

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

Petition(s) for Special Leave to Appeal (C) No(s). 8716/2020

(Arising out of impugned final judgment and order dated 04/03-07-2020 in WPIL No. 1753/2020 passed by the High Court Of Jharkhand at Ranchi)

NISHIKANT DUBEY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.66124/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.66125/2020-EXEMPTION FROM FILING AFFIDAVIT )

(IA No. 66125/2020 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 66124/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 31-07-2020 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA  
HON'BLE MR. JUSTICE B.R. GAVAI  
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Mr. Samir Malik, AOR  
Mr. Prashant Kumar, Adv.

For Respondent(s) Mr. Tushar Mehta, SG  
Ms. Swati Ghildiyal, Adv.  
Ms. Shraddha Deshmukh, Adv.  
Mr. B.v. Balram Das, Adv.

Mr. Salman Khurshid, Sr. Adv.  
Mr. Tapeshe Kumar Singh, AAG  
Mr. Kumar Anurag Singh, Adv.  
Ms. Pallavi Langar, AOR  
Ms. Lubna Naaz, Adv.  
Ms. Jyoti Singh, Adv.  
Mr. Aadya Mishra, Adv.

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

Heard learned counsel for the parties at length.

In the special leave petition, the prayer has been made to

direct the entry of the general public in Baidhyanath Jyotirlinga Temple at Deoghar and Baba Basukinath Temple during the month of Shravan. The High Court has passed an order that online darshan should be allowed during the entire course of Shravani Puja. Accordingly, directions have been issued for online darshan. At the same time, the High Court has also ordered that Puja of Jyotirlinga would continue during the month of Shravan and Bhado, but the same will be done by the temple trust without allowing any public participation.

The prayer was made before the High Court to allow limited number of devotees to participate in Shravani Puja and to perform the puja every day. The High Court has opined that it would not be appropriate to allow some people of public to participate in Shravani Puja and depriving the others. Prayer was also made that local inhabitants of the District of Deoghar may be allowed to participate in Shravani Puja but the High Court declined the same on the ground that local people of the Deoghar cannot be treated differently so far as the religious faith is concerned, in comparison to those people who are living outside the periphery of District Deoghar.

Our attention has been attracted to the State Directives allowing the various activities. The learned counsel appearing for the petitioner has submitted that though activities at the public places and worship places are prohibited in the State Directives, but, at the same time, gatherings related to marriage have been allowed, maintaining social distancing with stipulation that maximum number of persons at gatherings shall not be more than 50

and public transport etc. have also been allowed. As such, the restrictions imposed by the State Government on the entry in the places of worship for public are unwarranted.

On the other hand, Mr. Salman Khurshid, learned senior counsel appearing with Mr. Tapesh Kumar Singh, Additional Advocate General, appearing for the State of Jharkhand, has attracted our attention to the orders issued by the Ministry of Home Affairs on 29.07.2020 and the Directives issued pursuant thereto by Government of Jharkhand on 30.07.2020 in which the restrictions, previously imposed, have been extended till 31.08.2020.

The petitioner has banked upon the argument that there are at least 20,000-30,000 Pandas, who are being allowed entries in the premises of Baidhyanath Jyotirlinga Temple but, at the same time, general public is deprived of even limited entry in the temple premises.

It is true that the High Court has rightly ordered that Shravani Puja cannot be held holding big congregation fair not even the Kanwar yatra could be permitted due to Covid 19, It appears prima facie that total restriction on darshan by public is prima facie unreasonable. At the same time, we are alarmed by the argument which has not been specifically controverted on behalf of the State that thousands of pandas are gaining entry into the temple premises every day. However, Mr. Salman Khurshid, learned senior counsel, has stated that only limited number of pandas are permitted in the sanctum sanctorum. This was also controverted by the learned counsel for the petitioner and he tried to convince us that large number of pandas are permitted, at the same time, in

the sanctum sanctorum (Garbh Grih) also, whereas entry of general public is not being allowed at all even in premises to have darshan from distance.

After hearing learned counsel for the parties, we are not happy with the situation that thousands of pandas are being permitted entry in the temple every day. This cannot be said to be very conducive situation so as to prevent the spread of virus Covid 19. Entry of such large number of pandas, as alleged, should not be permitted. Same is required to be regulated and only limited number of persons as may be permissible as per social distancing norms should be permitted to enter the temple premises. When State Government is prohibiting the entry of general public completely and there is not even online booking permitted of few persons of general public to enter the temple premises, so that they could have darshan from the distance. We feel that State and Trust should have made an arrangement for regulated entries of pandas while maintaining social distancing. We were shown a video by the learned counsel appearing on behalf of the petitioner that large number of pandas were there at the same time in the sanctum sanctorum during the month of Shravan. Let State Government and the Temple Trust make an arrangement that no large congregation takes place even of pandas in the temple premises and Garbh Grih. It is absolutely necessary in order to prevent the spread of Covid 19 infection. The State Government to ensure that only limited number of persons, maintaining social distancing, be that they are pandas and priests of the temple, enter the premises at the same time in the temple premises which may be permissible as per the

social distancing norms issued by the Ministry of Home Affairs.

In the circumstances, when we find that large number of pandas are being permitted every day and even otherwise the State Government ought to have permitted systematically at least few hundred numbers of general public on the basis of online booking, giving them different timings of darshan, so that large congregation does not take place and maintaining social distancing for darshans at important festivals of the year but State has not done it so far and only two days are left from the final day of the Shravan month. At the same time, we find that restrictions imposed by the High Court for entire months of Shravan and Bhado was also not proper. It should have been left at the discretion of the State Government, if Government can make an arrangement to permit restricted entry of general public in the temple maintaining social distancing. The High Court ought not to have directed that no entry should be permitted in the months of Shravan and Bhado. It is basically for the State Government to take a call on this. It would not be appropriate to issue directions to provide the entry. However, we request the State Government to find out a possibility for darshan, which ought to have been done for general public as is being done in Ujjain, an another Jyotirlingam. We are informed that in Ujjain, 300 persons are being allowed on the basis of prior online booking, giving them different timings. Let the State Government work out on this and if possible, to permit darshan on the day of Purnima and in the month of Bhado also. We direct consideration not only for the temple but in all such religious places whether it be Churches or Mosques, entry of

limited number of persons/devotees should have been allowed as is being done throughout India. The State cannot shirk from its responsibility to enforce the social distancing norms, particularly when there is opening up of such places throughout the world. As State Government has to make proper arrangements, we refrain from issuing a direction to the State Government, however, we earnestly request them to find out a possibility of limited entry of general public in temples, churches and mosques in the State. If not outside State, at least the person from within the State as is being done at some other places. We observe that State is duty bound to enforce social distancing norms on such important occasions/festivals. Let an effort be made by the State Government to find out possibility of darshan to limited number of persons which would be appreciated.

Accordingly, we modify the direction issued by the High Court and leave it to the State to take positive steps, if possible, as suggested above.

With the aforesaid pious hope, we dispose of this special leave petition.

Pending application(s), if any, shall stand disposed of.

(NARENDRA PRASAD)  
AR-CUM-PS

(JAYANT KUMAR ARORA)  
COURT MASTER

(JAGDISH CHANDER)  
ASSISTANT REGISTRAR