

**IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR**

**BEFORE**

**HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE**

**WRIT PETITION No. 28487 of 2022**

***RAMBABU AGARWAL AND OTHERS***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

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**Appearance:**

*Shri N K Gupta, learned Senior Advocate alongwith Ms.Rasi Kushwah, learned counsel for the petitioner.*

*Shri K.K. Prajapati, learned Govt. Advocate for the respondents/State.*

*Shri Arvind Dudawat, learned Senior Advocate alongwith Shri Rahul Jha, learned counsel for the respondents.*

*Shiv Shankar Bansal, learned counsel for the respondent No.5.*

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Reserved on	:	07/05/2025
Delivered on	:	17/06/2025

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*This petition having been heard and reserved for orders, coming on for pronouncement this day, the **Hon'ble Shri Justice Milind Ramesh Phadke** pronounced/passed the following:*

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**ORDER**

1. The present petition under Article 226/227 of the Constitution of India is directed against the order dated 30.12.2020 passed by Registrar, Public Trust/Collector, District Gwalior in case No.5B-

113(4)/2020-21, whereby without considering the directions of this Court issued vide order dated 26.08.2017 in writ petition No.16088/2017 and instead of deciding of the pending applications for correction in the public trust register, the Registrar had given a finding that the petitioners are not the trustees of the Trust Temple Shri Ramjanki Gangadas Ki Badi Shala, Gwalior ignoring that the petitioner no.1 is the founder member of the trustee of the Trust and the petitioner no.2 was/is a trustee.

2. The petitioners are also aggrieved by the order dated 13.01.2021, whereby the directions were issued by the Deputy Collector, Gwalior to SDO, Jhansi Road, Gwalior to propose names of persons to be appointed as trustees for the seven posts lying vacant in view of the order passed by the Collector dated 30.12.2020 for carrying out the activities of Seva Puja properly, for the security of the Trust and its proper working and for implementation of the objectives of the Trust and are further aggrieved by the order dated 04.05.2022 passed by the Registrar/Trust, whereby eight persons were appointed as trustees of the Trust Mandir Shri Ramjanki Gangadas Ki Badi Shala, Laxmi Bai Colony, Gwalior.

3. Short facts leading to the controversy are that a Trust named as Trust Mandir Shri Ramjanki Gangadas Ki Badi Shala, Gwalior was

registered vide order dated 09.01.1969 under Section 6 of the Public Trust Act and at the time of registration, there were nine founder trustees including petitioner No.1.

4. As one of the founder trustees Phoolchand died, vide resolution dated 13.07.1975 new trustee Rambharose Dixit was inducted in the Trust as trustee and thereafter vide resolution dated 15.12.1975 because of death of Sunderlal Shrivastava, another trustee, a new trustee, namely, Kamalkant Sharma was inducted in his place. In the year 1977, because of death of another trustee, Narayanrao Sejawalkar, new trustee N.D. Parsure was inducted in the Trust and in this regard information was submitted to the Registrar.

5. On 19.07.1986 another resolution was passed and Mahant Rameshwar Das was appointed as Chief Trustee due to demise of Jagannath Das, one of the Chief founder trustees. The aforesaid fact of Mahant Rameshwar Das being appointed as Chief Trustee was recorded in the register of records (a part of Annexure P/3-A).

6. Vide Resolution dated 21.12.2000 Mahant Rameshwar Das, who was the Chief Trustee appointed petitioner No.2 as his power of attorney to carry out all the activities on his behalf and later on, since Mahant Remeshwar Das, who was appointed as Chief Trustee due to health conditions expressed his desire to step down and release him

from the duties as Chief Trustees, hence, vide resolution dated 08.10.2006 in place of Mahant Rameshwar Das, present petitioner No.2 was appointed as one of the Chief Trustees. The information about appointment of present petitioner No.2-Mahant Ramsewak Das, as Chief Trustee was given to the Registrar, Public Trust but the register was not corrected nor any intimation/information/notice in this regard was given to petitioner No.2.

7. On 17.05.2007 an application under Section 25 of the Public Trust Act was moved before the Registrar, Public Trust for filling up the vacancies, which occurred due to resignation of trustee N.D. Parsure and proposed/inducted the name of Sharad Bharadwaj in his place as trustee and also for filling up all the post of trustee due to resignation of one O.P. Saraswat and in his place proposed/inducted one Ramswaroop Shastri Bhagwatacharya and it was prayed that necessary amendment be carried out in register of the trustees.

8. Another application was moved on 17.10.2008 for inducting present petitioner No.2 as Chief trustee. Another similar application was moved on 27.09.2010. On 19.01.2011 information was forwarded to the Registrar, Public Trust with regard to the resolution dated 11.11.2010, whereby one Shri Rambabu was inducted as trustee in place of Sitaram charan Guru Jagannath Maharaj because of his death

and in place of Radhacharan Pandey the name of Ramdasji Sharma was inducted due to death of Radhacharan Pandey. On 05.03.2012 another application was forwarded to the Registrar, Public Trust for inducting one Kamaldeep Sharma and Love Bharadwaj in place of Kamalkant Sharma, who had tendered his resignation and one another vacant post vide resolution dated 31.01.2012. Even though the information was forwarded to the Registrar, the register of the trust was not amended and instead of correcting the entries in the register the Registrar, Public Trust issued a show cause notice to the Chief trustee of the petitioner/Trust dated 13.10.2006 for showing cause as to why the trust be not revoked? A reply was filed to the said notice but instead of taking any action on the basis of notice the Registrar moved an application before learned District Judge, Gwalior under Section 26 of the M.P. Public Trust Act making a prayer that the trust be revoked. Aggrieved by the aforesaid action of the Registrar in initiating the proceedings under Section 26 of M.P. Public Trust Act, the petitioner preferred a writ petition No.1412/2007. During pendency of said writ petition the Chief Trustee Mahant Rameshwar Das expired, therefore, an application was moved to induct present petitioner No.2 Mahant Ramsevak Das in place of Mahant Rameshwar Das as a Chief Trustee. The said application, for substitution of petitioner No.2 Mahant Ramsevak Das in place of Mahant Rameshwar

Das, was allowed and petitioner No.2 was inducted as Chief Trustee in the petition.

9. Thereafter, vide order dated 13.07.2010 the petition got finally heard and disposed of and while quashing the order dated 29.11.2006 passed by the Registrar as well as the application submitted before the District Judge, the matter was remanded back to the Registrar to pass a fresh speaking order after considering all the facts placed before him and it was observed that if the Registrar comes to a conclusion that there is a mismanagement of the Trust, he can submit a fresh application before the District Judge.

10. After remand, again proceedings were initiated by the respondents and enquiry was conducted through Tehsildar. In the report it was submitted by Tehsildar that earlier Chief Trustee Mahant Rameshwar Das had expired on 07.12.2007 but prior to his death he had already declared present respondent No.2 as Chief Trustee and vide resolution dated 06.11.2008 in the presence of trustees Deshbandhu Sharma, Dr. Keshav Pandey, Radhacharan Pandey, Ramswaroop Shastri, Rambabu Agarwal Sarraf, Sharad Kumar Bharadwaj and present petitioner No.2 was declared as Chief Trustee. On the report so submitted by the Tehsildar the matter was finally heard by the Sub Divisional Officer ( revenue) and vide order dated 11.07.2016 the application preferred

by the present petitioner No.2 to appoint/acknowledge him as a Chief Trustee was rejected holding that in the resolution of the trust passed on 06.11.2008 though there is mention of names of various trustees but except for Deshbandhu Sharma, the other names had not been inducted in the register of Trust and there is no mention of the mode of their appointment as trustees, thus, their very appointment cannot be said to be legal, therefore, correction in the register at the instance of present petitioner No.2 doesn't appears to be proper.

11. Aggrieved by the aforesaid order the Trust Mandir Shri Ramjanki Gangadas Ki Badi Shala, Gwalior through petitioner No.2 as Chief Trustee preferred an appeal before the District Judge, Gwalior in civil appeal No.90/2017. The said appeal was dismissed vide order dated 26.08.2017 and the order passed by the Sub Divisional Officer (revenue) was affirmed.

12. Aggrieved by the aforesaid orders passed by the Sub Divisional Officer (revenue) and District Judge, Gwalior another writ petition No.16088/2017 was preferred by the Trust Mandir Shri Ramjanki Gangadas Ki Badi Shala, Gwalior, which came to be decided on 21.08.2020 and while allowing the petition the order dated 11.07.2016 passed by the Sub Divisional Officer (revenue) Lashkar Gwalior in case No.03/2015-16/B-113(4) was quashed holding that Sub

Divisional Officer (revenue) did not have any jurisdiction to exercise powers on behalf of Registrar/Trust, therefore, the said order is not sustainable. Consequently, the order dated 26.08.2017 passed by District Judge, Gwalior in M.A. No.90/2017 was also quashed and the matter was relegated back to the Collector/Registrar, Public Trust for its adjudication afresh on merits.

13. In compliance of the order passed by this Court in the aforesaid writ petition the Registrar, Public Trust/Collector was required to decide the applications on which earlier the Sub Divisional Officer had passed the order as a Registrar, Public Trust, which was quashed due to lack of jurisdiction but instead of deciding the said applications contrary to the directions of this Court a notice was issued to the petitioner to submit last ten years register of the Public Trust, which was submitted by the petitioners but Registrar, Public Trust/Collector on similar lines to the order passed on earlier occasion by the Sub Divisional Officer (revenue) held that petitioner No.2 and other applicants could not prove themselves to be legally appointed trustees and the transactions made by the present petitioner No.2 with regard to the trust property being in total derogation of interest of trust deserves to be set aside and accordingly rejected the applications.

14. In the later part of the order, the Collector/Registrar, Public Trust

for the purpose of carrying out Seva Puja of the temple, the management and conducting of the trust, its security, appointed Sub Divisional Officer, Jhansi Road as a nominated trustee and directed him to propose the names for appointment of the persons on the post of trustees lying vacant. In pursuance to the directions issued to the Sub Divisional Officer vide letter dated 13.01.2021 to propose the names, learned Sub Divisional Officer (Revenue) vide order dated 04.05.2022 appointed 08 persons as trustees by invoking provisions under Section 25 of the Public Trust Act. Aggrieved by the aforesaid, the present petition has been filed.

### ARGUMENTS

15. Learned Senior Counsel for the petitioner while placing reliance on the decision of this Court in W.P. No.16088/2017 has argued that prior to 08.11.2021 the Sub Divisional Officer (Revenue), before whom the applications were moved for correction in the register of the trust, was not having any jurisdiction to entertain any application, as there was no delegation of powers/authorization by the Registrar, Public Trust/Collector under Section 34-A of the Public Trust Act for exercising the powers of Registrar, he could not have passed any orders on the applications earlier preferred for correction/amendment in the register of Trust Mandir Shri Ramjanki Gangadas Ki Badi

Shala, Gwalior.

16. Learned Senior Counsel has also argued that from the year 2007 continuously applications were submitted in proper format before the competent authority for correction of the names in the register, but from the record there is no reflection of fact that on those applications any heed was paid and on its basis corrections were made in the register.

17. While referring to part of Annexure P/3-A, it was argued that vide order dated 21.12.2000 name of present petitioner No.2, as power of attorney holder of Chief Working Trustee Mahant Remeshwar Das was inducted in the register. Further referring to the same document, it was argued that there is a mention of the order dated 11.07.2016 passed by the Registrar/Trust and the appeal No.90/2017 preferred at the instance of Registrar, Public Trust before the District Judge, Gwalior, wherein vide order dated 26.08.2017 the earlier order dated 11.07.2016 was upheld and the application of present petitioner No.2 to be appointed/recognized as Chief Trustee was rejected, but the factum of the said orders i.e. 11.07.2016 and 26.08.2017 passed in Civil Appeal No.90/2017 being quashed in writ petition No.16088/2017 vide order dated 21.08.2020 has not been mentioned, whereby the matter was relegated back to the

Collector/Registrar/Public Trust for adjudication of the matter afresh on its own merits, which meant that the matter was required to be heard from the stage it was pending before the Sub Divisional Officer (Revenue).

18. It was further argued that Sub Divisional Officer (Revenue) in pursuance to the orders passed by the Collector/Registrar Public Trust directing him to recommend/appoint trustees on the vacant posts, in absence of any proper authorization as required under Section 34-A could not have appointed trustees, as the basis on which the Sub Divisional Officer (revenue) had usurped the powers of Registrar, Public Trust, was work distribution memo and by way of work distribution memo the powers of Registrar cannot be delegated to the Sub Divisional Officer (Revenue) and when there is no separate notification issued delegating the powers of Sub Divisional Officer (Revenue), he had no jurisdiction to perform the duties as Registrar, thus, the very order dated 04.05.2022 by which the new trustees have been appointed is also per se illegal and, therefore, deserves to be quashed.

19. It was further argued that a perverse finding is given by the Registrar that except Deshbandhu Sharma there is no other trustee of the trust alive while petitioner No.1, who is the founder trustee and his

name finds mention in the order dated 09.01.1969 and the trust deed and is also available in their register is very much alive, which makes the order passed by the Collector/trust vulnerable.

20. It was also argued that though the applications were submitted by the Chief Trustee and trustees for correction in the register, if the correction is not made by the Registrar or its authorities, no one else is to be blamed specially the petitioner and on its basis it cannot be said that the petitioners were/are not valid trustees much less when there is no objection by any person and when no material is available before Registrar, Public Trust, thus coming to such conclusion is bad in law and thus, the order impugned deserves to be quashed.

21. Learned senior counsel has also placed reliance on the order of this Court passed in W.P. No.1412/2007 dated 13.07.2010 had argued that the decision of the Registrar, Public Trust for revoking the trust and initiating proceedings under Section 26 of M.P. Public Trust Act before the District Judge, Gwalior were held to be bad in law and the matter was relegated back to the Registrar to again pass fresh speaking order with regard to any mismanagement of the trust and if it was found, then he was given a liberty to submit a fresh application before the District Judge and in pursuance to the said remand, notices were issued to the then trustees on 07.10.2010, 19.08.2010 and 07.10.2010

and vide proceedings in a case no.3/15-16/13/113(4) was registered and enquiry was directed to be conducted by Tehsildar, who vide his report dated 08.05.2014 submitted on 06.11.2008, mentioned that present petitioner No.2 was appointed as a Chief Trustee by the trustees present i.e. Deshbandhu Sharma, Keshav Pandey, Radhacharan Pandey, Ramswaroop Shashtri, Rambabu Agarwal Sarraf, Sharad Kumar Bharadwaj and accordingly, the report was submitted, but ignoring the said report vide order dated 11.07.2016 the Sub Divisional Officer (revenue), who acted as a Registrar, Public Trust rejected the application for correcting the register, which when challenged before the District Judge, in appeal No.90/2017 was affirmed vide order dated 26.08.2017, but both the orders were later on set aside by this Court in writ petition No.16088/2017 dated 21.08.2020 and the matter was again remitted back to the Registrar, Public Trust/Collector for fresh adjudication of the case on merits, but, again this time without considering the factual scenario of the matter the application was rejected, which is per se illegal.

22. Learned Senior counsel has lastly argued that as per Section 9 of M.P. Public Trust Act, the Registrar on receiving a report with regard to change in any entries recorded in the register, after making such enquiry has been felt necessary, if satisfied that change is occurred/necessary in any of the entries recorded in the register in

regard to a public trust shall record a finding with reasons therefore, and amend the entries in such register in accordance with such findings, but as the applications preferred by the present petitioner No.2 for making amendment in the register were not entertained, rather were rejected, the application of provisions of Section 8 as provided under Sub Section (3) of Section 9 would not be attracted and the petitioners would not have any remedy to prefer a suit against the findings given by the Registrar, Public Trust, therefore, this Court by invoking the powers under Article 226 of the Constitution can very well set aside the order passed by the Registrar, Public Trust directing it to amend the register of the trust on the basis of applications preferred by the trustees at various point of times. On the basis of aforesaid arguments, it was submitted that the present petition be allowed and the impugned orders be set aside. Consequently, the impugned order (Annexure P/1) be set aside and direction issued to the Sub Divisional Officer to recommend and appoint new trustees as well as the order dated 04.05.2022 appointing new trustees be also quashed.

23. Per contra, learned counsel for the State while placing reliance in the matter of *Rambai and others Vs. State of Madhya Pradesh and others passed in W.P. No.7621/2025 dated 07.03.2025*; had argued that the Registrar, Public Trust after categorical satisfaction has rejected the application, which is definitely a finding recorded by the Registrar

and as per Sub Section (3) of Section 9, against such finding in view of Section 8, a civil suit would be maintainable before Civil Court for challenging the said order, thus, in view of aforesaid, since the petitioner has remedy of preferring civil suit in terms of Section 8/9 of the Act of 1951, the present petition be dismissed.

24. Shri S.S. Bansal, learned counsel for respondent No.5 while placing reliance in the matter of *Paras kumar Vs. Registrar, Public Trust reported in 1984 MPWN 436*; had argued that as the petitioner has specific alternative remedy to file a suit under Section 8 of M.P. Public Trust Act, the petition is not maintainable and, therefore, is liable to be dismissed.

25. Shri Arvind Dudawat, learned Senior Counsel alongwith Shri Rahul Jha, learned counsel appearing on behalf of respondents No.6 to 11 submitted that there is no entry in register of the trust of the names of the trustees, who were appointed vide various resolutions, therefore, the contention of the petitioners regarding alleged nomination of appointment of various persons as a Chief/working trustee and/or trustees is not only vague but also contrary to law in view of the provisions of Section 67 of the Act.

26. Learned Senior counsel has also argued that the petitioner No.2 had not filed any of the application or resolution passed by the duly

nominated/appointed trustees by the Registrar, Public Trust or majority of the members of the board of the trustees, whereby appointing/nominating him as a Chief/ Working Trustee or trustee, which could not have made it possible for Registrar, Public Trust or this Court to hold that petitioner No.2 at any point of time was appointed as a trustee or Chief Trustee of the trust in question, thus the finding of the Collector in that regard cannot be said to be bad and faulted with.

27. Learned Senior counsel has also argued that as per the Scheme of the Act and Rules of 1962 framed thereunder, it is evident that the enquiry under Section 5 of the Act read with Rule 6 of the Rules, has to be made on receiving an application for registration of Public Trust, but no such enquiry as contemplated above was made while exercising the powers under Section 9 of the Act read with Rule 6 of the Rules for the matter relating to any change in existing entries in the register of the Trust under Section 7 of the Act by the Registrar of the Trust for filling of the vacancy occurred in the Board of the Trustees by the Registrar of the Trust and since there was no enquiry as contemplated above and amendment in the register, vide the very resolution dated 08.10.2006, the petitioner No.2 could not have acquired the status of Chief Trustee as resolution itself was bad in law, thus, the very application preferred by the petitioner No.2 was rightly rejected. In

support of his contention, learned Senior Counsel has placed reliance in the matter of *Shri Ramjanki Mandir Trust Vs. State of M.P. and others*, reported in *AIR 1990 MP 41*.

28. Learned Senior Counsel has further argued that as per the trust deed, Mahant Jagannath Das ji was the founder of the Trust and Gouri Shankar, DeshBandhu Sharma, Ramsingh Bharadwaj, Phoolchand, Sunderlal, Rambabu s/o Pannalal, Chokhelal Sharma and Narayan Rao Shejwalkar were nominated as Trustees and Mahant Jagannath Das ji was nominated as Chief Working Trustee. Learned counsel further argued that for filling up the vacancy of the Board of Trustees, the trust deed provided procedure and in the eventuality of arising of vacancy the trustees by way of majority could fill up the vacancy and appoint new trustees and after registration as a Public Trust upto the year 1985-86 almost all the Trustee except Deshbandhu Sharma and Rambabu Agarwal (petitioner No.1) had expired, due to which vacancy in the Board of Trustee occurred and in the year 1986 and 1991 amended entries of the nomination of Shri Rameshwar Das as Working Trustee, Shri Sitaram Sharan Das, Shri O.P. Saraswat as Trustee were made in the Register of Trust by SDO, Gwalior, but after that the vacancy in Board of Trustee occurred due to the death of other Trustees, was never been informed to the Registrar Public Trust/Collector Gwalior, as mandatorily required under Section 9

and/or 25 of the Act, nor has been filled up, thus, the very resolution dated 08.10.2006, whereby petitioner No.2 was appointed as a Chief Trustee was an illegal resolution.

29. Learned Senior Counsel while referring to the judgment passed in the matter of *Santosh Singh Rathore Vs. State of M.P. (supra)* further argued that when in the earlier round in writ petition No.16088/2017 the order dated 21.08.2020 it was held that till 08.11.2021 there was no delegation of powers by the Registrar, Public Trust/Collector as per the terms of Section 34-A of the Act to the Sub Divisional Officer, the reliance placed upon various documents including applications, order sheets recorded in cases initiated in the Court of Sub Divisional Officer (Revenue), notices issued by Sub Divisional Officer (Revenue) were all illegal, as he had no jurisdiction to exercise powers of Registrar, Public Trust at that moment. In alternate, it was argued that the documents, which had been relied by the petitioners though were addressed to Registrar, Public Trust but either were not submitted or if submitted before the Sub Divisional Officer (Revenue) by the petitioner, or were issued or initiated by the SDO and since the SDO was not having any jurisdiction, has no illegal value prior to 08.11.2021, the date on which powers were delegated by Registrar, Public Trust to him, thus on the basis of such documents petitioners cannot claim any advantage.

30. Learned counsel has also argued that evidently there is no entry in the Register of Trust of the names of the persons appointed as Trustees, therefore, the contention of the petitioners regarding alleged nomination/appointment of various persons as Chief/ Working Trustee, and /or Trustees is not only vague but also contrary to law in view of provision of Section 7 of the Act.

31. Lastly, it was argued that the petitioner No.2 had not filed any of the alleged resolutions passed by the duly nominated/appointed trustees before the Registrar, Public Trust or the majority of members of Board of Trustee, thereby appointments/ nominations of either as Chief/Working Trustee or Trustee could be ascertained before this Court nor said documents were filed before Collector/Registrar, Public Trust, Gwalior and straight away he had filed a resolution dated 06.10.2006, which is of no consequence. Also since, the order dated 30.12.2020 has been passed on an application submitted by petitioner No.2 and 6 other persons (alleged trustees), but only petitioner No.2 had challenged the said order and others have not challenged it and having been not challenged by them, the same has attained finality so far they are concerned and also since the petitioner No.2 prior to passing of the order dated 04.05.2022 was not even trustee of the trust inspite of it he has alienated the valuable land of the trust by executing the registered sale deed showing himself as Chief/Working of the

Trust and had also got executed the registered sale deed through other person, which is an illegal act committed by petitioner No.2, which has rightly been taken care of vide impugned orders. Thus, it was prayed, that the present petition being devoid of merits be dismissed.

32. Heard learned counsel for the parties and perused the record.

33. Section 9 of the M.P. Public Trust Act, 1951 deals with change in the entries of the Register of a Public Trust whenever such change occurs. For reference Section 9 of the Act of 1951 is hereby quoted below:-

*Section 9 in The M.P. Public Trusts Act, 1951*

*9. Change:-*

*(1) Where any change occurs in any of the entries recorded in the register, the working trustee shall, within ninety days from the date of the occurrence of such change or where any change is desired in such entries in the interest of the administration of the such public trust, report in the prescribed manner such change or proposed change to the Registrar.*

*(2) If, on receipt of such report and after making such enquiry' as the Registrar may consider necessary, the Registrar is satisfied that a change has occurred or is necessary in any of the entries recorded in the register in regard to a particular public trust, he shall record a finding with the reason therefor and subject to the provisions contained in sub-section (3) amend the entries in the said register in accordance with such finding.*

*(3) The provisions of Section 8 shall apply to any finding under this section as they apply to a finding under Section 6.*

34. The provisions of Section 9 are attracted whenever there is any change or entries recorded in the Register due to resignation, death etc.

of the existing Trustees and for that Working Trustees are required to report in prescribed manner such change or proposed change to the Registrar, Public Trust/Collector. Section 9 is wide enough to enable the Registrar to make any change in the entries recorded in the register "in the interest of administration of a Public Trust," and upon receipt of such report and after making such enquiry as the Registrar deems fit and is satisfied that a change has occurred or is necessary in any of the entries recorded in the register in regard to a particular Public Trust, he shall record a finding with the reason, therefore, and subject to the provisions contained in Sub Section (3) amend the entries in the said register in accordance with such finding.

35. Sub-section (3) of Section 9 of the Act of 1951 provides that provisions of Section 8 shall apply to any finding under this section as they apply to a finding under Section 6. The aforesaid provision, thus, infers that whenever the Registrar upon satisfaction that a change has occurred in the constitution of the trust or is necessary in any of the entries recorded in the register, shall record a finding with the reasons thereof and amends the entries in the said register, such findings can be challenged by any Working Trustees or persons aggrieved having interest in the Public Trust or any property found to be of the trust in a civil suit before civil Court as per Section 8, but herein case the amendment has been refused, thus, the satisfaction has been recorded

in negative, which according to this Court, would not attract the provisions of sub-section (3) of Section 9 of the M.P. Public Trust Act, 1951, therefore, the remedy of civil suit is not available to the petitioner. The contentions, therefore, raised on behalf of counsel for the State and other respondents is misconceived and, therefore, is hereby discarded.

36. On the basis of order passed by this Court in W.P. No.16088/2017 dated 21.08.2020 an argument has been raised on behalf of private respondents that since it has been held that prior to 08.11.2021 the date on which the powers were delegated to the Sub Divisional Officer to act as a Registrar, Public Trust as per Section 34-A of the Act of 1951, the entire proceedings carried out by the Sub Divisional Officer (revenue) prior to that were nullity is concerned, it is true to say that as per the provisions of Section 34-A of the Act, an order in writing by the Registrar of Public Trust delegating all or any of his powers or duties under the act to any Revenue Officer and such Revenue officer to whom powers are delegated is not within the rank of Sub Divisional Officer is *sine qua non* for exercising such powers and would not however, *ipso facto* result into any *ex post facto* delegation and in each case it is required to be inquired whether in that case there was in fact an order in writing by the Registrar delegating all his powers under the Act. Thus, when the provisions of Section 34-A of the Act of 1951

clearly stipulates that the power of Registrar, Public Trust exercised by Sub Divisional Officer would be only in a condition that there was an order in writing, in absence of any material available before this Court the earlier orders/entries done by the Sub Divisional Officer comes under cloud.

37. Be that as it may. Since the earlier orders/entries had not been challenged on earlier occasion before any forum after remand nor there is any material before this Court to come to a conclusion that there was no previous delegation of powers of Registrar, Public Trust to the SDO, this Court presumes that orders passed by the then SDO was in pursuance to the delegation of powers under Section 34-A of the Act.

38. From the extract of the register appended as Annexure P/3-A to the petition, it is reflected that the last entry with regard to any change in the management was in pursuance to order dated 21.12.2000. The petitioners had filed certain applications as Annexure P/4 colly and had stated that though applications for correction in the register was moved before the Sub Divisional Officer/Registrar, Public Trust in proper format as provided under Rule 6(1) of M.P. Public Trust Rules, 1962 but even after registering case separately and issuing notices to the general public had not passed any orders and had made an excuse

that the file of the case was missing. This fact has not been controverted either by the State or private respondents in their respective replies. Thus, the fact pleaded by the petitioners had when unrebutted, which appears to have not been considered by the Collector/Registrar, Public Trust.

39. The counsel for the respondents No.5 to 10 in the reply had just alleged that since the SDO was not having any jurisdiction to entertain such applications in absence of any delegation of powers of Registrar as per Section 34-A of the Act of 1951 all the proceedings before him were patently illegal and void, but as this Court has already observed that no material has been placed before it to come to a conclusion that there was no delegation of powers to the SDO at that moment to exercise power of Registrar, Public Trust, not deciding the applications appears to be not proper and would amount to curtailing the rights of a person to be inducted as trustee/chief trustee in the register of Public Trust.

40. In the entire return respondents No.5 to 10 had averred the fact that since the Sub Divisional Officer was not having any jurisdiction to exercise powers of the Registrar, Public Trust, any proceedings initiated before it or any order/notice passed or issued by him were nullity, if taken to be true then the matter is required to be relegated

back to the Registrar, Public Trust/Collector to analyze/consider all those applications, which were preferred for induction/amendment in the register of Public Trust and in that context the orders passed by the Collector/Registrar, Public Trust dated 30.12.2020 and the directions issued by Deputy Collector dated 13.01.2021 and the order passed by the Sub Divisional Officer/Registrar, Public Trust dated 04.05.2022 would become nugatory, as the earlier applications for inducting/amending the register had been considered by the competent authority i.e. Registrar, Public Trust, thus, would required reconsideration.

41. In the aforesaid eventuality, upon saying of the respondents, the matter is required to be relegated back for fresh adjudication.

42. As it has been held in the earlier part of order that since no material has been placed before this Court to demonstrate the factum of the Sub Divisional Officer being not competent to exercise power of Registrar, Public Trust, the exercise of powers till the order dated 21.12.2000 cannot be said to be bad in law and as the later orders have already been set aside by this Court in W.P. No.16088/2017 vide order dated 21.08.2020, the Registrar, Public Trust was required to even consider the earlier applications pending after 21.12.2000 before it, as no material has been brought before this Court to show as to whether

the earlier applications preferred for change in the names of the trustees in the register of Trust were considered and on either way they were decided.

43. Another fact, which needs consideration is that the Registrar, Public Trust vide order dated 30.12.2020 has observed that in the meeting conducted on 19.07.1986 (mentioned as 1996) following trustees, namely, Chokhelal Sharma, Deshbandhu Sharma, Kamalkant Sharma, N.D. Parsure, Rambabu Agarwal, Remeshwar Das, Sharad Kumar Bharadwaj, Madan Lal Sharma and Ramcharan Sharma were present, out of which name of Deshbandhu Sharma was only mentioned as a trustee in the register and rest all the names were not found to be mentioned, therefore, the other persons, who had participated in the meeting cannot be held to be legal trustee appears to be not in accordance with record as extract of Annexure P/3-A as per the entry made in 1986, it is reflected that vide resolution dated 10.11.1986 since Rameshwar Das was appointed as a Mahant, the other trustees had elected him as a Working Trustee and further in the entry it is mentioned that vide resolution dated 09.08.1986 in place of Rameshwar Das, name of Sitaram Sharan Das was inducted as Trustee, but in the order there is no mention of Sitaram Sharan Das as Trustee and thus, has held the resolution dated 19.07.1996 to be bad in law. To this extent also the order appears to be bad.

44. Apart from the aforesaid, in the order it has been mentioned that except for Deshbandhu Sharma no names of other persons who had participated in the meeting and had passed the resolution for appointment of other trustees or petitioner No.2 finds mention in the Register of the Trust appears to be a perverse finding, as petitioner No.1 Rambabu Agarwal, who is a founder Trustee of the Trust Mandir Shri Ramjanki Gangadas Ki Badi Shala, Gwalior and his name finds mention in the trust deed at serial No.7 had been left out of consideration, thus, it appears that Registrar, Public Trust/Collector had not appreciated the record in its right perspective.

45. Thus, this Court finds that the order dated 30.12.2020 passed by the Collector/Registrar, Public Trust suffers from patent illegality and perversity, as without considering the earlier applications preferred for inducting new trustees/amend register in total misappreciation of record, it has been passed.

46. Resultantly, the order dated 30.12.2020 is hereby set aside. The matter is relegated back to the Registrar, Public Trust/Collector for reappreciation of the material available on record as well as applications pending after 21.12.2000 filed before Sub Divisional Officer acting as Registrar, Public Trust and also appreciate the register of trust in its proper perspective and pass orders afresh.

Consequently, the very appointment of the Sub Divisional Officer as trustee goes and is hereby set aside, making the order dated 04.05.2022 appointing new 08 trustees of Trust Mandir Shri Ramjanki Gangadas Ki Badi Shala, Gwalior redundant.

47. Accordingly, the present petition is hereby **allowed to the above extent and disposed of.**

Certified copy as per rules.

**(MILIND RAMESH PHADKE)**  
**JUDGE**