

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No. 1753/2022
CM No. 4882/2022

1. M/s Sarv Shakti Sewak Sanstha, J&KPetitioner(s)/Appellant(s)
through its President;
Nek Ram Manhas,
S/O Late. Sh. Devi Saran,
R/O Atholi (Padder),
Tehsil Atholi, District Kishtwar,
Pin Code:182204
2. Prehlad Singh,
S/O Sh. Ram Nath,
R/O Atholi (Padder)
Tehsil Atholi, District Kishtwar,
Pin Code: 182204

Through :- Mr. Nikhil Narayan Sharma, Advocate vice
Mr. Ankur Sharma, Advocate.

V/s

1. Union Territory of Jammu & KashmirRespondent(s)
Through its Chief Secretary to
Government, Civil Secretariat, Jammu/
Srinagar.
2. Deputy Commissioner, District
Kishtwar, J&K
3. Sub-Divisional Magistrate, Padder,
District Kishtwar, J&K
4. Divisional Commissioner, Division
Jammu, J&K

Through :- Ms. Aparna Gupta, Advocate vice
Mrs. Monika Kohli, Sr. AAG.

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

24.04.2024

(ORAL):

1. The instant petition has been preferred on behalf of the petitioners who claim to be President and former President of Sarv Shakti Sewak Sanstha who has raised the following grievances in the instant petition:

A. Interference causing by the Respondents in performing puja-archana in the premises of Machail Mata Shrine.

B. Embezzlement of funds by the Respondents, which are supposed to be utilized for the purpose of maintenance of Machail Mata Shrine as well as for the management and administration of Machail yatra.

C. Honorarium that has not been sanctioned/released since last four years in favour of the devotees/workers (staff) of sarv shakti Sewak sanstha as well as educational/teaching staff of Sarv Shakti Shiksha Niketan School

D. Huge chunk of blankets has been obtained from Sarv shakti Sewak sanstha for establishment of quarantine centre at Kishtwar. The same has neither been returned nor been compensated.

2. The learned counsel appearing on behalf of the petitioners has sought

the following reliefs in the instant petition:

a) Allow the instant petition;

b) issue a writ of or any other writ, order or direction in the nature of writ of mandamus by Commanding the Respondents not to interfere into the traditional customs and rituals which form essentials for the worship of deity and to ensure strict compliance of traditional rituals involving performance/conduct of puja-archana in the premises of Machail Mata Shrine.

c) issue a writ of or any other writ, order or direction in the nature of writ of mandamus by commanding the Respondents to expeditiously sanction honorarium in favour of the staff of Sarv Shakti Sewak Sanstha as well as educational staff of Sarv Shakti Shiksha Niketan School.

d) issue a writ of or any other writ, order or direction in the nature of writ of mandamus by Commanding the Respondents not to release/utilize the funds of Shri Machail Mata Royalty strictly in terms of mandate/scope defined by this Hon'ble High Court vide its judgment dated 25.02.2022 passed in the PIL No: 24 of 2018 titled "Ajaa Kumar Sharma VS State of J& K and Ors".

e) issue any other appropriate writ, order or direction as the nature and circumstances of the present case may require.”

3. Learned counsel appearing on behalf of the respondents has drawn the attention of this court to the fact that a writ petition in public interest came to be preferred before the Division Bench of this court which has been registered as PIL No. 24/2018 high-lighting several financial irregularities and illegalities on

large scale regarding maintenance and management of Mata Machail Shrine as well as its organization of annual yatras.

4. Further fact of the matter is that this court vide judgment dated 25.02.2022 disposed of the aforesaid PIL with the direction to the Union Territory to explore the possibility of a legislation in consonance with acts enacted for the management and governance of similar shrines in the Union Territory of the country elsewhere besides directing the Government to take a positive call without any delay in right earnest as early as possible by bringing appropriate legislation and till such time any arrangement in the manner indicated above was enforced, the Government was directed to entrust the entire management of the shrine in question to one of the shrine boards existing in the Union Territory in context with the other temples/shrines.

5. The operative portion of the judgment passed in PIL No. 24/2018 dated 25.02.2022 is reproduced as under:

“60. On the foundation of the above facts and circumstances of the case, we dispose of the petition finally leaving it open to the Advocate General or the public spirited persons having some interest in the temple to get a scheme of management prepared with the intervention of the court u/s 92 CPC and at the same time direct the Government of Union Territory to explore the possibility of a legislation in consonance with Acts enacted for the management and governance of similar shrines in the Union Territory or the country elsewhere. The court expects the Government to take a positive call in this regard without any delay in the right earnest as early as possible and come up with an appropriate legislation and till such time any arrangement as aforesaid is made and enforced, we direct the Government to entrust the entire management of the Shrine in question to one of the Shrine Boards existing in the Union Territory in context with the other temples/shrines.

61. It is also important to note that enactment of statutes separately for each shrine in the Union Territory as a whole may not be an appropriate and feasible exercise. Therefore to have a consolidated and a uniform legislation for all the charitable and religious institutions and endowments within the Union Territory of Jammu and Kashmir, we feel that it would

be more appropriate and better if the government identifies all such institutions in the State/UT as a whole and endeavors to make a common law for all of them if necessary.

62. The writ petition is disposed of accordingly. ”

6. The specific case which has been argued by the learned counsel appearing on behalf of the petitioners is that since the Government was under legal obligation to entrust the entire management of Mata Machail Shrine to one of the Shrine Boards existing in the Union Territory in conformity with the aforesaid judgment, the respondents instead of complying with the aforesaid judgment are causing interference into the traditional customs and rituals which form the essentials for the worship of the deity, i.e. respondents are impeding the petitioners in performing puja-archana in the premises of Mata Machail Shrine.

7. The allegations are also leveled in the instant petition by the petitioners that the funds which are supposed to be utilized for the purpose of managing the whole shrine and organizing the annual yatra are not being utilized appropriately and instead it has been alleged that there has been embezzlement of funds at the instance of respondent no.2 by allegedly releasing the funds from Shri Mata Machail Royalty for the purpose of execution of some unwarranted works without any authority of law, which is in flagrant violation of the judgment passed by this court on 25.02.2022 in PIL No. 24/2018.

8. The grievance has also been raised by the petitioners that the respondents are withholding the honorarium of the staff of the Sanstha as well as honorarium of the staff of the School in an illicit manner and the honorarium has not been sanctioned/released in favour of the workers of the Sanstha nor in favour of the educational staff of Sarv Shakti Shiksha Niketan School in spite of the fact that many representations in this regard have been filed.

9. The petitioners are aggrieved of the action of the respondents which according to the petitioners are causing interference into the traditional customs and rituals which form the essentials for the worship of the deity.

10. Learned counsel appearing on behalf of the petitioners has further argued that the judgment passed by this court in the aforesaid PIL has not been complied with in its letter and spirit, wherein, the respondents were required to entrust the entire management of the Mata Machail Shrine to one of the Shrine Boards existing in the Union Territory of J&K and the respondents have no right to cause any sort of interference or embezzlement of funds of Mata Machail Royalty which according to the petitioners has been established for the management of whole shrine and for the organization of annual yatra.

11. Per contra, detailed objections have been filed on behalf of the respondent no.3 in which respondents have taken a preliminary objection that no legal, fundamental or statutory rights of the petitioners have been infringed which is sine qua non for invoking the extra-ordinary writ jurisdiction of this court and since the petitioners have misrepresented the facts and have approached the court with unclean hands, they are not entitled for any equitable relief in the instant petition.

12. The respondents have also taken a preliminary objection that no cause of action has accrued which could be a basis for filing the instant petition and the instant petition has been filed by the petitioners raising disputed questions of facts which cannot be adjudicated while exercising writ jurisdiction under Article 226 of the Constitution of India.

13. Ms. Aparna Gupta, learned assisting counsel appearing vice Mrs. Monika Kohli, Sr. AAG has vehemently argued that respondents are making the

arrangement for annual yatra strictly in conformity with the directions passed by Division Bench of this court in PIL No. 24/2018 and no one has stopped any devotee from performing puja-archana in the premises of Shri Mata Machail Shrine. The stand further reveals that thousands of yatris including the petitioners had performed puja-archana this year as well and even the head priest has been authorized to regulate and perform the daily puja and darshan by then Sanstha which is continuing till date. Thus, the allegations leveled by the petitioners in the instant petition are far from truth and factually incorrect.

14. Learned counsel appearing on behalf of the respondents further submitted that even a committee has been constituted in pursuance to the judgment passed by this court in PIL No. 24/2018 in pursuance to a meeting was held on 07.04.2022 and the said committee was directed to make the arrangement for the annual yatra.

15. The respondents have filed a detailed reply which has been supported by the affidavit of Deputy Commissioner, Kishtwar, which reveals that the funds have been utilized purely for the maintenance of Machail Mata Shrine as well as management and administration of Machail Yatra and for providing the basic facilities to the Pilgrims during the Yatra strictly in tune with the judgment passed by this court mentioned supra and not even a single penny has been utilized for any other purpose. Thus according to the learned counsel appearing on behalf of the respondents the allegations leveled by the petitioners in the instant petition regarding embezzlement are totally false and baseless.

16. The perusal of the reply further reveals that a detailed proposal amounting to Rs. 40.00 lakhs for clearing pending liabilities and further salaries/honorarium pertaining to the staff engaged for the facilitation and

assistance of the management of Yatra and the staff engaged in the School run by Sanstha was placed before this court through Divisional Commissioner, Jammu for consideration.

17. As per the stand of the respondents, another proposal of Rs. 99.00 lakhs was also submitted before this court for consideration to run the affairs of the Yatra smoothly. Pursuant thereto, this court authorized the release of Rs. 12.00 lakhs to clear the pending liabilities and deferred the decision on balance amount of Rs. 28.00 lakhs (for further salaries/ honorarium of the staff). Similarly, this court authorized the withdrawal of Rs. 99.00 lakhs for making arrangements for Yatra during 2019. Out of Rs. 12.00 lakhs authorized by this court, an amount of Rs. 11.06 lakhs has been paid to clear the pending claims of the employees engaged by Sanstha. Similarly, an amount of Rs. 8.58 lakhs was incurred for the arrangement of Yatra 2019 and amount of Rs. 25.95615 lakhs for Yatra 2020 and amount of Rs. 0.10 lakhs during the Yatra 2021. During 2022, an amount of Rs. 22.50096 lakhs was utilized to make the arrangement of the Yatra-2022. Even during Pandemic COVID-19, the administration provided blankets available in the store of Machail Mata to the quarantine centers established at Paddar and other locations on emergency basis.

18. The respondents have specifically pleaded in the reply affidavit that insofar as funds from Machail Mata account are concerned, the same is being spent only for making arrangement of the annual yatra, maintenance of temple and other assets of the Shrine and providing the facilities to the pilgrims strictly as approved by this court and authorized by Divisional Commissioner, Jammu and not even a single penny has been siphoned off and spent for any other purpose.

19. Heard learned counsel for the parties at length and perused the record.
20. The instant petition is taken up for disposal with the consent of both the parties.
21. Learned counsel appearing on behalf of the petitioners fairly submits that in the light of the stand taken by the respondents, he does not intend to prosecute the petition any further as the grievances which has been projected by the petitioners in the instant writ petition stand redressed which is evident from bare perusal of reply affidavit filed by the respondents and thus, he has instructions not to prosecute the petition any further. The petitioners are only concerned with respect to the compliance of the traditional customs and rituals involving performance and conduct of puja-archana in the premises of Machail Mata Shrine.
22. Learned counsel appearing on behalf of the petitioners further submits that since the respondents have filed a detailed affidavit highlighting the strict compliance of the judgment passed by this court in PIL no. 24/2018 and also they are utilizing the funds for the maintenance of Machail Mata Shrine as well as to provide basic facilities to the pilgrims during the Yatra strictly in tune with the judgment passed by this court in the aforesaid PIL and not even a single penny has been utilized for any other purpose, he is satisfied with respect to the steps being taken by respondents which are in the interest of public at large. Thus, in the light of the aforesaid stand taken by the respondents, the petitioners seek withdrawal of the instant writ petition as the grievances which have been projected in the instant petition stand redressed.
23. In the aforesaid backdrop and in the light of the statement made by the learned counsel appearing on behalf of the petitioners, the proceedings in the

instant writ petition are closed and the writ petition is disposed of having rendered infructuous along with all connected applications in the light of the stand taken by the respondents in the manner indicated above.

(Wasim Sadiq Nargal)
Judge

Jammu:
24.04.2024
Raj Kumar

Whether the order is speaking? : Yes/No.

Whether the order is reportable?: Yes/No.