

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 16th OF JULY, 2024

WRIT PETITION No. 17904 of 2024

KAPIL KUMAR DUBEY

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri B.P.Patel – Advocate for the petitioner.

Shri Swapnil Ganguly – Deputy Advocate General for the respondents/State.

ORDER

1. This petition under Article 226 of the Constitution of India has been filed seeking the following reliefs :-
 - I) Issue the writ in the nature of mandamus to direct the Respondent No.3 to stop the work of construction which has been started near the Hanuman Mandir at sheet no.6 plot no.7.
 - II) Issue the writ in the nature of mandamus to direct the Respondent No.3 to make construction of Shauchalaya in another place instead of Hanuman Mandir.
 - III) Any other relief which the Hon'ble court deem, fit and proper looking to the facts and circumstances of the case may also be granted in favour of the petitioner, in the interest of justice.

2. It is submitted by counsel for the petitioner that respondent No.3 is constructing a public utility premises (*Sarvajanik Sulabh Shauchalaya*) near Hanuman Temple which is likely to spoil the atmosphere around the Hanuman Temple and, therefore, the respondent No.3 may be restrained from constructing *Sulabh Shauchalaya*.

3. However, counsel for the petitioner could not point out the distance between the under constructed public utility premises and the Hanuman Temple.
4. Counsel for the State has already sought instructions from the respondents and submitted that as many as 17 criminal cases were registered against the petitioner and in one case he has been awarded life imprisonment apart from offence under the N.D.P.S. Act and section 354 IPC etc. It is further submitted that since the devotees who are visiting the Hanuman Temple are easing themselves in open area, therefore, Municipal Council Gadarwara, District Narsinghpur has decided to construct a public utility premises so that the surrounding areas can be kept clean and hygienic.
5. Heard the learned counsel for the parties.
6. Construction of public utility premises for the benefit of the devotees cannot be said to be an activity detrimental to the atmosphere and ecological balance. Even counsel for the petitioner could not point out the distance between the Hanuman Temple and the under constructed public utility premises. Furthermore, the public utility premises is being constructed for the benefit of the devotees as well as for keeping the surrounding areas clean and hygienic. Furthermore, the petitioner himself has a criminal history and he has not clarified as to why he has approached this Court seeking a direction for restraining the respondent Municipal Council from constructing a public utility premises.
7. Since the public utility premises is being constructed for the benefit of the devotees as well as for keeping the area surrounding the Hanuman Temple clean and hygienic, this Court is of considered opinion that no case is made out warranting interference.

8. The petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

HS