

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-18265 of 2019 (O&M)

Date of decision:- 09.07.2019

Avtar Singh

.....petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. S.S. Salar, Advocate for the petitioner.

Mr. Abheypal Singh Gill, Asstt. A.G. Punjab.

TEJINDER SINGH DHINDSA J.

Petitioner seeks a mandamus directing the official respondents to grant permission to him to perform a function by erecting a stage and for use of loud speakers at the Dargah of Peer Baba Ahmed Shah Jalani, village Aliwal, Tehsil Jigaraon, District Ludhiana to be held on 09.07.2019.

Counsel submits that every year a religious function at the Dargah is performed by the devotees in which residents of Village Aliwal as also the surroundings villages participate. Peer Baba Ahmed Shah Jalani is stated to be a revered saint for all the inhabitants in the area irrespective of their religion, caste, class or political affiliation. It is urged that in the function a stage and tents are erected and loud speakers are also used to make speeches. Counsel submits that an application seeking permission to oversee such a function had been made to the Sub Division Magistrate, Jigraon, District Ludhiana and in this regard a report had been sought for and even furnished by one Jagdish Sharma, Sub Inspector, PS Dakha dated

05.07.2019.

Copy of the same has been appended alongwith the instant petition at Annexure P-6.

Precise grievance raised in the petition is that inspite of the report at Annexure P-6 clearly stating that the local police has no objection to grant permission for use of loud speakers at a low pitch yet the permission to hold the function has not been accorded to the petitioner whereas the current Sarpach namely Yadwinder Singh/respondent No.6 is holding the function at the cremation ground of the village. It is argued that respondent No.6 cannot have a monopoly with regard to conducting a religious congregation and the respondent authorities have denied the petitioner due permission while permitting respondent No.6 to do so only on account of the fact that he owes his allegiance to the ruling political party in the State of Punjab.

Reliance has been placed upon a judgement of the Supreme Court in ***Himat Lal K. Shah Vs. Commissioner of Police, Ahmedabad and another 1973 AIR (SC) 87*** to contend that the right to conduct religious processions and hold religious functions on public property is a right inherent in every person provided he does not invade the right of property enjoyed by others or cause a public nuisance.

The instant petition had come up for preliminary hearing before this Court on 08.07.2019 and while adjourning the matter for today, a complete copy of the writ paper-book had been furnished to learned State counsel to complete instructions in the matter.

During the course of hearing today Mr. Abheypal Singh Gill, Asstt. A.G. Punjab, on instructions from Sub Inspector Jarnail Singh, Police Station Dakha, has apprised the Court that a religious function is indeed

held each year but the venue of the same is not necessarily at the Dargah itself for want of adequate space. State counsel submits that the function for this area is being organized by the present Sarpanch and for which necessary police arrangements have been made so as to avoid any untoward incident. The prayer made in the petition is opposed by the State counsel on the premise that the petitioner himself is an Ex-Sarpanch of the Village and if a parallel function is permitted there would be every possibility of a law and order situation arising.

Counsel for the petitioner does not dispute that the petitioner is the Ex-Sarpach of the village and owes allegiance to the previous political regime in this State.

Furthermore, the report dated 05.07.2019 at Annexure P-6 which is being heavily relied upon by counsel for the petitioner does not inspire confidence. The Sub Inspector concerned namely Jarnail Singh has merely recorded the statements of three panchayat members namely Kaka Singh, Gurjinder Singh and Avtar Singh, to opine that the local police has no objection to give permission to use loud speakers at a low pitch. Needless to observe that the police official concerned would have been well-advised to record statements of at least 10 to 15 residents of the village so as to elicit their sentiments as regards holding of a parallel religious congregation at the Dargah of Peer Bab Ahmed Shah Jalani in the village. It would not be difficult to draw an inference that the three panchayat members afore-named would be supporters of the present petitioner who also is a current panchayat member.

The judgment of *Himat Lal K. Shah 's case (supra)*, would have no applicability in the facts of the present case. The right to conduct a religious procession or to oversee religious congregation on public

land/property is not absolute. State counsel has demonstrated before this Court that granting permission to the petitioner who is an Ex-Sarpanch of the village might create a situation of two warring factions coming to a head and thereby taking an ugly twist.

In an overview of the matter, this Court is of the considered view that no intervention is called for.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

09.07.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No