

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO OF 1449 OF 2024
(Diary No 1449/2024)

Dargah Hazrat Mulla Syed

... Petitioner

Versus

Union of India & Anr

... Respondents

ORDER

1 Delay condoned.

2 The jurisdiction of this Court under Article 32 of the Constitution has been invoked for seeking the issuance of a writ of mandamus in the following terms:

“...a writ or order in the nature of Mandamus directing the Respondents to facilitate the process of transportation of the mortal remains of Hazrat from Dhaka, Bangladesh to Prayagraj, India in accordance with his last and final will and the grounds stated hereinabove.”

3 Briefly stated, the petitioner submits that Hazrat Shah Muhammad Abdul Muqtadir Shah Masood Ahmad was born at Prayagraj (erstwhile Allahabad) in Uttar Pradesh but migrated to Pakistan in 1992 and he was conferred with Pakistani Citizenship. According to the petitioner, he was elected as the Sajjada-nasheen on 24 February 2008 of the shrine, Dargah Hazrat Mulla

Syed Mohammad Shah at Prayagraj. The Sufi-sant is alleged to have executed a will on 8 March 2021 expressing his desire to be buried at the Shrine.

- 4 On January 21 2022, he is stated to have died during a visit to Dhaka (Bangladesh) where he was buried.
- 5 Ms Arundhati Katju, counsel made an impassioned plea in support of the petition. Counsel submitted, in the alternative, that the Union Government should be directed to consider the representation by the petitioners for permission to bring the mortal remains to India for burial.
- 6 There are difficulties which lie in the path of entertaining a petition under Article 32 of the Constitution of this nature. Hazrat Shah Muhammad Abdul Muqtadir Shah Masood Ahmad was admittedly a Pakistani Citizen. There is no enforceable constitutional right which the petitioner can claim for the transport of his mortal remains from Dhaka, where he is buried, to India. Since the fundamental relief sought cannot be granted, no purpose would also be subserved by acceding to the alternate submission of Ms Katju, despite her earnest attempt to persuade the Court.
- 7 Apart from the practical difficulties relating to issues such an exhumation, we are of the view that as a matter of first principle, it would not be either appropriate or lawful for this Court to direct that the mortal remains of a person, who admittedly was a citizen of a foreign State, should be brought for obsequial ceremonies to India.

8 The Writ Petition is accordingly dismissed.

9 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
April 05, 2024
GKA

ITEM NO.7

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) Diary No(s). 1449/2024

DARGAH HAZRAT MULLA SYED

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(FOR ADMISSION and IA No.74213/2024-CONDONATION OF DELAY IN
REFILING / CURING THE DEFECTS)

Date : 05-04-2024 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Ms. Arundhati Katju, Adv.
Mr. Ali Chaudhary, Adv.
Mr. Rachit Gupta, Adv.
Mr. Abuzar Ali, Adv.
Ms. Parkhi, Adv.
Ms. Hristi Borthakur, Adv.
Ms. Ritika Meena, Adv.
Ms. Manju Jetley, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 Delay condoned.
- 2 The Writ Petition is accordingly dismissed.
- 3 Pending applications, if any, stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)