



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

BEFORE

HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

HON'BLE SHRI JUSTICE GAJENDRA SINGH

WRIT APPEAL No. 1553 OF 2024

THE STATE OF MADHYA PRADESH AND ANOTHER

Versus

***PRESTIGE EDUCATION SOCIETY THROUGH JOINT SECRETARY AND
ANOTHER***

Appearance :

Shri Sudeep Bhargava – learned Deputy A.G. for the appellants/State.

Shri Sumeet Samvatsar– learned counsel for the respondent No.1.

AND

WRIT APPEAL No. 700 OF 2024

BHARAT KUMAR

Versus

***PRESTIGE EDUCATION SOCIETY THROUGH AUTHORIZED SIGNATORY
AND OTHERS***

Appearance :

Shri Ayushman Choudhary – learned counsel for the appellant.

Shri Sumeet Samvatsar– learned counsel for the respondent No.1.

***Shri Sudeep Bhargava – learned Deputy A.G. for the respondent Nos. 2 and
3/State.***

Heard on : 11.02.2025



Pronounced on : 01.04.2025

ORDER

Per: Justice Sushrut Arvind Dharmadhikari

Regard being had to the similitude of controversy, both the writ appeals are heard analogously and decided by this common order.

2. For the purpose of convenience, the facts of Writ Appeal No. 1553/2024 are being taken into consideration.

3. These appeals under Section 2(1) of Madhya Pradesh Uchcha Nyayalaya (Khandpeeth Ko Appeal) Adhiniyam, 2005 are preferred being aggrieved by the order dated 27/02/2024 passed in W.P. No.1940/2012; whereby the writ petition filed by respondent No.1 against the order dated 31/01/2012 passed by Sub Divisional Officer & Registrar, Public Trust, Dewas has been allowed by the writ Court.

4. The petitioner/respondent No.1 has challenged order dated 31/01/2012 for cancellation of registration of Public Trust namely Javeri Public Trust, Dewas affected vide registration dated 22/12/1976 and has directed for cancellation of permission to sale (dated 18/12/1979) with a further direction of constitution of Government Committee and appointment of Tehsildar as the Administrator. The petitioner/respondent No.1 challenged the said order dated 31/01/2012 solely on the ground that the order passed by the Sub Divisional Officer is beyond the scope and purview of Section 36(1) of the Madhya Pradesh Public Trusts Act, 1951 (hereinafter referred as 'the Act'). Learned writ Court after hearing the arguments and considering the record, vide order dated 27/02/2024 (Annexure A/1) set aside the order dated 31/01/2012 with a further direction to remand the matter to the Registrar to examine and conduct an enquiry under Sections 22 and 23 of the Act. Being aggrieved by the



impugned order, respondent Nos. 1 & 2/appellants herein have preferred the present appeal.

5. Learned counsel for the appellants submitted that the learned writ Court has not taken note of the order dated 09/02/2017 passed in W.P. No.2214/2012 (Rajendra Kumar Vs. State of M.P. & Ors.), wherein also order dated 31/01/2012 (Annexure P/11) i.e. impugned order in the present petition, whereof the operative portion reads as under:

“This Court has carefully gone through the order passed by Sub Divisional Officer. The order to the extent the Sub Divisional Officer has recalled the permission of sale granted in the matter of trust property is upheld. However, as the Registrar has earlier held the trust to be a public trust, which was duly registered as a public trust and the matter has been scrutinized by the District Judge, it will remain a public trust and the order of Registrar dated 13/05/2005 to the extent Registrar has treated the entire property as a government property, is set aside. A proper committee has to be constituted in terms of the order passed by District Judge dated 13/05/2005.

This Court is of the opinion that to the extent the permission to dispose of the trust property is concerned, the order passed in the matter does not warrant any interference. However, to the extent the trust property has been treated as government property, the order stands set aside.”

6. It is also submitted by learned counsel for the appellants that otherwise also, order dated 31/01/2012 came to be passed in the spirit that whole of the subject property being the government managed temple and the lands attached thereto were also government managed affairs, therefore, by virtue of Section 36 of the Act, Javeri Public Trust could not have been registered, due to non-applicability of Act on the government land. Under these circumstances, learned counsel for the appellants prays for setting aside of impugned order.

7. Per contra, learned counsel for the respondent No.1 opposed the arguments canvassed by the learned counsel for appellants while contending that learned writ Court vide the impugned order has rightly observed that the appellant did not have the power to revoke permission once granted under



Section 14 of the Act. The genesis of the same is that; once permission under Section 14 is granted by the Registrar to the trust for alienating the trust property and in pursuance of which sale deed is executed, therefrom the Registrar becomes *functus-officio* pertaining to such property. As the nature of the property is transferred from a trust property to a private property and hence subsequently, the Registrar would not have any power to revoke the said permission under the Act. It is also submitted that the impugned order in the writ Court dated 31/01/2012 was in two parts, firstly regarding cancellation of the Registration of the Respondent No.2 trust and secondly the revocation under Section 14 of the Act. Once in the other petitions, the cancellation of the Trust has been revoked, then the consequential action of the Appellant would also come to an end. Moreover, Section 36 of the Act only speaks about the exemption of certain Trust by the State Government and nowhere grants power to either cancel the registration of the Trust or revoke the permission under Section 14 of the Act. In support of his contentions, learned counsel for the respondents has placed reliance in the decisions of Hon'ble Apex Court in the case of *Laxmichand Modi Vs. B.R. Mandal, Registrar of Public Trusts, Sagar, 1962 SCC Online M.P. : ILR 1963 MP 1004 & Khasgi (Devi Ahilyabai Holkar Charities) Trust, Indore & Anr. Vs. Vipin Dhanitkar & Ors., 2022 Live Law (SC) 623*. Under these circumstances, learned counsel for the respondents prays for dismissal of writ appeals.

8. We have heard, learned counsel for the parties and perused the impugned order and catena of decisions relied upon by learned counsel for respondent No.1.

9. Sections 22 and 36 of the Act, read as under:-

“22. Power of the Registrar.- The registrar shall have powers.- (a) to enter on and inspect or cause to be entered on and inspected any property belonging to a public trust;



(b) to call for or inspect any extract from any proceedings of the trustees of any public trust or any book or account in the possession of or under the control of the trustees;

(c) to call for any return, statement, account or report which he may think fit from the trustees or any person connected with a public trust:

Provided that in entering upon any property belonging to the public trust the officer making the entry shall give reasonable notice to the trustee and shall have due regard to the religious practices or usages of the trust.

*“36. Exemption-[(1) Nothing contained in this Act shall apply to,-
(a) a public trust administered by any agency acting under the control of the State or by any local authority;
(b) a public trust administered under any enactment for the time being in force, and
(c) a public trust to which the Muslim Wakfs Act, 1954 (29 of 1954) applies].*

(2) The State Government may exempt by notification, specifying the reasons for such exemptions in the said notification, any public trust or class of public trusts from all or any of the provisions of this Act subject to such conditions, if any, as the State Government may deem fit to impose.”

10. Notably, a Division Bench of this Court in the case of ***Julious Prasad Vs. State of M.P., 2010(1) MPLJ 659*** has observed that:

“4. Quasi judicial authority cannot review its own order, unless the power of review is expressly conferred on it by the statute under which it derives its jurisdiction. It is also held that it is not in dispute that the provisions of the Public Trusts Act, 1951 and the Rules made thereunder do not confer any power of review on the Registrar and accordingly order of review dt. 13/02/2007 was quashed by the Division Bench”.

11. In view of the above, from a bare reading of Section 22 of the Act it transpires that the Registrar/Sub Divisional Officer has no authority to either review or recall his own order, therefore, the Registrar/Sub Divisional Officer



has exceeded his jurisdiction in recalling the order dated 18/12/1979, and taking note of the same, the learned writ Court has rightly allowed the petition filed by the petitioner/respondent No.1, herein. Learned counsel for the appellants has failed to point any illegality or perversity in the order impugned passed by learned writ Court, so as to warrant the interference of this Court.

12. Accordingly, the present appeals being bereft of any substance and merit, deserves to be and are hereby dismissed.

13. Let a copy of this order be placed in the record of connected writ appeal.

No orders as to costs.

(SUSHRUT ARVIND DHARMADHIKARI)
JUDGE

(GAJENDRA SINGH)
JUDGE

skt/anand