
(2014) 06 OHC CK 0022
In the Orissa High Court
Case No : W.P. (C). No. 10457 of 2014

Bhabani Pr. Mishra

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 20-06-2014

Acts Referred:

Sri Jagannath Temple Act, 1954 — Section 15

Citation : (2014) 118 CLT 215 : (2014) 2 OLR 95

Hon'ble Judges : A.K. Goel, C.J; Akshaya Kumar Rath, J

Bench : Division Bench

Final Decision : Disposed Off

Judgement

1. This petition by way of PIL seeks direction to implement the decision of the Jagannath Temple Managing Committee constituted under the provisions of Shri Jagannath Temple Act, 1955 ("the Act") on the issue of climbing the chariots during Car Festival, 2014.

2. The case set out in the petition is that as per the traditions of Lord Jagannath Temple at Puri, Rath Yatra (Car Festival) is held every year when the presiding deities leave the "Shrimandir" premises and journey to the "Sri Gundicha" temple on the "Bada Danda" in chariots or "rathas" specially constructed for the purpose which are pulled by devotees using ropes. The ritual culminates with the return of the deities to Shrimandir known as "Bahuda Yatra". A question arose as to whether it was permissible for the devotees to climb atop the Rathas (chariots) when the deities are installed thereon for having a darshan of the deities or to touch the deities after the chariots reach Shri Gundicha Temple and before the deities are taken therein. The said issue was referred by the Managing Committee for opinion of HH Shankaracharya, Puri on the understanding that HH Shankaracharya, Puri was the final advisor on the issue of rituals of the deities as per the statutorily recognized record of rights. HH Shankaracharya, Puri, vide his opinion dated 6.11.2013 opined that "none other than the Sevaks (who perform rituals or seva-puja over the Chariots during Ratha Yatra), the Shankarcharya

and the Gajapati Maharaja are authorized to climb on to the Chariots and the devotees should have darshan from the Badadanda without climbing on to the Chariots". The said opinion was accepted by the Managing Committee and a sub-committee was constituted to suggest the modalities for implementation of the opinion which required co-ordination with various stakeholders and law and order arrangements. It also required bringing about consensus with the sevayat community, some of whom had opposed the said opinion. The Managing Committee also referred the matter to the State Government to guide the Sri Jagannath Temple Administration (SJTA) for implementation of the above decision of Jagadguru Sri Shankaracharya. The petitioner represented to the State Government seeking implementation of the decision but since no response was received, this petition has been filed.

3. Having regard to the sensitive nature of the issue and taking into consideration the urgency of the situation, as the Car Festival is to commence from 29.06.2014, notice was issued for taking up the matter today itself and learned counsel for the Temple Administration was required to produce the documents about the Record-of-Rights.

4. We have heard Mr. Jayant Das, learned Sr. Advocate appearing for the petitioner, Mr. Ashok Mohanty, learned Advocate General for the State Government and Mr. B.N. Rath, learned counsel for the Temple Administration.

5. Mr. Rath has handed over a compilation of documents in Court today which include letter dated 11th November, 2013 from the chief Administrator of Shree Jagannath Temple, Puri to the Principal Secretary, Law Department, Govt. of Odisha on the subject "High Level Meeting to discuss on the implementation of the recommendation of Jagadguru Sri Shankaracharya on the issue of climbing on to the holy Chariots during Rath Yatra".

6. Learned Advocate General has produced the stand of the Government in the form of the letter dated 19.6.2014 of the Principal Secretary to the Government, in the Law Department, addressed to the learned Government Advocate.

7. The stand of the Government indicated in the said letter is that in the meeting held on 11.06.2014 presided over by Hon"ble Minister of Law, Govt. of Odisha, which was also attended by the Principal Secretary to Government in the Home Department; Principal Secretary to Government in the Law Department; Chief Administrator, Shree Jagannath Temple, Puri; Special D.G. of Police, Odisha; Collector, Puri; and Superintendent of Police, Puri; and representatives of Daitapati Nijogs, it was decided that no one except the Sevaks and others connected only with the Seva Puja will be allowed to climb the holy chariots on three days i.e. on the day of Ratha Yatra, Bahuda and Suna Besha. However, on the other days the existing practice may continue. The decision was taken keeping in view the security, safety and convenience of the pilgrims/devotees and the administration of police arrangements.

8. The question for consideration is whether the State Government is justified in

practically reversing the decision of the Managing Committee of the Temple to go by the opinion of HH Shankarcharya while considering the issue of its implementation.

9. Learned counsel for the petitioner referring to the averments in the petition and provisions of the Act submitted that issue of religious rituals is the statutory duty of the Managing Committee as per Section 15 of the Act and the State Government cannot substitute its views on the subject of religious rituals. Power of the State extends only to secular functions and not to religious rituals. It was submitted that the rituals are recorded in the record of rights which have been notified in the Official Gazette dated 14.10.1955 and 3.9.1956 vide Law Department's Notifications No. 5660-JTA-3/55-JTA dated 12.10.1955 and No. 5039-JTA-3/55-JTA dated 23.08.1956 respectively. Prior to the said Act, the management of the Temple was vested in Gajapati Kings. Thereafter, the management of the temple affairs vested in the Managing Committee of which Raja of Puri was designated as Chairman and an Administrator was appointed by the State Government to function as the Secretary of the Managing Committee. The constitutional validity of the Act was dealt in a judgment of this Court in Ram Chandra Deb Vs. The State of Orissa, , which was upheld by the Hon"ble Supreme Court in Raja Birakishore Vs. The State of Orissa, . The Hon"ble Court observed that the Act provided only for the management of the Temple's secular affairs and did not interfere with its religious affairs which had to be performed as per the Record-of-Rights. The Record-of-Rights covers the rituals associated with the Rath Yatra, which is an annual affair.

10. Learned counsel for the Temple Administration submitted that the stand of the Managing Committee is reflected in the letter dated 11.11.2013 which is reproduced below:

The Managing Committee of Shri Jagannath Temple, Puri was seized of the issue of devotees climbing on to the holy Chariots during the renowned Rath Yatra and this being a religious matter had elicited opinion of Sir Chankaracharya of Puri as to who is authorized and who is not to climb the Chariots and have darshan and touch the Lords in the Chariots. There were some unfortunate incidents of complaints of misbehaviour meted out to few devotees during the celebrations in 2011 and 2012. Moreover, with ever increasing number of devotees year after year, security risk persists while allowing devotees on to the Chairiots.

Jagadguru Sri Shankaracharya of Gobardhan Pitha, Puri has finally communicated his decision in the matter and has opined that "none other than the Sevaks (who perform rituals or seva-puja over the Chariots during Ratha Yatra), the Shankarcharya and the Gajapati Maharaja are only authorized to climb on to the Chariots and the devotees should have darshan from the Badadanda without climbing on to the Chariots". The concluding part of the opinion of the Shankarcharya is enclosed for your ready reference.

The Managing Committee in its meeting held on 7th November, 2013 in principle

accepted the recommendations of Jagadguru Sri Shankaracharya and constituted a sub-Committee under the Chairmanship of Chief Administration, SJTA with Collector, Puri, Superintendent of Police, Puri; Endowment Commissioner, Odisha; Additional Secretary, Law Department, Government of Odisha and the Administration (Niti), SJTA as its convener to suggest modalities for implementation of such recommendations by Sri Shankaracharya.

Implementation of the above suggestion of Sri Sankaracharya, no doubt, needs coordination of various stakeholders and demands various administrative and Law & order arrangements. Bringing consensus from the Sevayat community will also be a daunting challenge before the SJTA as few Sevayat groups namely, Daitapati Nijog has openly opposed the move. We in the SJTA are ready to whatever best is possible to ensure a smooth Chariot Festival with maintenance of law & order.

With the above backdrop, I request you to kindly place the matter before Government, convene a High Level Meeting to discuss on the issue and guide the SJTA for implementation of the above decision of Jagadguru Sri Shankaracharya.

11. It is submitted that the help of the State Government has been sought only for implementation of the decision based on the opinion of the HH Shankaracharya, Puri and not the issue of religious rituals.

12. Learned Advocate General fairly stated that the State Government did not intend to interfere on the issue of religious rituals but was only concerned with law and order situation and smooth handling of the event without interfering with the decision of the Managing Committee on the issue of rituals in any manner. He pointed out that the Managing Committee had the duty not only to arrange for performance of rituals but also to provide facilities for proper performance of worship by the pilgrims.

13. In view of the above submission by the learned counsel, nothing remains to be decided by this Court, notwithstanding the stand of the State Government which is in conflict with the opinion of the HH Shankaracharya, Puri and the decision of the Managing Committee as reflected in the letter dated 11.11.2013. The stand of the learned Advocate General is that the concern of the State Government is only to maintain law and order and not to interfere with the religious rituals. Once it is so, the stand of the Managing Committee to go by the opinion of the HH Shankaracharya, Puri has to prevail as far as rituals during the car festival are concerned. Any contrary opinion of the State Government will obviously be in-operative. The State Government may however perform its duty of maintaining law and order and providing all necessary assistance for smooth conduct of the Car festival in accordance with the decision of the Managing Committee on the issue of rituals which is based on opinion of HH Shankaracharya, Puri and correctness of which is neither subject matter for consideration of State Government nor before this Court.

14. The petition is disposed of accordingly.

Free copy of this order be given to the learned Advocate General and learned counsel for the Temple Administration.