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**(1995) 12 OHC CK 0003**  
**In the Orissa High Court**  
**Case No : O.J.C. No. 8676 of 1995**

Narayan Sahu and Others

APPELLANT

Vs

The Commissioner of Endowments and Others

RESPONDENT

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**Date of Decision :** 19-12-1995

**Acts Referred:**

Orissa Hindu Religious Endowments Act, 1951 — Section 27

**Citation :** (1996) 81 CLT 694 : (1996) 1 OLR 279

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

**Bench :** Division Bench

**Advocate :** D.C. Mohanty, for the Appellant; A.S. Naidu and Additional Government Advocate, for the Respondent

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## Judgement

A. Pasayat, J.—The petitioners in this writ application challenge legality of the order dated 6-11-1995, passed by the Commissioner of Endowments, purportedly u/s 7 of the Orissa Hindu Religious Endowments Act, 1951 (In short "the Act").

2. Background facts as asserted by the petitioners leading to filing of the writ petition are essentially as follows :

By the order dated 16-4-1993, a Board of non-hereditary trustees was constituted and petitioner No. 1 was elected as the Managing Trusted of the religious institution, the deity Shri Ganeswar Jew. By letter dated 31-5-1995, certain names were suggested by the Addl. Asst. Commissioner of Endowments Berhampur for constitution of a Trust Board in respect of the aforesaid institution. The matter is stated to be pending consideration by the Government, m the mean-time, in purported exercise of power u/s 7 of the Act, an interim Trust Board has been constituted with the stipulation that the said Trust Board will continue for one year or till formation of a regular Trust Board u/s 27 of the Act by the Addl. Asst. Commissioner of Endowments, Berhampur subject to disqualification, if any, u/s 29 of the Act against the members so appointed, whichever is earlier. According to Mr. Mohanty, learned counsel for the

petitioners, the previous Board should have continued till formation of a new Board and in any event one Khadal Gouda was not entitled to be included as he has interest in the properties of the deity. According to Mr. Naidu till a decision is taken, interim arrangement has to be there and there is no illegality in the action taken by the Commissioner- Some of the members of the newly constituted Board have entered appearance. We feel no necessity to issue notice to others in view of the fact that the matter is stated to be pending before the State Government.

3. A reference to Section 27 of the Act is necessary for the purpose of disposal of the writ application. The same reads as follows :

"27. Non-hereditary trustees, their number and appointment : (1) The Assistant Commissioner shall, in cases where there is no hereditary trustee, appoint non-hereditary trustee in respect of each religious institution subject to approval of the Government, other than Maths and specific endowments attached thereto and in making such appointments the Assistant Commissioner shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the said institution is chiefly maintained.

(2) A non-hereditary trustee shall unless he is sooner removed or dismissed or otherwise ceases to be a trustee, hold office for a period of two years from the date of his appointment:

Provided that the Assistant Commissioner may, for sufficient reasons to be recorded by him, from time to time, extend the aforesaid term of office of trustee, so, however that the total extension so granted shall in no case exceed six months in the aggregate.

(3) Every non-hereditary trustee holding office immediately prior to the date of commencement of the Orissa Hindu Religious Endowments (Amendment) Act, 1978 shall cease to hold office as such on the completion of a period of two years from the date of his appointment or on the expiration of three months from the date of commencement of the said Act, whichever is later."

The Assistant Commissioner is authorised to appoint non-hereditary trustee in respect of each religious institution other than Maths with approval of the State Government where there is no hereditary trustee. The arrangement can continue for two years from the date of appointment. The Assistant Commissioner can extend the term of office from time to time. But in the aggregate total extension cannot exceed six months. Such extension can be made for sufficient reasons to be recorded in writing. Extension can be granted for sufficient reasons which are to be recorded in writing. This requirement is indicative of the legislative intent that it is not to be exercised in a routine or casual manner. The giving of reasons is one of the fundamentals of good administration. (Per Lord Denning in *Breen v. Amalgamated Engg. Union*: (1971) 1 All ER 1148). Reasons if given substitute objectivity for subjectivity. Use of the term "sufficient" before "reason" shows that the reason should not be fanciful or irrational. The word "sufficient" means

"adequate", "enough", as much as may be necessary to answer the purposes intended. It embraces no more than that which provides a plenitude which, when done, suffices to accomplish the purpose intended in the light of the existing circumstances and when viewed from reasonable standard of practical and cautious men. Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. The aggregate period for which extension can be granted cannot exceed six months, beyond the prescribed period of two years. Therefore, the stand of the petitioners that the previous Board should have continued in office till a new Board is formed is clearly untenable.

4. Approval of the State Government is necessary before non-hereditary trustee is appointed. As the matter is stated to be pending before the State Government for more than six months, we direct opp. party No. 3 to deal with and dispose of the reference made by the Addl. Asst. Commissioner of Endowments, Berhampur vide letter dated 31-5-1995 (Annexure-3 to the writ application) within three months from the date of receipt of our order. As has been rightly observed by the Commissioner, the State Government shall consider the question of disqualification to ensure that no person who is disqualified u/s 29 is appointed. We do not express any opinion in that regard as the matter is to be decided by the State Government.

With the aforesaid observations and directions, the writ application is disposed of. Requisites for issuance of writ to opp. party No. 3 shall be filed by day after tomorrow.

P.C. Naik, J.

5. I agree.