
(2014) 01 OHC CK 0042
In the Orissa High Court
Case No : W.P. (C) No. 20751 of 2013

Benudhar Nayak	Vs	APPELLANT
State of Odisha		RESPONDENT

Date of Decision : 02-01-2014

Acts Referred:

Orissa Hindu Religious Endowments Act, 1951 — Section 27

Citation : (2014) 117 CLT 1081 : (2014) 1 ILR 752 : (2014) 1 OLR 511 Suppl.

Hon'ble Judges : B.K. Nayak, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.K. Nayak, J.—Heard learned counsel for the petitioners. The interim managing trustee of petitioner No. 2-deity, namely, Sri Sri Gokarneshwar Mahadev has filed this writ petition challenging the notice/advertisement issued by the Additional Assistant Commissioner of Endowments, Cuttack dated 12.08.2013 vide Annexure-5 inviting objections for inclusion of the names of four persons, as indicated in Annexure-5, in the regular Trust Board as proposed by the State Government in the Law Department.

2. Learned counsel for the petitioners submits that one of the proposed person, namely, Dusan Jena has already indicated that he is not interested to become a member of the regular Trust Board of the deity and that the petitioner No. 1 has filed objection as per Annexure-6 to the proposed inclusion of the four names in the advertisement in the Regular Trust Board. It is also his submission that the Government itself has no power or jurisdiction to propose names for inclusion in the Regular Trust Board of a deity/institution managed by Non-hereditary Trustee.

3. Learned Additional Government Advocate on the other hand, submits that under sub-section (1-a) of Section 27 of O.H.R.E. Act, 1951 the Government has power to reject or modify the proposal sent by the Additional Assistant

Commissioner of Endowments and that modification, within the meaning of section, includes proposing names by the Government itself.

4. Sub-section (1-a) of Section 27 runs as follows:

(1-a) On receipt of a proposal made under Sub-section (1) for the appointment of a Non-hereditary Trustee, the State Government may either accord the required approval or reject or modify the proposal of the Assistant Commissioner as it may deem fit in the interest of the persons belonging to the religious denomination for whose benefit, the concerned religious institution is chiefly maintained.

5. The aforesaid provision makes it clear that the proposal sent by the Additional Assistant Commissioner for constitution of Non-Hereditary Trust Board may be approved, rejected or modified by the Government. The word "modification" includes deletion of proposed names or inclusion or giving proposal of new names by the Government itself.

6. Be that as it may, since the Government is only proposing certain names which has not been approved or finalized, the Additional Assistant Commissioner, Cuttack has rightly issued the notice/advertisement vide Annexure-5 calling for objection, if any, against the four names. If any objections have been filed, and one of them is said to be Annexure-6, the Government has to consider the objection before taking a final decision with regard to final approval of the regular Trust Board. So, at this stage, I am not inclined to interfere with the notice/advertisement vide Annexure-5.

7. With the aforesaid observation and clarification the writ petition stands dismissed. A copy of this order be sent to the Additional Assistant Commissioner of Endowment, Cuttack.