
(2001) 07 PAT CK 0097
In the Patna High Court
Case No : C.W.J.C. No. 1443 of 1991

Nanha Prasad Singh and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 17-07-2001

Acts Referred:

Citation : (2001) 3 BLJR 2087 : (2001) 3 PLJR 813

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—In this writ petition the petitioners have assailed the validity of the order of the Special Officer, Bihar State Religious Trust Board, dated 14-12-1990 (Anmerkure I) whereby and where under the order contained in Letter No, 2325 dated 13-8-1990, contained in Annexure-4, passed by the then Special Officer of the Board has been cancelled.

2. In short, the relevant facts are that one Shyam Lal Singh of Vjllage-Lari, RS. Kurtha, District Jahanabad, installed deity of Murli Manohar Jee in 1330 Fasli and subsequently executed a registered deed of endowment dated 3-3-1924 in favour of the said deity of the properties mentioned therein. The dedicator constituted a committee of five persons to look after the affairs and management of its properties. It provided that the management of the trust would be made by unanimous opinion of all the trustees. The trustees were authorised to nominate trustees in case a trustee dies or becomes incapable of managing the affairs. It also provided that if in the opinion of the Hindu Public, trustees are not performing their duties satisfactorily, the said public would have right to nominate the trustee consisting of five persons to manage the affairs of trust after calling a public meeting. In course of time all the persons nominated as trustees in the deed of endowment died and one Bishundeo Singh of the same village started managing the affairs of the trusts in question and without taking any public opinion constituted a committee consisting of his near relations and

other persons of his choice, namely, respondents No. 7 to 10. He, however, alone became the Incharge of the same and he started utilising the income of the trust properties for his own gain frustrating the main aim and object of the dedicator. It is alleged that owing to resentment in the Hindu Public against the said Bishundeo Singh, Respondent No. 6, a public petition was filed before the then Hon"ble Minister of the Religious Trust complaining regarding mismanagement of the said trust which was forwarded to the District Magistrate, Jahanabad, who got an enquiry made through the Sub-Divisional Officer, Jahanabad. The Anchal Adhikari, Kurtha called a meeting of general public of the said village and their opinion was for the proper management. The Anchal Adhikari submitted his report. Thereafter, a show cause not was issued to said Bishundeo Singh respondent No. 6 by the Religious Trust Board in response to which a show cause was filed by respondent No. 6 and the Religious Trust Board after considering the same decided to settle scheme and for the said purpose also constituted a committee consisting of seven persons to look after the affairs of the trust including the petitioners, the S.D.O. Jahanabad, Veterinary Medical Officer, Kurtha and one respondent No. 5, Lalan Singh, vide Annexure-4. All of a sudden the successor in officer of the Special Officer cancelled the said order vide impugned letter dated 13-8-90 by which a scheme was settled and committee was constituted without giving any notice or assigning any reason.

3. Despite service of notice no counter-affidavit has been filed.

4. It is submitted on behalf of the petitioners that the impugned order of cancellation is wholly without jurisdiction and bad in law inasmuch as by the impugned order the then Special Officer has reviewed the earlier order contained in Annexure-4, for which he had no power under the provisions of the Bihar State Hindu Religious Trust Board Act, (hereinafter to be referred to as "the Act"). It is further submitted that the impugned order on the face of it is arbitrary, mala fide and bad in law as it was issued without giving any notice to the petitioners who were appointed as members of the Trust vide order, contained in Annexure-4, nor it assigns any reason whatsoever for cancellation of the said order in the impugned order contained in Annexure-1.

5. Learned Counsel for the respondents have failed to justify the action of the then Special Officer. Learned Counsel appearing for the Board also fairly submitted that the impugned order contained in Annexure-1 cannot be sustained, as undisputedly the petitioners were not given any notice before cancelling the Order (Annexure-4). Learned Counsel for the private respondents has also failed to justify the impugned order which does not even assign any reason.

6. Moreover, perusal of the impugned order, contained in Annexure-1, shows that the successor in the officer of the Special Officer has passed the said order without complying the requirement of law as well as applying his mind as it does not assign any reason. The writ application is, thus, allowed and the impugned order, contained in Annexure-1, is quashed. In the facts and circumstances of the

case, there shall be no order as to the costs.