

ITEM NO.29

COURT NO.9

SECTION PIL-W

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

Writ Petition(s)(Civil) No(s). 649/2018

MRINALINI PADHI

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

Date : 05-07-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE S. ABDUL NAZEER

Mr. Gopal Subramaniam, Sr. Adv.(AC)
Mr. Vivek Raja, Adv.

For Petitioner(s) Mr. Shubhranshu Padhi, AOR
Mr. Ashish Yadav, Adv.
Mr. Kavın S. Prabhu, Adv.

For Respondent(s) Mr. Vikramjit Banerjee, ASG
Mr. R. Balasubramanian, Adv.
Mr. Sachin Sharma, Adv.
Ms. Aarti Sharma, Adv.
Mr. Ayush Anand, Adv.
Mrs. Anil Katiyar, Adv.

Mr. P.N. Mishra, Sr. Adv.
Mr. R.M. Patnaik, Adv.
Mr. Arnav Dash, Adv.
Mr. Arnav Behara, Adv.

Mr. Janakalyan Das, Adv.
Mr. Sanjay Das, Adv.
Mr. Swetaketu Mishra, Adv.
Mr. R. Rai, Adv.
Mr. V.K. Monga, Adv.

Mr. Surya Prasad Misra, Adv. Gen. (Odisha)
Mr. Ashok Parija, Sr. Adv.
Mr. Shibashish Misra, Adv.
Mr. Sibbo Sankar Mishra, AOR

Mr. Abhishek Amritanshnu, Adv.

Mr. J. Sai Deepak, Adv.

Mr. Suvidutt M.S., Adv.

Mr. Avinash K. Sharma, Adv.

Mr. Ashutosh Nayar, Adv.

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

1. We have perused the Report of the District Judge, Puri, dated 26.06.2018 submitted in response to the order of this Court dated 08.06.2018. We have also perused the affidavits filed on behalf of Respondent Nos. 2 to 4. Mr. Vikramjit Banerjee, learned Additional Solicitor General seeks time to file an affidavit on behalf of the Union of India. Learned Counsel appearing on behalf of Respondent Nos. 2 to 4 have stated that some more time is necessary for giving a comprehensive report/affidavit.

2. Accordingly, the matter is adjourned to 5th September, 2018 for further consideration. We may however, deal with certain aspects.

3. In his Report, the District Judge has stated that a meeting was held with the Chief Administrator Shri Jagannath Temple Administration, the Collector and the Superintendent of Police, Puri along with other Administrators of the temple. He also considered the response of the public. He has also taken into account previous study reports on the subject. He has observed that in spite of order of this Court, *Thalis* and pitchers are being exhibited for collection of money illegally. At this stage, we may

only reiterate the direction already issued and direct the administration to comply with the same. Action for violation for contempt may be considered later in the light of further material which may be placed on record, including the CCTV footages.

4. After considering all the aspects, the District Judge has made the suggestions under the following heads:

(i) Abolition of hereditary Sevaks/Appointment of Sevaks.

(ii) Prohibition to collect money for *Annadan Atika* by Sevaks. Ban on placing *Thali* and Pitches by Sevaks to receive offering.

(iii) Temple Management to take control of *Rosaghar* and *Chullas*.

(iv) Provision of separate toilets for male and female and sevaks.

(v) Queue system for hassle free darshan.

(vi) Surveillance of collection from Hundis and receptacles.

(vii) Audit of Temple Funds by Accountant General.

(viii) Identity cards for sevaks and staffs.

(ix) Guides to be registered in Temple office.

(x) Reduction of over staffs of Temple Administration.

(xi) Single authority for security management in Temple Premises.

(xii) Proposed Amendments in Sri Jagannath Temple Act, 1954.

We are not quoting the discussion under each heading.

5. We do not find any serious objection to the suggestions being accepted and implemented subject to further consideration and

orders.

6. We are informed that there is a website of the Temple but the same needs to be updated so that information about all the facilities, schedule of visits etc. are available for the convenience of the visitors.

7. We also had an interaction on the issue whether the Temple Management can consider, subject to such regulatory measures with regard to dress code, furnishing of a declaration or such other requirements as considered necessary permitting every visitor irrespective of his faith to offer respects and make offerings to the Deity. This observation is being made in view of the settled law reiterated in recent judgment in *Adi Saiva Sivachariyargal Nala Sangam and ors. vs. Government of Tamil Nadu and anr. 2016 (2) SCC 725* as follows:

“Religion incorporates the particular belief(s) that a group of people subscribe to. Hinduism, as a religion, incorporates all forms of belief without mandating the selection of elimination of any one single belief. It is a religion that has no single founder; no single scripture and no single set of teachings. It has been described as Sanatan Dharma, namely, eternal faith, as it is the collective wisdom and inspiration of the centuries that Hinduism seeks to preach and propagate. It is keeping in mind the above precepts that we will proceed further.”

(Emphasis added)

8. Justice P.B. Gajendragadkar, Former Chief Justice of India, has mentioned in his Book "To the Best of My Memory" as follows:

"Secularism merely means that no religion has the monopoly of religious wisdom. Our secularism is based on the principles laid down by the *Bhagavad Gita*:

येऽप्यन्यदेवताभक्ता यजन्ते श्रद्धयान्विताः ।
तेऽपि मामेव कौन्तेय यजन्त्यविधिपूर्वकम् ॥ २३ ॥

yepyanyadevataa bhaktaa yajante shraddhaya'anvitaah
te'pi maameva kaunteya yajantyavidhipoorvakam//9.23//

which means that even the devotees of other gods who worship with full of faith, they also worship Me, O son of Kunti, though contrary to the ancient rule".

9. The issue of difficulties faced by the visitors, exploitative practices, deficiencies in the management, maintenance of hygiene, proper utilization of offerings and protection of assets may require consideration with regard to all Shrines throughout the India, irrespective of religion practiced in such shrines. It cannot be disputed that this aspect is covered by List III Item 28 of the Seventh Schedule to the Constitution of India and there is need to look into this aspect by the Central Government, apart from State Governments.

10. Section 92 of the Code of Civil Procedure permits a Court also to issue direction for making a scheme or making an arrangement for any charitable or religious institution. Accordingly, we direct that if any devotee moves the jurisdictional District Judge throughout the India with any grievance on the above aspect, the District Judge may either himself/herself or by assigning the issue/matter to any other Court under his/her jurisdiction examine above aspects and if necessary send a report to the High Court. We have no doubt that the High Court will consider these aspects in public interest in accordance with law and issue such judicial directions as becomes necessary having regard to individual fact situation.

11. Learned Amicus Curiae is at liberty to engage all stakeholders and suggest any scheme for bringing improvements on above aspect for consideration of the Court.

12. The report of the District Judge may be placed on the website of the temple for information and suggestions of all concerned. It is made clear that suggestion of scheme by the learned amicus curiae will not in any manner stand in the way of the Committee appointed by the State Government to look into the matter and to submit its report to this Court. There will also be no bar to the Committee appointed by the Central Government to look into these aspects and furnish a report to this Court. The Committee of the Central Government may be constituted

within a period of two weeks from today so that the said Committee can give at least its interim report by 31st August, 2018.

13. By way of illustration, learned counsel for the parties have mentioned Kamakhya Temple, Assam; Kalibari Temple at Calcutta, Pracheen Hanuman Mandir at Jamuna Bazar, Delhi, Tiruchendur Temple at Tamil Nadu and Dargah Khwaja Moinuddin Chisti, Ajmer.

14. Learned Additional Solicitor General has assured that Ministry of Culture will take due interest in the matter as the issue involves protection of cultural heritage of the country.

15. Learned amicus curiae states that there are seven thousand antique temples in the State of Tamil Nadu itself.

16. We place on record our gratitude for the valuable assistance rendered by Mr. Gopal Subramaniam, learned amicus curiae, Mr. Vikramjit Banerjee, learned Additional Solicitor General; Advocate General of the State and all other counsel. We also place on record appreciation for prompt and comprehensive report by the District Judge.

17. Learned Additional Solicitor General has fairly submitted that the report of the District Judge will also be placed on the website of the Ministry of Culture. The report of the District Judge may also be placed on the Supreme Court website for a period of two weeks.

18. Having regard to the experience in the present case and other cases, we suggest that as far as possible the *inter-se* communication between different courts may be made digitally also.

19. We may sum-up our directions in today's orders, in addition to the orders dated 8.6.2018, as follows:

i) Report of the District Judge dated 26.6.2018 is accepted in principle and action to be taken by the temple administration.

ii) District Judge, Puri may send further report, if any by 31.8.2018, preferably by e-mail.

iii) The State Government may submit report of the Committee constituted by it on or before 31.8.2018.

iv) The Central Government may constitute its Committee, as already directed, within two weeks from today and place its interim report on record of this Court on or before 31.8.2018.

v) Copy of the Report of the District Judge may be placed on the websites of the temple management, Ministry of Culture and website of the Supreme Court for two weeks.

vi) The directions in the order dated 8.6.2018 may be complied with by all concerned and non-compliance thereof may be reported to this Court for appropriate action if necessary.

vii) The temple management may consider, subject to

regulatory measures, with regard to dress code, giving of an appropriate declaration or compliance with other directions, permitting every visitor irrespective of his faith, to offer respects and to make offerings to the deity.

viii) We have noted that Hinduism does not eliminate any other belief and is eternal faith and wisdom and inspiration of centuries, as noted in earlier judgments of this Court.

ix) Difficulties faced by the visitors, deficiencies in management, maintenance of hygiene, appropriate utilization of offerings and protections of assets with regard to shrines, irrespective of religion is a matter for consideration not only for the State Government, Central Government but also for Courts. Every District Judge throughout India may examine such matters himself or through any court under his jurisdiction and send a report to the concerned High Court so that such report can be treated as PIL on the judicial side and such direction may be issued as may be considered necessary having regard to individual fact situation.

x) Learned *amicus* is at liberty to engage with all stakeholders and to give suggestions for bringing about improvements and also to give a report to this Court. However, this will not stand in the way of the Committee of the State Government, Committee of the Central

Government or any District Judge considering matters in terms of above directions.

For further consideration, put up on 5.9.2018 before an appropriate Bench.

(MADHU BALA)
COURT MASTER (SH)

(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER