

(1995) 11 OHC CK 0008

In the Orissa High Court

Case No : Original Jurisdiction Case No. 8124 of 1995

Mahanta Sri Raghabendra Prapana Ramanuj Das

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 22-11-1995

Acts Referred:

Orissa Hindu Religious Endowments Act, 1951 — Section 35(2)

Citation : (1996) 81 CLT 244 : (1996) 1 OLR 73

Hon'ble Judges : P.C. Naik, J;A. Pasayat, J

Bench : Division Bench

Advocate : S. Mishra-2, for the Appellant; Additional Government Advocate for O.P No. 1 and A.S. Naidu, for O.P. Nos. 2 and 3, for the Respondent

Judgement

A. Pasayat, J.—Petitioner is aggrieved by the approval accorded by the State Government to the recommendation made by the Commissioner of Endowments (opp. party 2) to disqualify petitioner, who was the hereditary trustee of Revasa Math situated in Puri Town by resort to provisions contained in Section 35 of the Orissa Hindu Religious Endowments Act, 1951 (in short, "the Act"). Primary challenge to the order passed by the State Government as contained in Annexure-1 is on the ground that the same was passed without grant of an opportunity of hearing to the petitioner. That according to the petitioner violates the principle of natural justice and, therefore, his prayer is to nullify the approval. An additional prayer has been made to the effect that Section 35 (5) of the Act does not authorise appointment of an Inspector of Endowments as the interim trustee.

Mr. Naidu, on behalf of opposite parties submitted that Section 35 (5) of the Act does not mandate that it has to be necessarily the next to the line of succession, or any disciple of the Math who has to be kept in charge. It is only that the claims of such persons have to be considered by the Commissioner while making interim arrangements. He points out that the arrangement has been made for only six months and, therefore, the petitioner cannot have any grievance.

3. At this juncture, we do not find it necessary to go into the nicety of the question whether the Commissioner has in fact considered the claims of the person next in the line of succession or failing that the disciples of the Math, while appointing interim trustee.

4. We find substance in the plea of the learned counsel for the petitioner about the vulnerability of the order of approval as accorded by the State Government in the absence of grant of opportunity of hearing to him. The affected person has to be granted an opportunity of hearing by the State Government before it accords approval to the recommendation for disqualification. The order of approval passed by State Government gives finality to the order of disqualification. A plain reading of Sub-section (2) of Section 35 makes it clear that the order of the Commissioner of Endowments relating to disqualification and the act of approval of the State Government are supplementary to each other. Both relate to two stages of the same proceeding. The act of approval touches civil rights of a hereditary trustee. The act of according approval is not an empty formality, as it involves civil consequences for the trustee in relation to whom the order of disqualification is passed. The power of approval encompass the power of disapproval. Quasi-judicial function lies both with the Commissioner of Endowments and the State Government in the matter. A taint plea was taken by the opposite parties that principles of natural justice have no application, particularly when it has not been specifically provided for. The same needs to be noticed to be rejected. To be stripped of the office and status, to be deprived of the lights, to be removed from the responsibilities, in any unceremonious way as to suffer in public esteem, involves civil consequences. By passing verbal booby traps, it is crystal clear that the expression civil consequences encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. In its comprehensive connotation, everything that affects a citizen in his civil life inflicts a civil consequence. Even an administrative order which involves civil consequences must be made consistently with the rules of natural justice. Where a statutory provision does not exclude natural justice, the requirement of affording an opportunity of being heard can be assumed, particularly when the proceedings are quasi-judicial. The principles of natural justice must be read into unoccupied interstices of the statute unless there is a clear mandate to the contrary. As Lord Buckmaster so aptly put it no form or procedure should be permitted to exclude the presentation of a litigant's defence. The observance of the principles of natural justice is the pragmatic requirement of fair play in action. The purpose of following the principles of natural justice is the prevention of miscarriage of justice. They operate as implied mandatory processual requirement non-observance whereof invalidates the exercise of power.

4. Since there has been violation of the principles of natural justice, we quash the order of approval and remit the matter back to the State Government for reconsideration. As the appointment of an interim trustee is consequential to the approval of recommendation for disqualification, Annexure-4 (the order

impugned herein), cannot operate. To avoid unnecessary delay and in the interest of the Institution we direct petitioner to appear before the Secretary to the Government of Orissa, Law Department on 30-11-1995 without any further notice so that the matter can be taken up that day or some other day as may be fixed. It would be in the interest of the institution if the matter is disposed of early.

Writ application is disposed of accordingly. There will be no order as to costs.

P.C. Naik, J.

5. I agree.