



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.5846 OF 2023

IN

PUBLIC INTEREST LITIGATION NO.98 OF 2021

Shri Saibaba Sansthan Shirdi,
Tq. Rahata, Dist. Ahmednagar,
through its I/c. Chief Executive Officer
Rahul s/o Dashrath Jadhav ... APPLICANT

VERSUS

The State of Maharashtra
through its Principal Secretary
Law and Judiciary Department
Mantralaya, Mumbai ... RESPONDENTS

WITH

CIVIL APPLICATION NO.5824 OF 2024

IN

PUBLIC INTEREST LITIGATION NO.98 OF 2021

1. Kacheshwar Kisanrao Choudhari
2. Arjun Raoji Choudhari
3. Sandeep Walmik Gonde ... APPLICANTS

VERSUS

1. The State of Maharashtra
through the Secretary for
Law and Judiciary Department
Mantralaya, Mumbai
2. Shri Saibaba Sansthan Shirdi,
Tq. Rahata, Dist. Ahmednagar,
through its Chief Executive Officer ... RESPONDENTS

WITH

CIVIL APPLICATION NO.8752 OF 2024
IN
CIVIL APPLICATION NO.5846 OF 2023
IN
PUBLIC INTEREST LITIGATION NO.98 OF 2021

Ashutosh Pawankumar Tiwari ... **APPLICANT**

VERSUS

1. The Chief Executive Officer,
Shree Sai Baba Sansthan
Trust (Shirdi),
Shri Sai Sansthan Campus,
Shirdi, Tal: Rahata
Dist. Ahmednagar
2. Uttamrao Rambhaji Shelke (Died) ... **RESPONDENTS**

WITH
CIVIL APPLICATION NO.10725 OF 2024
IN
CIVIL APPLICATION NO.5846 OF 2023
IN
PUBLIC INTEREST LITIGATION NO.98 OF 2021

Rajendra Madanlal Pipada ... **APPLICANT**

VERSUS

1. The State of Maharashtra
through the Secretary,
Law and Judiciary Department
Mantralaya, Mumbai
2. Shri Saibaba Sansthan, Shirdi,
Tq. Rahata, Dist. Ahmednagar,
through its Chief Executive Officer
Rahul s/o Dashrath Jadhav ... **RESPONDENTS**

...

Advocate for applicant in CA/5846/2023 : Mr. Anil S. Bajaj
Advocate for applicant in CA/5824/2024 : Mr. V.D. Hon, Senior advocate
i/b. Mr. Ashwin Hon
Advocate for applicant in CA/8752/2024 : Ms. P.S. Talekar i/b.
M/s Talekar and Associates
Advocate for Applicant in CA/10725/2024: Mr. Amol Sawant
GP for respondent – State : Mr. A.B. Girase

...

CORAM : **MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

Reserved on : **18.10.2024**
Pronounced on : **14.11.2024**

ORDER (MANGESH S. PATIL, J.) :

Civil Application No.5846/2023 has been filed by Shri Saibaba Sansthan Trust Shirdi through its Chief Executive Officer seeking permission of this Court to implement resolution No.277 dated 12.04.2023 of its *ad hoc* committee constituted pursuant to the interim arrangement devised for managing the affairs of this renowned trust, which is headed by the learned Principal District and Sessions Judge, Ahilyanagar as an *ex officio* chairman, of which the District Collector, Ahilyanagar is one of the members, constituted pursuant to the final order passed in the PIL, till the State Government constitutes Shree Sai Baba Sansthan Management Committee in accordance with the provision of Section 5 of the Shree Sai Baba Sansthan Trust (Shirdi) Act, 2004.

2. Mr. Bajaj for the applicant - Sansthan would submit that the *ad hoc* committee in its meeting dated 12.04.2023 by way of Resolution No.277 has decided to evolve the modalities for resuming offering of flowers to the deity. He would submit that the decision has not been taken abruptly or arbitrarily but after considering the report submitted by a committee headed by the District Collector which was constituted for considering all the pros and cons of resumption of the practice which was

stopped because of enormous complaints by various stakeholders including the devotees who were being extorted for buying the flowers at an exorbitant rate. Several miscreants had entered into the business and even offences were registered. In the wake of pandemic, the practice of offering flowers was stopped. There was an agitation for resuming the practice and after due deliberation and objective scrutiny from different angles, the modalities were worked out in the form of detail suggestion of the committee headed by the District Collector and its implementation is now being sought by passing Resolution No.277.

3. Mr. Bajaj would submit that it has been decided that the flowers would be purchased by a credit co-operative society being run by the employees of the Sansthan directly from the farmers and which would be sold through it in the premises of the temple at a reasonable rate.

4. Learned Senior advocate Mr. Hon for the applicants in Civil Application No.5824/2024 would submit that the applicants are the farmers. Offering of the flowers to the deity is considered ritual across the country. The practice was stopped only in respect of the sansthan during Covid-2019. It has not been resumed till date and considering the welfare of the farmers undertaking production of flowers, and the religious beliefs of the devotees, permission may be granted to implement Resolution No.277.

5. Mr. Sawant, learned advocate who appears for the applicant

in Civil Application No.10725/2024 also supports the request and seeks permission for implementation of Resolution No.277.

6. Ms. Talekar who represents the applicants in Civil Application No.8752/2024 submits that the applicant is a devotee of Lord Sai Baba and frequently visits Shirdi for offering prayers. However, he is a victim of a loot by the street vendor who forced him to buy flowers/garlands by taking huge money. He is victim of the extortion. The devotees were required to buy flowers at an exorbitant rate. This was noticed even by the then board which was in the office in the year 2017. It was resolved by Resolution No.705 dated 20.08.2017 to stop the practice of offering flowers for the specific reason of harassment by the vendors and even physical harm to the devotees, the potential of the premises getting unclean and the requirement of undertaking frequent cleaning up.

7. She would submit that subsequently by Resolution no.851 dated 23.10.2017 it was decided that the flowers and garlands carried by the devotees would not be allowed inside the temple premises and would be collected at the entry point itself. It was also decided by Resolution No.325 dated 21.05.2022 to display the board that the flowers/garlands etc. would not be allowed to be offered. She would submit that it is not that the practice of offering flowers was stopped due to Covid lock-down as is being sought to be demonstrated. She would fairly submit that the applicant does not intend to offend the religious beliefs of the devotees

but the reasons leading to the stoppage of the practice still persist and granting permission to resume the practice would again lead to harassment and extortion of the devotees.

8. She would further advert our attention to the various news items/paper cuttings to substantiate her stand as to how criminal activities around the temple premises are rising and how the devotees are being extorted and harassed.

9. We have considered the rival submissions and perused the papers.

10. At the out set, it is necessary to note that the previous division bench in the order dated 14.07.2023 had made following observations:

- “1. After a brief hearing on this application and considering that offering of flowers, breaking of coconuts etc., has been stopped in view of the Covid restrictions that were introduced during the Covid pandemic lock-down and the SOP and keeping in view that the temple premises and the shrine(Sanctum-Sanctorum) is now extremely clean, tidy and does not stink of de-composed flowers or coconut water, we have formed a prima-facie view that it would not be appropriate to reintroduce the offering of flowers inside the temple.*
- 2. The learned Advocate for the trust submits that he would address the Court on this application after two weeks by taking appropriate instructions.*
- 3. Stand over to 28.07.2023 in the urgent orders category.”*

11. The previous division bench passed another order on 21.06.2024 which reads as under :

- “1. On 14.07.2023, we had passed an order in Civil Application*

No. 5846 of 2023, which reads as under:-

“1. After a brief hearing on this application and considering that offering of flowers, breaking of coconuts etc., has been stopped in view of the Covid restrictions that were introduced during the Covid pandemic lock-down and the SOP and keeping in view that the temple premises and the shrine(Sanctum-Sanctorum) is now extremely clean, tidy and does not stink of de-composed flowers or coconut water, we have formed a prima-facie view that it would not be appropriate to reintroduce the offering of flowers inside the temple.

2. The learned Advocate for the trust submits that he would address the Court on this application after two weeks by taking appropriate instructions.

3. Stand over to 28.07.2023 in the urgent orders category.”

- 2. The second Civil Application is preferred by such agriculturists who indulge in flower farming. They pray that the resolution passed by the Sansthan, bearing No.277, dated 12.04.2023, for permitting the devotees to offer flowers to Lord Saibaba, be implemented. However, they are unconcerned with the part of the resolution permitting the purchase of flowers from the farmers and to be sold only through the credit society of the employees of the Sansthan.*
- 3. There is no dispute that the offering of the flowers in any temple creates a large quantity of accumulation of such offerings. These flowers get decomposed within a short time after being plucked. A mechanism has to be provided for ensuring that these offerings are processed in a way which would not disturb the ecological balance and would not create dirt or scattering in the shrine or outside.*
- 4. The learned Senior Advocate Shri Hon appearing on behalf of the Applicants in the second Application, submits on instructions that such flowers and offerings are processed and are converted into essence sticks (Agarbatti), which is a product, which is also sold in Shirdi.*
- 5. In view of the above, we would expect the Sansthan to file an additional affidavit to bring on record any process that they have devised or which is enforced for processing such flowers, as this would guarantee not only clearing of the offerings at regular intervals, but more importantly, the shrine is kept clean and tidy. Let such additional affidavit be filed, on or before 04.07.2024.*

6. *List these Civil Applications in the ‘urgent orders’ category on 12.07.2024.”*

12. The latest order dated 20.07.2024 that was passed by the previous division bench reads as under :

- “1. We have considered the submission of the learned Advocate Shri Bajaj on behalf of the Shree Saibaba Sansthan, Mr. Hon, the learned Senior Advocate for the applicants in Civil Application No.5824 of 2024 and Ms. Talekar, the learned Advocate for the PIL Petitioner.*
- 2. The learned Advocate Ms. Talekar has tendered a scanned copy of a Civil Application seeking intervention (34 pages). She submits that the original Civil Application would be received by her since the applicant is from Bhatinda, State of Punjab and the Civil Application is in transit.*
- 3. Leave granted to the Applicants to add prayer in Civil Application No. 5824 of 2024, for seeking intervention in the PIL to the extent of the prayers made in the Civil Application. Addition be carried out forthwith. Let affidavit in reply be filed in this Civil Application.*
- 4. Considering that a scanned copy of the Civil Application has been tendered across the Bar by the learned Advocate Ms. Talekar, the non-applicants are at liberty to tender their affidavits in reply since she has made a statement that the original civil application would be filed in this Court prior to the next date of hearing.*
- 5. The issue before us, as is set out by the Sansthan as well as the applicants in Civil Application No.5824 of 2024, is as regards granting permission to the devotees to offer garlands/flowers and sweets (Prasad) at the Shree Saibaba Sansthan Shrine. The Sansthan informs us that earlier, prior to Covid lock down, the Sansthan had received an application from Janseva Foundation. On a query raised by the intervention Applicant, it is informed that Smt. Shalinitai VikhePatil is the Chairperson of that Janseva Foundation. It is situated at Pravaranagar and it has a manufacturing unit for manufacturing of Agarbatti. Since an application was received from the said Foundation for purchasing the flowers, the application was accepted by the Governing Body and the permission was granted to the said Foundation to take flowers for converting them into Agarbatti. 10% from the sale proceeds of the Agarbatti, were offered to the Sansthan and the Governing Council has accepted the said offer. Now, Mr. Bajaj informs us that there would be an auction of the flowers, if this Court permits the devotees to offer flowers at the Shrine.*

6. *We called upon the learned Advocate Mr. Bajaj to inform the Court as to what is the scheme that is in the mind of the Committee. According to him, the flowers would be auctioned and the best bidder, who manufacturers Agarbatti, will donate a particular percentage of the total Agarbatti manufactured, to the Sansthan. When we called upon him to elucidate further, he submits that the Trust /Sansthan has not yet prepared a policy as to whether the manufacturing unit of the bidder could available at any place in India or whether it should be a localized manufacturing unit or whether the Sansthan can monitor the quantity of Agarbatti manufactured in order to assess the sale proceeds.*
7. *At this prima facie stage, we are of the view that the Trust should concentrate on disposal of the flowers by auction (tender) method, rather than trying to have any involvement in the conversion of such flowers through a manufacturing process, into perfume or scent or Agarbatti. Prima facie, we are of the view that the Trust has no reason to enter into these activities or venture into the conversion of flowers into some finished product. The Sansthan should be concerned with the flowers that are being offered at the Shrine and such flowers should then be handed over to the highest bidder, provided this Court permits the offering of flowers at the Shrine.*
8. *Prior to the commencement of the hearing that has occurred today, the learned Advocate on behalf of the proposed intervention applicants, has raised certain grounds. We would consider these grounds only after the intervention application is filed. In the meanwhile, we deem it appropriate to direct the Registry of this Court, through the Registrar (Judicial), to call upon the following entities to submit their reports as regards, whether offering in the nature of flowers and garlands is permitted in the said Temples/Shrines :-*
 - a. *Tirumala Tirupati Devasthanams, Tirupati, Andhra Pradesh.*
 - b. *Shree Jagannath Temple, Puri, Orissa*
 - c. *Shree Kashi Vishwanath Temple, Uttarkashi, Varanasi, U.P*
 - d. *Sree Padmanabha Swamy Temple, Thiruvananthapuram, Kerala*
 - e. *Shree Mata Vaishno Devi Shrine Board, Katra, J & K*
 - f. *Khwaja Gharib Nawaz Dargah Sharif Shrine, Ajmer, Rajasthan*
 - g. *Golden Temple, Amritsar, Punjab*
 - h. *Vitthal Rukmini Mandir Sansthan, Pandharpur, Maharashtra*
 - i. *Shree Tulja Bhavani Temple, Tuljapur, Maharashtra*
 - j. *Mahalaxmi Temple, Kolhapur, Maharashtra*
 - k. *Shree Siddhivinayak Ganapati Mandir Trust-Mumbai*
 - l. *Shree Gajanan Maharaj Sansthan, Shegaon, Maharashtra*
 - m. *Mahaganpati Temple, Ranjangaon, Maharashtra*
 - n. *Shreemant Dagdusheth Halwai Ganpati, Pune*

If yes, what is the mode adopted for the disposal of such

offerings and what is the methodology used for ensuring that such offerings are auctioned and the same are lifted from the temple/shrines immediately, so as to avoid the litter. We call upon the learned Registrar (Judicial) to request these Shrines/Temple Trusts to submit their reports at the earliest, preferably within a period of 21 days from the date of receipt of the communication from the Registrar (Judicial) of this court. Let such reports be delivered to the office of the Registrar (Judicial) through its email address.

9. Stand over to 23rd August, 2024 in the urgent orders category.”

13. Pursuant to such observations, the Registry seems to have received responses from some of the aforementioned religious trust namely, Shree Siddhivinayak Ganapati Mandir Trust-Mumbai, Shree Mata Vaishno Devi Shrine Board, Katra, J & K, Shree Gajanan Maharaj Sansthan, Shegaon, Maharashtra, Shree Jagannath Temple, Puri, Orissa, Vitthal Rukmini Mandir Sansthan, Pandharpur, Maharashtra and Shreemant Dagdusheth Halwai Ganpati, Pune.

14. Similarly, a detailed report of the Committee constituted under the Chairmanship of Collector, Ahilyanagar for controlling the flower vendors around the sansthan/temple has been annexed to the application. Additional affidavit has also been filed by the applicant - Sansthan pursuant to the directions contained in the order dated 21.06.2024.

15. It is necessary to observe at the inception that the applicant - Sansthan which is a trust is regulated by a special statute namely the Shree Sai Baba Sansthan Trust (Shirdi) Act, 2004 (the Act). It contemplates affairs of the Trust to be managed by a board constituted

under Section 5 of the Act. The composition of the board was under challenge in the PIL No.98/2021. By the judgment and order dated 13.09.2022 appointment of the members of the Managing Committee except two, was quashed and set aside. The State Government was directed to constitute new managing committee within eight weeks in accordance with the provisions of Section 5 of the Act. Till the time a new managing committee was constituted the affairs of the trust were directed to be supervised, monitored and looked after by a three member committee comprising of the Principal District Judge, Ahilyanagar, the Collector, Ahilyanagar and the Chief Executive Officer of the Sansthan/Trust, the Principal District Judge being the Chairman. It was also directed that such *ad hoc* committee should not take any major financial decision in respect of management of the affairs of the Sansthan without permission of this Court. Though this order is under challenge before the Supreme Court in SLP No.16460/2022, the aforementioned arrangement continues.

16. We are giving the brief history to demonstrate that this Court has a limited role in monitoring working of the *ad hoc* committee. Essentially, it is the *ad hoc* committee which is supposed to take the decision for managing the affairs of the trust and if it is resulting in undertaking any major financial decision that, to this limited extent, a permission of this Court is required. This Court cannot run the management under the guise of granting permission to the decisions

being taken by the *ad hoc* committee. Being alive to such a state of affairs, having a limited role, the request of the *ad hoc* committee to implement Resolution No.277 has to be considered, whereby, it has resolved as under :

"निर्णय क्र. २७७ तत्कालीन जिल्हाधिकारी यांचे अध्यक्षतेखालील समितीने सादर केलेल्या अहवालात संस्थान कर्मचा-यांच्या पतसंस्थेमार्फत शेतक-यांकडून फुलांची खरेदी करून मंदिराचे प्रांगणात भाविकांना रास्त दरात उपलब्ध करून देता येईल अशी शिफारस केलेली आहे. त्यानुसार मुख्य कार्यकारी अधिकारी यांनी मंदिर सुरक्षा विषयक सर्व बाबींचा विचार करून कार्यवाही करावी व मा. जिल्हाधिकारी यांनी त्यांचे अहवालात दिलेल्या सर्व मुद्द्यांचे काटेकोरपणे पालन करावे असा निर्णय घेण्यात आला.

दोन ते तीन महिन्यांनंतर मुख्य कार्यकारी अधिकारी यांनी आढावा घेऊन अहवाल समितीसमोर सादर करावा. (कार्यवाही-संरक्षण विभाग)"

Roughly translated :- "The Committee under the chairmanship of the then Collector in its report has recommended that flowers can be purchased and made available by the Credit Co-operative Society of the Employees of the Sansthan within the premises of the temple at a reasonable rate. The Chief Executive Officer would ensure implementation of the report of that Committee by taking into consideration all the aspects and the security arrangement of the temple.

The Chief Executive Officer shall monitor the working for two/three months and to submit a report."

17. In the light of the observations in the order dated 20.07.2024 Mr. Bajaj has informed that the *ad hoc* committee has still not prepared any policy as to the manner in which flowers offered are to be disposed of. However, in the additional affidavit filed by the administrative officer of the Sansthan expressed as to how, earlier, such flowers and garlands offered were being disposed of in the form of giving it away to a self help group who was in to manufacturing of agarbatties by virtue of an agreement dated 10.10.2017 entered into between that foundation and the Sansthan/Trust 10% of the sale of agarbatties was to be deposited

with the Sansthan and the arrangement was meant for three years. It has also been mentioned about a similar agreement having been entered into in accordance with Resolution No.39 dated 30.01.2019. It has been expressly mentioned in paragraph Nos.7 to 9 in that additional affidavit as under :

- “7. *I say that, in the event the Civil Application No. 5846 of 2023 is allowed, E-Tender will be called for collection of the used flowers and garlands offered by the devotees to the Deity for preparation of Agarbatti or some other products which can be prepared from such used flowers and garlands.*
8. *I say that, even otherwise the Applicant Sansthan through it's Health Department will be carrying out the adequate cleanliness which was earlier carried out by the manpower (labours), but the same will be carried out by the electrical machinery etc.*
9. *I say that as mentioned in the report of District Magistrate, Shirdi Municipality and Police Station Shirdi should coordinate and ensure that no unauthorized flower selling shops or other middlemen/agent will operate in Shirdi city and no cheating of the saibhakt will be done in purchase of flowers and Garlands. In the Temple Premises this care will be taken through Chief Executive Officer of Shri Saibaba Sansthan Trust.”*

18. We are essentially concerned with the aforementioned stand of the applicant trust/sansthan. If such used flowers and garlands are to be E-auctioned or disposed of by E-tender one wonders as to how there could be a stipulation superadded precisely for their use in manufacture of agarbatties. Similarly, we wonder as to how intention or desire of the Sansthan/trust expressed in paragraph No.1 expecting the District Magistrate and Municipal Council as well as police to coordinate selling

of the flowers by unauthorized vendors, middleman and agent would work and as to how they would abate the criminal activities taking place once offering of flowers is resumed. We are only pointing out these aforementioned facts to demonstrate that the apprehension being expressed by the intervenor represented by Ms. Talekar cannot be said to be ill-founded and even the *ad hoc* committee seems to be quite alive to the potential criminal elements entering into the field once the practice of offering flowers/garlands resumes.

19. Incidentally, the committee under the chairmanship of the District Collector for controlling the affairs of the flower vendors around Shree Sai Baba Sansthan Temple, copy of report by which is annexed to the application moved by the Sansthan Civil Application No.5846/2024 (**Annexure - C-2**) clearly demonstrates that the Hon'ble Minister of Revenue, Animal Husbandry and Dairy Development had taken the initiative in constituting the Committee in a meeting held with the citizens of Shirdi and the Administrative Officer on 27.08.2022. It is with his approval that the Committee had resolved and concluded that it is in the interest of the farmers who were growing flowers over 384 hectares, the labourers and the businessman were dependent on and were affected by stoppage of the practice of offering flowers. It was also noted that auctions of flowers were not taking place in any of the market committees in the vicinity of Shirdi namely, Kopargaon, Rahata and Shrirampur and the market committee at Rahata could start auctioning of

flowers within its premises. The flowers could be made available by the farmers directly through the Credit Co-operative Society of the Employees of the trust/sanstha and can be made available to the devotees at a reasonable rate within the premises of the devasthan trust by displaying the rate card in and around the premises of the temple and it would be the responsibility of the Municipal Council and the police to ensure that no unauthorized flower vendors operate and there would be no middleman. It is pursuant to such resolution by the committee constituted by the Hon'ble Minister that the *ad hoc* committee seems to have passed Resolution No.277. It does not seem to be a sheer coincident that in the orders dated 21.06.2024 and 20.07.2024 it was revealed, as is submitted by Ms. Talekar, that the chairperson of that Janseva Foundation who had entered into agreement with the Sansthan/trust for disposal of the flowers offered to the deity, is none other than the better-half of the Hon'ble Minister who had taken the initiative and based on whose recommendations the Committee has taken the decision and passed Resolution No.277.

20. Be that as it may, we are merely concerned with the decision to resume practice of offering flowers. Having a limited role in the light of aforementioned facts and circumstances, appropriateness or otherwise of the decision should not influence our decision more so when the resolution merely seeks to resume the practice apparently with a rider that the flowers would be purchased by the credit co-operative society of

the employees of Santhan/trust and would be made available to the devotees at a reasonable rate within the premises of the temple.

21. This would not result in any financial implication, except in respect of disposal of such flowers and garlands offered to the deity. Since nothing has been mentioned in the resolution as to the manner in which it would be disposed of and being a perishable one requiring regular and prompt disposal, it would be appropriate that permission is granted to the Sansthan/trust for resuming offering of flowers/garlands as resolved by Resolution No.277, and calling upon the *ad hoc* committee to take appropriate decision at the earliest regarding the manner in which it decides to dispose of the waste to be generated by virtue of offering of the flowers/garlands.

22. The Civil Application No.5846/2023 is allowed. Other civil applications including the intervention application are disposed of.

[SHAILESH P BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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