

(2011) 06 JH CK 0065

Jharkhand High Court

Case No: Writ Petition (C) No. 4794 of 2001

Chandra Nand Jha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: June 30, 2011

Acts Referred:

- Bihar Hindu Religious Trusts Act, 1950 - Section 2, 48, 48(1), 48(2)

Citation: (2011) 3 JCR 428

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Advocate: Kaushik Sarkhel, for the Appellant; Rajesh Kr. Singh, J.C. to S.C. II for the State of Jharkhand and Samta, J.C. to G.A. for the State of Bihar, for the Respondent

Final Decision: Allowed

Judgement

Narendra Nath Tiwari, J.

By Court: The short point raised in this writ petition is as to whether the Petitioner being a trustee according to the definition of trustee provided in Section 2(n) of the Bihar Hindu Religious Trust Act, 1950 he can be removed by the Chairman of the Trust on the allegation that the Petitioner was acting in a manner prejudicial to the interest of the Trust in question.

2. Learned Counsel, appearing on behalf of the Petitioner, submitted that the power of removing trustee on the said ground is provided u/s 48 of the Bihar Hindu Religious Trust Act, 1950, which clearly provides for making an application before the District Judge for such order of removal of a religious trustee. But in the Instant case, the Petitioner has been removed by the Chairman of Bihar State Board of Religious Trust.

3. It has been submitted that since the order has been passed by the Chairman contrary to the provision of the said Act, the impugned order is wholly without jurisdiction.

4. A counter affidavit has been filed on behalf of the Respondent No. 7 contesting this writ petition. It has been, inter alia, stated that the Petitioner, since his joining as Assistant Manager, never worked in the interest of the Dharamsala nor he assisted the Respondent in managing the affairs thereof. Rather he indulged himself in raising disputes putting hindrance, creating nuisance with the said Respondent leading to breach of peace and harmony. It has been further stated that under the provision of Bihar State Hindu Religious Trust Act, 1950, the Board has full power to appoint and dismiss the trust officials and accordingly the impugned order has been passed removing him from the post of Assistant Manager.

5. Though counter affidavit has been filed, nobody appeared on behalf of Respondent No. 7 when this case is taken up for hearing.

6. I have heard Learned Counsel for the Petitioner and learned J.C. to S.C.II and perused the counter affidavit along with other records, filed on behalf of Respondent No. 7. On going through the impugned order, I find that the same has been issued by the Chairman, Bihar State Board of Religious Trust, whereby he has recalled the Petitioner's appointment as Assistant Manager of the Trust on the allegation that the Petitioner has been acting in a manner prejudicial to the interest of the Trust.

7. Learned Counsel, appearing on behalf of the Petitioner, drew attention of this Court on the provision of Section 48 of the Bihar State Hindu Religious Trust Act, 1950.

8. On plain reading of Section 48, it is clear that power for removing the trustee has been given only to the District Judge. Sub-section (2) of Section 48 provides that the order of the District Judge Sub-section (1) shall be final.

9. Learned Counsel, appearing on behalf of other Respondents, have not disputed the said contentions.

10. Considering the above, I find that the impugned order issued by the Chairman, Bihar State Board of Religious Trust is without jurisdiction and the same cannot be upheld.

11. This writ petition is allowed. The order of the Chairman-Respondent No. 3, contained in Memo No. 1201 dated 11.06.2001 is quashed.