IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.76 OF 2018

Hindu Janjagruti Samiti
Registered Public Charitable Trust,
represented by -
Ku. Priyanka d/o Avinash Lone,
Age 29 years, Occu. Social Service,
R/o C/o Shri Ganesh Deshpande,
16, Shri Niketan Colony,
Aurangabad
Mobile No.8208443401 ... PETITIONER

VERSUS

1. The State of Maharashtra
through Principal Secretary,
Revenue Department,
Mantralaya, Mumbai – 32

2. Principal Secretary,
Law & Justice,
Mantralaya, Mumbai – 32

3. Principal Secretary,
Department of Home,
Mantralaya, Mumbai – 32

4. The Superintendent of Police,
Ahmednagar – 413 501

5. Shri Saibaba Sansthan,
Through its Executive Officer,
Rahata, District Ahmednagar

(Respondent Nos.1 to 4 are to be served
through Govt. Pleader, High Court of
Bombay, Bench at Aurangabad)
... RESPONDENTS

.....
S/Shri S.M. Kulkarni and U.A. Bhadgaonkar,
Advocates for petitioner
Mrs. A.V. Gondhalekar, A.G.P. for State
Shri N.R. Bhavar, Advocate for respondent No.5
.....

CORAM: PRASANNA B. VARALE AND R.G. AVACHAT, JJ.

DATED : 21st AUGUST, 2019.

J U D G M E N T (PER R.G. AVACHAT, J.):

. Rule. Rule returnable forthwith and heard finally with the consent of learned counsel appearing for the parties.

2. This Public Interest Litigation has been filed seeking directions for constituting high level enquiry committee to enquire into the affairs of the office bearers of Sai Sansthan, Shirdi, in making purchases for providing amenities/ security to devotees visiting Sai Temple, Shirdi after attending Sinhasth Kumbha Mela, held at Nasik.

Respondent No.1 is the State of Maharashtra in Law & Judiciary Department. Respondents No.2 and 3 are the Heads of Departments of Law and Justice and Department of Home respectively. Respondent No.4 is Superintendent of Police, Ahmednagar. Shri Saibaba Sansthan is the respondent No.5 herein.

3. Shri S.M. Kulkarni, learned counsel for the petitioner would submit that a Public Interest Litigation (No.18/2011) and a few more Public Interest Litigations were filed with a view to protect interest of the Sai Sansthan. The High Court has put some restrictions on the office bearers of the Sansthan in spending money and taking policy decisions. A Sinhasth Kumbha Mela was held from 14th July 2014 to 11th August 2015. Devotees attending Kumbha Mela visit Sai Temple, at Shirdi. An application was moved in Public Interest Litigation (No.18/2011) seeking High Court's permission to spend a little over 57 Crores of rupees for making adequate arrangements for visitors to Sai Temple, at Shirdi. It was expected that, 2 – 3 Lakhs devotees may visit the Sai Temple everyday. The High Court allowed Civil Application with a condition to submit accounts of expenditure. It was also directed to the office bearers of the Sansthan to ensure that no unnecessary expenses are incurred. According to learned counsel for the petitioner, huge quantity of articles came to be purchased

at a cost more than a market price. Details have been given regarding market price of the articles purchased vis-a-vis the cost incurred by Sai Sansthan for their purchases. Most of the articles have been received post Sinhasth Kumbha Mela of 2015. Most of the articles have been given to the Police Department without prior permission of the State Government. The learned counsel invited our attention to Section 17 of the Shree Sai Baba Sansthan Trust (Shirdi) Act, 2004 (for short, 'the Act').

4. The learned counsel also invited our attention to the communication made by the respondent No.2 with the respondent No.5, calling upon them to submit explanation in this regard. The learned counsel would further submit that all was not well with the affairs/ purchases made by the respondent No.5 Sansthan. According to learned counsel, the conditions put up by the High Court while granting permission for making purchases have not been complied with. Learned counsel meant to say that the accounts of the expenditure have not been furnished to the High Court. The Civil Application seeking permission for making expenditure came to be abruptly withdrawn after obtaining the permission. The learned counsel ultimately urged for allowing the

petition.

5. Shri Bhavar, learned counsel for the respondent No.5 would, on the other hand, submit that, although the High Court granted permission to incur expenditure up to Rs.57 Crores, the Sansthan could actually spend not more than little over Rs.10 Crores. The Sansthan has furnished the accounts of expenditure and then only the Civil Application came to be withdrawn. Most of the articles purchased were of day-to-day utility. The Superintendent of Police, Ahmednagar was asking for security articles to be provided to the Police personnel to be deployed for Bandhobast, at Shirdi. After the Kumbha Mela was over, the respondent No.5 had time and again requested the Superintendent of Police, Ahmednagar to return the articles. In view of the learned counsel, the Public Interest Litigation has been filed with an oblique motive. He, therefore, urged for dismissal of the petition.

6. The learned A.G.P. representing the respondent No.4 would submit that the respondent No.4 is ready and willing to return the articles received by the police personnel. The learned A.G.P., however, put a rider, contending that those articles are

necessary for ensuring the convenience of the devotees visiting the Sai Baba Temple, and enforcing law and order when the visitors throng Shirdi in an unexpected number.

7. We have considered the submissions advanced on behalf of the respective parties and also perused the documents filed in support of the petition. We have gone through the affidavit-in-reply filed by respondent No.5 and the rejoinder file by the petitioner.

8. Section 17 of the Shree Sai Baba Sansthan Trust (Shirdi) Act, 2004 reads thus :

> "17. (1) Subject to any general or special orders of the State Government, it shall be the duty of the Committee to manage the properties and affairs of the Sansthan Trust, efficiently, to make proper arrangement for the conduct and performance of rituals, worship ceremonies and festivals in the Temple according to the custom and usages, to provide necessary facilities and amenities to the devotees and to apply the income of the Trust to the objects and purposes for which the Trust is to be administered under this Act.
>
> (2) In particular and without prejudice to the generally of the provisions contained in sub-section (1), the Committee shall, –

> (a) prepare the annual budget estimating the income and expenditure of the Trust and send a copy of it to the State Government and the Charity Commissioner;
>
> (b) maintain proper accounts and records of the properties and the income and expenditure of the Trust;
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> (c) cause the accounts of the Trust to be audited annually by such person and by such date in the next succeeding year as the State Government may direct;
>
> (d) to (o) . . . .
>
> (3) No immovable property vested in the Trust shall be leased for more than a year, or mortgaged, sold or otherwise alienated, by the Committee, except with the previous sanction in writing of the State Government.
>
> (4) **No jewelleries, ornaments and other valuable movable property vested in the Trust, the value of which is more than fifty thousand rupees, shall be sold, pledged or otherwise alienated by the Committee, except with the previous sanction in writing of the State Government.**

9. At the relevant time, the affairs of the Sai Sansthan were being managed by a three member committee constituted by the High Court, Bench at Aurangabad. The Committee was

comprised of three members namely, Principal District Judge, Ahmednagar as the President; the Collector of the District Ahmednagar and Executive Officer of Sai Sansthan.

10. The provisions of Section 17(4) of the Act provide that, valuable property worth more than Rs.50,000/- cannot be sold, pledged or alienated by the Sansthan Management Committee, except with the previous sanction in writing of the State Government.

11. Shri Sai Baba Sansthan moved Civil Application, being Civil Application No.3500/2015 in Public Interest Litigation No.18/2011, seeking permission to spend an amount of Rs.57,54,80,000/- for the purpose of making adequate arrangements for Kumbha Mela festival that was held between April 2015 to 26th September 2015 at Nasik. The Division Bench of this Court, by its order dated 6.5.2015, allowed the said Civil Application, with a rider to see that no unnecessary expenses are made and shall maintain the separate account. It was also directed to submit accounts to the Court regarding the expenses made within a period of four weeks from the date of culmination of the Kumbha Mela. The Civil Application was kept pending.

12. It is the contention of the petitioner that, the Civil Application was abruptly withdrawn on 8.9.2016 without furnishing to the Court the Accounts of the expenditure. The contention is incorrect. There is on record an affidavit filed by Executive Officer of Shri Saibaba Sansthan in Civil Application No.3500/2015. The said affidavit was filed informing that the actual expenditure incurred was amounting to Rs.10,33,02,129/-. A copy of the resolution No.198, passed in the meeting dated 29.2.2016 was also produced along with the affidavit.

13. The affidavit-in-reply filed on behalf of the Sansthan records that the Superintendent of Police had asked for articles for security purpose. After the High Court granted permission to spend the amount for making adequate security arrangements for devotees visiting Saibaba Temple soon after Kumbha Mela was over, e-tender process was undertaken for purchase of the articles. The e-tender notice was published Online and in newspapers as well. As there was no proper response, again E-tender notice was published between the period from 10.8.2015 to 18.8.2015. This time, only two tenders were received. The third E-tender notice was, therefore, issued during the period from

20.8.2015 to 27.8.2015. On 23.8.2015, technical and commercial bids were opened and purchase orders were issued.

14. Undertaking the E-tender process for purchase of the articles indicate, it was an open offer for all the suppliers of the articles proposed to be purchased. The affidavit-in-reply records cost of some of the articles purchased. It states that the Manila Rope of 10000 meters (100 items of 100 meters) was purchased for a sum of Rs.18,50,000/-. There appear to be a typographical mistake in the communication dated 10.6.2015 made by the Superintendent of Police, Ahmednagar. We do not propose to dwell at length as regards the cost incurred by Sai Sansthan for purchase of security and safety articles. The affidavit-in-reply is the answer to the contentions raised in the petition.

15. It is true that the Principal Secretary, Law and Judiciary Department, by his communication dated 16.12.2016, had called upon the Executive Officer of the Sai Sansthan to explain as to why the articles were handed over to the police authorities in breach of Section 17(4) of the Act. It, however, appears that, the said communication has not been taken to its logical conclusion for the reason that the Sai Sansthan, vide

communication dated 4.7.2018, informed the Law and Judiciary Department that several communications were made with the Superintendent of Police, Ahmednagar, asking him to return the articles to the Sai Sansthan. There is on record a number of communications, indicating the Sansthan to have had requested the Superintendent of Police, Ahmednagar to return the articles. The police authorities, in turn, expressed their readiness and willingness to return the articles, but were of the view that those articles were required by the Police staff for Bandhobast duties at Shirdi. It is true that the articles were purchased for making security arrangements for the devotees visiting Sai Temple soon after the Kumbha Mela of 2015 was over. The articles, however, were were proposed to be used for Sai Sansthan Centenary Ceremony to be held in the year 2018. The Law and Judiciary Department found that some of the articles were electronic one. The articles could have been purchased in 2018. It would have required less expenditure as the articles were electronic one.

16. Be that as it may, the fact remains that, the Sai Sansthan was authorised to spend a sum of Rs.57,54,80,000/-. It, in fact, spent a sum of little over Rs.10 Crores, i.e. less than one

fifth of the proposed expenditure. The articles have been purchased by undertaking E-tender process. The tenders were published thrice on the Government Website and in the daily newspapers. The accounts of the expenditure incurred, came to be submitted to the High Court and then only the Civil Application (No.3500/2015) came to be withdrawn. Since the order for purchase of the articles had already been placed, the supplier made some delay in supplying a few of those articles. Some of the articles came to be supplied a few days after the Kumbha Mela was over. The fact, however, remains that the articles purchased were required for security arrangements. It is a common knowledge that, thousands of devotees visit Saibaba Temple every day. The police officials and members of the Constabulary discharge their duties for enforcing law and order and ensuring security at and around the temple. It is reiterated that, at the relevant time, the affairs sought to be questioned in this Public Interest Litigation were being looked after by a Committee headed by Principal District Judge for expenditure to be incurred, the Sansthan would make a Civil Application, seeking permission of the High Court for spending money.

17. After having considered the entire conspectus of the matter, we do not find any of the allegations made in the petition to be worth considering. Thus, we find no substance in the Public Interest Litigation. A very bald and exaggerative statements have been made without there being any factual foundation. The Public Interest Litigation, therefore fails. The same is dismissed. Rule discharged.

(R.G. AVACHAT)
JUDGE

(PRASANNA B. VARALE)
JUDGE

fmp/-