

(2023) 01 OHC CK 0123

In the Orissa High Court

Case No : Writ Petition (C) No. 1500 Of 2023

M. Asish Rao

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 24-01-2023

Acts Referred:

Odisha Hindu Religious Endowments Act, 1951 — Section 7, 27

Citation : (2023) 01 OHC CK 0123

Hon'ble Judges : Arindam Sinha, J;M. S. Sahoo, J

Bench : Single Bench

Advocate : G.N. Sahu, A.K. Sharma, A.K. Nath

Final Decision : Disposed Of

Judgement

1. Mr. Sahu, learned advocate appears on behalf of petitioner and submits, impugned is letter dated 15th September, 2022 addressed by Member of Legislative Assembly (MLA) to the Hon'ble Minister in-charge of, inter alia, law, on subject regarding formation of Trust Board/Interim Trust Board of the institution, requesting names of persons mentioned therein be inducted as members. He submits, provision in section 7 of Odisha Hindu Religious Endowments Act, 1951 do not include as powers or duty of the Commissioner, to obtain names of members to be appointed as interim trustees. There should be interference in striking down in letter.

2. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State.

3. Mr. Nath, learned advocate appears on behalf of the Commissioner and submits, appointment of interim trustees and members of Trust Board are covered respectively by sections 7 and 27 in the Act. All his client has done is to request the Additional Assistant Commissioner of Endowments regarding background of the persons suggested by the MLA.

4. We have perused impugned letter dated 15th September, 2022. As aforesaid it

is a letter by the representative of the people to concerned Minister in Government. We do not find it was marked or copied to the Commissioner. Yet, the Commissioner acknowledged receipt of the letter and acted thereupon.

5. Though in impugned order the subject referred is formation of Trust Board/ Interim Trust Board, clearly provisions in section 27 do not stand attracted because the letter was received by the Commissioner and acted upon. Section 27 provides for the Assistant Commissioner to act while section 7 provides for power and duties of the Commissioner. Thus, the Commissioner in purporting to exercise such power and discharge duties, has exhibited taking guidance by acting on suggestions made by a representative of the people to the Government.

6. We have said the above in hope that the Commissioner will exercise the power and duties of office in accordance with the provision in the statute.

7. With above observations, the writ petition is disposed of.

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