

A THE BIHAR STATE BOARD OF RELIGIOUS TRUSTS & ANR.

v.

VISHWANATH PRASAD LOHIA & ORS.

SEPTEMBER 14, 2007

B [S.B. SINHA AND HARJIT SINGH BEDI, JJ.]

C *Bihar State Board Religious Trust Act, 1950—Section 29(2)—Notification under—Issuance of—Quashed by High Court holding that Notification not in terms of s 29(2) and civil suit involving same question pending trial—On appeal, held: Finding of High Court correct that there was no evidence to show that the notices had been served under s. 29(2)—Civil suit with regard to similar issue pending in Civil Court, Thus, appeals dismissed but status-quo as existing to continue till final disposal of pending matter.*

D Notification was issued under sub-section (2) of Section 29 of the Bihar State Board Religious Trust Act, 1950 whereby the committee was constituted on the basis of the trust deed. High Court held that the Notification was not in terms of section 29(2); that scheme under section 32 was not in accordance with law; and that the civil suit involving same question was pending trial, E and quashed the Notification. Hence these appeals.

Disposing of the appeals, the Court

F HELD: 1. The notice given to the committee proposing supersession is a composite one under section 29(2) and section 32 of the Bihar State Board Religious Trust Act, 1950. The finding of the High Court that there was no evidence to show that the notices had been served under section 29(2) cannot be seriously challenged. The Civil Suit with regard to the validity of the trust is pending in the Civil Court. It is directed that the *status quo* as exists today would continue till the disposal of the matters. [Para 3] [956-A, B]

G CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5880 of 2000.

From the Judgment and Order dated 27.09.1991 of the High Court of Judicature at Patna in C.W.J.C. No. 3510 of 1991.

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C.A. No. 5879 of 2000.

K.B. Rohtagi, Aparna Rohtagi and S.K. Dhingra for the Appellant.

H.L. Agrawal, Irshad Ahmad and Laksmi Raman Singh for the Respondents.

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The Judgment of the Court was delivered by

HARJIT SINGH BEDI, J. 1. This appeal has been preferred by the Bihar State Board of Religious Trusts etc. impugning the judgment of the Division Bench of the Patna High Court dated 27.9.1991 quashing the Notification dated 5.8.1989 issued under sub-section (2) of Section 29 of the Bihar State Board Religious Trust Act, 1950 (hereinafter called the "Act") whereby the committee said to have been constituted on the basis of the trust deed dated 26.9.1983.

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2. It has been argued by the learned counsel for the appellants herein that the requisite notice under sub-section (2) of Section 29 of the Act had been issued to the committee prior to its supersession and as such the impugned judgment holding to the contrary was not correct. We however find that the notice given to the committee proposing supersession is a composite one under section 29(2) and section 32 of the Act. The High Court has found that the said Notification (Annexure-3) dated 5th August 1989 was not in accordance with the provisions or in terms of section 29 of the Act and did not also meet the parameters of the scheme which have been formulated later under section 32. It had also come during the course of the hearing before the High Court that Civil Suit No. 207/1986 seeking a declaration, *inter-alia*, that the trust deed dated 26th September 1983 was a void document as well as several other issues was pending trial. The Division Bench opined that as the matter was sub-judice before the Civil Court it would not be necessary or appropriate to go into the questions raised before the Civil Court but in so far as the aforesaid Notification was concerned it having been issued under section 29(2) of the Act without giving a proper hearing to the committee and the scheme under section 32 of the Act being not in accordance with law was liable to be quashed. It is in this situation, the present appeals have been filed by the Board.

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3. We have heard the learned counsel for the parties and gone through

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- A** the record and in particular the notices allegedly given to the committee before its supersession as also the scheme framed under section 32 of the Act. We note the finding of the High Court that there was no evidence to show that the notices had been served under section 29(2) cannot be seriously challenged. We also find that Civil Suit with regard to the validity of the trust is pending in the Civil Court. We accordingly dismiss the appeals but while
- B** doing so direct that the status quo as exists today will continue till the disposal of the appeals. We also direct that a fresh show cause notice under section 29(2) will be given to the committee and both parties will be at liberty to produce their documents before the Board within four months from the date of the service of the notice and that status-quo as exists today will
- C** continue to operate till the final disposal of the matter by the Board in proceedings under section 29(2) of the Act.

4. The appeal is disposed of accordingly

5. Civil Appeal No. 5879/2000 is disposed of in terms of the judgment
- D** in Civil Appeal No. 5880/2000.

N.J.

Appeals disposed of.