SHRI JAGANNATH TEMPLE PURI MANAGEMENT COMMITTEE REPRESENTED THROUGH ITS ADMINISTRATOR AND ANR. ETC.

v.

CHINTAMANI KHUNTIA AND ORS.

SEPTEMBER 17, 1997

[J.S. VERMA, CJ., SUHAS C. SEN AND S.P. KURDUKAR, JJ.]

Shri Jagannath Temple Act, 1954 (As amended from 3.5.1983) :

Section 28B, 28C—Religious or property rights of Temple attendants (Sevaks)—Offerings made to deity in Temple—Right of Sevaks to get portion of it—Installation of Hundis for collection of offerings inside Temple under Section 28B—Collection and distribution of these offerings or retention of portion of the offerings for maintenance and upkeep of the Temple are secular activities belonging to the domain of the management and administration of the Temple—Hence, there is no religious or property rights of Sevaks to get portion of the offerings—Held, the provisions are not violative of Articles 25(1), 26 or 300-A of the Constitution—Constitution of India, Articles 25(1), 26 or 300-A.

Section 28-C(9)—Powers of State—All the activities in or connected with a Temple are not religious activities—Management of the Temple or maintenance of discipline and order inside the Temple are secular acts and can be controlled by the State—State can set up the foundation fund out of donations made to Temple—Held, Sevaks cannot claim any share out of donations or contributions made to the foundation fund as of right—Hence, Section 28-C(9) does not contravene the provisions of Articles 25(1), 26 or 300-A of the Constitution—Constitutions of India, Articles 25(1), 26 or 300-A.

A writ petition was filed challenging the constitutional validity of Section 25-B(5), 28-C(5)(a) and 28-C(9) of Shri Jagannath Temple Act, 1954 (As amended from 3.5.1983), on the ground that the encroachments were made upon the religious practice and rights of the Sevaks. It was contended that the new provisions for installation of Hundis in the temple for placing offerings by pilgrims or devotees were not in consonance with the temple

A tradition. The rights of the Sevaks to get a share in the Veta and Pindika (offerings) made by the pilgrims constituted 'property' of Sevaks and was an integral part of religious rite of performing Seva to Lord Jagannath and this right cannot be taken away without payment of proper compensation. Therefore, not only the religious right protected under Articles 25 and 26 of the Constitution were violated but the provisions of Article 300 A were also B violated by taking away the right of property of the Sevaks.

The High Court in allowing the writ observed that the right of the Petitioner-Sevaks to get a share of Veta and Pindika was a part and parcel of the Seva performed by them according to the 'Records of Rights' and right to C get a share of the offerings could not be separated from the performance of the religious duties by the Sevaks and as such the sub-section (5) of Section 28-B and sub-section (9) of Section 28-C amounted to interference in religious practice and was thus *ultra vires* of the Constitution. Hence the present appeals.

D Allowing the appeal, this Court

HELD : 1.1. The installation of Hundis for collection of offerings made by the devotees inside the Temple did not violate the religious rights of the Sevaks of the Temple in any manner even though the Sevaks were denied a share out of the offerings made in the Hundis. Section 28-B of the Act cannot E be struck down as violative of religious or property rights of the Sevaks. [175-G-H]

1.2. Collection and distribution of monies start after the devotees had done their worship and made the offerings to the deity. This is done as a token of devotion of the pilgrims. But after the worship by the devotees is over, F sweeping, collecting and distribution of the portion of offerings to the temple staff are not parts of any religious exercise. The manner of collection and distribution of a portion of the offerings among the temple staff may have a history of long uses but such uses cannot be part of religious practice or a religious right. It is an act of the pure and simple collection of money for G which prescribed portion is given to those who collect the money. It is nothing but a way of remunerating the Sevaks for the jobs done. The Sevaks cannot be said to be professing, practising or propagating region by these acts of collection of money for remuneration. [167-B-C]

1.2. It is true that placing of the Hundis under Section 28-B at different H parts of the temple has the possibility of reducing the income of the Sevaks,

but simultaneously, their duties and responsibilities have also diminished. The entire onerous obligations now stand reduced. It is not the case of the Sevaks that they have been asked to work without any pay. Therefore there cannot be any question of violation of any religious right guaranteed by Articles 25 and 26 of the Constitution. [167-G-H; 168-A] A

2. The offerings that have made to the deities are not the properties of the Sevaks. The Sevaks are given a share in these offerings as remuneration for guarding and collecting the offerings. They do not have to discharge the duties in regard to the monies deposited in the Hundis. They are not entitled to a share in these monies as of right and there cannot be any question of deprivation of any right to property of the Sevaks as protected under Article 300 A. [168-B] B C

3.1. Every activity inside the temple cannot be regarded as religious practice. The duties performed by the Sevaks are connected with Seva-Puja but the actual Seva-Puja is not done by the Sevaks. The collection of monies and other offerings inside the temple are the duties performed after the Seva-Puja is completed and they are simply discharging their duties for remuneration. As such the activities are purely secular in nature. The Sevaks cannot, as a matter of right, religious or temporal, claim that the entire offering made in the temple whether in the Hundis or the closed receptacles or anywhere else must be taken into account for fixing the commission payable to them. [170-E-D] D E

3.2. The State has a right under Sub Cl. (2) of Article 25 of the Constitution for making any law 'regulating or restricting in economic, financial, political or other secular activity which may be associated with religious practice'. Although the state cannot interfere with the freedom of a person to profess, practice and propagate his religion, the State, however, can control the secular matters connected with religion and has, in any event, power to frame laws for regulating collection and utilisation of the offerings of monies made inside the temple. The management of a temple or maintenance of discipline and order inside the temple are secular act and can be controlled by the State. As such any law passed for taking over the management of a temple cannot be struck down as violative of Articles 25 or 26 of the Constitution. Merely because system of payment is prevalent for a number of years, is no ground for holding that such system must continue for all times. The payment of remuneration to the temple servant was not religious act but was of purely secular nature. Therefore, the installation of Hundis for F G H

A **collection of offerings made by the devotees inside the temple did not violate the religious rights of the Sevaks of the temple in any manner even though the Sevaks were denied any share out of the offerings made in the Hundis. Hence the provisions are not violative of Articles 25(1), 26 or 300-A of the Constitution. [175-D-H]**

B *Tilkayat Shri Govindlalji Maharaj* **v.** *The State of Rajasthan and Ors.*, **[1964] 1 SCR 561;** *Sri Venkataramana Devaru and Ors.* **v.** *State of Mysore and Ors.*, **[1958] SCR 895;** *Seshammal and Ors.* **v.** *State of Tamil Nadu,* **[1972] 3 SCR 815;** *Pannalal Bansilal Pitti and Ors.* **v.** *State of A.P. and Anr.*, **[1996] 2 SCC 498 and** *P.V. Bheemasena Rao* **v.** *Sirigiri Pedda Yella Reddi and Ors.*,
C **[1962] 1 SCR 339, relied on.**

Raja Birakishore **v.** *The State of Orissa,* **[1964] 7 SCR 32 and** *Bairagi Mekap and Anr.* **v.** *Shri Jagannath Temple Managing Committee,* **AIR (1972) Orissa 10, referred to.**

D *K. Seshadri Aiyangar* **v.** *Ranga Bhattar,* **ILR 35 Madras 631, cited.**

A.S. Narayana Deekshitulu **v.** *State of A.P. and Ors.*, **[1996] 9 SCC 548 and** *Bhuri Nath & Ors.* **v.** *The State of Jammu and Kashmir and Ors.*, **JT (1997) 1 SC 546, distinguished.**

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3978 of 1995.

From the Judgment and Order dated 5.10.93 of the Orissa High Court in O.J.C. No 2302 of 1983.

F B. Sen, Kapil Sibal, K. Madhava Reddy, V.A. Mohta, K.N. Tripathy, J. Das, P.N. Misra, S. Misra, R.M. Patnaik, A. Mohapatra, Ms. Niti Dikshit and Ms. Kirti Misra for appearing parties.

The Judgment of the Court was delivered by

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SEN, J. The point that falls for consideration in this case is whether the right of the temple attendants to get a portion of the offerings made to the deity in a temple is a religious right or the manner of collecting and getting a share of the offerings is a religious rite of the temple. The answer must be in the negative in both the cases. Collection and distribution of monies start
H after the devotees had done their worship and made their offerings to the

deity. Offerings of fruit, flower and money are made to the deity by the devotees. This is done as a token of devotion of the pilgrims. But after the worship by the devotees is over, sweeping, collecting and distribution of a portion of offerings to the temple staff are not parts of any religious exercise. The manner of collection and distribution of a portion of the offerings among the temple staff may have a history of long usage but such usage cannot be part of religious practice or a religious right.

This case has been brought by a group of temple attendants called "Sevaks" contending that they are entitled to a share out of the collections of the offerings made by the devotees inside the Jagannath temple at Puri. They are traditionally entitled to the offerings made by the devotees (Veta and Pindika). This traditional method of collection of Veta Pindika and also of getting a portion of the same cannot be interfered with because that will amount to violation of guarantee of religious freedom under Articles 25 and 26 of the Constitution of India.

Collection and distribution of money even though given as offerings to the deity cannot be a religious practice. The offerings whether of money, fruits, flowers or any other thing are given to the deity. It has been said in the Gita that "whoever offers leaf, flower, fruit or water to Me with devotion I accept that". The religious practice ends with these offerings. Collection and distribution of these offerings or retention of a portion of the offerings for maintenance and upkeep of the temple are secular activities. These activities belong to the domain of management and administration of the temple. We have to examine this case bearing this basic principle in mind. The offerings made inside the Temple are known as Veta and Pindika. Veta means the offerings that are given to Lord Jagannath at specified places in the Temple. Pindika means offerings that are given on the pedestal of the deities.

The case made out on behalf of the respondents is that their duties and rights are all contained in the Record of Rights of the Temple and among their rights is the right to get one half of the garland offered to the deity. They take all offerings like fruits, betel, betelnuts, coconuts, sweets, mirrors and other things. They stand near the Inner three Bada holding jugs (Gadu). Whatever Veta and Pindika is thrown they collect them and keep in the Gadu. There is an activity called "Pochha" which means that whatever Veta Pindika is thrown at the throne, the Mekaps collect them by stretching their hands to the extent they reach and put the amounts so collected in the Gadu. According to the Sanad (grant), they have to clean the throne keeping their

A feet at the edge of the throne but now for many days, they are cleaning it standing at the bottom of the throne. Whatever offerings fall down from the throne, they collect from the floor and put in the Gadu. Similarly, if anything falls from the walls, they collect and place it in the Gadu. All these collections made at or near the throne of the deity and various other places in the Temple are ultimately counted. Small coins are taken by them. They get one anna B share in a rupee of the entire collection and the remaining Pindika income is deposited in the Temple office.

This practice, according to the Sevaks (Mekaps), is going on for a number of years and is recorded in the Record of Rights, and therefore, C cannot be regarded as a secular activity. Their further contention is that by Section 28-B of Shri Jagannath Temple Act, 1954 which was introduced by an amendment with effect from 3.5.1983, serious encroachment has been made on the religious rights of the Sevaks. It has been provided by Section 28-B of the Act that one or more receptacles (Hundis) may be placed at such places as the Temple Committee may think fit inside the Temple for placing of D offerings by the devotees visiting the Temple. It has categorically been provided that no person (which includes Sevaks) can go near or interfere in any manner with any Hundi installed in the Temple. However, no authorisation is needed for going near a Hundi for the *bonafide* purpose of placing offerings therein. It has further been provided by sub-section (5) of Section 28-B that E no Sevak shall be entitled to any share in the offerings placed in the Hundi installed. This, according to the Sevaks is a serious interference with their right to get one anna in the rupee of the total collection of the offerings made in the Temple. This provision not only interferes with their religious right but also their right of property.

F To examine this contention, the history of the tussle between the Sevaks and the persons in the management of the Temple has to be borne in mind. Puri Jagannath Temple is one of the important places of pilgrimage for the Hindus. People from all over India come in thousands daily for Puja and Darshan. The Sevaks of various kinds have tried to run the Temple to their G advantage. Religious considerations have been farthest to their thoughts and activities. Various measurers have been taken by the Government about the superintendence, control and management of the affairs of the Temple to ensure that religious practices are properly carried out and the pilgrims can worship the deities in a proper manner. The background of facts which led to the passing of Sri Jagannath Temple Act of 1954 has been narrated in the H Object Clause of the Act. It has been stated that long prior to and after the

British conquest, the superintendence, control and management of the affairs of the Temple have been in direct concern of successive Rulers, Governments and their officers. Attempts were made by the Government to regulate the management of the Temple from time to time. As early as on 28th April, 1809, Regulation IV was passed by the Governor-General in Council to ensure proper management of the Temple. The Raja of Khurda, later designated the Raja of Puri, came to be entrusted with the management of the affairs of the Temple and its properties as Superintendent. Even thereafter, grave and serious irregularities were committed in the administration of the temple which led the Government to intervene on a number of occasions. It was noted in the object clause that in spite of this Regulation IV, the Administration had deteriorated and a situation had arisen rendering it expedient to re-organise the scheme of management of the affairs of the Temple and its properties and provide better administration and governance therefor in suppression of all previous laws.

The first step in the process to bring about reform in the management of the Jagannath Temple was The Puri Shri Jagannath Temple (Administration) Act, 1952. It was stated in the objects and reasons of that Act :

> "In the absence of any guidance from the Raja and sufficient contribution from him for the regular expenses of the Temple, the scheduled and disciplined performance of the Nitis has suffered beyond imagination and the Raja has practically lost all control over the different Sevaks and other temple servants.
>
> Economic rivalry and moral degeneration of the servants and Sevaks has divested them of all sense of duty and co-operation. Specific endowments are regularly misapplied and misappropriated. Strikes amongst various classes are of common occurrence. The non-availability at the appointed hours of the Mahaprasad coveted and adored by millions of pilgrims is always their in these days. The lapses into unorthodoxy has resulted in extremely unhygienic conditions inside the Temple and commission of heinous crimes even within the Temple precincts is not rare-even the image of-the deity has been at times defiled and its precious jewellery removed. Peace and solemnity inside the Temple has given way a sheer goondaism and it is mainly the servants of the Temple that make up the unruly elements responsible for such lawless state of affairs."

A This recital in the object clause of the Act goes to show the Sevaks were not inspired by any religious fervor and were not running the temple for religious purposes. The Raja had practically been robbed of all powers of control and all sorts of evil practices were being carried out inside the Temple by the Sevaks and other Servants of the temple. In order to put a stop to this sort of practices, the Puri Shri Jagannath Temple (Administration) Act, 1952 B was passed. The Act empowered the State Government to appoint a Special Officer for preparation of the Record of Rights including the rights and duties of different Sevaks and Pujaris and other persons connected with the Seva-puja, management of the temple and its endowments. The last step was necessary because some valuable properties of Lord Jagannath had C mysteriously disappeared. The Record was to be prepared by the Special Officer after examining all the documents connected with the temple and after hearing objections from all the interested parties. The Record was also to be examined by local District. Judge. After considering the objections, the District Judge had to finally approve and publish the Record in the Official Gazette. The State Government was empowered by Section 7 to make rules in D consonance with the published Record for management of the temple.

Pursuant to the provisions of this Act, a Special Officer was appointed. The Record of Rights as envisaged by the Act was prepared by the Special Officer in which various duties and functions related to the persons including E the Pujaris, Sevaks and other servants of the temple were enumerated of which many of the activities like collection and division of the monies and other offerings by and between the various Sevaks were of secular nature. The Record of Rights is not a collection of religious rites to be observed inside the temple. The object of the Act of 1952 was to curb the atrocities being committed by the sevaks. A Record of Right was necessary to pinpoint F the various duties to be discharged by Pujaris, Sevaks and other attendants and the manner of doing these duties.

After the Record of Rights was prepared under the Act of 1952, the next step to ameliorate the condition inside the temple and curb the atrocities that G were going on in the name of religion Sri Jagannath Temple (Administration) Act, 1954. This Act was passed "in supersession of all previous laws, regulations and arrangement, having regard to ancient customs and usages and the unique and traditional nitis and rituals contained in the Record of Rights prepared under the Act of 1952". By this Act, a Committee of Management was formed. The administration and governance of the temple H and its endowments vested in the Committee. The Committee was to be a

body corporate having a perpetual succession and common seal and could sue and be sued (Section 5). The Committee was headed by the Raja of Puri and comprised of various other persons like Collector of the District, the Administrator of the Temple and four persons nominated by the State Government from among the Sevaks of the temple. The rights and privileges of the Raja of Puri in respect of the Gajapati Maharaja Seva were fully protected by Section 8.

The Committee was empowered to constitute sub-committees to deal with (a) finance, (b) Nitis and (c) matters relating to Ratna Bhandar.

The Act also provided for appointment of Administrator and officers to assist him (Section 19). The Administrator was made responsible for the custody of all records and properties of the temple and was authorised to "arrange for proper collection of offerings made in the Temple" (Section 21). Among the various duties of the Administrator enumerated in Section 21 were:

> "(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,
>
> (g) to decide disputes relating to the rights privileges, duties and obligations of sevaks, office holders and servants in respect of seva-puja and nitis, whether ordinary or special in nature and ;
>
> (h) to require various sevaks and other persons to do their legitimate duties in time in accordance with the record-of-rights"

The first challenge to this Act came from the Raja Birakishore, Raja of Puri by way of a writ petition. The Raja raised a number of Constitutional issues challenging the validity of the Act. It was contended that the Raja had been deprived of property without any compensation. Secondly, it was contended that he had the sole right of superintendence and management of the temple and that right could not be taken away without giving adequate compensation. The Act was further attacked on the ground that it was discriminatory and was hit by Article 14 of the Constitution, inasmuch as the Temple had been singled out for special legislation. It was also contended that Articles 26, 27 and 28 of the Constitution had been violated by the

A provisions of the Act. Lastly it was contended that proposed utilisation of the temple funds was for purposes alien to the interests of the deity, was illegal and ultra vires. The Case *Raja Birakishore* v. *The State of Orissa,* [1964] 7 SCR 32, was heard by a Constitutions Bench of this Court at great length. Various provisions of the Act were set out in the judgment including Sections 15 and 21. Special mention was also made of Section 21-A which laid B down that all Sevaks, office-holders and other servants attached to the Temple or in receipt of any emoluments or perquisites therefrom shall, whether such service was hereditary or not, be subject to the control of the Administrator. Reference was also made to the provisions relating to preparation of annual budget and audit of the accounts. This Court concluded :

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> "This review of the provisions of the Act shows that broadly speaking the Act provides for the management of the secular affairs of the temple and does not interfere, with the religious affairs thereof, which have to be performed according to the record of rights prepared under the Act of 1952 and where there is no such record of rights in D accordance with custom and usage obtaining in the Temple."

It was also held that there was no violation of Article 14 by the impugned legislation because the Temple held a unique position amongst the Hindu temples in the State of Orissa. As regards deprivation of property, the E Court pointed out that the Raja and his predecessors always had two distinct rights with respect to the Temple. They were Adya Sevaks of the Temple and as such they had certain rights and privileges. These rights had not been touched by the Act. They had also a right of management of the temple. It carried no beneficial enjoyment of any property. The Act had deprived him of that right of management and conferred it upon a Committee of which he F was the Chairman.

Clause (1) of Section 15 was attacked on the ground that the Committee had taken over power to arrange for proper performance of Seva-Puja and of the Nitis of the Temple in accordance with the record of rights. This was an G encroachment upon the religious rights of the Raja. This Court held that there was no invasion of any religious right of the Raja by this clause. All that was provided was that it was the duty of the Committee to arrange for proper performance of Seva-Puja in accordance with the record of rights. It was pointed out :

H "Sevapuja etc. have always two aspects. One aspect is the provision

of materials and so on for the purpose for the sevapuja. This is a secular function. The other aspect is that after materials etc. have been provided, the Sevaks or other persons who may be entitled to do so, perform the sevapuja and other rites as required by the dictates of religion. Clause (1) of Section 15 has nothing to do with the second aspect, which is the religious aspect of sevapuja, it deals with the secular aspect of the sevapuja; and enjoins upon the committee the duty to provide for the proper performance of sevapuja and that is also in accordance with the record of rights. So that the committee cannot deny materials for sevapuja if the record of rights says that certain materials are necessary. We are clearly of the opinion that cl. (1) imposes a duty on the committee to look after the secular part of the sevapuja and leaves the religious part thereof entirely untouched. Further under this clause it will be the duty of the committee to see that those who are to carry out the religious part of the duty do their duties property. But this again is a secular function to see that sevaks and other servants carry out their duties properly; it does not interfere with the performance of religious duties themselves. The attack on this provision that it interferes with the religious affairs of the Temple must therefore fail."

The attack on Section 21 which specifically deals with powers and functions of the Administrator to appoint the employees of the temple and to specify the conditions and safeguards under which any Sevak, office-holder or servant will function and their right to be in possession of jewels or other valuable belonging of the Temple, to decide disputes, rights' privileges, duties and obligations of the Sevaks and other servants of the Temple, was repelled on the ground that these provisions were with respect to secular affairs and had no direct impact on the religious affairs of the Temple. It was also held that Section 21-A was clearly concerned with the secular management of the Temple for which disciplinary powers conferred on the Administrator were necessary in order to carry out the secular affairs. It was further pointed out that no religious denomination had been deprived of any right to carry on their religious affairs protected by Article 25 of the Constitution.

After a detailed analysis of the various provisions of the Act, the Court came to the conclusion that the religious rights of the Raja or the religious rites to be observed in performance of Sevapuja were not interfered with in any way by the provisions of the Act.

Thereafter, a Committee was formed. The management of the Temple came under statutory control. One of the things noted by the management was that the offerings in the Jugs or Thalis placed at several places inside the temple and guarded by the sevaks were not being accounted for properly. To deal with this problem, closed receptacles were introduced in which the offerings had to be put. This led to the first round of litigation by a section of the Sevaks. A Division Bench of the Orissa High Court in *Bairagi Mekap & Anr.*, v. *Shri Jagannath Temple Managing Committee,* AIR (1972) Orissa 10, dismissed the plea of the Khuntias (Sevaks) that placing of closed receptacles for collecting offerings interfered with their religious rights. It was held that the Record of Rights showed that it included both religious as well as secular activities. So far as Veta Pindika were concerned, the duties of Khuntias were not of religious nature. It was held :

> "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 the Sahan Mela, three of them remain at three badas holding the receptacles described as Gadu. Whatever Bheta or Pindika is thrown near the Singhasan, they collect and put it in the Gadu, the receptacle. Similar are their duties with regard to Bheta and Pindika put on Thali and Parakha near the kathas. 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 the 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 part is over. The mekaps and Khuntias are required 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 substitution Thalis, Parakhas and Jharis. Such substitution of the receptacles in no manner affects the performance of the rites of the plaintiff sevaks."

The Court, therefore, upheld the right of the management of the Temple to place closed receptacles in various parts of the temple for collection of the offerings in place of traditional Jugs and Thalis. A Special Leave petition was filed against this judgment in this Court which was dismissed.

Shri Jagannath Temple Act, 1954 was thereafter amended with effect from 3.5.1983. By the amended provisions of Section 28-B and 28-C a fund called Shri Jagannatha Temple Foundation Fund was set up which has led to the present dispute. The Fund was to be administered by a Committee consisting of the Chief Minister, the Minister in charge of Law, the Secretary to the Government in Law Department, the Secretary in charge of Department of Finance or his nominee and the Collector of District Puri. The administrator of the Temple was made Secretary of the Committee. The Committee was empowered with the approval of the State Government to install one or more Hundis at such places in the temple as it may think fit for placing of offerings by pilgrims and devotees visiting the Temple. No person who is not authorised by the Administrator was to go near or interfere with the Hundi installed inside the Temple. However, no authorisation was needed for any person who was going near the Hundi for the bonafide purpose of placing any offering therein. It was categorically declared that notwithstanding anything to the contrary contained in any law, custom, usage or agreement or in the Record of Rights, no Sevak shall be entitled to any share in the offerings placed in the Hundi installed after the commencement of the Jagannath Temple (Amendment) Act, 1983. It was specifically provided that the Foundation Fund shall consist all of donations and contributions of the amount exceeding Rs. 500 made by any person to the temple or in the name of any deity installed therein other than those which were for any specific purpose.

The amounts in the Foundation Fund had to be invested in long-term fixed deposits with banks approved by the State Government. The State Government could also permit a portion of the Fund to be utilised for any purpose of temple as specified by the State Government. All interests collected from the Fund had to be credited to another fund called Shri Jagannath Temple Fund. Out of the Jagannath Temple Fund, an amount not exceeding fifty per cent had to be paid to Shri Jagannath Sanskrit Vishwa Vidyalaya, Puri. It was also provided that an amount not exceeding five per cent of the Jagannath Temple Fund had to be utilised for the welfare of the Sevaks. It may be mentioned in this connection that the monies lying in the credit of the Jagannath Temple Fund could be utilised, *inter alia*, for maintenance of the temple and its properties and also for training of Sevaks to perform

A religious ceremonies in the temple.

A writ petition was filed challenging the constitutional validity of Sections 28-B(5), 28-C(5) (a) and 28-C(9) by some of the Sevaks. Their contention was that they were entitled to one anna share in Veta and Pindika according to the Record of Rights. Originally Veta and Pindika were collected in receptacles B called Thalis and Jaharias. The open receptacles were later on changed to wooden boxes and then to iron boxes at various places inside the temple. According to the writ petitioners the provisions of Section 28-B(1) introduced by 1983 Amendment were not in consonance with the temple tradition at all. It provided for installation of one or more Hundis in the Temple for placing C offerings by pilgrims or devotees visiting the Temple. The Sevaks were not given any right to participate in the offerings placed in the Hundi. It was contended that these new provisions were contrary to the custom and usage recorded in the Record of Rights. Although very many points were taken in the writ petition, at the time of hearing of the case, the challenge of the petitioners was mainly to Section 28-B(5) of the Shri Jagannath Temple Act, D 1954 by which right of the Sevaks for a share in the collection in the Hundi was taken away. The said section is as follows :

> 28-B. Installation of Hundi-(1) The Committee may, with the approval of the State Government, install one or more receptacles (hereinafter referred to as Hundi) at such place or places in the Temple as it may E think fit for placing of offerings by the pilgrims and devotees visiting the Temple.
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> xxx xxx xxx
>
> F (5) Notwithstanding anything to the contrary contained in any law, custom, usage or agreement or is the record-of-rights, no sevak shall be entitled to any share in the offerings placed in Hundi installed after the commencement of Shri Jagannath Temple (Amendment) Act, 10 of 1983."

G The case of the writ petitioners before the High Court was that the placement of the Hundis made serious encroachment upon the religious practice and rights of the Sevaks. The Sevaks had got a right to 1/6th share of the offerings made in the temple. The right of the Sevaks to get 1/6th share in the Veta and Pindika did not come to an end merely because the offerings were placed in the newly installed Hundis. Rights of the Sevaks to get a share H in the offerings made by the pilgrims constituted 'property' and was an

integral part of the religious rite of performing 'Seva' to Lord Jagannath. These religious rites could not be interfered with in any manner without violating Articles 25 and 26 of the Constitution of India. A grievance has been made that one category of Sevaks known as 'Dwaitatapati' had also been robbed of their traditional right to get a share in the Veta and Pindika, but they had been compensated by giving some money. Similar compensation has not been given to the Sevaks. This amounts to discriminatory treatment. But the main thrust of the petition is that the right to receive a share of Veta and Pindika is a right to property and this right cannot be taken away without payment of proper compensation. Therefore, not only the religious rights protected under Articles 25 and 26 of the Constitution were violated but the provisions of Article 300A were also violated by taking away the right to property of the Sevaks.

The Court held that the right of the petitioner-Sevaks to get a share of Veta and Pindika was a part and parcel of the Seva performed by them according to the Record of Rights. This right to get a share of the offerings could not be separated from the performance of the religious duties by the Sevaks. Deprivation of the Sevaks from getting a share in the offerings amounted to interference in religious practice and as such was hit by Article 25(1) of the Constitution of India. The Court held that sub-section (5) of Section 28-B and sub-section (9) of Section 28-C introduced by the Act 10 of 1983 laying down that the Sevaks shall not be entitled to any share in the offerings which were really in the nature of Veta and Pindika were ultra vires the Constitution of India. The Court left open another question which was pending in appeal in another case as to whether the entire collection made in the Hundi constituted Veta and Pindika.

Aggrieved by this order, the appellants-Management Committee of the Jagannath Temple and also the Administrator have come up in appeal. The contention of the appellants is that the Sevaks had no religious right or fundamental right to a share in the offerings made in the temple. The Amendment Act which provides for setting up of Hundis at various places of the Temple also provided that a portion of the Temple Fund be utilised for welfare of the Sevaks and also provided for maintenance of disabled, old-age pension, marriage advance etc. From all these provisions, the Sevaks were likely to get material benefit. There was nothing unconstitutional or arbitrary in the amendments made. It was pointed out that if the claims of the Sevaks who were the writ petitioners were conceded, various other types of Sevaks may also have to be paid out of the newly created Fund. The result will be

A that the entire purpose of creation of the Fund will be defeated. Apart from the various charitable objects, money was needed for maintenance of the temple and also for providing facilities for the pilgrims. The Hundi were placed not in lieu of closed receptacles for collection of offerings but are something in addition to these receptacles. The devotees can, if they so like, make offerings in the traditional way on the altar or in the closed receptacles.
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The first question that falls for determination in this case is whether the right of the Sevaks to get a share of the Veta and Pindika as recognised in the Record of Rights is a religious right. The question was specifically gone into in the case of *Bairagi Mekap & Anr.*, v. *Shri Jagannath Temple*
C *Managing Committee,* AIR (1972) Orissa 10. The High Court in that case held that the right to get a share in the collection is a secular right. The religious ceremony ends when the offerings are made by the devotees. The collection of the offerings and distribution of those offerings among various groups of Sevaks and other servants were purely secular activities. The Special Leave Petition against this judgment of the High Court was dismissed. But in the
D judgment under appeal, a contrary view has been taken. It has been pointed out on behalf of the respondents that they were not parties to the first case. Moreover, the question in this case is whether any religious right of the Sevaks was interfered with by the new provisions of the Act introduced in 1983 whereby Hundis were placed at different places of the Temple and a
E declaration was made that Sevaks will not be entitled to any portion of the monies given by way of offerings in the Hundis.

A copy of the Record of Rights pertaining to Palia Mekaps has been handed up in Court. The Record of Rights starts with the recital under the heading "RECORD OF RIGTHS - SHRI JAGANNATH TEMPLE, PURI - Record
F of Rights and Duties of Various Classes of Sevaks and Others Employed for or connected with Seva-Puja of the Temple". The very heading indicates that not only the Records the Rights but also the duties of various classes of Sevaks and others employed or connected with Seva-Puja in the Temple. But all these duties are not religious duties and the manner of discharging these
G duties are not religious rites. The Watchman (Palia Mekap) has to guard the doors of the Temple till the arrival of the next Watchman. The Watchman has also to verify in the morning after opening the doors of the Sanctum Sanctorum whether certain things are in order. He has also to check whether the garments of the deities are in order or not. This sort of duty in an usual duty of a Watchman or Keeper of the place and is of purely secular nature. It has been
H noted earlier in this judgment how the offerings made by the devotees are to

be guarded and collected in Gadus (Jugs) by the Sevaks. The Sevaks have to do these jobs because they have been appointed for this purpose. For doing their work, they may by paid salaries. They may also be remunerated by paying a portion of the offerings collected by them. Cleaning of the temple, including the collection of monies lying scattered all over the temple floor and also from the throne cannot be treated as performance of any religious rite. On the contrary, it is an act of pure and simple collection of money for which a prescribed portion is given to those who collect the money. We do not see it as anything but a way of remunerating the Sevaks for the jobs done. The Sevaks cannot be said to be professing, practising or propagating religion by these acts of collection of money for remuneration.

Now the Hundis have been installed. Section 28B (4) forbids any person which includes Sevaks to go near the Hundis unless authorised by the Administrator. Devotees may, however, for the purpose of making offerings go near the Hundis. The Sevaks do not have to discharge any duty so far as the Hundis are concerned nor do they get any remuneration by way of a share in the offerings made in the Hundis. It is difficult to see how installation of the Hundis can amount to interference with the religious rights of the Sevaks. It has to be borne in mind that the offerings are made to the deities and not to the Sevaks. The Managing Committee has a right to decide how the monies which have been given as offerings to the deities will be collected and disbursed. If there is any change in the method of collection and distribution of offerings, the Sevaks cannot be heard to complain. The pilgrims may yet ignore the Hundis and make offerings to the deities in the traditional way by making their offerings at or near the throne. This right of the pilgrims or the manner of worshipping inside the temple has not been taken away by the Act in any way. The Seva-Puja will go on as usual. What the act has done is only to provide for Hundis where the pilgrims, if they are so inclined, may deposit their offerings.

It is true that placing of the Hundis at different parts of the Temple has the possibility of reducing the income of the Mekaps, but simultaneously, their duties and responsibilities have also disminished. They do not have to keep guard over the Hundis nor do they have to collect and deposit the offerings made in the Hundis with the temple authority. Collection of money also carries with it, the responsibility for accounting for the money collected. All these onerous obligations now stand reduced. It is not the case of the Sevaks that they have been asked to work without any pay. Therefore, in our view, there cannot be any question of violation of any religious right guaranteed

A by Articles 25 and 26 of the Constitution.

The Sevaks cannot also invoke Article 300A in the facts of this case. The offerings that are made to the deities are not the properties of the Sevaks. The Sevaks are given a share in these offerings as remuneration for guarding and collecting the offerings. They do not have to discharge these duties in B regard to the monies deposited in the Hundis. They are not entitled to any share in these monies as of right. There cannot be any question of deprivation of any right to property of the Sevaks in the facts of this case. Merely because by mistake some monies were paid to 'Dwaitatapatis' as compensation will not confer any right on the Sevaks to get any such compensation. No C right can be founded on a mistake committed by the Temple Committee.

Another aspect of the Case which has to be borne in mind is that the Act of 1952 and the Act of Puri Shri Jagannath Temple (Administration) Act, 1954 had to be passed to stop mismanagement of the temple and misappropriation of the offerings by the Sevaks. It has been specifically D recorded in the objects clause of the two Acts that the monies were being misappropriated and various heinous crimes were being committed inside the temple premises itself. The Sevaks had practically taken over the management of the temple. To put a stop to all these things, these two Acts were passed. A Committee was set up to restore discipline and proper atmosphere so that E the Puja inside the Temple could be performed peacefully and properly.

A further aspect of the case is that the Puri Jagannath Temple is a very ancient structure which needs to be maintained properly. One of the objects of creation of Shri Jagannath Temple Fund is to maintain the temple and also to do various other charitable works including training of Sevaks and providing F medical relief, water and sanitary arrangement for the worshippers and the pilgrims and constructing buildings for their accommodation. Money is needed for all these purposes. The Temple Committee had adopted certain measures like placing closed receptacles in place of Gadu and also Hundis to ensure proper collection of the offerings. The monies are to be used for charitable G purposes. The Sevaks cannot be heard to complain that their property and also religious rights had been taken away in the process. The placing of the Hundis may restrict their activities and also reduce their share in the offerings but that does not amount to abridgment of any religious or property right of the Sevaks.

H Article 25 guarantees the right to profess, practice and propagate religion.

In order to succeed, in this case, the Sevaks will have to establish that the duties assigned to them including collection of offerings made by the devotees amounted to practice of religion'. The Sevaks are servants of the temple and were subject to the discipline and control of the trustees of temple. The Administrator has been empowered by Section 21(2)(a) to appoint all officers and employees of the temple. Sub-section (2) of Section 21 also empowers the Administrator :

> "(e) to specify, by general or special orders, such conditions and safeguards as he deems fit subject to which any sevak, officer-holder or servant shall have the 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,
>
> (g) to decide disputes relating to the rights, privileges, duties and obligations of sevaks, office holders and servants in respect of seva-puja and nitis, whether ordinary or special in nature; and
>
> (h) to require various sevaks and other persons to do their legitimate duties in time in accordance with the record-of-rights."

Section 21-A of the Act also declares that Sevaks, officer-holders and servants attached to the temple whether such service is hereditary or not would be subject to the control of the Administrator. The Administrator has been empowered by this Section to withhold receipt of emoluments or perquisites, to suspend or dismiss any of the aforesaid persons for various wrongful acts committed as set out in the Section or for any other sufficient cause. Section 23 which is also important for our purpose is as under :

> "23. Establishment Schedule :- (1) After the appointment of the first Administrator, he shall, as soon as may be, prepare and submit to the Committee a schedule setting forth the duties, designations and grades of the officers and employees who may in his opinion, constitute the establishment of the Temple and embody his proposals with regard to the salaries and allowances payable to them, and such Schedule shall come into force on approval by the Committee."

All these provisions go to show that the Sevaks are appointed by the Administrator and have to do the jobs assigned to them by the Administrator.

A The Administrator has power to take disciplinary proceedings against them whenever necessary. The Administrator has also been empowered to prepare a schedule of the employees of the temple and fix their salaries etc. These provisions again go to show that the Sevaks are essentially servants of the temple. The status of the Sevaks cannot by any means be equated with that of a Mahant or a Shebait. The Sevaks do not have any interest in the B properties of the temple which they may have to guard. They have certain duties during the Seva-Puja but they are not allowed to touch the deities. They have to clean the throne keeping their feet at the edge of the throne. They have to collect whatever Veta Pindika is thrown on the throne, standing on the ground stretching their hands as far as they reach. They bring golden C ornaments from the Bhandar Mekaps for use in the three Dhupas and give them to the Puja Pandas and after the puja they take back the ornaments and deposit the same in the Bhandar daily. They also bring the Sandal paste from the store house and give the same to the three Pandas. After the ritual is over, they deposit the silver plate in the Bhandar. They also bring camphor for light and remain present at the time of closure of the doors and sleep near the D doors. These duties performed by the Sevaks are connected with Seva-Puja but the actual Seva-Puja is not done by the Sevaks. The collection of offerings including monies lying scattered inside the temple and also on the throne of the deities have nothing to do with the Seva-Puja. These duties are performed after the Seva-Puja is completed. The collection of monies and other offerings E inside the temple cannot be treated as a practice of religion by the Sevaks. They were simply discharging their duties assigned to them for remuneration. Every activity inside the temple cannot be regarded as a religious practice. Moreover, sub-clause (2) of Article 25 of the Constitution has specifically reserved the right of the State for making any law 'regulating or restricting any economic, financial, political or other secular activity which may be F associated with religious practice'. If there is any financial or economic activity connected with religious practice, the State can make law regulating such activities even though the activity may be associated with religious practice. In the instant case, we are of the view that the various duties assigned to the Sevaks are nothing but secular activities, whether associated G with religious practice or not. Moreover, the State Legislature has, in any event power to frame laws for regulating collection and utilisation of the offerings of monies made inside the temple by the devotees.

In the case of *Tilkayat Shri Govindlalji Maharaj* v. *The State of Rajasthan & Ors.*, [1964] 1 SCR 561, it was held by the Constitution Bench H of this Court that the right to manage the properties of a temple was a purely

secular matter and could not be regarded as a religious practice under Article 25(1) or as amounting to affairs in matters of religion under Article 26 (b). It was held in that case that the provisions of Nathdwara Temple Act, 1959 did not contravene Articles 25(1) and 26(b) of the Constitution in so far as the temple properties are brought under the management of the Committee. It was further held that Section 30(2)(a) of the Act in so far as it conferred on the State Government power to make rules in respect of the qualifications for holding the office of the Goswami was invalid.

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But what is of significance for the purpose of this case is that it was held that even though the first part of Section 30(2)(a) was invalid, the second part of the sub-section which enabled the State Government to frame rules in regard to the allowances payable to the Goswami was valid. It was held :

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> "We think it is but fair that this part should be upheld so that a proper rule can be made by the State Government determining the quantum of allowances which should be paid to the Goswami and the manner in which it should be so paid. We would, therefore, strike down the first part of Sec. 30(2)(a) and uphold the latter part of it which has relation to the allowances payable to the Goswami."

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The Court noticed in that case that the question as to whether a certain practice was of a religious nature or not, as well as the question as to whether an affair in question is an affair in matters of religion or not, might present difficulties because sometimes practices, religious and secular, were inextricably mixed up. But the Court had no hesitation in holding that even though the State could not assume the power of laying down the qualifications for the holding of the office of Goswami which had to be done in accordance with the ancient rules, yet, the State was free not only to fix the remuneration payable to the Goswami but also the manner of such payment. In other words, payment of remuneration to a holder of the religious office, in whatever from, is not a religious activity. The State could modify the manner and quantum of such remuneration by law.

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In the instant case, we see no reason why the Government cannot frame rules regulating the manner of payment of the Sevaks. They may be paid by giving them a percentage of the total collections made by them inside the temple. They may also be remunerated in some other way. But the Sevaks cannot, as a matter of right, religious or temporal, claim that the entire offerings made in the temple whether in the Hundis or in the closed receptacles or

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A anywhere else must be taken into account for fixing the commission payable to them.

In the case of *Sri Venkataramana Devaru & Ors.*, v. *The State of Mysore & Ors.*, [1958] SCR 895, the validity of the Madras Temple Entry Authorisation Act came up for consideration. By this Act the disability of
B Harijans from entering into Hindu public temples was removed. The trustees of Sri Venkataramana contended that it was a private temple and therefore was outside the scope of the Act. This plea was rejected. It was held in that case that the rights of a religious denomination to manage its own affairs in matters of religion under Art. 26(b) were subjected to and controlled by a law protected
C by Art. 25(2)(b) of the Constitution. It was further held :

> "The expression 'matters of religion' occurring in Art. 26(b) of the Constitution includes practices which are regarded by the community as part of its religion and under the ceremonial law pertaining to temples, who are entitled to enter into them for worship and where
D they are entitled to stand for worship and how the worship is to be conducted are all matters of religion."

This case, however, does not lay down that collection of money given by way of offerings inside the temple after the worship is over, is to be treated as a religious practice. In fact, collection of money starts when the religious
E practice ends.

In the case of *P.V. Bheemsena Rao* v. *Sirigiri Pedda Yella Reddi & Ors.*, [1962] 1 SCR 339, the dispute related to an Inam grant. In that case this Court pointed out that there was a distinction between a grant for an office to be remunerated by the use of land and a grant of land burdened with service was
F well known in Hindu Law. The former was a case of a service grant and was resumable when the service was not performed. The latter was not a service grant as such but a grant in favour of a person though burdened with service and its resumption will depend upon whether the circumstances in which the grant was made establish a condition that it was resumable if the service was
G not performed.

In the case before us, the Sevaks have not been remunerated by grant of land while in service. One of the jobs assigned to the Sevaks is collection of money given as offering by the pilgrims. The Sevaks were entrusted with the duty of collecting the money and handing it over to the proper authority.
H As a matter of practice they were allowed a small percentage of the collection

of the offerings made to the deities. There is nothing religious about this collection of money by Sevaks. A

In the case of *Seshammal & Ors.*, v. *State of Tamil Nadu,* [1972] 3 SCR 815, a Constitution Bench of the Court examined whether the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 as amended in 1970, had in any way violated Articles 25 and 26 of the Constitution. Section 55 of the Act as amended was under challenge. This Court upheld the validity of the amendment by holding that Section 28 directed the trustee to administer the affairs of the temple in accordance with the terms of the trust or usage of the institution. The Court held that the appointment of Archaka was a secular act even though after appointment, Archaka had to discharge religious duties. His position was that of a servant subject to the disciplinary authority of the trustee. The trustee could inquire into the conduct of such servant and dismiss him for any misconduct. The Court observed : B C

> "In view of sub-section (2) of Section 55, as it now stands amended, the choice of the trustee in the matter of appointment of an Archaka is no longer limited by the operation of the rule of next-in-line of succession in temples where the usage was to appoint the Archaka on the hereditary principle. The trustee is not bound to make the appointment on the sole ground that the candidate is the next-in-line of succession to the last holder of Office. To that extent, and to that extent alone, the trustee is released from the obligation imposed on him by Section 28 of the Principal Act to administer the affairs in accordance with that part of the usage of a temple which enjoined hereditary appointments. The legislation in this respect, as we have shown, does not interfere with any religious practice or matter of religion and, therefore, is not invalid." D E F

It was held that an Archaka had never been regarded as a spiritual head. He was a servant of the temple subject to the discipline and control of the trustee as recognised by the unamended Section 56 of the Act. That being his position the act of his appointment by the trustee was essentially secular. Merely because after appointment, the Archaka performed worship was no ground for holding that his appointment was either a religious practice or a matter of religion. He owed his appointment to a secular authority. It was also held in that case that what constituted an essential part of a religion or religious practice had to be decided by the Courts with reference to the doctrine of a particular religion including practices which were regarded by G H

A the community as a part of its religion.

This Court held that the hereditary principle in the appointment of Archakas had been adopted and accepted from antiquity and had also been fully recognised in the unamended Section 55 of the Act. But the change effected by the amendment to Section 55 namely, the abolition of the principle
B of next-in-the line of succession was not invalid because the usage was a secular and not a religious usage. An Archaka was not a spiritual head. He was a servant subject to the discipline and control of the trustee as recognised by unamended Section 56 of the Act. The Court observed as under :

C "The Archaka has never been regarded as a spiritual head of any institution. He may be an accomplished person, well versed in the Agamas and rituals necessary to be performed in a temple but he does not have the status of a spiritual head. Then again the assumption made that the Archaka may be chosen in a variety of ways is not correct. The Dharamkarta or the Shebait makes the appointment and
D the Archaka is a servant of the temple. It has been held in *K. Seshadri Aiyangar* v. *Ranga Bhattar,* I.L.R. 35 Madras 631 that even the position of the hereditary Archaka of a temple is that of a servant subject to the disciplinary power of the trustee. The trustee can enquire into the conduct of such a servant and dismiss him for misconduct."

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On the basis of this principle, this Court held that the Amendment Act which empowered the trustees to appoint a fit person to be Archaka to do away with the requirement of hereditary appointment was not violative of Articles 25 and 26 of the Constitution in any way. That the Archakas were discharging certain religious functions inside the temple was not disputed. A
F distinction was drawn between religious and secular functions discharged by the Archakas.

Our attention was drawn to a recent decision of this Court in *Pannalal Bansilal Pitti and Others* v. *State of A.P. and Another,* [1996] 2 SCC 498,
G where one of the points that came up for consideration was the validity of Section 144 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. Section 144 did away with the system of payment of a share of offerings made "either in kind or in cash or both by the devotees either in Hundi, plate or otherwise" in the temples of Andhra Pradesh. Provisions of this Section applied to any trustee, Dharmkarta, Mutawalli, any
H office-holder or servant including an Archaka or Mirasidar. The Court upheld

the validity of the abolition of the traditional emoluments. The Court held that the object of the Act was to prevent misuse of the trust funds for personal benefits. The Act was passed on the basis of a report of Challa Kondaiah Commission. That being the position, it was held that the legislative wisdom behind the abolition of the emoluments to various persons connected with the temple could not be doubted by the Court.

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We were also referred to two other decisions of this Court in the cases of *A.S. Narayana Deekshjtulu* v. *State of A.P. and Others*, [1996] 9 SCC 548, and *Bhuri Nath & Ors.*, v. *The State of Jammu & Kashmir & Ors.*, JT (1997) 1 SC 546. These two judgments have no direct bearing on the controversy now before us. It is unnecessary for us to go into the questions decided in these judgments and we refrain from doing so. However, we are not to be understood as subscribing to the views expressed therein.

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A review of all these judgments goes to show that the consistent view of this Court has been that although the State cannot interfere with freedom of a person to profess, practise and propagate his religion, the State, however, can control the secular matters connected with religion. All the activities in or connected with a temple are not religious activities. The management of a temple or maintenance of discipline and order inside the temple can be controlled by the State. If any law is passed for taking over the management of a temple it cannot be struck down as violative of Article 25 or Article 26 of the Constitution. The management of the temple is a secular act. The temple authority may also control the activities of various servants of the temple. The disciplinary power over the servants of the temple, including the priests, may be given to the Temple Committee appointed by the State. The Temple Committee can decide the quantum and manner of payment of remuneration to the servants. Merely because a system of payment is prevalent for a number of years, is no ground for holding that such system must continue for all times. The payment of remuneration to the temple servants was not a religious act but was of purely secular nature.

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In view of these principles laid down in the aforesaid cases and having regard to the facts of this case, we are of the view that the installation of the Hundis for collection of offerings made by the devotees inside the Jagannath Temple at Puri did not violate the religious rights of the Sevaks of the Temple in any manner even though the Sevaks were denied any share out of the offerings made in the Hundis. Section 28-B of the Act cannot be struck down as violative of religious or property rights of the Sevaks.

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A We are also of the view that it was open to the State to set up the Foundation Fund out of donations exceeding five hundred rupees made to the temple. The Sevaks could not claim any share out of the donations or contributions made to the Foundation Fund as of right. Sub-section (9) of Section 28-C was validly enacted.

B We hold that the amended Section 28-B and Sub-section (9) of Section 28-C of Shri Jagannath Temple Act, 1954 do not contravene the provisions of Articles 25 (1), 26 or 300-A of the Constitution of India in any manner.

The appeal is, therefore, allowed. The judgment of the High Court under appeal dated 5th October, 1993 is set aside. There will be no order as to costs.

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CIVIL APPEAL NO. 3979 OF 1995

In view of our above judgment in C.A. No. 3978 of 1995, this appeal is also allowed with no order as to costs.

D B.K.S. Appeals allowed.