

Court No. - 46

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 1836 of 2021

Petitioner :- Gajendra Singh Yadav

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Sarvesh Chaubey, Aishwarya Krishna

Counsel for Respondent :- C.S.C., Vineet Sankalp

Hon'ble Manoj Misra, J.

Hon'ble Sameer Jain, J.

Heard Sri Sarvesh Chaubey for the petitioner; Sri Manish Goyal, Additional Advocate General, assisted by Sri A.K. Goyal, for the State; Sri Vineet Sankalp for the respondent no.3; and have perused the record.

The petitioner claims himself a devotee of Lord Shiva and a person who has been visiting Sri Kashi Vishwanath Temple.

The grievance of the petitioner is with regard to the decision of the Board of Trustees to have a system of 'SUGAM DARSHAN' which, according to the petitioner, violates the fundamental rights guaranteed under Article 14, 15, 25 and 26 of the Constitution of India.

It is the case of the petitioner that Sri Kashi Vishwanath Temple Trust which is constituted under the provisions of U.P. Sri Kashi Vishwanath Temple Act, 1983 (for short the 1983, Act) has certain duties cast upon it by Section 14 of the 1983 Act. One such duty is to provide facilities for the proper performance of worship by the pilgrims and worshippers.

It is the case of the petitioner that by providing a special facility of 'SUGAM DARSHAN' on payment of certain charges, in effect, the Board of Trustees has excluded a common man from exercising his right of worship and perform necessary religious practices connected therewith.

The learned counsel for the petitioner has cited a decision of the Supreme Court in Sri Adi Visheshwara of Kashi Vishwanath Temple, Varanasi and others vs. State of U.P. and others, (1997) 4 SCC 606 where, in paragraph 33, it has been observed as follows:-

"Thus, it could be seen that every Hindu whether a believer of Shaiva form of worship or of Pancharatna form of worship, has a right of entry into the Hindu Temple and worship the Deity, Therefore, the Hindu believers of Shaiva form of worship are not

denominational worshippers. They are part of the Hindu religious form of worship. The Act protects the right to perform worship, rituals or ceremonies in accordance with established custom and practices. Every Hindu has right to enter the Temple, touch Linga of Lord Sri Vishwanath and himself perform the worship. The State is required under the Act to protect the religious practices of Hindu form of worship of Lord Vishwanath, be it in any form, in accordance with Hindu Sastras, the customs or usage obtained in the temple; It is not restricted to any particular denomination or sect. Believers of Shaiva form of worship are not a denominational sect or section of Hindus but they are Hindus as such. They are entitled to the protection under Articles 25 and 26 of the Constitution. However, they are not entitled to the protection, in particular, of clauses (b) and (d) of Article 26 as a religious denomination in the matter of management, administration and governance of the temples under (he Act. The Act, therefore, is not ultra vires Articles 25 and 26 of the Constitution."

By citing the aforesaid judgment, the learned counsel for the petitioner submits that the right to enter the temple, touch the Linga of Lord Sri Kashi Vishwanath Temple and personally perform pooja is an essential religious practice which needs to be protected and by creating a special facility of 'SUGAM DARSHAN' the performance of established religious practice mentioned above would be hampered and therefore the facility of 'SUGAM DARSHAN' violates the fundamental rights of a citizen of India, the believer in Lord Shiva.

Sri Manish Goyal, who appears for the State and Sri Vineet Sankalp, who appears for the Board of Trustees, have invited our attention to section 15 of the 1983 Act wherein it is provided that Board shall exercise all such powers, as are necessary for or incidental to the performance of its duties and functions under the Act and in particular shall have power to fix fees for the performance of any worship, service, ritual, ceremony or religious observance in the Temple.

Sri Goyal submits that the validity of the 1983 Act has been upheld by the Apex Court in Sri Adi Visheshwara of Kashi Vishwanath Temple, Varanasi and others vs. State of U.P. (supra) and therefore, the power to fix fees for the performance of any worship, service, rituals, ceremony or religious observance in the Temple inheres in the Board of Trustees. The facility of 'SUGAM DARSHAN' has been provided not with a view to exclude common worshippers or to prevent them from performing essential religious practices but with a view to enable certain class of persons who by virtue of their physical disabilities or for other reasons are not in a position to stand in a queue to

have Darshan. To enable such class of persons to exercise their right of worship, this facility has been carved out it, which is not to exclude the other class of devotees of Lord Shiva.

Sri Goyal further submitted that such facility is found in all such temples where devotees flock in large number including the Temples of Lord Balaji and Maa Vaishnav Devi.

In response to the above submission, the learned counsel for the petitioner has invited our attention to certain photographs annexed with the petition to demonstrate that certain persons are being offered special treatment.

To this, Sri Goyal submits that if there is infraction of the discipline at an individual level, that may call for a specific action against any such infraction but that cannot be taken as a ground to question the policy as a whole.

Having considered the rival submissions and having noticed the statutory provisions, we are of the view that once the Board of Trustees are vested with the power to fix fees for the performance of any worship, service, rituals, ceremony or religious observance in the temple and in exercise of such power, they take a decision to provide a facility of 'SUGAM DARSHAN' for those who, on account of their disability, be it physical or otherwise, cannot wait in a queue and, while taking such decision, they do not exclude the common class from exercising their right of worship or perform Puja as per religious practices, in our view, the decision of the Board of Trustees does not fall within the ambit of judicial review.

The petition is, therefore, **dismissed**.

Order Date :- 26.11.2021

Sunil Kr Tiwari