

(2025) 04 OHC CK 1403
In the Orissa High Court
Case No : Writ Petition (C) No.8172 Of 2025

Salila Ranjan Dixit

APPELLANT

Vs

Commissioner Of Endowments, Bhubaneswar And Others Vs

RESPONDENT

Date of Decision : 10-04-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2025) 04 OHC CK 1403

Hon'ble Judges : B.P. Routray, J;Savitri Ratho, J

Bench : Division Bench

Advocate : Ramakanta Mohanty, A. Acharya, A.K. Nath, Sanatan Das, Akshaya Kumar Pandey

Final Decision : Disposed Of

Judgement

B.P. Routray, J

1. Heard Mr. Ramakanta Mohanty, learned Senior Counsel along with Mr. A. Acharya, learned counsel for the Petitioner, Mr. Akshaya Kumar Pandey, learned counsel for Opposite Party No.3, Mr. Sanatan Das, learned counsel for Opposite Party No.2 and Mr. A.K. Nath, learned counsel for Opposite Party No.1.

2. The challenge in the present writ petition is the order under Annexure-1, wherein opposite party no.3 has been allowed to run 'Dipa Shop' taking over charge of the same in the temple premises of the deity, i.e. Maa Mangal Temple, Kakatpur, for the period from 1st March 2025 to 26th November 2025 on payment of the offered amount of Rs.72,00,000/-.

3. The background facts of the case are that, at the first instance the 'Dipa Shop' was auctioned wherein one Sunil Kumar Das was selected as the successful bidder. But subsequently his bid was cancelled for violation of Clause (v) of the NIT. Thereafter, as per the decision taken by the Endowment Authorities, the temple trust board vide its Notice No. 696 dated 22.12.2024, issued notice for allocation of Dipa Shop on negotiation basis. Pursuant to the same, 19 persons

took part in the negotiation offering their respective prices.

4. The present petitioner namely, Salila Ranjan Dixit stood as Fifth highest offerer and present opposite party no.3 namely, Santanu Kumar Dixit stood as Sixth highest offerer. The first to Forth highest offerer did not deposit their amount within the time stipulated by the temple trust and as such, the next term came to present petitioner as the Fifth highest offerer.

5. The petitioner vide letter dated 25.01.2025 (Annexure-K/2) was directed to deposit the offer amount on or before 28.01.2025 as per 80:20 percent basis. According to the opposite parties, particularly, the Temple Trust Board (opposite party no.2), the petitioner refused to accept said notice dated 25.01.2025 under Annexure-K/2 and therefore, the Temple Trust Board proceeded to the Sixth highest offerer, i.e. present opposite party no.3, as per decision taken by the Endowment Authorities on 18.02.2025 under Annexure-C/3. Then the present opposite party no.3 being the Sixth highest offerer was noticed on 19.02.2025 to deposit the offered amount on the same 80:20 percent basis. The amount was deposited by opposite party no.3 in due time and therefore, the 'Dipa Shop' was given to him to run for the period from 01.03.2025 to 26.11.2025.

6. It is now contended on behalf of the petitioner that he was not at all granted any opportunity to deposit his offered amount and all such contentions advanced on behalf of the Temple Trust Board and the private opposite party are false and manipulated. According to the petitioner, this alleged notice dated 25.01.2025 as per the Annexure-K/2 was never served upon him and he has never refused to accept the same as stated by the office peon of the temple trust in the back side of said notice. Conversely, it is alleged by the petitioner that the Temple Trust Board in connivance with opposite party no.3 has deliberately deprived the petitioner from getting the shop and in the process the temple has secured less revenue.

7. It is important to mention here that the offer price given by the petitioner was to the tune of Rs.75,56,666/- and the offer price given by opposite party no.3 is Rs.72,00,000/-.

8. It is submitted on behalf of the opposite party no.3 that the assertions made on the part of the petitioner disputing service of the notice under Annexure-K/2 on him are falsehood and not at all correct. The notice dated 25.01.2025 under Annexure-K/2 has not only served on him but was affixed also in conspicuous places including the notice board of the temple office. So the petitioner at this stage cannot contend that said notice to deposit the offer price to him was never brought to his knowledge.

9. Mr. Sanatan Das, learned counsel on behalf of the Temple Trust Board submits that as the petitioner did not deposit his offer price within the time stipulated by the trust board, Temple Trust Board was compelled to proceed in favour of opposite party no.3 who stood Sixth highest offerer. There is no other option left to the trust since it was sustaining loss everyday by not giving the 'Dipa

Shop' to manage. Mr. Das also agrees with the submission of Mr. Pandey, learned counsel appearing for the opposite party no.2, regarding service of notice on the petitioner for depositing his offered amount and the affixing of said notice in temple office notice board and other places.

10. However, as per the averments made in the counter affidavit of opposite party no.2, affixture of the notice under Annexure-K/2 in the temple office Notice board or in other conspicuous places of the temple has not been mentioned specifically, though a statement has been made that the copies of all letters of intimation were affixed in the temple office Notice board and at front of the gate of the temple. At this juncture, it is submitted by Mr. Pandey that he has the photo copies of affixing such letters in the temple office Notice board and he produces the same for perusal of the Court. Having gone through such Photocopies, we do not find the specific dates of affixture of the same.

11. It is also submitted on behalf of opposite party no.3 that non-joinder of those offerers stood from First to Forth would make the Writ Petition non-maintainable on the ground non-joinder of necessary parties. But we respectfully disagree with said submission of Mr. Pandey for the simple reason that when the parties have accepted the result without making challenge on their part for their own grievances, they are not to be treated as necessary parties in the present writ petition. Be that as it may, since no one else except the Fifth highest offerer has come to challenge the process of negotiation, we do not consider the case of the other offerers.

12. In course of hearing, an offer came from the side to opposite party no.3 that he is ready to pay the differential amount as offered by the petitioner in the interest of the deity. The petitioner, in reply, submitted that he is also ready to offer more price in this regard, in the interest of deity. But we are not inclined to be engaged in the process directly bringing the competition inside the court room.

13. On the other hand, considering such averments taken by all the parties, we are satisfied that the notice dated 25.01.2025 under Annexure-K/2 has not been properly served on the petitioner to deposit his offer amount. It is for the reason that, first of all, the endorsement given by one Bapuji Das regarding service of notice on the petitioner does not speak of his status either as office peon or the process server and the endorsement given on the back side of said notice does not speak of witnesses regarding service of said notice. Further, such endorsement does not mention about time and date of service of the notice on the petitioner and his refusal. We are unable to find any valid reason on the part of the petitioner to refuse to accept said notice by him since it would no way in his benefit to serve any interest on his part and it was always open for him not to deposit the amount, even after receipt of said notice. So the contentions made by the opposite parties highlighting refusal of acceptance of the notice on the part of the petitioner are unsustainable being devoid of valid reason. So far regarding the affixture of the said notice in conspicuous places of the temple, we do not consider the same would amount to sufficiency of service on the petitioner

for depositing the amount within the time stipulated.

14. Being satisfied that illegality has been done to the petitioner, we normally proceed in such matters quashing the settlement given in favour of the other side, but in the instance case, we find a substantial period has been elapsed by now permitting opposite party no.3 to run the shop and so, at this time there may arise certain practical difficulties in giving the shop in favour of the petitioner to run for remaining period, obviously at a different price.

15. We are not unminded of the fact that here is a case where the shop has been given upon negotiation and not by way of auction.

16. In the circumstances, keeping in view the fact that considerable period has been elapsed in the meantime including the month of 'Chaitra', which is the festive month for the temple where more footfall is usually there in the temple for 'Jhamu Jatra', we are not inclined to disturb present arrangement with regard to running of the shop till 16th April 2025 which is the last day of month of 'Chaitra'.

17. As stated above, as we feel illegality has been committed against the petitioner by rejecting his offer at the first instance and that, the Temple Trust Board including Endowment Authorities have proceeded to settle the shop by way of negotiation instead of auction, which is the fairest mode, we are inclined to set aside the negotiation process.

18. In the circumstances, the Endowment Authorities and Temple trust are directed to proceed by way of auction for the rest period of current Financial Year 2025-26. Consequently, we set aside the impugned letter under Annexure-1 offering the 'Dipa Shop' in favour of opposite party no.3 for the remaining period from the prospective date of finalizing the auction in terms of our direction.

19. We make it clear that the authorities should complete the entire process of auction within a period of 30 days from today in accordance with law and till then, i.e. till finalization of auction, status quo as on today in respect of the 'Dipa Shop' shall be continued. The petitioner shall be allowed to take part in the upcoming auction along with opposite party no.3 and others, in accordance with law.

20. It goes without saying that in case of successful auction, if required, such balance amount for the rest period deposited by opposite party no.3 for running of the shop may be refunded to him.

21. The writ petition is disposed of with the aforesaid observations and directions.

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