Mela to be held at Mahadeoshal. Learned counsel for the respondent-State has also pointed out that the S.D.O., Porahat, Chakradharpur has been directed to look after the law and order situation over there and a Committee headed by SDJM has also been appointed to look after the arrangement over there during Shrawani Mela. It further appears that before passing the said order, the Deputy Commissioner, West Singhbhum, Chaibasa has also taken into consideration the report submitted by the Assistant Deputy Commissioner and therefore, the order passed by the D.C., which is under challenge in the present petition is not required to be disturbed as the same has been issued keeping in mind the larger public interest of the area and prevailing position as also the position which is likely to be arisen during coming "Shrawani Mela".

4. Mr. Mahesh Tiwary, learned counsel appearing for the respondent No. 4 submitted that the present petition is not maintainable as respondent No. 4 has been performing Puja since he has been appointed by AKHIL BHARTIYA AADYATMIK UTHAN MANDAL TRUST in view of the legal heirs of Shyam Bihari Mishra and the AKHIL BHARTIYA AADYATMIK UTHAN MANDAL TRUST has empowered him to look after the management of the temple till the further order issued by the Hindu Religious Board. It is further submitted that the order passed

by the D.C., West Singhbhum, Chaibasa is not required to be disturbed at all.

5. Learned counsel for the respondent-intervener submitted that he is not concerned with the inter se dispute between the parties. However, an appropriate order may be passed so that the task, which has been assigned to respondent-intervener, may not hamper in any manner.

6. Considering the aforesaid rival submissions of the parties and from perusal of the impugned order as well as other materials placed on record, it appears that the petitioner has approached this Court being aggrieved and dissatisfied with the order dated 2.11.12 passed by the Deputy Commissioner, West Singhbhum, Chaibasa, but the said order has been passed taking into consideration the law and order situation prevailing over there. The Deputy Commissioner has passed this order and thereby he appointed a Committee headed by SDJM to oversee the arrangement and to maintain the law and order situation over there and SDO, Porahat, Chakradharpur has also been directed to look after and oversee the arrangement of the said Mela. Therefore, the inter se dispute between the present petitioner and the respondent No. 4 has nothing to do with the order passed by the Deputy Commissioner, West Singhbhum, Chaibasa, which is under challenge in the present petition. So far as grievance of the petitioner is with respect to right, title and interest in the said temple trust is concerned the same shall be required to be agitated before appropriate forum/authority in accordance with law.

7. In view of the facts and circumstances of the present case, the writ petition filed by the present petitioner is not maintainable as the order passed by the Deputy Commissioner is not required to be disturbed in any manner. The judgments referred to and relied upon by the learned counsel for the petitioner are not relevant in the present case as the same are with regard to right, title and interest in respect of management of the trust. The petitioner can avail appropriate remedy, which is available under law with regard to his right and claim in the temple trust. The Deputy Commissioner shall ensure necessary arrangement so as to maintain the law and order during Shrawani Mela. The S.D.O. and S.D.J.M. shall also take necessary steps for arrangement of pilgrims, who visit the temple during the Shrawani Mela. With the aforesaid observations and directions, the present writ petition stands disposed of without interfering the order dated 2.11.2012 passed by the Deputy Commissioner, West Singhbhum.