

## Khaltu Mahto Vs The Bihar State Board of Religious Trust and Others

**Court:** Patna High Court

**Date of Decision:** Jan. 24, 2011

**Acts Referred:** Bihar Hindu Religious Trusts Act, 1950 " Section 29, 29(2), 32  
Constitution of India, 1950 " Article 226

**Citation:** (2011) 4 PLJR 113

**Hon'ble Judges:** Birendra Pd. Verma, J

**Bench:** Single Bench

**Final Decision:** Dismissed

### Judgement

@JUDGMENTTAG-ORDER

Birendra Pd. Verma, J.

A counter affidavit has been filed today on behalf of respondent no. 1. Let it be kept on record.

2. Heard the parties on merit of the case.

3. The petitioner has filed the present writ petition under Article 226 of the Constitution of India raising a grievance against a communication

contained in letter no. 564 dated 1.9.2003 (Annexure-3) issued under the signature of respondent S.D.O., Begusarai, addressed to the Special

Officer of the Bihar State Board of Religious Trust, Patna, whereby a recommendation has been made for reconstitution of the Trust Committee

for Shri Ram Janaki Thakurbari, Bagha, Begusarai, a religious trust under the meaning of the Bihar Hindu Religious Trusts Act, 1950 (hereinafter

referred to as the Act only).

4. Learned counsel for the petitioner submits that from the tenor of the letter dated 1.9.2003 (Annexure-3), it appears that the Trust Committee of

Shri Ram Janaki Thakurbari Religious Trust has been superseded and new committee has been constituted consisting of the persons, whose names

have been disclosed in the aforesaid letter dated 1.9.2003.

5. Learned counsel appearing on behalf of the petitioner further submits that under the provision of Bihar Hindu Religious Trusts Act, 1950, the

respondent S.D.O. has not been vested with the power either to supersede the Committee of Religious Trust or to constitute a new Committee for

the said trust. In his submission that power is exclusively vested in the Bihar State Board of Religious Trust, constituted under the provisions of the

Act.

6. Learned counsel appearing on behalf of respondent no. 1 submits that a Committee was constituted for managing the affairs of Sri Ram Janki

Thakurbari Trust as far back as in the year 1992 and some complaint has been received by the respondent no. 1 about unsatisfactory functioning

and working of the said committee, of which petitioner is one of the member. In paragraph 3 and 4 of the counter affidavit, it has been categorically

stated that on the basis of letter dated 1.9.2003 (Annexure-3) no final decision has been taken by the respondent no. 1 for reconstitution of the

Committee and that letter has been taken to be a mere recommendation for exercising power by the Board in terms of Sections 29 and 32 of the

Act. It has also been stated that in view of aforesaid recommendation dated 1.9.2003 a show cause notice was issued to the member of the

Committee of the religious trust in question on 2.12.2003 (Annexure-R/1) asking them to show cause as to why the present committee be not

dissolved/superseded u/s 29(2) of the Act and fresh committee be not constituted in exercise of power u/s 32 of the Act. Though, show cause was

filed on behalf of the Committee by the petitioner and other members, but no final decision has been taken by the respondent no. 1.

7. After having heard the parties at length and after considering the materials available on record, this court finds that a Committee for the trust in

question was constituted as far back as in the year 1992 and despite complaint/recommendation new Committee has not been constituted as yet.

The impugned letter dated 1.9.2003 has apparently been treated to be mere a recommendation to the respondent no. 1. This court further finds

that the entire matter requires fresh consideration by the Chairman of the respondent Board, Respondent No.1 will take into consideration all the

materials available on record and after giving opportunity of hearing shall pass appropriate order under the provisions of the Act. Accordingly, this

petition is disposed of with a direction to the petitioner to appear before the Chairman of respondent Bihar State Board of Religious Trust on 25th

February, 2011 with a certified copy of the present order, whereafter he will pass fresh and final order either regarding dissolution of Managing

Committee or for constitution of new Committee in terms of Section 32 of the Act. It is made clear that the letter dated 1.9.2003 (Annexure-3)

shall be treated merely as a recommendation and not as a final order regarding dissolution of the old Committee. It is also made clear that if the

petitioner does not appear before the Chairman of the Respondent Board on the date fixed, then it shall be construed that the present writ petition

has finally been rejected by this Court.