

Court No. - 2

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.

Hon'ble Rajan Roy, J.

Hon'ble Om Prakash Shukla, J.

1. Heard Dr. L.P. Misra, learned counsel for the petitioner and Mr. Rajesh Tewari, learned Additional Chief Standing Counsel for the State.
2. By means of this petition the petitioners have challenged the order dated 26.04.2025 passed by the District Magistrate, Bahraich declining permission for holding annual Jeth Mela at and near the Dargah of Syed Sallar Masood Ghazi.
3. The contentions of learned counsel for the petitioners on the question of admission and interim relief in nutshell were as under:
 - The Dargah was established in 1375 AD by Firoz Shah Tuglaq in the memory of Syed Sallar Masood Ghazi.
 - There is no requirement in law for seeking any such permission, therefore, there was no question of denying it.
 - The petitioners never sought any such permission, therefore, there was no occasion to pass the impugned order.
 - The Dargah Sharif is exempted from operation of U.P. Melas Act, 1938 as is evident from Section 4 thereof, therefore, no action could have been taken under the said Act.

- The Waqf Act as amended till date does not contain any provision under which the District Magistrate could have passed such an order.
- The reasons given in the impugned order are not at all germane to the holding of Urs/Mela. In fact, what is sought to be held is an Urs and not Mela.
- The reasons given in the impugned order are irrelevant and extraneous to the holding of Urs and display predetermination and malafide on the part of the District Magistrate so as to prevent holding of such Urs with ulterior motive.
- The Urs/Mela is being organized at the said place for past several years. He relied upon documents on record pertaining to last few years to contend that there has never been any law and order or other problem during the Urs, therefore, there is absolutely no basis nor justification for preventing organization of such Urs/Mela.
- Dr. Misra says that he has instructions from Mr. Syed Hussain, learned Advocate assisting him to inform the Court that the Waqf land surrounding the Dargah is spread over an area of about 1.5 square kms though during Urs the devotees who come not only from within the country but from outside especially Muslim countries, reside in an area of 5 square kms. but there has never been any problem in holding Urs.
- In fact the District Administration was under a bounden duty to facilitate the holding of the Urs under the Government Order dated 01.04.1987 under which all the expenses in this

regard are to be borne by concerned department, therefore, the impugned order abdicates the said obligation.

- The District Magistrate has no authority in law to interfere in holding of the Urs on the Waqf land or even beyond it.
- Persons from all communities and not merely Muslims visit the Dargah during the one month long Urs/Mela, not only involves religious ceremonies based on faith and belief but also involves economic angle because of the large influx of persons over a large area of 5 kms. for a month, which gives livelihood to the residents of the area and boosts its economy of the area. In this regard he referred to para 10 (d) of the writ petition.
- The Kumbh Mela and Devi Patan Mela have been organized recently without any glitch, therefore, there is no reason as to why the Urs at the Dargah Shariff should be prevented from being organized. He hinted at malafide in this regard.
- The local administration was bound to maintain law and order and it cannot in the garb of its incapacity to do so, as claimed, violate the constitutional and legal rights of the believers and the members of the waqf, etc.
- According to him, the impugned action was violative of Articles 14, 19(1)(b), 21, 25 and 29 of the Constitution of India.
- Dr. Misra insisted that the Urs/Mela would commence from 15.05.2025 and continue till 15.06.2025 but on 18.05.2025 the main ceremony i.e. the symbolic wedding of Syed Salar Masood Ghazi would be performed, therefore, there was urgency in the matter and this Court should consider grant of interim relief.

4. Mr. Rajesh Tewari, learned Additional Chief Standing Counsel, on the other hand contended as under:

- The petitioners themselves sent a letter contained in Annexure 3 for making necessary arrangements and it is in that context that the relevant reports were requisitioned from the concerned officials including Additional Superintendent of Police (City), Bahraich, Sub Divisional Magistrate, Sadar, Bahraich, Executive Officer, Nagar Palika Parishad, Bahriach and based on the inputs received including from the Local Intelligence Unit the impugned decision has been taken, therefore, it cannot be said that no permission was sought.
- The letter dated 15.04.2025 contained in Annexure-3 uses the word Mela, therefore, to say that what is sought to be organized is not a Mela is not acceptable.
- He emphasized upon a notification under Section 163 of BNSS, 2023 dated 11.04.2025 which is referred in the impugned order but has not been challenged.
- He placed copy thereof before us which has been taken on record. He took us through the contents of the impugned order to submit that there are several inputs from the Local Intelligence Unit apart from other factors which have been taken into consideration based on the reports of the aforesaid Officers on account of which it is not possible to provide necessary facilities nor to ensure a secure atmosphere during one month long period and there is a serious possibility of law and order or public order situation being created, therefore, the District Administration is justified in responding to the letter dated 15.04.2025 by the

impugned order which does not violate any constitutional or fundamental rights.

- He further says that Religious activities inside the Dargah campus are not being interfered. The Mela which is being organized outside the campus is a secular activity. Religious activities at the Dargah have not been interfered in any manner. What has been declined is permission to hold the Mela outside Dargah campus which primarily involves commercial activities such as allotment of shops for rent, etc., therefore, there is no violation of any constitutional or legal rights by the impugned order. Reasonable restrictions can always be put by the State in the interest of public orders, etc. as has been done herein.

5. Having heard learned counsel for the parties, *Prima facie*, the impugned order appears to have been passed in response to the letter of the petitioner no. 1 dated 15.04.2025 which itself asked the District Magistrate to organize meetings for facilitating the holding of the Mela within a radius of 5 kms. of Dargah Sharif as has been held in the past. It is the admitted position of the petitioners also that about 4-5 lakh people would assemble and the Urs/Mela would be held over a period of one month starting from 15.05.2025. It is the own position of the petitioners that the arrangements in this regard are to be made by the local administration allegedly as per the Government Order dated 01.04.1987 in this regard. As per the impugned order the relevant officials have expressed their inability to provide necessary facility and maintain law and order and ensure well being of the devotees who attend the ceremony in such large gathering for the reasons mentioned in the impugned order. How far the reasons are tenable

or are they arbitrary and irrelevant, is a matter which can only be decided after exchange of affidavits. It is not in dispute that there is a prohibitory order under Section 163 of BNSS, 2023 which is operating since 11.04.2025 but has not been challenged by the petitioners. No doubt, the petition raises important questions as to the authority of the District Magistrate to interfere in such matters or to refuse to grant permission but, *prima facie*, as observed hereinabove, the impugned order appears to have been passed in response to the letter of the petitioner no. 1 as referred earlier. How far it is justified, whether it is malafide or violative of any constitutional or any other legal right are all issues which will require a response from the opposite parties, as, we cannot decide it on the first day.

6. As regards grant of interim relief, at least as of now, we are not inclined to grant any interim relief in view of the reasons mentioned in the impugned order, especially the LIU reports and other incidents which have happened in recent past and the sensitivities, as mentioned therein, especially as, Courts are not experts in such matters and it is the local administration which is best suited to take a considered decision as to how far it may be able to cope up with the situation where the Urs/Mela would be organized for about a month and the congregation would be of about 4-5 lakh people spread over an area of 5 kms. around the Dargah Sharif, but, without drawing any conclusive opinion in this regard.

7. Further, though the petitioners have asserted that the land surrounding the Dargah to the extent of 1.5 square kms. is Waqf land, but, we do not find any such specific pleading nor proof. We asked the counsel for the petitioners to take us through the relevant pleadings but he could not as of now, and stated that he

will bring relevant documents on record. The impugned order does not say so, it only says that Mela primarily takes place within an area of 1.5 kms. but the devotees span over an area of about 5 kms. which itself is an indication of the mammoth congregation and the ceremonies is to be organized, therefore, any interim relief at this stage without calling for a response from the opposite parties would not be justified.

8. Keeping the interim relief application open for consideration on the next date, we call upon the opposite parties to respond to the writ petition and the points noticed hereinabove.

9. In view of the urgency shown by Dr. Misra, the matter shall come up on 14.05.2025.

[Om Prakash Shukla, J.] [Rajan Roy, J.]

Order Date :- 7.5.2025

Santosh/-