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**(1997) 10 PAT CK 0047**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 1070 of 1997**

Mahanth Ramautar @ Mahanth Ramautar Barhamchari and Others APPELLANT

Vs

Bihar State Board of Religious Trust and Others RESPONDENT

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**Date of Decision :** 29-10-1997

**Acts Referred:**

Bihar Hindu Religious Trusts Act, 1950 — Section 29(2), 32

**Citation :** (1998) 2 BLJR 1020 : (1998) 1 PLJR 528

**Hon'ble Judges :** S.K. Singh, J

**Bench :** Single Bench

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## Judgement

S.K. Singh, J.—The present application has been filed, for quashing the order dated 28.12.96 passed by Respondent No. 1 dissolving the old Deo Shiva Mandir Trust and constituting a new Trust u/s 32 of the Bihar Hindu Religious Trust Act, 1950.

2. The sole contention of the learned Counsel for the petitioner is that the Mandatory provision of law for removal of the old Managing Committee as envisaged under Sections 29(2) and 32 of the Act for Constitution of a new Managing Committee has not been followed.

3. In support of his contention, learned Counsel for the petitioner has placed Annexure-5 to the supplementary affidavit (Annexure-A to the counter-affidavit) by which it clearly goes to show that a letter was written on 11.11.96 by one Suresh Paswan M.L.A to the President of the Bihar State Board of Religious Trust (hereinafter referred to as the "Board") stating therein that as the present Managing Committee was not running the affairs of the temple in question satisfactorily and there was complaint against them the said committee should be superseded and in its place a new Managing Committee should be constituted and in the said letter the names of the persons who should be there in the new committee, have also been suggested.

4. According to the learned Counsel, the said letter has been followed in letter and spirit by the President of the Board and the mandatory provision of Section 29(2) of the Act has not been followed as in view of the complaint the Board was competent to supersede the Managing Committee or Trustee of the temple provided a show cause notice was given to him and after considering the same it could have been replaced by a new committee. But u/s 32 of the Act no show cause according to the learned Counsel, was ever given to the petitioner or any other member of the said Committee.

5. Learned Counsel appearing on behalf of the Board, on the other hand has stated that a show cause has been sent to the petitioner and the local M.L.A. being an interested person was discharging his obligation when on the complaint of the public, he came to know that the management of the temple was not in order and the Respondent Board has not only acted on the letter of the M.L.A. but after giving show-cause has applied its own mind. Regarding the show cause, which has been served on the petitioner, it has clearly been pointed out by the learned Counsel for the petitioner that the same was against the then Chairman of the Trust and the complainant was the petitioner himself. As such, the said letter could not have the cause of action for removing the petitioner from the said trust.

6. It has also been argued by the learned Counsel that by Annexure-5 which is said to be the show cause, the petitioner was to look after the management of the concerned temple for the time being.

7. As far as the creation of the new Managing Committee is concerned, though a new Managing Committee can be constituted by according to the learned Counsel the same can only be done under the direction of the District Judge in view of Section 32(2) of the Act.

8. Be that as it may without going into detailed facts of the present case, I am satisfied that there has been no application of independent mind by the President or the Board while passing the impugned order. The said order has been passed in verbatim in compliance of the letter written by the local M.L.A., as contained in Annexure-5 and even the new members of the Managing Committee have been appointed on his recommendation. The same could not have been done. There has to be an independent application of mind.

9. In the facts of the case, the order as contained in Annexure-3 is quashed. The President of the Board is directed to reconsider the matter and after compliance of the mandatory provisions of Section 29 of the Act if he comes to the conclusion that the members of the Managing Committee are required to be removed, he shall pass appropriate order in accordance with law. Similarly, a fresh Managing Committee shall be formed in accordance with law.

10. With the aforesaid observations/directions this application is disposed of.