

**In The Hon'ble High Court Of Judicature At Allahabad,
Lucknow Bench, Lucknow**

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Neutral Citation No. - 2025:AHC-LKO:40919-DB

Judgment Reserved on: 17.05.2025

Judgment Delivered on: 17.07.2025

A.F.R.

Court No. - 1

Case :- WRIT - C No. - 4426 of 2025

Petitioner :- Waqf No.19 Dahgah Sahrif Thru. C/M Of Dargah Sharif Bahraich By Chairman Baqaullah And 5 Others

Respondent :- State Of U.P. Thru .Addl. Chief Secy. Deptt. Home Lko. And Another

Counsel for Petitioner :- Lalta Prasad Misra, Syed Husain

Counsel for Respondent :- C.S.C.

connected with

(1) **Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 458 of 2025

Petitioner :- Mohd. Masood Ali And 4 Others

Respondent :- State Of U.P. Thru. Its Addl. Chief Secy. Deptt. Of Minority Welfare And Waqf U.P. Lko. And 6 Others

Counsel for Petitioner :- Alok Kr. Misra

Counsel for Respondent :- C.S.C.

(2) **Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 463 of 2025

Petitioner :- Ajay Kumar Tripathi And 5 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko. And 5 Others

Counsel for Petitioner :- Akram Azad, Sayyed Farooq Ahmad, Syed Mehruzur Rehman, Vinod Kumar Yadav

Counsel for Respondent :- C.S.C., Farhan Habib

Hon'ble Attau Rahman Masoodi J.

Hon'ble Subhash Vidyarthi J.

[Per Attau Rahman Masoodi, J.]

- (1) Writ-C No. 4426 of 2025 has been filed by Waqf No. 19, Dargah Sharif, Bahraich, through its Committee of Management, jointly with the Committee of Management of Dargah Sharif and four private individuals, challenging the validity of an order dated 26.04.2025 passed by the District

Magistrate, Bahraich declining permission for organizing the Annual Jeth Mela - 2025 at Dargah Syed Salaar Masood Ghazi (RA), Bahraich. The petitioners have sought a Writ of Mandamus commanding the opposite parties to co-operate and co-ordinate in organizing the Jeth Mela - 2025 starting from 15.05.2025 and ending on 15.06.2025 and not to create any hindrance in holding the Annual Jeth Mela by the Management of Dargah Sharif, Bahraich and also not create any hindrance in visit of devotees of Dargah Sharif, Bahraich.

- (2) P.I.L. No. 458 of 2025 has been filed by five individual petitioners and P.I.L. No. 463 of 2025 has been filed by six individual petitioners substantially seeking the same relief.
- (3) As common questions have been raised by all the petitioners of the three writ petitions, all the three Writ Petitions are being decided by this common judgment.
- (4) The petitioners in Writ-C No. 4426 of 2025 have pleaded that the Dargah Sharif, Bahraich exists since time immemorial over the Mazar of Syed Salaar Masood Ghazi (RA). An annual Urs is organized every year in the month of Basant, i.e., around February and the Jeth Mela is organized in the month of Jeth, i.e., May/June. Lakhs of people from across the country attend the annual Urs and the Jeth Mela which not only had a leaning of faith and spiritual significance, but also provides an economic boost to the local people across the caste, creed and religion and it gives a boost to the national harmony besides economic upliftment for the local traders. The 'Urs' and 'Jeth Mela' are organized by the management of Dargah Sharif with co-ordination and co-operation of the District Administration over the large premises of Dargah Sharif with a large chunk of its open land.

- (5) On 01.04.1987, a Government Order was issued providing that the expenditure incurred in deployment of police and making sanitation arrangements in annual Urs/Mela of five Dargahs, including Syed Salaar Masood Ghazi (RA), Bahraich, be not recovered from the concerned waqf. The management of the Dargah Sharif allots land during Annual Jeth Mela to shopkeepers for putting up temporary shops and also for means of entertainment such as Circus, Jhulas (swings), Magic Show, Picture show, Nautanki etc.
- (6) Every year, meetings are held between the authorities of the District Administration and the Committee of Management of Dargah Sharif for smooth organization of the Jeth Mela. This year also, the Chairman of the Managing Committee of Dargah had sent a letter dated 15.04.2025 to the District Magistrate, Bahraich requesting for calling a meeting for organization of Annual Jeth Mela. A proposed agenda for the meeting was attached with the letter which mentions that the administration is expected to make arrangements for drinking water, cleanliness arrangements with adequate sanitation and lighting arrangements. Baraats (wedding processions) will be taken out during the Mela in which fireworks will be displayed. Adequate arrangements should be made for dealing with any fire accident. The Chief Medical Officer should make arrangements for providing medical assistance as well as for prevention of spread of infections. Two large ambulances and two small ambulances should be provided for the Mela alongwith a Lady Doctor & a Mid-Wife. Adequate transport and parking arrangements should be made. Temporary fair price shops should be set-up in the Mela. The Legal Meteorology Department should ensure that no incident of weighing lesser quantity of goods takes place during the Mela. Adequate police

force should be deputed at the Mela area for smooth running of swings, circus, drama, magic shows, etc.

- (7) The petitioners have stated that in previous years, meetings were held for the smooth conduct of the Mela and arrangements used to be made by the District Administration, but this year, the District Magistrate has declined co-operation for organizing Mela by means of the impugned order dated 26.04.2025.
- (8) The impugned order dated 26.04.2025 states that the permission for organizing the Jeth Mela at Dargah Syed Salar Masood Ghazi stands declined keeping in view the reports submitted by the Superintendent of Police, Sub-Divisional Magistrate, Sadar and the Executive Officer, Nagar Palika Parishad, Bahraich.
- (9) Assailing validity of the impugned order dated 26.04.2025, it has been submitted on behalf of the petitioners that the permission has been denied on flimsy and irrelevant grounds and that the action is *mala fide* and has been taken for appeasement of a few political persons. The petitioners have submitted that the District Magistrate cannot wriggle out of his responsibility to maintain the law and order in the District during the Jeth Mela on the flimsy ground of apprehension of breach of peace. The petitioners have further submitted that a large number of devotees visit the Dargah Sharif during the Jeth Mela irrespective of caste, creed and religion and the refusal for permission to organize the Mela is violative of the very ethos of fraternity of this great nation-India and it is *de hors* the very constitutional fabric flowing from the preamble of the Constitution of India and the Fundamental Rights guaranteed to its citizens and persons under Articles 14, 21, 25, 26 and 29 of the Constitution of India.

- (10) The petitioners in P.I.L. No. 463 of 2025 have pleaded that the Annual Jeth Mela organized at Dargah Sharif of Syed Salaar Masood Ghazi (RA) in Bahraich is a significant socio-cultural event rooted in the spiritual legacy of Syed Salaar Masood Ghazi, who is revered as a saint by one and all. Many devotees including those from marginalized communities such as Kories, Kurmi and Ahir peasants as well as lepers seeking miraculous cures through the shrine's rituals, rely on the Mela for spiritual fulfillment and healing practices. The Dargah of Syed Salaar Masood Ghazi is a unique symbol of interfaith harmony. Rejection of permission to organize the Mela infringes upon the fundamental rights to freedom of conscience and cultural expression guaranteed under Articles 25 and 29 of the Constitution of India as it prevents devotees of Syed Salar Masood Ghazi from practicing their faith through participation in the Jeth Mela. The petitioners have also pleaded that permissions have been granted for large-scale religious gatherings in Devipatan Mandir, Tulsipur, Balrampur and for Magh Mela at Prayagraj, but the same has been denied for organizing the Jeth Mela at Dargah Sharif which is discriminatory.
- (11) It has further been stated in P.I.L. No. 463 of 2025 that if the State will surrender to the pressure of certain political or radical groups then how the secular character of the nation will be protected and equal treatment will be given to all its citizens.
- (12) WPIL No.458 of 2025 has been filed by 5 persons. 3 petitioners in this petition are Khadims of the Dargah, whereas the petitioner no. 4 claims to be an Islamic scholar who is professing Sufism and propagating the same in the country and he is an independent writer of newspapers/web-portals and is also teaching in a Madarsa and petitioner No. 5 is an Advocate

who is professing and propagating Sufism. All the petitioners are residents of Bahraich. They have pleaded that the denial of permission to organize the Mela is arbitrary. They have further pleaded that about 600 Baraats come from the entire country at the Dargah and the tradition of Baraat is an essential ingredient to show respect/tribute to Syed Salar Masood Ghazi. The petitioners have pleaded that the Government earns a huge amount as revenue from the Mela and the denial of permission would result in loss of revenue to the State, besides resulting in about 10,000 poor people being deprived of their source of livelihood by putting up shops in the Mela.

- (13) The State has filed a short counter affidavit of City Magistrate, Bahraich in Writ-C No. 4426 of 2025 stating that the Tomb of Syed Salaar Masood Ghazi situated in Revenue Village Singhaparasi Pargana and Tehsil & District Bahraich has been constructed in about 4 hectares and it is surrounded by a boundary wall. The vacant area of the Dargah at the spot is about 6 hectares. The petitioners have stated that the Waqf land around the Dargah is spread over about 1.5 sq. km., whereas there is only about 10 hectares of land available on the spot. The area near the Dargah is occupied by dense and mixed population. During the fair, shops are put up even on the pavements and dividers of the roads. In case of any emergency, the movement of ambulance, fire brigade and police vehicles will be obstructed.
- (14) It has also been stated in the short counter affidavit that as per the report submitted by the Sub-Divisional Magistrate, Sadar, Bahraich, the Dargah Syed Salaar Masood Ghazi is situated within the area of Thana Dargah Sharif. The area around the Dargah is a highly sensitive area with mixed dense population and lakhs of pilgrims and devotees come to attend the Jeth Mela

from other States also. Due to the open border with Nepal, this area falls in the highly sensitive category. In the current scenario, in which terrorists have carried out a gruesome massacre by firing on tourists at Pahalgam, Jammu & Kashmir, a situation of unrest prevails in the entire country. There is a strong possibility of infiltration of anti-national and undesirable elements through the crowd coming and going from the Indo-Nepal border for which a special vigilance is required. In view of Operation Sindoor being conducted by the Government of India, security arrangements at all important places/establishments/railway stations/railway tracks/petrol-diesel pipelines/air-strips and densely populated areas are in a high alert mode in the entire country. In view of the tensed situation between India and Pakistan, it will not be possible to black out the Mela area due to the crowd/pilgrims gathering in the fair in case of a sudden declaration of emergency.

- (15) It has been stated in the short counter affidavit that keeping in view the aforesaid facts, it was found appropriate not to give permission to organize the Jeth Mela at Dargah Sharif, Bahraich.
- (16) The petitioners have filed a rejoinder affidavit annexing therewith a copy of the letter dated 08.05.2025 of the Inspector General of Police (Law and Order), U.P. sent to the Superintendent of Police, Bahraich stating that permission for organization of Jeth Mela has not been given and adequate publicity of this fact should be made. Police should ensure restricting the movement of pilgrims/devotees going to Bahraich for attending the Jeth Mela.
- (17) The petitioners have also filed a supplementary affidavit annexing therewith copies of extracts of revenue records and they have contended that the Dargah holds 36 hectares of land.

- (18) Heard Dr. L.P. Misra, assisted by Sri Syed Husain, Ms. Annapurna Agnihotri & Ms. Arti Bali, Sri Alok Kumar Mishra, Sri Akram Azad, Sri Sayyed Faoq Ahmad, Sri Syed Mehfuzur Rehman and Sri Vinod Kumar Yadav, learned counsel for the petitioners & Sri Kuldeep Pati Tripathi, learned Additional Advocate General, learned counsel for the State-authorities and Sri Farhan Habib, learned counsel for the U.P. Sunni Waqf Board.
- (19) Dr. L.P. Misra, learned counsel who has led submissions on behalf of the petitioners, has submitted that the Jeth Mela is an integral part of the ritualistic practices at the Dargah. The denial of permission for organizing the Jeth Mela violates the petitioners' fundamental right of freedom of conscience. He has submitted that the Government Order dated 01.04.1987 recognizes the importance of Jeth Mela at the Dargah by providing that the expenditure for deployment of police and sanitation facilities for the Mela be not recovered from the concerned Waqf.
- (20) Dr. L. P. Misra has placed reliance on the judgment of the Hon'ble Supreme Court in **Gulam Abbas and others v. State of U.P. and others**: (1982) 1 SCC 71, a judgment of a Division Bench of this Court in **Ram Gopal Tripathi v. Dr. Sarvajeet Herbert**: 2003 SCC OnLine All 550 = 2003 (5) AWC 3910 and a Judgment of a Single Judge Bench of this Court in **D.S. Joseph v. State of U.P. and others**: 2005 Cr.L.J. 709.
- (21) Sri. Kuldeep Pati Tripathi, the learned Additional Advocate General has submitted that organizing a Mela by putting up shops, Circus, Jhulas, Magic Show, Picture show, Nautanki etc. is not a part of essential practices attached to any religion and no one has a fundamental right to organize a socio-cultural

Mela. He has submitted that the fundamental right to practice faith is not being denied by the State to any person and the devotees are free to visit the Dargah to offer their prayers and other offerings.

- (22) When the controversy came up before us, this Court after hearing learned counsel for the parties, passed the following order on 17.05.2025:-

“The bunch of writ petitions on a non-sitting day has come up before us on an urgency being pointed out as per the order on administrative side passed by Hon'ble the Chief Justice. We have heard learned counsel for the parties at great length.

Judgement reserved.

Until the delivery of the judgment, as an interim measure, we provide that routine activities at Dargah Sharif for carrying out the ritualistic practices shall remain open for which all support for maintaining law and order as well as necessary civic amenities shall be provided by the State in co-operation with the Committee administering the management of Dargah Sharif.

To this extent Shri Kuldeep Pati Tripathi, learned Additional Advocate General for the State has expressed no objection.

Insofar as the prayer for organizing 'Jeth Mela' having cultural/commercial trappings is concerned, we are not persuaded, prima facie, to interfere with the decision of the State authorities.

We also provide that the Committee shall ensure that devotees visit the shrine in moderate numbers as per routine in order to avoid the possibility of any stampede or unwarranted situation causing a concern to the safety of the devotees and creating difficulties for the administration.”

- (23) The order passed by the Court, as an interim measure, took stock of the ritualistic practices which are liable to be protected by the State under any circumstance to which there are two exceptions, namely, if the gathering at the place threatens public order and secondly, if it causes a threat to the security of the State. It is perhaps in the light of these two exceptions that the impugned order came to be passed during the current year having regard to the intelligence reports received from various sources by the State Government although no such material has been placed on record received from the agencies or Central Government.
- (24) In normal course, all such ritualistic practices which stand recognized since time immemorial cannot be obstructed by the State on trivial grounds particularly when such practices promote cultural harmony in the Society. Rituals and usages know no boundaries and sometimes they reach the zenith of faith at a particular shrine or a religious place of worship. This is a tendency of development of natural law which the Constitution of India recognizes by virtue of Article 13 of the Constitution of India. The law made by the Parliament may leave certain gaps which may be filled by the Constitutional Courts in the form of 'interstitial law making', but so far as the rituals and usages are concerned, they are driven by the ritualistic practices and usages performed at the shrines or religious places which are perceived and experienced to be a spiritual source of conscience protected under Article 25 of the Constitution of India which promotes composite constitutional morality. The Constitutional Courts must desist to comment on the righteousness of such rituals in contrast to reason or science except that the rituals and usages on practice ought not to threaten the public order or security of the State.

- (25) For observance of such usages and customs, some times it does not appeal to reason but at the same time all such practices cannot be obstructed which assume a ritualistic model amongst the masses belonging to the people of single or multiple faith bringing harmony and peace to the society.
- (26) In the circumstances of the case, it is unnecessary for this Court to clarify the applicability or not of the case laws cited before us as we have already set the norms for regulating the existing rights in terms of the interim order extracted above which has brought optimum good to the devotees and safeguarded the concern expressed by the State. It is fortunate that peace and tranquility has prevailed during the operation of the arrangements provided under the interim order passed by this Court, therefore, all the apprehensions of the State stand dispelled for organizing the Jeth Mala within the scheduled dates.
- (27) More over, the Committee of Management of Dargah Sharif shall henceforth ensure that the management of 'Urs' and 'Mela' shall be dealt with effectively by installing CCTV cameras at the entry/relevant places, particularly during the Jeth Mela as well as the Urs so that any threat or apprehension, as has been taken note of in the impugned order, the police authorities are facilitated with the first hand information regarding entry of people in the premises of Dargah Sharif so that the ritualistic practices are well-managed and there is no difficulty faced by the administration to provide necessary assistance in the given situation.
- (28) On the basis of the scheme of administration produced by the Committee of Management of Dargah Sharif, it is amply clear that the Committee alone is vested with the power to regulate

the management of Dargah and its property, therefore, it is the bounden duty of the Committee to ensure effective management of the affairs of the Dargah so as to facilitate the devotees to perform the rituals on visiting the shrine. The suggestions made by the administration, if any, may also be taken into consideration for ensuring peace and tranquility.

- (29) So far as the rights of other petitioners are concerned, we are of the firm opinion that they having supported the cause of the Committee would equally stand protected for the purpose of performing the customary rituals, which, of course, are subject to the limitations mentioned above.
- (30) Though the State Government, looking to the circumstances and based on the confidential reports, has passed the order impugned, which has lost its efficacy, consequent upon the period of Mela being over and the interim arrangement made by this Court permitting the performance of rituals has rather dispelled the apprehensions of the State, therefore, the relief prayed for stands virtually granted due to non-interference by the State in the routine practices as stated by the learned Additional Advocate General for the State.
- (31) For the reasons stated above, all the three writ petitions are **disposed of** in terms of the order dated 17.05.2025 and what we have observed above.
- (32) The parties will bear their own costs of litigation.

(Subhash Vidyarthi, J.) (Attau Rahman Masoodi, J.)

Order Date:-17.07.2025
Lakshman