

15.03.2024
Suppl. L No.1
Court No.8
(gc)

**MAT 535 of 2024
CAN 1 of 2024**

**Sk. Ansar Uddin Mia
Vs.
Taj Khan Masnad-E-Ala (R) Pir Saheb,
Represented by Mutawalli (Sebait Khadim)
And for self SK Najrul Islam Mia & Ors.**

Mr. Gopal Chandra Ghosh,
Mr. Rajkrishna Mondal,
...for the Appellant.
Mr. Sk. Rejaul Alam
...for the Respondent No.1.
Mr. Kamal Mishra
...for the Respondent Nos.7,8,9,10.
Mr. Tanmay Chowdhury,
Ms. Ritoprita Ghosh
...for the Respondent No.14.

1. The appeal is arising out of an order dated 13th March, 2024 in a writ petition in which the writ petitioner has prayed for permission to hold a festival at the Taj Khan Masnad-E-Ala at Purba Medinipur on 16th March, 2024. The learned Single Judge disposed of the writ petition by recording the observation made by His Lordship on 17th March, 2023 to the effect that unless an appropriate forum decides the inter se right to hold the festival between the petitioner and the private respondents, no festival shall be held. This order was carried to the Appeal Court in which the said order was clarified in paragraph 3 of the order of the Hon'ble

Division Bench presided over by the Hon'ble the Chief Justice on 10th August, 2023. For the sake of brevity, paragraph 3 is reproduced below:-

“3. Therefore, we clarify that observations made in the order dated 17.03.2023 in WPA 6286 of 2023 shall not amount to declaration of any right in favour of any third party including the writ petitioner regarding the Mutwallis of the said mosque. We leave it open to all the parties to approach before the appropriate authorities and resolve the controversy among themselves. We further make it clear that the observations made by the learned writ court at best can enure to the festival which was conducted in March, 2023 and none of the observations contained therein will impact the festival to be conducted in March, 2024.”

2. This year, the writ petitioner has filed an application to hold the festival.
3. The learned Counsel for the appellant submits that in the previous years, festival at the Darga was held by the appellant and this year he has also obtained necessary permission from all the authorities.
4. The learned Single Judge disposed of the matter with a direction that the writ petitioner shall approach the Wakf Board under the Wakf Act of 1995 for appropriate

permission to hold the festival in question and only pursuant to any order that may be passed by the Wakf Board that Police may consider granting of any protection.

5. We do not find any reason to interfere with the said order.
6. The learned Counsel for the writ petitioner has submitted that he has already approached the Wakf Board for necessary permission.
7. In view of the fact that the festival is going to be held on 16th March, 2024, we direct the Wakf Board to decide the matter in course of the day and may hold sitting for that beyond 6.00 p.m.
8. All the parties shall produce relevant documents including the permissions obtained for the earlier years before the Wakf Board in order to enable the Wakf Board to take a decision in this regard.
9. We make it clear that Wakf Board shall decide the matter impartially and without being influenced by the order passed in this appeal and by the learned Single Judge on 17th March, 2023 or on 13th March, 2024.
10. The Wakf Board shall also take into consideration the police report dated 13th April, 2024.

11. The appeal and the application, accordingly, disposed of.
12. However, there shall be no order as to costs.
13. We, however, make it clear that in the event the writ petitioner has not approached the Wakf Board by this time, that is, 2.24 p.m., the Wakf Board shall consider the papers that shall be produced by the appellant to decide the said issue as referred by the learned Single Judge.
14. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Uday Kumar, J.)