

ITEM NO.17 Court No.1 (Video Conferencing) SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).17041/2020

(Arising out of impugned final judgment and order dated 13-08-2020 in OS-WP-LD-VC No. 271/2020 and order dated 13-08-2020 in OS-WP-LD-VC No. 259/2020 passed by the High Court Of Judicature At Bombay)

SHRI PARSHWATILAK SHWETAMBER MURTIPUJAK
TAPAGACCH JAIN TRUST

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.77474/2020-EARLY HEARING APPLICATION and IA No.77258/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.77261/2020-EXEMPTION FROM FILING AFFIDAVIT and IA No.77257/2020-PERMISSION TO FILE SLPs and IA No. 79349/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)) [TO BE TAKEN UP AS ITEM NO. 1]

Date : 21-08-2020 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Mr. Dushyant Dave, Sr. Adv.
Mr. Surjendu Sankar Das, AOR
Mr. Bhavik G. Lalan, Adv.

For Respondent(s) Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, Adv.
Mr. Amit Bhandari Adv.
Mr. Geo Joseph Adv.

Mr. Tushar Mehta, Ld. SG
Mr. Rajat Nair, Adv.
Mr. Kanu Agarwal, Adv.
Mr. Ankur Talwar, Adv.
Mr. B.V. Balaram Das, AOR

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

Permission to file the special leave petition(s) is granted.

An individual by name Ankit Hirji Vora who is respondent no.4

in this special leave petition and two public charitable trusts namely Shree Trustee Atma Kamal Labdhisurishwarji Jain Gyanmandir Trust and Sheth Motisha Religious and Charitable Trust who are respondent nos.5 and 6 in another special leave petition, approached the Bombay High Court by way of writ petitions seeking the issue of writ of mandamus to direct the appropriate authorities of the State of Maharashtra to permit the opening of all the temples within the State of Maharashtra or in the alternative to permit the opening of Jain temples during the annual holy festival called 'Paryushan' celebrated during the period from 15th August, 2020 to 23rd August, 2020 by the members of the Jain Shwetamber Murtipujak community. The petitioners before the Bombay High Court also sought urgent interim relief to the same effect. However, by a reasoned order dated 13.08.2020, the Division Bench of the Bombay High Court reluctantly refused to grant urgent reliefs. But, the writ petitions were directed to be posted for directions on 07.09.2020.

Aggrieved by the refusal of the Bombay High Court to grant urgent interim relief, yet another public charitable trust by name Shri Parshwatilak Shwetamber Murtipujak Jain Trust has come up with the above special leave petitions, though the writ petitioners before the Bombay High Court have not come up.

In the light of the fact that the High Court has fixed the main writ petitions for hearing on 07.09.2020, we are not inclined to go into the larger question.

However, we shall take up for consideration the limited question as to whether the temples administered by the Trust before

us and the Trusts before the Bombay High Court could be allowed to be open for two days namely 22.08.2020 and 23.08.2020 to enable the members of the Shwetamber Jain community to perform rituals relating to 'Paryushan'.

It appears that the trusts which were before the Bombay High Court and the Trust which is before us, have temples only in Dadar (W), Chembur and Byculla.

Mr. Dushyant Dave, learned Senior Counsel appearing for the petitioner, have filed a statement giving certain undertakings. This statement reads as follows :

(i) That the conditions mentioned in the "SOP on preventive measures to contain spread of COVID-10 in religious places/place of worship" dated 4 June 2020 by the Government of India, Ministry of Health and Family Welfare as public health measures will be strictly observed to the extent those apply to the devotees, in temples on 21,22 and 23 August 2020, while performing essential rituals of *Paryushan* and performing Pujas.

(ii) The entry of devotees will be restricted to 250 persons per day and only in the age group of 12 to 65, in the places of worship.

(iii) At any given point of time, no congregation of people will be allowed in temples and only up to 5 persons will be allowed to enter and remain within the inner part of the temples.

(iv) The Jain Community of Mumbai will be appraised of the order that may be passed by this Hon'ble Court and the above conditions through appropriate means of public communication.

(v) The Petitioner Trust/ or all those in charge of the respective temple managements will ensure fulfilment of the above conditions and will take suitable measures to ensure compliance.

Mr. Tushar Mehta, learned Solicitor General appearing for the Union of India, also brought to our notice the Standard Operating Procedures (SOPs) issued by the Government of India on 04.06.2020.

He also stated that whatever activity is permitted as per the SOPs can go on subject to the restrictions indicated therein.

However, Dr. Abhishek Manu Singhvi, learned Senior Counsel appearing for the respondent - State of Maharashtra, highlighted that the SOPs issued by the Government of India provides only the minimum threshold and that the different States are entitled to fix a higher threshold depending upon the fact situation. Learned Senior Counsel took pains to point out that the State Government had applied the restrictions uniformly to all communities and all religions and that nothing can be done to upset the balance.

Having carefully considered the rival submissions, we are of the view that a small reprieve can be granted to the petitioners, without making it as a precedent. After all, the petitioners are not seeking to hold any festivities in congregation. The petitioners want by way of an interim measure opening of three temples, one each in Byculla, Dadar (W) and Chembur in Mumbai. They have undertaken to restrict the entry of devotees only to five persons at any given time subject to maximum of 250 devotees on a single day. This prayer is also restricted only to two days viz., 22.08.2020 and 23.08.2020.

Therefore, considering the peculiar facts and circumstances the prayer made by the petitioners are allowed to the limited extent of permitting them to open the three temples one each in Byculla, Dadar (W) and Chembur in Mumbai on 22.08.2020 and 23.08.2020 for devotees to perform the rituals connected with 'Paryushan'.

The statement of undertaking given by the petitioners shall be strictly complied with.

We make it clear that this order is not intended to be used as a precedent by other persons to seek permission to hold any festivals/festivities which would involve, by their very nature, congregation of people, such as 'Ganesh Festival'.

Ordered accordingly.

The special leave petitions are disposed of in the above terms.

Pending interlocutory applications, if any, stand disposed of.

(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR