

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 65 OF 2016
IN
PUBLIC INTEREST LITIGATION NO. 55 OF 2016**

Bhimraj S. Mahale .. Applicant

In the matter between

Smt. Vidya Bal and anr. .. Petitioners.

V/s.

State of Maharashtra and ors. .. Respondents.

AND

**CIVIL APPLICATION NO. 66 OF 2016
IN
PUBLIC INTEREST LITIGATION NO. 55 OF 2016**

Dattatraya A. Jamdhade .. Applicant

In the matter between

Smt. Vidya Bal and anr. .. Petitioners.

V/s.

State of Maharashtra and ors. .. Respondents.

AND

**CIVIL APPLICATION NO. 67 OF 2016
IN
PUBLIC INTEREST LITIGATION NO. 55 OF 2016**

Dilip P. Aloni .. Applicant

In the matter between

Smt. Vidya Bal and anr. .. Petitioners.

V/s.

State of Maharashtra and ors. .. Respondents.

AND
CIVIL APPLICATION NO. 73 OF 2016
IN
PUBLIC INTEREST LITIGATION NO. 55 OF 2016

Sanjay S. Kadam and anr. .. Applicants

In the matter between

Smt. Vidya Bal and anr. .. Petitioners.

V/s.

State of Maharashtra and ors. .. Respondents.

Mr. Subhash Jha a/w. D. Shinde for Applicant in CA 65/2016.

Mr. Subhash Jha a/w. Ms Rushita Jain i/b M/s. Law Global Advocate for Applicants in CA 67/2016.

Ms Kalyani Tulankar for Original Petitioners.

Mr. C.P. Yadav, AGP for Respondent- State.

**CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.**

DATE : 30 SEPTEMBER 2016.

P.C.

1] All the aforesaid civil applications basically seek recall of the order dated 1 April 2016 made by this Court disposing of Public Interest Litigation No. 55 of 2016 upon record of statement made by the learned Acting Advocate General, State of Maharashtra.

2] The order dated 1 April 2016 disposing of Public Interest Litigation (PIL) No. 55 of 2016 reads thus:

“ This Public Interest Litigation is filed with the prayers inter alia to direct respondent Nos.1, 2 and 3 i.e. the State of Maharashtra, Hon'ble Home Minister, Government of Maharashtra, and the Secretary for Home, Government of Maharashtra, to implement the provisions of the Maharashtra Hindu Places of

Public Worship (Entry Authorization) Act, 1956 (for short “the Act”) throughout the State of Maharashtra and issue directions to the Superintendent of Police as well as to the District Collectors of all the districts to ensure that the provisions of the Act are implemented.

2. *Mr. Rohit Deo, learned Acting Advocate General and Mr.A.B. Vagyani, learned Government Pleader, have appeared on receipt of advance copy of the petition. They have made the statement on instructions of the respondent concerned, that respondent No.3 in particular will ensure due compliance and enforcement of the provisions of the Act and, in order to ensure that the policy and purpose of the said Act is fully carried out, issue necessary instructions and guidelines to all the District Superintendents of Police and the Collectors in each district of the State of Maharashtra.*

3. *Learned Acting Advocate General further clarified and assured the Court that the State Government is duty bound to prevent any discrimination based on gender and keeping in view the provisions of Articles 15, 25 and 51A(e) of the Constitution, the Government should take proactive steps to ensure that the fundamental rights of women are fully realized and not allowed to be encroached upon by any authority or individual.*

4. *Upon the above statements being made and being recorded herein, the petition is not pressed for any further order. Public Interest Litigation is, accordingly, disposed of.”*

3] The applicant in Civil Application No. 65 of 2016 claims that he sells flowers and pooja articles to devotees visiting the Lord Shani temple. He states that the order dated 1 April 2016 came to be passed “without giving a fair and reasonable opportunity to all those those whose religious sentiments has been deeply hurt by the order” (paragraph 1 of civil application). The civil application then states that the public interest litigations on the same issue are pending in this Court (at Principal Bench and other Benches) including PIL No. 106 of 2014, which relates to access to sanctum sanctorum of Haji Ali Dargah. The applicant states that since the interim reliefs have been declined in these petitions by the coordinate Benches, the order dated 1 April 2016

ought not to have been made for sake of “consistency”. The applicant also states that the order dated 1 April 2016 has been rendered “*in ignorance of order passed by the coordinate Bench of this Hon'ble Court on 27.1.2016 as well as pendency of similar petitions in this Hon'ble Court.....*” (see paragraph 5 of the civil application).

4] The applicant has then purported to interpret the Maharashtra Hindu Places of Public Worship (Entry Authorization) Act, 1956 (said Act) and further made reference to Article 26 of the Constitution of India. The applicant has also stated that since the temple of Shani Shingnapur falls within the territorial jurisdiction of the Aurangabad Bench, the cause of action arose at the Aurangabad Bench and not at the Principal Bench. Finally, at paragraph 11, the applicant has stated as follows:

“11. The Applicant has deep faith and belief in Lord Shani and would offer prayer everyday at Shani temple in his village. The Applicant is of the firm opinion that the religious practises/traditions/practices and customs which are followed for centuries are to be respected by one and all including courts of law and they cannot be matter of debate and/or controversy”.

5] In Civil Application No. 66 of 2016, the applicant also claims to be an agriculturist and selling pooja articles near Shani Shingnapur temple. The averments in this application are broadly similar to the averments in the Civil Application No. 65 of 2016 and therefore, not referred separately in this order.

6] In Civil Application No. 67 of 2016, the applicant has stated that he is a financial consultant by profession and a public spirited citizen. He has stated that his sentiments have been deeply hurt on account of order dated 1 April 2016. This applicant has also made reference to

pending petitions and denial of interim orders therein. The applicant has repeated the same averments as are set out in Civil Application No. 65 of 2016.

7] In addition, the applicant in paragraph 15 of the civil application has made reference to Articles 14,15, 25, 26 and 51A of the Constitution of India and stated that his firm beliefs are required to be respected and they cannot be matter of debate and/or controversy. Finally, the applicant, in paragraph 21, has stated that the order dated 1 April 2016 *“is likely to have serious ramifications and could not turn out into a serious law and order problem, not only in the State of Maharashtra but even outside Maharashtra”*.

8] In Civil Application No. 73 of 2016, the applicants claim to be ardent devotees of Lord Trimbakeshwar and daily visitors to the Trimbakeshwar Temple at Nashik. The applicants state that since disposal of PIL No. 55 of 2016 *“there has been chaos and confusion not only at the place of Trimbakeshwar, but also at other places like : Shri Shani Shingnapur Tal. Nevasa, District Ahmad Nagar, Shree Mahalaxmi Temple, Kolhapur etc.....”*. The applicants seek intervention as according to them the developments in the State of Maharashtra have direct bearing with the peace and stability of the Society. The applicants have also raised several grounds in support of their contention that women should not be granted access to sanctum sanctorum of temples.

9] As noted earlier, PIL No. 55 of 2016 came to be disposed of by recording statement of learned Acting Advocate General. The applicants were admittedly not parties to PIL No. 55 of 2016. Since, it was contended that the order dated 1 April 2016 was made on the

basis of misrepresentation and fraud by the parties to the said petition, we have to note that there are no such averments in the civil applications. In any case, merely because the views expressed by the applicants in their civil applications, may be at variance with the views expressed by the petitioners in PIL No. 55 of 2016, is not a reason to say that the petitioners in PIL are guilty of any fraud or misrepresentation.

10] The writ petitions referred to by the applicants in their civil applications may have been pending. That by itself is no bar to a coordinate Bench disposing of the matter finally on the basis of statement of the learned Acting Advocate General. There is no question of inconsistency involved. The question of inconsistency, in any case, does not survive, particularly since we are now informed that PIL No. 106 of 2014, relating to access for women in the Haji Ali Dargaha as also been finally disposed of by the Division Bench of this Court, by its judgment and order dated 26 August 2016.

11] The Division Bench of this Court, in its order dated 26 August 2016, whilst disposing of PIL No. 106 of 2014 has held that the ban imposed by the Haji Ali Dargah Trust, prohibiting women from entering into sanctum sanctorum of Dargah contravenes Articles 14,15 and 25 of the Constitution of India and has directed the State and the Trust to take effective steps to ensure the safety and security of the women at the said place of worship.

12] The applicants in these civil applications, apart from submitting that their sentiments have been hurt and expressing opinions on basis of their understanding of the provisions of the law, have neither

properly pleaded nor demonstrated how their legal rights, if any, have been affected. Civil Application No. 63 of 2016, which was filed upon similar lines came to be rejected by order dated 10 June 2016. The reasons set out in the said order, equally apply in the matter of rejection of the present civil applications. However, we have considered these civil applications independently, since, it was projected that there is difference between the applicant in Civil Application No. 63 of 2016 and the present applicants.

13] Taking into consideration the various averments in the civil applications as also the circumstances as aforesaid, we are satisfied that the civil applications deserve to be dismissed as not maintainable. In case, the applicants have any grievance in the matter of implementation or interpretation of the Maharashtra Hindu Places of Public Worship (Entry Authorization) Act, 1956 or if the applicants are of the opinion that any of their fundamental or statutory rights have been violated by the State, nothing prevents the applicants from instituting substantive petitions for the purpose of enforcing their rights, if any, in the matter. None of the observations in this order are intended to or may be considered as being intended to affect remedies, if any, the applicants may have in the matter.

14] These civil applications are accordingly, dismissed with liberty as aforesaid.

(CHIEF JUSTICE)

(M.S.SONAK, J.)