

# ORISSA HIGH COURT

Bairagi Mekap

Vs

Sri Jagannath Temple

Second Appeal No. 183 of 1967

(A. Misra, J.)

14.05.1971

## JUDGMENT

### **A. Misra, J.**

1. Plaintiffs are the appellants against a confirming judgment.
2. The suit was filed by the plaintiffs representing the Mekap Nijog and Khuntia Nijog of Lord Jagannath for a declaration of their right to collect Bheta and Pindika offered to the deity in Thalish, Parakhas and Jharis near the Bhitara Khata. Bahar Khata and Ratna Singhasan of the temple and for a permanent injunction restraining the Administrator of the Jagannath temple or his agent from interfering with their rights of collection in the afore-prescribed receptacles. According to them, they are Sebaks of the deity and the collection of offering made by the pilgrims in Thalish, Parakhas and Jharis is a religious function performed by them which has been recognised in the record-of-rights prepared by the Special Officer under Sri Jagannath Temple Act of 1954 (hereinafter to be referred to as the Act). It is alleged that the Administrator of the Jagannath temple issued an order on 23-11-1962 to the effect that thenceforth Thali, Parakha and Jhari for collecting Bheta and Pindika are to be substituted by sealed boxes at the appropriate places of collection. As this has interfered with their rights, the suit was filed with the aforementioned prayers.
3. The defendant, the Jagannath Temple Managing Committee constituted under the Act resisted the claim alleging that use of the receptacles Thali, Parakha and Jhari has nothing to do with the performance of the religious rites of the deity, and as a matter of fact prior to their introduction, pilgrims used to throw their offerings on the Ratna Singhasan and on the floor near the Bhitara Khata and Bahar Khata. For the purpose of safety and convenience and to prevent pilferage, these receptacles were introduced. Providing receptacles for the offerings is purely secular in nature unconnected with the religious rites of the deity. The duties performed by the plaintiffs in

connection with Bheta and Pindika are not religious in nature as they more or less remain as guards at the places of collection, for which service they get a certain percentage as remuneration. Therefore, u/s.21 of the Act, the Administrator was quite competent to regulate and alter the receptacles for convenience and prevention of pilferage.

4. The courts below accepted the defendant's contention and dismissed the suit.

5. The only point that arises for consideration in this appeal is whether u/s.21 of the Act, the Administrator is entitled to alter the receptacles for collection of Bheta and Pindika at Ratna Singhasan and the Bhitar Khata and Bahar Khata.

6. Mr. Mahanti, learned Counsel for appellants relying on paragraph 5 of the preamble of the Act, the entries in the record-of-rights prepared by the Special Officer and the observations of the Supreme Court in the decision reported in (1964) 30 Cut L.T. 426 contends that the receptacles Thali, Parakha and Jhari used for collection of the offerings made by the pilgrims constitute an integral part of the religious rites of Lord Jagannath and any alteration in the nature of the receptacles is interference with the religious rites. The Administrator's powers u/s.21 of the Act are confined to secular-affairs of the temple. As the impugned order has resulted in interference with the religious rites, it was beyond his competence and is illegal.

7. In the decision reported in (1964) 30 Cut. L.T. 426 the Supreme Court after examining the broad features and the provisions of the Act as well as the preamble which says that the administration under the Superintendent has further deteriorated and a situation has arisen rendering it expedient to reorganise the scheme and the management of the affairs of the temple and its properties and provide better administration and governance therefor in supersession of all previous laws, regulations and arrangements having regard to the ancient customs and usages and the unique and traditional nitis and rituals contained in the record-of-rights prepared under the Puri, Sri Jagannath Temple (Administration) Act, 1952, observed:

"If the secular management of the temple was taken away from the sole control of the appellant and vested in a committee of which he still remains the Chairman, it cannot be said that the provisions contained in the Act for that purpose are hit either by Article 31(2) or 19(1)(f)."

Thus, the validity of the provisions relating to the secular management of the temple was upheld.

8. Section 21 of the Act which contains the powers and duties of the Administrator, so far material for the present purpose, runs as follows:

"21(1) x x x x

(2) Notwithstanding anything in sub-section (1) or in section 5 the Administrator shall be

responsible for the custody of all records and properties of the Temple, and shall arrange for proper collections of offerings made in the Temple and shall have power -

(a) x x x x x

(b) x x x x x

(c) x x x x x

(d) x x x x x

(e) to specify, by general or special orders, such conditions and safe guards as he deems fit, subject to which any sevak, officeholder or servant shall have right to be in possession of jewels or other valuable belongings of the temple;

(f) to decide disputes relating to the collection, distribution or apportionment of offerings, fees and other receipts in cash or in kind received from the members of the public."

Sub-section (2), among other things, empowers the Administrator to arrange for proper collections of offerings made in the temple. For respondent, it is contended that the impugned order was passed in exercise of the power of making arrangements for proper collections of offerings like Bheta and Pindika which is purely a secular act totally unconnected with the nitis or rituals of the deity. On the other hand, for appellants, it is contended that in view of the recitals in the record-of-rights, these duties cannot be dissociated from the religious nitis, but must be treated as part of ritual connected with the offerings made by the pilgrims to the deity. If the duties in question of the plaintiff-sevaks are secular in nature, the suit must fail as it is conceded that the Administrator will have the power to regulate the procedure of performance of the secular part of the services. On the other hand, if these services are considered as part of the religious rituals, the order of the Administrator will be invalid. In Part III of the Record-of-rights serial 13 at page 86 enumerates Khuntia-seba, while item 15 at page 116 enumerates the Mekap-seba, the two groups of plaintiffs. Column 5 purports to contain the incidents of service. A perusal of the description of the incidents of service shows that it includes both religious as well as secular duties. So far as Bheta and Pindika are concerned, the duties of the Khuntia are mentioned as follows: "During Sahana Mela, three of them are to guard the Jhari. They also guard Thali collections at the Bahar Khata. These duties of the Khuntias are purely secular, inasmuch as, they are confined to watching or guarding the places of collection. With no ingenuity it can be said that watchmen by performing their duties as watchers or guards can be deemed to be performing any religious or spiritual rites or rituals. So far as Mekaps are concerned, it is stated that during Sahana Mela, three of them remain at three badas holding the receptacle described as Gadu, the receptacle. Similar are their duties with regard to Bheta and Pindika put on Thali and parakha near the Khatas. Thus, their duties are also purely of secular nature, inasmuch as, they are either required to hold the receptacles or collect the offerings thrown on the ground and put them in the receptacles. For such services, they are given a certain percentage as remuneration. It is difficult to agree with learned Counsel for appellants that these duties can in any manner be associated with the rites and rituals or the nitis performed before the deity. The fact remains that once the offerings are made, the religious partis over. The Makaps and Khuntias are required either to guard the places or gather the offerings strewn on the floor

and put them in the receptacles. These being the duties of the plaintiff-sevaks, so far as Bheta and Pindika are concerned, I have no hesitation in agreeing with the view taken by the courts below that they are unconnected with the religious rites. They are purely of secular nature. Therefore, it is within the powers of the Administrator to arrange for proper collections of offerings by providing suitable receptacles to prevent pilferage by substituting Thalīs, Parakhas and Jharis. Such substitution of the receptacles in no manner affects the performance of the rites of the plaintiff-sevaks. Hence I find no merit in this appeal.

9. In the result, the appeal fails and is dismissed with costs.

Appeal dismissed.