
(2002) 08 MP CK 0096

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2663 of 1999 (J)

Trust, Gora Khurd

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 23-08-2002

Acts Referred:

Madhya Pradesh Public Trust Act, 1951 — Section 26

Citation : (2003) 1 MPJR 470

Hon'ble Judges : A.K. Mishra, J

Bench : Single Bench

Advocate : K.M. Agrawal, for the Appellant; Vivek Awasthy, for the Respondent

Final Decision : Allowed

Judgement

Arun Mishra, J.

In this writ petition short question arises for consideration whether the Registrar, Public Trust is having the right to remove the trustee. Registrar lacks the jurisdiction is the submission of the petitioner, while seeking the quashment of the order P/3 and P/3-A passed by the Registrar of Public Trust respectively on 14.9.98 and 16.9.98.

It is not necessary to refer the facts in extensive details; suffice it to observe that petitioner is a registered public trust under the Public Trust Act, 1951. The only question for consideration is whether the Registrar, Public Trust has the jurisdiction to remove the existing trustee and appoint another by his own order.

This matter has been considered by a Division Bench of this Court in Dalludas v. Registrar of Public Trusts, Hoshangabad 1971 J LJ 135 and another Division Bench decision of this court in Sheoprasad Dubey v. Registrar, Public Trusts, Sagar and others 1972 J LJ 6. It has been held by this Court that Registrar has no jurisdiction to remove the trustees and to appoint new; he has to seek direction from a Civil Court. Section 26 of the MP Public Trusts Act, 1951 (for short "the Act") reads as under :-

26. Application to Court for directions : (1) If the Registrar on the application of any person interested in the public trust or otherwise is satisfied that -

- (a) the original object of the public trust has failed.
- (b) the trust property is not being properly managed or administered; or
- (c) the direction of the court is necessary for the administration of the public trust;

he may, after giving the working trustee an opportunity to be heard direct such trustee to apply to a court for directions within the time specified by the Registrar.

(2) If the trustee so directed fails to make an application as required, or if there is no trustee of the public trust or if for any other reason, the Registrar considers it expedient to do so, he shall himself make an application to the court.

Sub-sections (1) and (2) section 27 of the Act runs as under :-

27. Court's power to hear application - (1) On receipt of such application the court shall make or cause to be made such inquiry into the case as it deems fit and pass such orders thereon as it may consider appropriate.

(2) While exercising the power under sub-section (1) the court shall, among other powers, have power to make an order for :-

- (a) removing any trustee;
- (b) appointing a new trustee;
- (c) declaring what portion of the trust property or of the interest therein shall be allocated to any particular object of the trust;
- (d) providing a scheme of management of the trust property;
- (e) directing how the funds of a public trust whose original object has failed, shall be spent, having due regard to the original intention of the author of the trust or the object for which the trust was created;
- (f) Issuing any directions as the nature of the case may require.

From the above quoted provisions, it is clear that power is vested in Civil Court not with the Registrar, Public Trust. Thus, the impugned orders Annexure P/ 3 and P/3-A are quashed. Registrar is free to move the Civil Court in accordance with law if it is considered desirable as on today.

Writ petition is allowed. Costs on parties.