

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) PIL No.20481 of 2023

Samir Mohanty *Petitioner*
-versus-
State of Odisha and others *Opposite Parties*

Advocates appeared in this case:

For Petitioner : Mr. Pitambar Acharya,
Senior Advocate assisted by
Mr. S. S. Tripathy, Advocate

For Opposite Parties : Mr. Budhadev Routray,
Senior Advocate assisted by
Mr. S. Sekhar, Advocate &
Mr. Gautam Mukherji,
Senior Advocate assisted by
Ms. A. Mukherji, Advocate
for Opposite Party No.6,
Mr. P. K. Parhi, Deputy Solicitor
General of India along with
Mr. D. R. Bhokta, CGC for
Opposite Parties No.7 and 8
and Mr. Debakanta Mohanty,
AGA for State

CORAM:
THE CHIEF JUSTICE
JUSTICE SAVITRI RATHO

JUDGMENT
29.09.2023

S. Talapatra, CJ.

1. This writ petition is one of the Public Interest Litigations (PILs) in respect of the management of the Ratna Bhandar of Shri Jagannath Temple, Puri.

2. Earlier in *Mrinalini Padhi v Union of India and others; (2019) 18 SCC 1*, the apex Court passed a slew of directions for better management and development of Shri Jagannath Temple and its adjoining areas. In *Mrinalini Padhi* (supra), the apex Court has observed *inter alia* as follows:

“42. Let the Temple Management Committee consider various other positive aspects for improvement and invite all the stakeholders including the State Government, whose cooperation is necessary in permissible matters, to take care of finance in the various development activities. The Temple Management Committee has to take steps as it is the sole repository of faith. xxx”

3. In this petition, the Petitioner has questioned the apathy in preparing the inventory in respect of the ornaments and valuables of Shri Jagannath Temple kept in the Ratna Bhandar. The other grievance as enumerated in this petition is that the repairing work of the Ratna Bhandar, which is highly emergent in nature for safety of the old structure, is not being taken up by Shri Jagannath Temple Managing Committee.

4. It has been asserted in this PIL that Shri Jagannath Temple Managing Committee (SJTCM) constituted under Section-6 of Shri Jagannath Temple Act, 1955 (‘1955 Act’ in short) is not discharging their duties as postulated under Section-15 of the 1955 Act. Section-15 of the said 1955 Act saddles the Committee with

the duties *inter alia* “to ensure the safe custody of the funds, valuable securities and Jewelleries and for the preservation and management of the properties vested in the Temple” and “to do all such things as may be incidental and conducive to the efficient management of the affairs of the Temple and its endowments or to the convenience of the pilgrims”.

5. Heard Mr. Pitambar Acharya, learned Senior Counsel assisted by Mr. S. S. Tripathy, learned counsel for the Petitioner, Mr. Budhadev Routray, learned Senior Counsel assisted by Mr. S. Sekhar, learned counsel and Mr. Gautam Mukherji, learned Senior Counsel assisted by Ms. A. Mukherji, learned counsel for Opposite Party No.6-Shri Jagannath Temple Administration and Mr. P. K. Parhi, learned Deputy Solicitor General of India along with Mr. D. R. Bhokta, Central Government Counsel for Opposite Parties No.7 and 8-Archaeological Survey of India.

6. Mr. Pitambar Acharya, learned Senior Counsel appearing for the Petitioner, has briefly submitted on constitution of the said Committee. Section-6 of the 1955 Act has laid down the composition of the said Committee. It is apparent from Section-6 that apart from the Superintending Archaeologist, Archaeological Survey of India (ASI), Bhubaneswar Circle, Bhubaneswar, there are

other members of the said Committee, who are nominated by the Administration. The State Government has the power to nominate five other persons from among the Sevaks of the Temple.

7. There is no dispute regarding the constitution of the Committee (SJTMC). The dispute hinges on two aspects, as noted above. If we examine the prayers made in this petition, it would be evident that the Petitioner has urged this Court (i) to constitute a high power committee under the Chairmanship of the Governor of Odisha or a sitting Judge of the Orissa High Court to supervise preparation of the inventory of the valuables including jewelleryes of Lord Shri Jagannath kept in the Ratna Bhandar (ii) to direct Shri Jagannath Temple Administration to open the Ratna Bhandar for carrying out the repair works in the inner walls of the Ratna Bhandar. In this regard, Mr. Acharya has referred to the counter affidavit filed by the Opposite Parties No.7 and 8 on 8th August 2023, where it has been stated that *“the Archaeological Survey of India has constituted a Technical Expert Committee for inspection of the Ratna Bhandar inside Shri Jagannath Temple. The Committee took up inspection of the Ratna Bhandar on 26th March, 2018 and 8th April, 2018. The Committee during the inspection found that the Ratna Bhandar was constructed over the pista (raised platform) around the main*

temple. The data regarding its construction or inner dimensions are not available.” It has been also stated in the said affidavit dated 8th August 2023, filed by the Superintending Archaeologist, the Opposite Party No.7 that “the Committee could examine only the exterior. It is submitted by the Committee that final decision on the structural condition of Ratna Bhandar can be taken up after inspection of the interior. The Committee may be allowed to enter inside and inspect the Ratna Bhandar interior structural and archaeological details of Ratna Bhandar under proper lighting system.” For purpose of inspection, the permission from Shri Jagannath Temple Administration (SJTA), Puri is required. Only after such permission, inspection of interior walls of the Ratna Bhandar of Shri Jagannath Temple can be carried out by the Technical Expert Committee for assessing what kind of repair/conservation work will be needed.

8. Mr. Acharya has, in this juncture, stated that the SJTA has not allowed the Archaeological Survey of India (ASI) to survey the interior walls of the Ratna Bhandar by the Technical Expert Committee formed by them. In this regard, Mr. Acharya has handed over a copy of the communication of the Superintending Archaeologist addressed to the Director General, Archaeological

Survey of India dated 25th September, 2023. From a reading of the said letter dated 25th September 2023, it appears that the content of the said letter is remotely related to the present controversy, even though there is a mention of the Technical Expert Core Conservation Committee for inspection of the Ratna Bhandar of Shri Jagannath Temple, Puri. Mr. Acharya has submitted that the SJTA (the Opposite Party No.6) had filed their preliminary counter affidavit on 10th August, 2023 to question the maintainability of the petition by contending that the Petitioner does not have any *locus standi* to institute the PIL as he is a frontline political leader, belonging to Bhartiya Janata Party (BJP) and he had contested the 2009 Assembly Election from the Ekamra-Bhubaneswar assembly constituency on BJP ticket. That apart, it is alleged that he had not left any stone unturned to crudely politicize the Ratna Bhandar issue in order to reap political and personal mileage.

9. Mr. Budhadev Routray, learned Senior Counsel has submitted that according to Rule 8 of the Orissa High Court Public Interest Litigation Rules, 2010, it is an essential prerequisite that any Petitioner before filing a PIL is required to prefer a representation to the authorities concerned for remedial action, but the Petitioner, admittedly, has not made any representation to the SJTA. Hence, the present petition be shut at threshold.

10. Mr. Budhadev Routray, learned Senior Counsel appearing for the Opposite Party No.6 on the aspect of maintainability of the writ petition and on *standing* of the Petitioner has referred to a decision of the apex Court in ***Janata Dal v. H. S. Chowdhary and others; (1992) 4 SCC 305***, where the apex Court has held thus:

“only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration.”

11. Mr. Routray has placed his reliance on another judgment of the Apex Court in ***Rajiv Ranjan Singh ‘Lalan’ (VIII) and another v. Union of India and others; (2006) 6 SCC 613***. It has been held in ***Rajiv Ranjan Singh ‘Lalan’*** (supra) as under:

“58. In our opinion, public interest litigation is meant for the benefit of the lost and lonely and it is meant for the benefit of those whose social backwardness is the reason for no access to the Court. We also say that PILs are not meant to advance the political gain and also settle their scores under the guise of a public interest litigation and to fight a legal battle. xxx”

12. Mr. Routray has also referred to another decision of the Apex Court on maintainability. In ***Dattaraj Nathuji Thaware v. State of Maharashtra and others; (2005) 1 SCC 590***, the Apex Court has observed on abusive practice of PILs as follows:

“4. When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes, the said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public Interest Litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation".”

13. Mr. Routray, in the same line, placed his reliance on ***Ashok Kumar Pandey v. State of W.B.; (2004) 3 SCC 349*** where the apex Court has observed on how public interest litigations are made weapon of abuse. We may gainfully reproduce Para-12 of the said judgment, which reads as under:

“12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or a member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy

bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases, with exemplary costs.”

[Emphasis added]

14. Finally, Mr. Routray has placed his reliance on ***S. K. Kantha v. Qamarulla Islam and others; (2005) 11 SCC 507***, where it has been held as follows:

“With this background, we are also of the view that the public interest litigation petition has been filed by a political rival to achieve personal score. On this sole ground, we are of the opinion that the petition cannot be maintained in the form of a public interest litigation as it cannot be said to have been filed by a public-spirited person. In this view, the appellant has no locus standi to file the petition as a public-spirited person.”

[Emphasis added]

15. Mr. Routray has further stated that in view of the decision taken by the SJTMC in their meeting dated 4th August 2023, the reliefs as prayed in this writ petition have become infructuous.

16. Mr. Routray has contended that one additional affidavit has been filed on behalf of the Opposite Party No.6 before this Court. With the said additional affidavit, the Minutes of the meeting of the SJTMC held on 4th August, 2023 has been annexed [with English translation]. In the said meeting, the following resolution has been adopted in presence and active guidance of the Superintending

Archaeologist namely Dr. D. B. Gadanayak. On scrutiny of the said Minutes, it has transpired that there was a detailed discussion on opening of the Ratna Bhandar. For purpose of accurate reference, the resolution taken in the said meeting is extracted hereunder:

“The letters furnished by the Archaeological Survey of India in the year 2018 and 2022 with regard to opening of Ratna Bhandar to assess its structural status as per direction of Hon’ble High Court of Orissa were read out and discussed in the meeting.

Both the Inner and Outer Ratna Bhandar are adjoining to Jagamohan. The rituals of the Lords are performed in the Jagamohan where the devotees also have darshan. The Committee observed that repair should be taken up at such a time so that both the rituals of Lords and public darshan are not be obstructed. Both the rituals and darshan by the devotees would be seriously affected if the ASI team enters the Ratna Bhandar now to take up the repair of its inner portion after assessing the status of the Ratna Bhandar. Dr. Gadanayak, Superintending Archaeologist, ASI said that the status of the inner portion of the Bhandar could also be assessed through conduct of laser scanning from outside of the Ratna Bhandar and the repair could be taken up by opening the Inner Bhandar during Rath yatra next year after making assessment of the inner status. The Committee accepted the proposal of Dr. Gadanayak with the advice that the ASI would constitute a Technical Team consisting of technical members nominated by ASI including two Temple Sevayats and two technical experts (Sri N.C. Pal, Engineer-in-Chief, Works Department and Sri B. Ashish Kumar Subudhi, OSD (Works)) as members to conduct the above said work. The Superintending Archaeologist, however, informed that the necessary machinery for conducting laser scanning has presently been put to service at Gyanabapi Temple, Varanasi from where it would be mobilized to Puri for making necessary assessment of Ratna Bhandar from outside only after completion of the work at Varanasi.

Since no inventory of the ornaments stored in the Ratna Bhandar has been made for many years, it is, therefore, necessary to conduct an inventory of all ornaments of Lords stored both in Inner and Outer Ratna Bhandar during opening of Inner Bhandar. The Committee passed a resolution requesting the State Government to constitute a high level committee under the chairmanship of a retired judge either of High Court or Supreme Court to supervise the conduct of inventory as well as to determine its modus operandi.

[Emphasis added]

17. It is evident from the said Minutes that the SJTMC has stated that no inventory of the ornaments or valuables stored in the Ratna Bhandar has been made for many years. The SJTMC has felt necessity to conduct an inventory of all the ornaments of Lord Shri Jagannath stored both in inner and outer Ratna Bhandar. The SJTMC has also requested the State Government to constitute a High Level Committee under the Chairmanship of a retired Judge either of the High Court or of the Supreme Court to supervise the conduct of the inventory as well as to determine its *modus operandi*.

18. Mr. Acharya has strenuously contended that this Court should constitute a High Power Committee to make inventory of the gold jewellery and other valuables, as stored in the Ratna Bhandar. Mr. Acharya has also stated that the Ratna Bhandar's present state is

very vulnerable as the old walls have become hollow and at any point of time, the Ratna Bhandar may face catastrophe. On our query, Mr. Acharya could not show any report by the Superintending Archaeologist or any other technical expert on the conditions of the structures. No inventory has been drawn up for many many years. The SJTMC in their meeting has candidly admitted that no inventory of ornaments, stored in the Ratna Bhandar, has been made for many years. Further, the SJTMC has observed that the repair works should be taken up at such a time that will not obstruct both the rituals of Lords and public darshan. The Superintending Archaeologist, ASI [the Opposite Party No.7], has guided the said meeting and observed that the status of the inner portion of the Ratna Bhandar could also be assessed through the conduct of laser scanning from outside of the Ratna Bhandar and the repair could be taken up by opening of the Inner Bhandar during Rath Yatra next year after making assessment of the inner status. The said opinion has been accepted by the SJTMC in the said meeting. Therefore, the contention of Mr. Acharya that despite repeated approach by the Superintending Archaeologist, ASI, to allow them to enter and survey the inner part for purpose of repair, cannot be accepted. On the contrary, it is the opinion of the Superintending Archaeologist, ASI that the status of the inner walls

of the Ratna Bhandar can be assessed through the conduct of laser scanning from outside of the Ratna Bhandar. It has been further opined by the Superintending Archaeologist, ASI that the repair could be taken up by opening of the Inner Bhandar during the Rath Yatra next year. It has also informed by the Superintending Archaeologist, ASI-Opposite Party No.7 that necessary machinery for conducting laser scanning has presently been put to service at Gyanabapi Temple, Varanasi from where it would be mobilized to Puri for evaluating structural vulnerabilities of the Ratna Bhandar from outside. The equipment will be brought to Puri after completion of the work at Varanasi.

19. On the face of these opinions of the Superintending Archaeologist as reflected in the said Minutes, we cannot infer, contrary to what has been advised by the Superintending Archaeologist, ASI-Opposite Party No.7 by acceding to the prayers made by the Petitioner. No *mala fide* has been attributed to the SJTMC. Even the apex Court has observed that the SJTMC has *to take steps* as it is the sole repository of faith. As no *mala fide* has been attributed in respect of any action of the SJTMC, in our considered view, they should be allowed to function in accordance to their resolution taken in the meeting held on 4th August, 2023. So

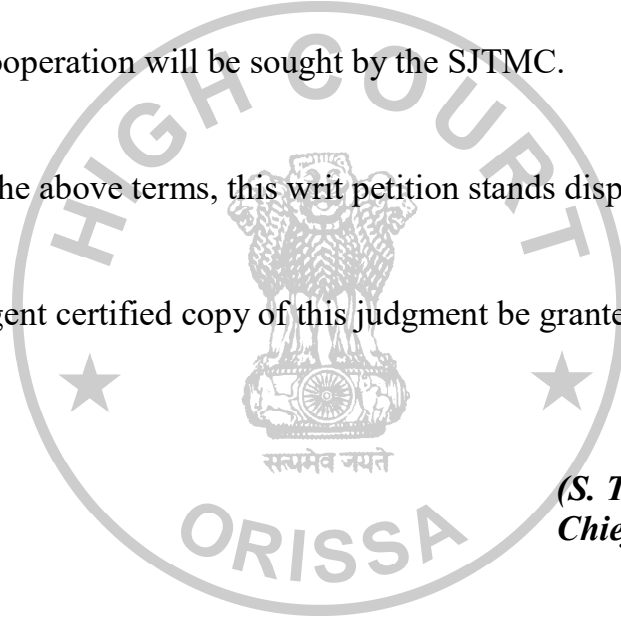
far as the question of maintainability is concerned, we might have taken a view against the Petitioner, but the Petitioner has raised two important issues viz. (I) safety of the Ratna Bhandar and (II) transparency in respect of the valuable articles stored in the Ratna Bhandar. Even if we dismiss the writ petition on the question of *locus standi*, that dismissal may not refrain the court from delving deeper into these questions as Shri Jagannath Temple is the beacon of ultimate faith of millions of people. In such circumstances, we direct the State Government to constitute a High Level Committee, if they are approached by the SJTMC for supervising the process of inventorisation of the valuables including jewellerys stored in the Ratna Bhandar. Such Committee be constituted by the State Government within a period of sixty days from the date when the SJTMC will approach them. The said Committee shall assist the SJTMC in carrying out inventorisation as aforesaid. But, we are not persuaded to interfere with the plan of work regarding inventorisation and repair works of the interior walls of the Ratna Bhandar of Shri Jagannath Temple, as prepared in the meeting held on 4th August, 2023 on advice of the Superintending Archaeologist, ASI-Opposite Party No.7. As the apex Court has observed, we are to keep our faith in the SJTMC in management of the Ratna Bhandar and its structure. If there had been any sense of urgency,

we believe that the Superintending Archaeologist would have advised the SJTMC accordingly.

20. Before parting with the records, we would observe that the Archaeological Survey of India (ASI) and Shri Jagannath Temple Managing Committee (SJTMC) will collaborate actively on the conservation works of the Ratna Bhandar. We expect that the State Government shall come forward for efficient management when their cooperation will be sought by the SJTMC.

21. In the above terms, this writ petition stands disposed of.

22. Urgent certified copy of this judgment be granted as per rules.



(S. Talapatra)
Chief Justice

(Savitri Ratho)
Judge

M. Panda