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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 8th February, 2023

+ **W.P.(C) 1407/2023 and CM APPL. 5245/2023, 6083/2023, 6084/2023**

R.R. PATIL FOUNDATION & ANR. Petitioners

Through: Mr. Rajshekhar Rao, Sr. Adv with
Mr. Sandeep Deshmukh, Mr. Nishant
Sharma, Mr. Rakesh K. Sharma &
Ms. Yamini Mookherjee, Advocates.
(M- 9811018549)

versus

ARCHAEOLOGICAL SURVEY OF INDIA & ORS. ... Respondents

Through: Mr. Rakesh Kumar, CGSC with Mr.
Sunil, Advocate (M-9873493541)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by Petitioner No.1- R.R. Patil Foundation and Petitioner No.2- Ajinkya Devgiri Pratishthan, Devgiri seeking directions to Respondent No.1- Archaeological Survey of India (ASI), to grant permission for organizing a cultural program at the Agra Fort on 19th February, 2023 on the occasion of the birth anniversary of Chhatrapati Shivaji Maharaj.
3. Representations seeking permission for the aforesaid program were sent by the Petitioners however, they have been rejected by the ASI vide letter dated 23rd December, 2022. Thereafter, another representation dated 9th January, 2023 was sent by Petitioner No.2, however, the same has not

been considered.

4. The matter was first listed for hearing on 3rd February 2023, on which date Id. Senior Counsel for the Petitioners sought time to take instructions in the matter.

5. Today, Mr. Rakesh Kumar, Id. Counsel for the ASI has handed over to the Court the Office Memorandum (‘OM’) F.NO.17/37/04-M of the ASI dated 14th January, 2005, as per which the usage of specific areas of protected monuments and sites for holding cultural events is restricted to Government Departments and public bodies. The OM categorically states that no permission can be granted to private individuals, private bodies and other commercial organizations. Relevant portion of the said OM dated 14th January 2005, reads as under:

“The issue relating to usage of specified areas of protected monuments / sites for holding cultural events has been resolved and the competent authority has approved the following guidelines for usage of protected areas.

XXX

“8. Permission for holding functions would be granted only to Government departments and public bodies. No permission would be granted to private individuals, private bodies or other commercial organizations. In deciding whether the requests for holding a function is from a public body or not, the decision of the DG, ASI/SA, Circle would consider the previous history and activities of the organization, the purpose for which the event is being held and the nature and duration of the cultural event.”

6. Mr. Rajshekhar Rao, Id. Senior counsel appearing for the Petitioners submits that he has moved two applications seeking to place on record

additional facts and documents as also for the impleadment of the State of Maharashtra as Respondent No.4.

7. The case of the Petitioners is that they are a registered trust involved in social and cultural activities in the State of Maharashtra. Paragraph 4 of the writ petition reads as under:

“4. That the Petitioner No. 1 is a registered Trust which is actively involved in many social and charitable activities in the state of Maharashtra. Foundation has struggled for women safety, youth employment, ban on dance bar in Maharashtra and for well-being of farmers. Many cultural programmes have been organized so far by our Foundation such as celebration of Navaratri festival on large scale and flower showering on the statues of Chhatrapati Shivaji Maharaj. R.R. Patil Foundation and Ajinkya Devgiri Pratishthan, Devgiri, Maharashtra also celebrates the birth anniversary of Chhatrapati Shivaji Maharaj i.e.. Shiva Jayanti on large scale. The foundation and people of Maharashtra is emotionally attached to the Agra Fort where Chhatrapati Shivaji Maharaj alongwith his son was imprisoned and kept captive by Mogul Emperor Aurangzeb.”

8. Owing to its historical significance, the petition has been filed by the Petitioners seeking permission to organize the birth anniversary celebration of Chhatrapati Shivaji Maharaj on 19th February, 2023 at the Agra Fort. This application has received support from the Chief Minister of Maharashtra and a letter to that effect has been placed on record. Further, it is not disputed that the State of Maharashtra is not a co-organizer of the event yet.

9. Since the OM and the policy of the ASI has been in operation almost 18 years now and there has been no challenge to the said policy, it is deemed

appropriate to direct that if the Petitioners wish to co-organize the event along with the State of Maharashtra, they may, after obtaining the necessary permission from the State of Maharashtra, move a letter to the ASI along with all the requisite documentation, which shall be considered expeditiously. This direction is being passed in view of the Petitioner's stand that they have approached the State of Maharashtra for co-organizing the event, which is currently under consideration.

10. If there is any delay in consideration of the application on part of the ASI, upon the Petitioners filing such a request, the Petitioners are free to approach the Court.

11. With these observations, the present petition, along with all pending applications, is disposed of.

PRATHIBA M. SINGH
JUDGE

FEBRUARY 8, 2023/dk/sk

