2026:AHC:128836-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

PUBLIC INTEREST LITIGATION No. - 1495 of 2026

Sharif Ahmad and others …..Petitioner(s)

Versus

State of U.P. and others …..Respondent(s)

Counsel for Petitioner(s)	:	Mr. Azad Khan, Advocate holding brief of Mr. Saiyad Iqbal Ahmed, Advocate
Counsel for Respondent(s)	:	Mr. Girijesh Kumar Tripathi, Additional Chief Standing Counsel for the State

RESERVED

Court No. - 64

HON'BLE J.J. MUNIR, J.
HON'BLE ARUN KUMAR, J.

(DELIVERED BY : J.J. MUNIR, J.)

This writ petition has been filed, seeking a direction to the respondents to ensure that the customary right of the petitioners, including other members of the community, to take out the *Alam/Tazia* procession on the occasion of *Muharram* falling on 26/27.06.2026, is done without hindrance and the authorities may grant provisional permission for the aforesaid purpose.

2. The petitioners say that they are social workers, espousing a public cause. It is said that since the year 1952-2022, the route for *Alam/Tazia* procession, and for its burial on the tenth day of *Muharram*, has been one from Hazrat Nagar Garhi to the Railway Crossing LC/8C and LC/9C. An accident occurred in the year 2022 and the route has now been closed by the Railways on the crossing by construction of a permanent wall on both sides. A letter in this regard is said to have been issued by an Engineer of the Railways to the District Magistrate, Sambhal. It is pointed out that according to the *khasra* and *khatauni*, the Karbala, or the place where the *Tazia* is buried, is situate in Village Sirsi in Gata No. 1650/1.

3. After the old route was closed by the Railways, the villagers made an application to the Authorities to permit the procession on the said route, inasmuch as the new route from Sirsi-Bilari Road, passing through a village, involves a travel time of 3-4 hours on the tenth day of *Muharram*. A sketch map of the old route and the tentative new route have been annexed to the writ petition.

4. From the year 2023, right up to the year 2025, the petitioners, including all the villagers, have made applications each year, by registered post, seeking grant of permission to move away from Sisri-Bilari Road, while taking out the *Alam/Tazia* to the *Karbala*, apparently seeking restoration of the old route. Information regarding the matter of the route for the procession sought by the villagers was asked about under the Right to Information Act, 2005. The Tahsil Authorities have given information

on applications dated 23.04.2025 and 06.06.2025, signed by the Lekhpal, Sirsi, which shows some different route, that is not clear.

5. The petitioners moved an application to the respondents on 17.05.2026, and again on 25.05.2026, both through registered post, seeking permission for the procession route, which does not create any dispute in future. It is emphasised that *Muharram* has commenced this year on 18.06.2026 and the tenth day would fall on 26/27.06.2026, when the procession is required to take out the *Alam* and *Tazia* to the *Karbala.* It is emphasised that permission is required on the proposed route because of the changed circumstances that the Railways have blocked the traditionally used route and the new route via the Sirsi-Bilari Road to Sharkari Karbala takes an inconveniently long time for the procession to traverse. The petitioners say that the rites and rituals, along with customs followed for taking out the *Tazia* procession, are performed every year on the tenth day of *Muharram* under the supervision of *Alamdar/Taziadar* by the villagers and members of the Muslim community at large. They have a right according to the customs to undertake this religious practice. The State authorities are bound to grant permission on the new route sought by the petitioners, according to the sketch plan. Once the Railways have blocked the traditional route due to an accident, a new route has to be sanctioned by the Authorities for the taking out of the procession on the tenth day of *Muharram.* The Authorities are bound to pass appropriate orders on the petitioners' applications, already pending before them. There

is inaction on the Authorities' part and reluctance to permit a suitable route for the *Tazia* procession.

6. *Vide* order dated 22.06.2026, we directed the learned Standing Counsel to seek instructions and recorded the fact, which the learned Standing Counsel said, on instructions available with him, that there is already an alternate route settled by agreement between parties. We also noted the fact that a copy of that agreement, in whatever form recorded, had been produced. The matter was directed to be taken up on the 23rd of June, 2026. On 23.06.2026, written instructions have been produced by Mr. Girijesh Kumar Tripathi, learned Additional Chief Standing Counsel, signed by the City Magistrate, Sambhal.

7. We would have expected the District Magistrate, Sambhal to have furnished these instructions, duly signed by him, instead of asking the City Magistrate, acting as a link officer of the Deputy Collector, Sambhal, sign the written instructions dated 10.06.2026. The District Magistrate would well remember that he is before the High Court of the State and he cannot delegate his duties to sundry officers, when called upon by this Court. We think that it would be the best statement of the respondent's case to record the instructions furnished by the City Magistrate, acting as the Link Officer for the Deputy Collector, Sambhal :

> सादर अवगत कराना है कि थाना हजरतनगर गढी जनपद सम्भल के ग्राम हजरतनगर गढ़ी में हिन्दू व मुस्लिम समुदाय की आबादी लगभग समान है जो 15000 के करीब है। थाना हाजा के त्योहार रजिस्टर के अनुसार मुस्लिम समुदाय द्वारा मोहर्रम के त्योहार पर चाँद की 7 वीं तारीख को मेंहदी का जुलूस नूरी मस्जिद के पीछे बडा इमामबाडा से शुरू

होकर अबरार पुत्र मजीद के मकान से दाहिने मुडकर मदरसा चौक पर अब्दुल सलाम वाले इमामबाडे पर पहुँचता है। वहां से ओर एक मेंहदी उठकर अबरार पुत्र मजीद की वावत मेंहदी से बाये मुडकर सीधी गली से मुशाहिद अली पुत्र अलीजान के मकान के सामने से होकर बाजार वाले इमामबाडे पर पहुँचता है वहाँ से भी एक मेंहदी उठकर तीनों मेंहदी जुलूस के रूप में सीधे हकीम बाजिद के मकान के सामने से होकर बाजार में लाला रामौतार गुप्ता के घर के पास कुछ समय रूककर बायें मुडकर अरून कुमार गुप्ता के मकान के सामने से बायें मुडकर महल के पीछे से होकर गल्नी पण्डितजी के मकान से बायें मुडकर नूरी मस्जिद के सामने से सीधा अब्दुल सलाम वाले इमामबाडे पर पहुँचता है वहाँ पर एक मेंहदी रूक जाती है वहाँ से एक मेंहदी और मिलकर नूरी मस्जिद वाले बाजार वाले इमामबाडे पर पहुँचती है व चाँद की 8 वीं तारीख को उपरोक्त रास्ते से ही अलम का जुलूस निकाला जाता है। चांद की 9 वी तारीख को ताजियो को गाँव के तीनों इमामबाडो पर रखकर फातिया पढा जाता है व चाँद की 10 वी तारीख को तीनों इमामबाडो से ताजिये व दो जरी उठकर बाजार वाले इमामबाडे पर पहुँचते थे। पूर्व में वहाँ से तीनों ताजिये जुलूस के रूप में हाकम अली पुत्र फकीरी के मकान से होते हुए सरकारी ट्यूबवैल के सामने से आगे करीब 200 मीटर रेलवे लाईन पार करते हुए बिलारी सिरसी मार्ग पर पहुँचकर वहाँ से कस्बा सिरसी करबला में पहुँचते थे।

वर्ष 2022 में मुरादाबाद सम्भल रेलवे लाईन का विद्युतीकरण किया गया जिस कारण बिजलीघर के सामने रेलवे लाईन से गुजरने वाला अस्थायी रास्ता सुरक्षा कारणों से बन्द कर दिया गया था, किन्तु उसके बाबजूद ताजियेदारो द्वारा उक्त अस्थायी रास्ते से ही ताजिये निकालने का प्रयास किया था और रेलवे लाईन पर ही गांव में बनी दूसरी रेलवे क्रासिंग पर वर्ष 2023 में ग्राम हजरतनगर गढी में रेलवे लाईन / क्रासिंग पर अलम रेलवे विद्युत लाईन से टकराने के कारण बडा हादसा हो गया था जिसमें 04 अलमदार व्यक्ति झुलस गये थे। उक्त घटना के बाद ग्राम के दोनो समुदायो द्वारा आपस में एक लिखित समझौतानामा मोहर्रम त्योहार के संबंध हुआ था जिसे त्योहार रजिस्टर में भी चस्पा किया गया है। समझौता नामा निम्नप्रकार है, दिनाँक 28.07.2023 को हम सभी हजरतनगर गढी क्षेत्रवासियो ने मोहर्रम / अलम / जरी के जुलूस के आयोजन को लेकर सर्व सम्मति से यह फैसला किया है कि विगत वर्षों की भांति इस वर्ष भी 03 मोहर्रम, जरी व अलम का जुलूस निकाला जायेगा जो निम्नलिखित संशोधनो के अधीन होगा।

1. रेलवे लाईन के उत्तर दिशा से आने वाले अलम व जरी को जमीन के समानान्तर हाथो में पकडकर रेलवे क्रासिंग पास करेंगे तथा मनिहारो वाले इमामबाडे पर जाकर मुख्य जुलूस में शामिल होंगे।

2. कस्बा हजरतनगर गढी में तीन मोहर्रम के अतिरिक्त न कोई मोहर्रम बनाया जायेगा और न ही निकाला जायेगा न ही जुसूस का हिस्सा होगा।

3. जुलूस अपने परंपरागत मार्ग से होते हुए सरकारी ट्यूववैल तक पहुंचेगा तथा वहीं रूककर जुलूस की रस्म अदा करने के उपरान्त अलमो को खोलकर बास कपडा आदि सामान अपने हाथो में लेकर वापस अपने घरो को आयेंगे।

4. वापस आते समय रेलवे क्रासिंग को बाँस आदि को जमीन के समानान्तर रखते हुए रेलवे क्रासिंग को पार कर अपने अपने घरो को चले जायेंगे।

5. जुलूस में शामिल मोहर्रम / ताजिया सरकारी ट्यूववेल से ही पूर्व की भांति वापस लाकर अपने अपने इमामबाडे में रख दिये जायेंगे।

6. जुलूस में शामिल किसी भी व्यक्ति द्वारा सरकारी ट्यूबवैल के पास स्थित रेलवे ट्रैक को पार नही किया जायेगा।

7. जुलूस में जो भी मोहर्रम । ताजिया / अलम शामिल होगा वह प्रशासन द्वारा निर्धारित ऊंचाई एवं मानके के अनुरूप होगा।

8. हम सभी क्षेत्रवासी मोहर्रम के जुलूस की यह व्यवस्था तब तक अपनायेंगे जब तक हमारे पास करबला की जमीन नहीं है जैसे ही हमारे पास व्यवस्था हो जायेगी हम लोग सर्व सम्मति से अपने निर्णय को प्रसाशनिक अधिकारियों को अवगत करा देंगे।

9. थाने के सामने रखी जा रही जरी को लगभग 09.00 बजे तक मुख्य ताजिये मोहर्रम पर अर्पित कर शामिल कर देंगे।

10. रेलवे लाईन के उत्तर दिशा से आने वाले अलमो को रामगढी में दक्षिण दिशा में ले जाते समय रेलवे क्रासिंग/पटरी पर प्लास्टिक की पन्नी पटरी के ऊपर बिछा कर जुलूस को निकालेंगे। हम सभी उपरोक्त समझौतेनामे पर सहमत हैं। उक्त समझौते नामे पर ग्राम हजरतनगर गढी के हिन्दु व मुस्लिम दोनो समुदायो के व्यक्तियों के हस्ताक्षर बने हैं।

याची श्री शरीफ अहमद पुत्र अजीमुल्ला निवासी ग्राम हजरतनगर गढी थाना हजरतनगर गढी जिला सम्भल ने कुछ साथियों के साथ मिलकर उपरोक्त ताजिये के जुलूस को ग्राम हजरतनगर गढ़ी से पूर्व में हुए समझौतेनामे व परंपरा से अलग हटकर जुलूस को ग्राम हजरतनगर गढ़ी से सिरसी बिलारी मुख्य मार्ग से होते हुए कस्बा सिरसी करबला ले जाना चाहते हैं जिसका गांव के अन्य समुदायो द्वारा यह कहते हुए विरोध किया जाता है कि यहाँ से इनका परंपरागत रास्ता नही है और यह नई परंपरा डालना चाहते हैं जिस कारण हम इनका विरोध करते हैं।

याची श्री शरीफ अहमद पुत्र अजीमुल्ला निवासी ग्राम हजरतनगर गढी थाना हजरतनगर गढी जनपद सम्भल आदि ताजियेदार व अलमदार को बिलारी सिरसी मुख्य मार्ग से सिरसी करबला जाने हेतु इस आधार पर अनुमति नहीं दी जाती क्योंकि यह नई परंपरा है और इसका दूसरे समुदाय के द्वारा विरोध किया जाता है व परंपरागत ताजियेदारो / अलमदारो को पूर्व में हुए समझौते एवं परंपरा के अनुसार ग्राम हजरतनगर गढी में बडे इमामबाडे व बाजार से होते हुए सरकारी ट्यूववैल के पास जुलूस को समाप्त किये जाने संबंधी कोई आपत्ति थाना हाजा को नहीं है। रेलवे क्रासिंग पारम्परिक मुख्य मार्ग है जिससे बडे वाहन आसानी से आते जाते हैं जिससे ताजिया/अलम निकालने मे कोई समस्या नही है।

अनुदेश आख्या सादर प्रेषित है।

8. Upon hearing learned Counsel for the parties and perusing the stand and material on record, including the sketch maps of the procession routes presented by both sides, we are of opinion that the old procession route, that passed across the railway line and went onwards to end the *Karbala* located in Khasra No. 1650, as the sketch map at Page No. 27 of the writ petition would show, became unavailable beyond the railway crossing on and after the year 2022. This happened on account of the electrification of the railway track and a fatal accident involving some members of the *Muharram* procession in the year 2022, who came in contact with high voltage electricity. The Railways then closed the route by raising two walls. The petitioners want a new route for the *Muharram* procession to be sanctioned by the district administration, shown in the sketch map, that would enable them to reach the *Karbala.*

9. The stand of the administration, on the other hand, is that there is already an agreement between parties dated 28.07.2022, to which, members of the Muslim community of the town are party. This agreement

has been pasted onto the festival register maintained by the administration. The terms of the agreement show that the procession would proceed along their customary route and reach the government tubewell. They would stop there and perform the necessary rites. The *Alam* would be dismantled there and its parts carried by hand, back by the members of the procession or whoever is authorised on their behalf.

10. So far as permission for the new route to reach the *Karbala* sought by the petitioners is concerned, the stand of the respondents is that taking the procession on the said route, which is the Sirsi-Bilari Main Road, has been opposed by members of other religious communities, saying that this is not the customary route for the *Muharram* procession and that they oppose the establishment of a new tradition. It is their stand that if permission to take out the *Tazia/Alam* procession along the Sirsi-Bilari Main Road reaching the *Karbala* is permitted, for one, it would be against the agreement arrived at between parties, including the petitioners and the district administration above referred, and further, that there is opposition by members of other religious communities.

11. It must be remarked that while there is a right guaranteed by the Constitution *vide* Article 25 to practice one's religion, the exercise of this right is certainly subject to larger interest of law and order, public order and the needs of other sections of the population, that might be adversely affected, if the exercise of the right in a particular manner is insisted upon and permitted. The exercise of a right to practice one's religion is one

thing and to practice it in a particular way is different. The earmarking of routes to take out processions, that involve a multitude of people, is a matter that essentially relates to law and order, for which the civil and the police administration bear responsibility. If, upon assessment of the situation, physical and geographical, and opinions of members of other communities, the respondents have taken a decision that a new route, as proposed by the petitioners, cannot be permitted to take out the *Tazia* procession, there is no right inhering in the petitioners to take out the procession along the particular route that they propose. This is not a case where the petitioners have been asked not to take out the procession at all. It is not a case where the right to the practice of religion or the particular part of it has been prohibited. What has been refused is the use of a particular route for the taking out the *Tazia* procession, and *a fortiori*, practice of the religious rites by using a particular route. There is absolutely no fundamental right to the practice of one's religion, that may entitle them or the community to use a particular road for the performance of religious rites. In case, in the opinion of the civil or the police administration or the Government, it would be objected to by members of other religious communities and lead to social frictions; may be, breaches of law and order or public order.

12. In our considered opinion, therefore, the petitioners have no right to compel the respondents to give them permission to take out the *Tazia* procession on 26/27.06.2026 along the new route that they propose,

abandoning the old customary route. They are bound by the terms of the agreement dated 28.07.2023, which is available on the festival register maintained by the respondents.

13. We do not find any merit in the petition. It is, accordingly, **dismissed**.

(J.J. MUNIR, J.)

(ARUN KUMAR, J.)

Allahabad
June 24, 2026
I. Batabyal

Whether the order is speaking : Yes
Whether the order is reportable : No

Digitally signed by :-
ISHAN BATABYAL
High Court of Judicature at Allahabad