

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.6975 of 2023**

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Deonandan Das @ Dilip Das, Chela of Late Mahant Hari Das, Resident of Siddhasharam @ Siddha Baba ki Badi Kutiya, Mohalla Laxmana nagar, Kot Bazaar, Sitamarhi, P.S. and Dist. Sitamarhi.

... .. Petitioner/s

Versus

1. Bihar State Board of Religious Trusts, Vidyapati Marg, Patna through its President.
2. The President, Bihar State Board of Religious Trusts, Vidyapati Marg, Patna
3. The Superintendent, Bihar State Board of Religious Trusts, Vidyapati Marg, Patna
4. The Sub-Divisional Officer, Sitamarhi.
5. The Circle Officer, Sitamarhi.
6. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate  
For the Respondents : Mr. Ganpati Trivedi, Sr. Advocate  
Mr. Ritik Shah, Advocate  
Mr. Madan Mohan, Advocate  
For the State : Mr. Raj Kishore Roy ( GP- 18 )  
Ms. Surekha Kumari, AC to GP-18

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**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**

**ORAL JUDGMENT**

**Date : 11-12-2023**

Heard Mr. Mrityunjay Kumar, learned counsel appearing on behalf of the petitioner; Mr. Ganpati Trivedi, learned senior counsel assisted by Mr. Ritik Shah, learned counsel appearing on behalf of the respondent Board and Mr. Raj Kishore Roy, learned GP-18 for the State.



2. The petitioner has filed the writ petition for following relief(s) in paragraph no. 1, which *inter alia* is reproduced hereinafter:-

*“a. For grant of an appropriate writ for quashing the order dated 05.12.2022 passed by the President, Bihar State Board of Religious Trusts appointing the Circle Officer, Sitamarhi as temporary trustee of Siddhashram @ Siddh Baba Ki Badi Kutiya under Section 33 of Bihar Hindu Religious Trusts Act (Act for short) for protection of the temple and the land of Siddhasharam and further directing the Sub-Divisional Officer, Sitamarhi to collect rental, etc. from the persons running coaching center, etc. in the premises of Siddhasharam and to spend the same for puja paath, etc. in the Aashram till appointment of a trustee or formation of a trust committee and directing the petitioner not to obstruct in such functioning of the Sub-Divisional Officer, Sitamarhi (Annexure-7).*

*b. For grant of an appropriate writ for quashing letter no. 4051 dated 28.02.2023 issued under the signature of Incharge Assistant Superintendent, Bihar State Board of Religious Trusts directing the petitioner and others not to interfere in the functioning of Sub-Divisional Officer, Sitamarhi in management of the trust in question (Annexure-8).*

*c. For grant of an appropriate writ for a direction to the respondents to desist from interfering with the functioning of the affairs of Siddhashram by the petitioner as its Mahant.”*

3. Mr. Mrityunjay Kumar, learned counsel appearing on behalf of the petitioner submitted that nature of dispute is civil in nature and the Board has no jurisdiction to declare the title over the property, which was transferred in the name of the Guru of the petitioner namely, Siyaram Das @ Siddha Baba, long back by one ex-malik Nawab Sharafat Ali Hussain Khan by a registered gift, and the affairs of the temple is being carried out by the shebait of the temple, where they



perform *puja* of idol of '*Lord Ram Janki*'.

4. Learned counsel further submitted that the Circle Officer, Dumra created the jamabandi of CSP No. 918 and 919 in the name of Hari Das on 24.03.1969. Mithila Sharan appointed his chela Hari Das as 'Malik Mustakil' through a registered deed dated 17.03.1972 on 17.03.1972. During Revisional Survey Operation, RSP No. 164, 165 and 166 were carved out from CSP No. 918 and 919 and the same were recorded in possession of Hari Das. Hari Das has been paying rent for the land to the State of Bihar.

5. He further submitted that Hari Das appointed his Chela Deonandan Das @ Dilip Das (petitioner) as the Mahant of the Aashram and he was given 'Chaadar Pagdi' as per Ramanandi Vaishnav Parampara on 07.08.2015. Mahant Hari Das had executed a deed of 'Sabaitnama' in favour of Deonandan Das with respect to Siddhashram Temple giving him all 'Maalikana Haque' on 18.02.2019. Mahant Hari Das was killed on 23.02.2021. The In-charge Assistant Superintendent of Bihar Board of Religious Trusts (hereinafter referred to as 'the Board') issued letter to the petitioner to appear before the Board and to put his case relating to encroachment upon the land of Siddhashram on 02.05.2022. The Board called for a report



regarding management of the temple, etc. The Inspector of the Board had submitted his report on 05.12.2022. The President of the Board appointed the Circle Officer, Dumra as temporary trustee of the temple and directed the Sub-Divisional Officer, Sitamarhi to collect rental, etc. from the persons running coaching centres, etc. in the premises of Siddhashram and to spend the same in puja, paath, etc. of the temple on 05.12.2022. The In-charge Assistant Superintendent of the Board directed the petitioner not to obstruct in the functioning of the Sub-Divisional Officer, Sitamarhi in the matter of management of the temple on 28.02.2023. On these grounds, learned counsel submitted that the orders dated 05.12.2022 and 28.02.2023 are without jurisdiction.

6. *Per contra*, Mr. Ganpati Trivedi, learned senior counsel appearing on behalf of the Board submitted that petitioner claims to be the Sabait of the Sidha Ashram Religious Trust Committee. He informs that the Trust had earlier filed CWJC No. 91 of 2003 through its secretary had sought removal of Hari Narayan Das and Dev Nandan Das @ Dilip Kumar from illegal occupation in the premises of Shri Sidha Ashram Trust Committee. The said Dev Nandan Das @ Dilip Kumar is the petitioner in the present writ petition. The said writ petition was



remanded back to the Board with a direction for legal and proper constitution of the Trust Committee by appointing secretary and its members. The president has appointed the Committee and there is no infirmity in the order dated 05.12.2022.

7. He further submitted that under the Bihar Religious Trust Board Act the constitution of the Committee and appointment of the secretary and members is to be made by the Board and the Board has appointed the Circle Officer, Sitamarhi, as temporary trustee and has directed the Sub-Divisional Officer, Sitamarhi to collect rental etc. from the persons running coaching center, etc. in the premises of Siddhasharam and to spend the same for puja paath, etc. in the Aashram till appointment of a trustee or formation of a trust committee and directing the petitioner not to obstruct in such functioning of the Sub-Divisional Officer, Sitamarhi.

8. Heard the parties.

9. In the present case, the petitioner has claimed his title on the basis of a piece of land apertaining to CSP Plot no. 918 and 919 gifted by ex-malik Nawab Sharafat Ali Hussain Khan and others, and, thereafter, the same land was vested in name of Siya ram Das @ Siddha Baba, a Hindu sant, who had



installed idols of Sri Ram Janki Ji and other deities in his Ashram/Temple, which was called Siddhashram @ Siddha Baba ki Badi Kutiya. The total area measures 0.83 acres and the same was in name of Hari Das, Chela of Mahant Mithila Sharan Das, who used to perform Puja and look after the affairs of Siddhashram. The petitioner has claimed that he being the Mahanth has been paying rent on behalf of the Siddhashram.

10. The Bihar Hindu Religious Trust Act, 1950 confers the power of general superintendence of all Hindu religious trusts in the State in the Board. A religious trust is defined under Section 2(1) of the Act, which is reproduced hereinunder:-

“2(1) "Religious trust" means [and shall be deemed always to mean] any express or constructive trust created or existing for any purpose recognised by Hindu Law to be religious, pious or charitable, but shall not include a trust created according to the Sikh religion or purely for the benefit of the Sikh community and a private endowment created for the worship of a family idol in which public are not interested [and where public offerings and donations are not received]”

(Emphasis supplied)

11. Section 28 of the Bihar Hindu Religious Trust Act, 1950 which provides for general power and duties of the Board is reproduced hereinafter:

**“28. General powers and duties of the Board. - (1)**  
*The general superintendence of all religious trusts in the State shall be vested in the Board. The Board shall do all things reasonable and necessary to ensure that such trusts are properly supervised and administered and that the income thereof is duly appropriated and applied to the objects of such trusts and in accordance with the purposes*



*for which such trusts were founded or for which they exist, so far as the objects and purposes can be ascertained.*

*(2) Without prejudice to the generality of the provisions of sub-section (1), and subject to the other provisions of this Act, the powers and duties of the Board shall be-*

*(a) to prepare and maintain in the prescribed manner a complete record containing full information relating to the origin, nature, extent, income (if any), objects and beneficiaries of the different classes of religious trusts in the State of Bihar;*

*(b) to prepare and maintain a register containing true copies of all documents creating any religious trust;*

*(c) to prepare and settle its budget and to furnish a copy thereof to the State Government or to such authority as the State Government may direct;*

*(d) to take measures for the recovery of lost property of any religious trust;*

*(e) to cause inspection to be made of the property and the office of any religious trust including accounts and to authorise the Superintendent or any of its members, officers or servant for that purpose;*

*(f) from time to time, to call for information, reports, return and other documents from trustees;*

*(g) to give directions for the proper administration of a religious trust in accordance with the law governing such trust and the wishes of the founder in so far as such wishes can be ascertained and are not repugnant to such law;*

*(h) to remove a trustee from his office if such trustee-*

*(i) is convicted of any such offence or is subjected by a Criminal Court to any such order as implies moral turpitude which in the opinion of the Board, unfits him to hold office;*

*(ii) is convicted more than once of the same or different offences under this Act;*

*(iii) refuses to act, or willfully disobeys the directions and orders of the Board under this Act; or*

*(iv) applies for being adjudged or is adjudged an insolvent:*

*[(v) makes persistent defaults in the submission of budgets, accounts, reports or returns or in payment of contributions or other dues payable to the Board.*

*(vi) alienates immovable property of the trust in*



*contravention of this Act or misappropriates funds of the trust.*

*(vii) indulges in immoral act disapproved by Dharmashashtras or has violated "maryada" of the "sampradaya" to which he belongs.]*

*(i) to direct the deposit of the endowment money of a religious trust in the hands of a trustee in any bank approved by the State Government;*

*(j) to sanction on the application of a trustee or any other person interested in a religious trust, the conversion of any property of such trust into another property, if the Board is satisfied that such conversion is beneficial for the said trust:*

*Provided that no such conversion shall be sanctioned unless the Board so resolves by majority which includes at least three fourth of its members and resolution of the Board is approved by the District Judge;*

*(k) to control and administer the Trust Fund subject to the general supervision of the State Government;*

*(l) to keep true and regular accounts of its own receipts and disbursements and submit the same for audit;*

*(m) to furnish to the State Government or to such officer as the State Government may appoint in this behalf any statement, report, return or other documents and any information which the State Government or, as the case may be, such officer may require to be furnished and also to furnish to the State Government an annual report giving a detailed account of the activities of the Board:*

*(n) to institute, whenever it thinks fit, an inquiry relating to the administration of a religious trust;*

*(o) to direct the trustee of a religious trust to institute in a court of law, within such time as may be fixed by the Board, any suit or proceeding which he is entitled to institute in accordance with the law for the time being in force in respect of the trust or any matter connected therewith and on failure of the trustee to do so, institute such suit or proceeding itself;*

*(p) to defend either on behalf of or in addition to the trustee any suit or proceeding instituted with respect to religious trust or any matter connected therewith, or in cases where there is no trustee or the succession to the office of the trustee is disputed, to defend any such suit or proceeding itself;*

*(q) to direct the trustee of a religious trust to apply to the appropriate officer or authority to enter in a record of rights or municipal records, if any, the right, title or*



*interest of such trust in any immovable property and, on failure of the trustee to do so within a reasonable time, to make such application itself;*

*(r) to realise, in the prescribed manner and subject to the prescribed conditions, out of the income of any religious trust, the cost incurred by the Board in any suit or proceeding instituted by it under clause (o), in defending any suit or proceeding under clause (p) or in making and prosecuting any application under clause (q) in respect of such trust;*

*(s) to permit a trustee to retire from his office and, in case the trustee has power to appoint his successor, to permit him to make the appointment in his life time; and [to appoint trustees in vacancies created by the removal under Section 28(2)(h) subject to the wishes of the founder or to a mutual compromise between the Board and the Trust approved by any competent court.]*

*(t) to extend, for sufficient reason the time within which any act or thing is required or ordered to be done before the Board under any of the provision of this Act.*

*[(u) to decide all disputes whether any trust is a public or a private trust in accordance with the definition under Section 2(1) of this Act and the decision of the Board shall remain in force until it is set aside by a competent court.]*

*[(3) Before passing an order under clause (h) of sub-section (2) the Board shall issue a notice to the trustee communicating to him the ground of his proposed removal and provide him a reasonable time for the reply. Before making an order the Board shall consider the reply, if submitted with the required time and in case of the removal under Section 28(2)(h)(vii), shall obtain the opinion of a Dharmacharya who is well-versed with the tenets of that particular Sect. After the order of the removal is received by the trustee, he may, within ninety days of the communication of such order, apply to the District Judge for varying, modifying or setting aside the order.]”  
(emphasis supplied)*

12. Section 39 of the Act provides that the powers and duties under the Act can be delegated in favour of the President. It is reproduced herein below:

**“39. Delegation of powers of Board.** - *The Board may delegate any of its powers and duties under this Act to the President to be exercised and performed in such special circumstances as the Board may specify, and may likewise*



*withdraw any such delegation.”*

13. Section 43B of the Bihar Hindu Religious Trusts Act, 1950 is reproduced hereinafter:

**“43B. Decision of property disputes.** - *The Tribunal shall decide the following property disputes-*

*(i) whether any immovable property is or is not a property of a particular trust.*

*(ii) whether any particular property claimed by the Mahanth, Shebait, priest or a trustee is his personal property or the property of the temple or math.*

**Explanations.**-*(a) If any Mahanth, Shebait, priest or trustee claims a particular property to be his personal property, the onus will be on him to prove as to how he acquired the property and whether he intimated the concerned authorities after acquiring such property.*

*(b) All immovable properties of any Pauranic Mandir or Math which has been regarded sacred for Centuries or of a gaddi (seat) of a particular sect which has been in existence for generations will be the property of that pauranic mandir/math or of that sect, even when mutated in the name of any trustee unless it is proved that he acquired it through disclosed source of his personal income.”*

14. The Bihar Hindu Religious Trust Act, 1950 is a code in itself, however, from the perusal of the provision contained in Section 28 of the Bihar Hindu Religious Trust Act, 1950 it appears that nowhere power is assigned to the Board to determine the title of a person, body or trust.

15. Section 39, which provides that powers and duties under the Act can be delegated in favour of the President to be executed and performed in such special circumstances when such powers are conferred upon the President of the Board



then special reasons must come out for delegation of such powers. If every power is to be delegated in favour of the Chairman then there is no necessity of constituting a Board. The constitution of the Board presupposes that ordinarily the work shall be done and business would be discussed in the Board meeting and the Board shall not be sub-ordinate to or under the management of the Chairman of the Trust Board.

16. By virtue of Section 43B of the Act, the Tribunal has been empowered to decide matters of property dispute. The admitted facts are that the Trust Shree Sidha Asharam Religious Trust Committee had earlier filed Cr.WJC No. 91 of 2003. The same was filed through the Chairman of the Trust constituted by the Bihar Religious Trust Board with a prayer to remove respondent no. 10 (Hari Narayan Das @ Hari Prasad ) and respondent no. 11 (Dev Nandan Das @ Dilip Kumar) from illegal occupation in the premises of Shri Sidha Asharam Trust Committee. This Court has observed that in a case reported in **2003(4) PLJR 710 (Mahanth Vijay Das v. the State of Bihar and Ors.)** , the Bihar Religious Trust Board Act provides for constitution of the Committee and appointment of Secretary and members is to be made by the Board and not by the Chairman or President and the matter was remanded back to



the Bihar Religious Trust Board for constituting the Committee, as well as, appointment of Secretary and members of the committee. In the present case, it appears that in spite of the specific direction of this Court and the law laid down in ***Mahanth Vijay Das (supra)***, the President appointed the Circle Officer as temporary trustee and directed the Sub-Divisional Officer, Sitamarhi to collect rent etc. from person running the coaching institute and the same is reflected from the order dated 05.12.2022 (Annexure-7), which only bears the signature of president and not other members of the Board. The Paragraph no. 12 of the order of ***Mahanth Vijay Das (supra)*** is reproduced hereinafter:

*“12. Section 39 provides that the powers and duties under the Act can be delegated in favour of the President to be exercised and performed in such special circumstances when such powers are conferred upon the President of the Board then special reasons must come out for delegation of such powers. Just for the sake of shirking the responsibility or just to avoid the work or not to sit in the meeting the Board members can not delegate their powers in favour of the President. After all, they are members of the Board and have been so appointed to take care of the Trust and Trust Board. If every power is to be delegated in favour of the Chairman then there is no necessity of constituting a Board. The constitution of the Board presupposes that ordinarily the work shall be done and business would be discussed in the Board meeting and the Board shall not be subordinate to or under the management of the Chairman of the Trust Board. In exercise of the powers conferred under Section 83 of the Act, the State Board of Religious Trust Bihar has made bye laws, which were previously published and duly approved by the State Government.”*

17. In accordance with the provision of Sub-Section L of Section 2 of the Act, the Board has jurisdiction



over the Hindu Religious Trust. The Board under Section 28 and the Tribunal under Section 43 B of the Act assumed jurisdiction over the property of the Ram Janki, who is the owner of the property after the lands were recorded in the name of the Mahanth by operation of law and the said legal position cannot be washed away by the Board. The Board, erroneously assumed its jurisdiction to decide the title of the property of the deity and proceeded to issue notice without first discussing the jurisdictional facts.

18. On perusal of the definition of Religious Trust as provided in Section 2(l) , an inference can be drawn that the provisions of the Act does not provide for its application to a private endowment, created for the worship of a family idol, in which public are not interested and where public offerings and donations are not received. The order of President of the Board dated 05.12.2022 (Annexure-7), does not record any findings as to whether the trust is a public trust or a private one. It merely makes observations pertaining to alleged encroachment by the petitioner and takes note of the tenure of the Trust Committee which ended long ago. Based on these considerations, President proceeded to appoint a temporary trustee, even before any determination as to the nature of the trust, which is a vital aspect



in the matter, could be made. The hasty action is reflective of the callousness of the President in assuming jurisdiction. Even the provisions of Bye law 43 Clause 'S', which authorises the President to appoint a temporary trustee cannot come to aid of the President of the Board in the present case. According to the scheme of the Act, a temporary trustee is to be appointed if there is a vacancy. If there is no vacancy, no trustee can be appointed. In the present matter, the President of the Board, has found that allegedly the petitioner is an encroacher and the Trust Committee's tenure had ended already. Under Section 33 of the Act, the Circle Officer was made temporary trustee for the safety of the said temple and its land. In his zeal to pass the order against the petitioner and remove him, the President of the Board has over stepped his jurisdiction, and has exercised powers which are not vested in him nor delegated in his favour.

19. An erroneous decision in respect of a matter which falls within the authority of the Tribunal would not entitle a writ applicant for a writ of certiorari. However, if the decision relates to anything collateral to the merit, an erroneous decision upon which, would affect its jurisdiction, a writ of certiorari would lie. The scope of writ of certiorari came in for an elaborate consideration by Apex Court in *T.C. Basappa v. T.*



*Nagappa* reported in *AIR 1954 SC 440*. Therein, the Apex Court, inter alia, held as follows:

*“9. Certiorari may lie and is generally granted when a court has acted without or in excess of its jurisdiction. The want of jurisdiction may arise from the nature of the subject-matter of the proceeding or from the absence of some preliminary proceeding or the court itself may not be legally constituted or suffer from certain disability by reason of extraneous circumstances [Vide Halsbury, 2nd Edn., Vol. IX, p. 880].*

*When the jurisdiction of the court depends upon the existence of some collateral fact, it is well settled that the court cannot by a wrong decision of the fact give it jurisdiction which it would not otherwise possess [ Vide Banbury v. Fuller, 9 Exch. 111; R v. Income Tax Special Purposes Commissioners, 21 QBD 313].*

*10. A tribunal may be competent to enter upon an enquiry but in making the enquiry it may act in flagrant disregard of the rules of procedure or where no particular procedure is prescribed, it may violate the principles of natural justice. A writ of certiorari may be available in such cases. An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings, e.g. when it is based on clear ignorance or disregard of the provisions of law. ...” (Emphasis supplied)*

20. In *Hari Vishnu Kamath v. Ahmed Ishaque &*

*Ors.* reported in *AIR 1955 SC 233*, the Apex Court held:

*“21. .... On these authorities, the following propositions may be taken as established: (1) Certiorari will be issued for correcting errors of jurisdiction, as when an inferior Court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it. (2) Certiorari will also be issued when the court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice. (3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous. This is on the principle that a court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy, if a superior court were to rehear the case on the evidence, and substitute its own findings in certiorari. These propositions are well-settled and are not in dispute.*

xxx xxx xxx



*23. It may therefore be taken as settled that a writ of certiorari could be issued to correct an error of law. But it is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the record. ... The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case.”*

*(Emphasis supplied)*

21. I do not find that the Religious Trust Board or the Tribunal has any jurisdiction to interfere with the affairs of a private property. In case they have any interest, they may avail remedy before the competent Civil Court.

22. Since the several disputed questions of fact has been raised since year 2001, this Court is not in a position to adjudicate in the manner and to hold that President of the Religious Trust Board has any jurisdiction to interfere with the affairs of the temple.

23. We may advert to the decision of the the Hon'ble Supreme Court in the case of ***General Manager, Electrical Rengali Hydro Electric Project, Orissa And Others v. Sri Giridhari Sahu And Others , Civil Appeal No. 8071 Of 2010***, wherein, in paragraph no. 29, the Court observed:

*“ 29. .... Once a decision is rendered by a body amenable to Certiorari jurisdiction, certiorari could be issued when a jurisdictional error is clearly established. The jurisdictional error may be from failure to observe the limits of its jurisdiction. It may arise from the procedure adopted by the body after validly assuming jurisdiction. It may act in violation of principles of natural justice. The body whose decision which comes under attack may*



*decide a collateral fact which is also a jurisdictional fact and assume jurisdiction. Such a finding of fact is not immune from being interfered with by a Writ of Certiorari. As far as the finding of fact which is one within the jurisdiction of the court, it is ordinarily a matter 'off bounds' for the writ court.*

*..... An error of law which becomes vulnerable to judicial scrutiny by way of Certiorari must also one which is apparent on the face of the record. As held by this Court in Hari Vishnu Kamath (supra), as to what constitutes an error apparent on the face of the record, is a matter to be decided by the court on the facts of each case. A finding of fact which is not supported by any evidence would be perverse and in fact would constitute an error of law enabling the writ court to interfere. It is also to be noticed that if the overwhelming weight of the evidence does not support the finding, it would render the decision amendable to certiorari jurisdiction. This would be the same as a finding which is wholly unwarranted by the evidence which is what this Court has laid down [See M/s. Perry and Co. Ltd (supra)].”*

24. The Bye-law 43 Clauses R refers to settling of schemes for proper administration of Religious Trust but do not provide to the President of the Board with the powers to remove the trustee. If such powers have not been delegated in favour of the President. Clause S authorises the Chairman to appoint a temporary trustee. A temporary trustee, according to the scheme of the Act can be appointed if there is a vacancy. The allegation is that the petitioner had committed fraud and encroached the property and had been negligent in giving proper amount and on these foundation, he has restrained the writ petitioner from interfering with the affairs of the Mandir/ Trust. The order of restraining the petitioner cannot be allowed to stand and accordingly, the constitution of Committee also cannot be



sustained, being without jurisdiction.

25. Accordingly, the order dated 05.12.2023 and letter no. 4051 dated 28.02.2023 are hereby quashed and set aside.

26. In light of above observations and discussions, the present writ petition is allowed.

27. There shall be no order as to cost.

**(Purnendu Singh, J)**

Niraj/-

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| AFR/NAFR          | A.F.R.     |
| CAV DATE          | N/A        |
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