

Gwalior Bench:Dated -24/09/2021

Shri Arvind Dudawat, learned counsel for petitioner.

Shri Ankur Modi and Shri MPS Raghuvanshi, learned
AAG for respondents/State.

Shri Suresh Agrawal, learned counsel for intervener/MP
Singh/Kshatriya Community.

Shri Prashant Sharma and Shri RVS Ghuraiya, learned
counsel for intervener/Gurjar Community.

Heard on admission.

Issue notice to the respondents.

At this juncture, learned AAG accepts notice on behalf of
respondents/State and sought time to file reply.

Heard on interim relief also.

1. Present petition as *pro bono publico* has been preferred purportedly by a public spirited person seeking directions to the respondents to take effective, prompt and appropriate steps to maintain law and order situation in Gwalior City due to the dispute erupted between two communities over the title/nomenclature to be inscribed over the statue of Samrat Mihir Bhoj (सम्राट मिहिर भोज).
2. From the pleadings and submissions of rival parties, it

appear that Municipal Corporation, Gwalior vide resolution No.55 dated 14-12-2015 resolved to establish a statue of Samrat Mihir Bhoj in the city of Gwalior and in pursuance thereof, after due process, statue of Samrat Mihir Bhoj was placed at a square in the city of Gwalior, but it appears that in the said statue title of Samrat Mihir Bhoj was inscribed as Samrat Mihir Bhoj Gurjar and this prompted the two communities to be at loggerheads.

3. It is the submission of learned counsel for petitioner that original thought was of statue with the name of Samrat Mihir Bhoj but later on due to unknown reasons, suffix “Gurjar” has been added and this prompted Kshatriya Community to go for agitation as according to their feelings, the said National Hero belongs to Kshatriya Community, whereas Gurjars consider the said Samrat as Gurjar. Resultantly, this dispute has created law and order situation in the city of Gwalior and adjoining districts. Appropriate directions are sought to be issued to the authorities to ensure peace and harmony.
4. *Per contra*, learned AAG appearing for the respondents/State submits that Collector has imposed

restriction under Section 144 of Cr.P.C. including prohibition to spread irresponsible, communal and incriminating messages over social media and to agitate in the groups. It is further submitted that resolution indicates that statute of “Samrat Mihir Bhoj” was to be erected and resolution also refers so. It is further submitted by both the AAGs appearing for the State that under the Constitutional Scheme, no attempt can be made to attach any Caste with any statue installed through public fund and at any public place.

5. Learned AAGs assures this Court that suitable action shall be taken to maintain law and order. They further inform this Court that to resolve the controversy, a committee has been constituted consisting of Shri Anil Banwariya (SDM Lashkar), Shri Atmaram Sharma (CSP, Lashkar), Shri S.K. Dwivedi (Professor in History at Jiwaji University, Gwalior) and Shri Sanjay Swarnkar (Professor and HoD of KRG College, Gwalior). They assure that after report is being prepared, appropriate consequential action shall be ensured.
6. Learned counsel for the interveners espoused the cause of

their respective communities and later prayed for inclusion of one member from each community to be included in the committee constituted by the Collector, District Gwalior so that both communities can place their views before the committee.

7. Heard learned counsel for the parties at length on the question of interim relief and perused the documents submitted/placed by the parties for perusal.
8. Before proceeding to dwell upon the dispute in question, this Constitutional Court intends to reiterate the preamble of Constitution which reads as under:

“PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a [SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] AND TO SECURE TO ALL ITS CITIZENS:

JUSTICE, social, economic and political' LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the [unity and integrity of the Nation];

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.”

Meaning thereby, we have given this Constitution to ourselves.

9. Part IV of Constitution of India incorporates Directive Principles of State Policy in which Article 37 clarifies that the provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.
10. Article 38 deserves reproduction and it reads as under:

“38. State to secure a social order for the promotion of welfare of the people-

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.”

11. Similarly Part IV-A of the Constitution deals with Fundamental Duties by which Article 51-A prescribes 11 Fundamental Duties in which following duties have some trappings of relevance in the present fact situation:

“51A. Fundamental duties.- It shall be the duty of every citizen of India-

(a) to abide by the Constitution and respect its ideals and institution, the National Flag and the National Anthem;

(b) xxx xxx xxx

(c) xxx xxx xxx

(d) xxx xxx xxx

(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(f) to value and preserve the rich heritage of our composite culture;

(g) xxx xxx xxx

(h) xxx xxx xxx

(i) to safeguard public property and to abjure violence;

(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

(k) xxx xxx xxx”

12. All these provisions carry spirit into the letters and it is the duty of all to promote fraternity, brotherhood and rich heritage of composite culture.

13. Besides that, it is the duty of the Citizenry of the country

that National Heroes remain Pan National in their recognition and acceptance and may not be confined to Religion, Caste, Community or any Group.

14. However to resolve the instant dispute by dialogue and synergy, it is imperative that committee be reconstituted by induction of new members with defined course of action. Therefore, as an interim measure, this Court issues following directions:

- i- Enquiry committee as constituted by the Collector vide order dated 15-09-2021 is reconstituted to the extent that Commissioner, Gwalior Division and Inspector General of Police, Gwalior Range shall also be included in the Committee in which Commissioner, Gwalior Division shall act as Chairman and Inspector General of Police, Gwalior Range shall act as Vice-Chairman of the Committee. Rest four members as referred above shall also be included in the committee.
- ii- In addition to above, one representative of Gurjar Community and one representative of Kshatriya Community shall also be included in the said

Committee. In case of any dispute regarding representation of community, Advocate Shri RVS Ghuraiya would represent Gurjar Community and Advocate Shri D.P. Singh shall represent Kshatriya Community.

- iii- The Committee shall not only explore the historicity of rival claims with cogent evidence/literature but at the same time shall also look into the thought that whether the Statute/Idol/Bust of a National Hero established over public place (through Public Funds) to inspire public at large can be referred with caste attached to his description or it may go against the Constitutional Spirit and Goals of our Constitution. Committee is at liberty to take guidance from different Statues/Busts established over public places across the country including the Statue of Samrat Mihir Bhoj at different places and after considering all Constitutional Principles and orders if any, of Hon'ble Supreme Court from time to time submit a report in a sealed envelop before this Court for Court's perusal. Needful be done within three weeks

from today.

15. Till the report is submitted, name plate/nomenclature which is the cause of dispute between the two communities can be kept in duly covered manner and only statue of Samrat Mihir Bhoj would be available for the people to observe and get inspiration from his valour and deeds. Till then all members of both communities are expected to observe restrain and would not be a cause of concern for law and order situation in any manner. Distt. Administration is further directed to ensure law and order in Public places and Public life.
16. Elders of both the communities are further expected to teach the young members of their respective communities about the valour, character, determination of the Samrat beside basking in his reflected glory.
17. List the matter in **week commencing 20th October, 2021,** for further orders.

(Sheel Nagu)
Judge

(Anand Pathak)
Judge

Anil*