

(1972) 10 OHC CK 0001
In the Orissa High Court
Case No : O.J.C. No. 1106 of 1970

Prabhakar Panigrahi

APPELLANT

Vs

Commissioner of Hindu Religious Endowments and Another

RESPONDENT

Date of Decision : 11-10-1972

Acts Referred:

Orissa Hindu Religious Endowments Act, 1951 — Section 42

Citation : (1972) 38 CLT 1314

Hon'ble Judges : R.N. Misra, J;B.K. Ray, J

Bench : Division Bench

Advocate : S.C. Adhikafi, for the Appellant; S. Mohanty and K.N. Sinha, for the Respondent

Judgement

R.N. Misra, J.—The Petitioner is one of hereditary trustees of a public temple located at Parlakimedi in the district of Ganjam. The Commissioner of Endowments on the basis of the report made by the Assistant Commissioner of Endowments has framed a scheme u/s 42 of the Orissa Hindu Religious Endowments Act. The Petitioner is aggrieved by the drawing up of the scheme.

2. Ordinarily there would have been no interference in the writ petition as the matter was open to appeal under the statute. On examining the record and hearing the learned Counsel we are, however, satisfied that the Commissioner of Endowments has not passed the order in accordance with law.

The original Applicant was no more pursuing the matter. The Commissioner caused the proceeding suo motu, but it was really started at the instance of a person who claimed to be also a hereditary trustee. After the draft scheme was prepared there was no consultation as required under the law. The Commissioner has in his order dated 1-8-1970 indicated that nobody appeared though there was notice and accordingly he made the scheme final. Several allegations have been made in the writ petition including one which is of paramount importance that the income of the endowment is such as would not admit the appointment of an executive officer with salary. We think it appropriate to set aside the

proceedings before the Commissioner by issue of a writ of certiorari and direct him to look into the matter again. The proceeding shall be taken up from the stage where it was after the Assistant Commissioner of Endowments submitted his report. The Commissioner shall issue notice to the parties and thereafter proceed to receive evidence, hear all objections and finalise the matter in accordance with law. The writ application is partly allowed, but we make no order as to costs.

B.K. Ray, J.

3. I agree.