

(2026) 02 OHC CK 1739

In the Orissa High Court

Case No : Writ Petition (C) No. 37763 Of 2025

Pravasini Parija And Another

APPELLANT

Vs

Commissioner Of Endowment, Odisha, Bhubaneswar

RESPONDENT

Date of Decision : 11-02-2026

Acts Referred:

Orissa Hindu Religious Endowments Rules, 1959 — Rule 4A, 4(A)(2)
Odisha Hindu Religious Endowments Act, 1951 — Section 19, 19A

Citation : (2026) 02 OHC CK 1739

Hon'ble Judges : K.R. Mohapatra, J;Sanjay Kumar Mishra, J

Bench : Division Bench

Advocate : Gopinath Mishra, Sibasis Samantaray, Pratyusha Naidu

Final Decision : Disposed Of

Judgement

1. This matter is taken up through hybrid mode.
2. Petitioners in this writ petition seek to assail the judgment dated 18th March, 2025 (Annexure-4) passed by the learned Commissioner of Endowments, Odisha, Bhubaneswar in O.A. No.158 of 2015 rejecting an application filed by them under Section 19-A of the Odisha Hindu Religious Endowments Act, 1951 (for brevity, 'the Act').
3. Mr. Mishra, learned Senior Advocate appearing for the Petitioners submits that Deity Sri Raghunathjew Bijje Nijagaon, Tentuliapada under Tahasil-Tirtol in the district of Jagatsinghpur (for brevity, 'the Deity') is a private Deity of the family of the Petitioners. The predecessor of the Petitioners, namely, Ashok Kumar Parija was managing the affairs of the Deity and was performing daily 'nitikanti' and 'sebapuja' by engaging a Pujaka. Due to legal necessity of the Deity, the property, more fully described in the schedule of the petition under Section 19-A of the Act under Annexure-1(for brevity 'the case land') was required to be alienated. It is further submitted that the case land is situated far from the house of the Petitioners. The case land is lying vacant and yields no income to the

Deity. There is every likelihood of encroachment of the case land. Thus, in order to protect the interest of the Deity, the land is required to be alienated and the consideration amount would be kept in deposit in the name of the Deity, to be utilized for the benefit of the Deity. On the said averment, petition under Section 19-A of the Act was filed by the predecessor of the Petitioners, namely Ashok Kumar Parija with a prayer to issue No Objection Certificate (for brevity 'NOC') in prescribed Form AA for alienation of the case land.

3.1. Mr. Mishra, learned Senior Advocate further submits that the Inspector of Endowments submitted a report that the Deity is private in nature and is being looked after by said Ashok Kumar Parija on behalf of his family members. Learned Commissioner though took note of the report of Inspector of Endowments but, without giving any weightage to the same, tried to make out a different case with regard to correctness of the Record of Right of the Deity's property in the name of the Deity showing Ashok Kumar Parija as Marfatdar. Learned Commissioner also raised doubt about the necessity of alienation of the land as the details of income and expenditure of the Deity was not placed before him.

3.2. Mr. Mishra, learned Senior Advocate refers to Rule 4-A of the Orissa Hindu Religious Endowments Rules, 1959 (for brevity, 'the Rules') and submits that upon receipt of an application under Section 19-A of the Act, learned Commissioner shall issue notice for information of the general public together with copy of the application fixed under Sub-rule (1) in conspicuous place of the office of the urban or local body, as the case may be. He shall also invite objection of the said application to be received within one month from the date of publication of such notice. On receiving the objection, if any, within the stipulated period and after giving reasonable opportunity of hearing to the parties, if learned Commissioner is prima facie satisfied that the institution in question is not a public religious institution for which, no sanction under Section 19 of the Act is required, he shall grant NOC in Form-AA of the said Rules. Though the Inspector of Endowments submitted report that the Deity is private in nature, but ignoring such observation, learned Commissioner proceeded to observe that the Inspector of Endowments has not clearly stated the nature of the institution as public or private. Learned Commissioner was only required to record its prima facie satisfaction that the institution is not a public Deity and no sanction under Section 19 of the Act was required for alienation of its endowment. If the Commissioner is prima facie satisfied that the Deity is not public in nature then it shall grant NOC for alienation of the land of the Deity. In the instant case, learned Commissioner has not made any endeavour to record its finding in that regard.

3.3. In view of the above, the impugned order is vitiated and is liable to be set aside.

4. Ms. Naidu, learned counsel for the Commissioner of Endowments though defended the impugned order under Annexure-4 but, could not make any

satisfactory submission as to whether any finding is recorded by the Commissioner with regard to its prima facie satisfaction regarding nature of the Deity. She also submits that learned Commissioner has an onerous duty to protect the interest of the Deity, be it private or public, and he is required to see that the land sought to be alienated is necessary for the interest of the Deity. In the instant case, the Petitioners could not make out any such case. Thus, learned Commissioner has committed no error in rejecting the application under Section 19-A of the Act.

5. Upon hearing learned counsel for the parties and on perusal of the record placed before us, we find that the application under Section 19-A of the Act was filed by one Ashok Kumar Parija (since dead) through his legal heirs) for alienation of the case land more fully described in the schedule of the petition under Section 19-A of the Act. Said Ashok Kumar Parija pursued the matter as the Marfatdar and power of attorney holder of the family members. During pendency of the petition under Section 19-A of the Act, said Ashok Kumar Parija breathed his last and his legal heirs were substituted and brought on record. They are the Petitioners in this writ petition.

6. In the petition under Section 19-A of the Act under Annexure-1, it is clearly stated that the Deity is private in nature and the case land situates at a distance from the village. As no one is there to look after the said land of the Deity, it yields no income to the Deity and is likely to be encroached upon. It is also stated that in the event of alienation of the Deity's property, the consideration amount will be deposited in the Deity's account and will be utilized for the benefit of the Deity.

6.1 Though it is observed that P.W.1 has not whispered a single word about the day-to-day affairs of the management of the Deity, but, from the evidence of P.W.1 namely, Ashok Kumar Parija, it appears that the case Deity is being worshiped inside his residential premises and is managed by him as his private family Deity. Thus, such a recording does not appear to be correct.

6.2 The Inspector of Endowments made an enquiry and submitted a report that the Deity appears to be private in nature and its 'sebapuja' and management is being looked after by the family of the Petitioners. Thus, prima facie it appears that the Deity is private in nature.

7. Learned Commissioner though took note of the observations made in the report of the Inspector of Endowments, but proceeded to hold that the Inspector of Endowments has not clearly stated about the nature of the Deity as public or private. Rule 4-A(2) of the Rules stipulates that learned Commissioner has to record a prima facie satisfaction that the Deity in question is not public in nature. It is also settled position of law that the land in question proposed to be alienated should be for the benefit of the Deity. It is, of course, a matter of consideration by the learned Commissioner on the facts and circumstances of the case as well as evidence available on record and to adjudicate the petition under

Section 19-A of the Act in consonance with the procedure provided under Rule 4-A of the Rules. In the instant case, learned Commissioner appears to have delved into the issue of correctness of recording of the land in the name of said Ashok Kumar Parija in the mutation Record of Right showing him as the Marfatdar of the Deity. The correctness of the entry in the Record of Right is a matter to be examined by the Settlement authority if any objection is raised to that effect. The finding with regard to correctness of the recording of the land in the name of the Deity showing Ashok Kumar Parija as Marfatdar, appears to be the basis of arriving at the impugned conclusion by the learned Commissioner. He also recorded a finding that the details of income and expenditure of the Deity has not been furnished by the Petitioners. Learned Commissioner could have asked the Petitioners to produce the same. Further, the Inspector of Endowments though observed in his report that the Deity is being managed by the family members of Ashok Kumar Parija engaging a Pujaka for 'sebaapuja' of the Deity, the same was not given any weightage by learned Commissioner while adjudicating the petition under Section 19-A of the Act.

8. In view of the above, this Court feels that the petition under Section 19-A of the Act requires fresh consideration by the learned Commissioner of Endowments giving opportunity of hearing to the parties concerned to adduce further evidence, if required.

9. Accordingly, the impugned order under Annexure-4 is set aside and the matter is remitted back to the learned Commissioner of Endowments to adjudicate O.A. No.158 of 2015 filed under Section 19-A of the Act afresh giving opportunity of hearing to the parties concerned to adduce evidence.

10. Since the application under Section 19-A of the Act is of the year 2015, learned Commissioner of Endowments shall do well to make an endeavour to dispose of the said application afresh expeditiously.

11. The writ petition is disposed of accordingly with the aforesaid observation and direction.

Urgent certified copy of this judgment be granted on proper application.