

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1745 OF 2025

Bhairavnath Mandir (Devasthan) Trust ...Petitioner
Versus
State of Maharashtra & Ors. ...Respondents

AND
WRIT PETITION NO. 15993 OF 2024

Bhairavnath Mandir (Devasthan) Trust ...Petitioner
Versus
State of Maharashtra & Ors. ...Respondents

Mr. S. C. Chandratre for Petitioners.
Ms. Neeta Karnik, Sr. Adv. a/w Ms. Priyanka Dable a/w Ms. Pramila S a/w Mr.
Vikas Wagh a/w Mr.Sachachidanand Singh for respondent / intervenor.
Ms. Savita Prabhune, AGP for State.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE: 05 FEBRUARY 2025

P.C.

1. These are two petitions filed under Article 226 of the Constitution of India by the same petitioner namely Shri Bhairavnath Mandir (Devasthan) Trust. The prayer in both these petitions are required to be noted which are more or less similar which reads thus:

Prayers in WP NO. 1745 of 2022

"A. Be pleased to issue Writ of Mandamus or order or direction in the nature of mandamus or any other appropriate writ thereby directing the Respondent no. 2 to decide the representation of the petitioner within reasonable time giving the Petitioner time to challenge the same if aggrieved.

B. In the alternative, be pleased to issue Writ of mandamus or order or direction in the nature of mandamus or any other appropriate writ thereby directing the Respondent no. 2 and 3 to provide necessary protection to the Petitioner to organise the Mhay Yatra in Plot No. 153A to maintain the law and order."

Prayers in WP NO. 15993 of 2024

"A. Be pleased to issue Writ of mandamus or order or direction in the nature of mandamus or any other appropriate writ thereby directing the Respondent not to issue any orders prohibiting organisation of the annual Bhairavnath Yatra on Plot no. 153A, Village Digwale (Ranjanwadi), Taluka Kankavali, District Sindhudurg.

B. Be pleased to issue Writ of mandamus or order or direction in the nature of mandamus or any other appropriate writ thereby directing the Respondent not to issue any orders permitting organisation of the annual Bhairavnath Yatra on any other place than Plot no. 153A, Village Digwale (Ranjanwadi), Taluka Kankavali, District Sindhudurg.

2. On 3 February 2025, we had heard learned counsel for the parties more particularly Ms. Priyanka Dable, learned counsel for intervenor who is today represented by Ms. Neeta Karnik, learned senior advocate.

3. The intervenors have placed on record an affidavit-in-reply raising all the contentions in regard to the festival in question and other connected issues. What is pertinent is that the compliance of our order dated 3 February 2025 a Joint affidavit of good conduct annexed at **Exhibit - S** (page 211) to the reply affidavit is filed on behalf of the intervenors, in which in paragraph no. 5 the deponents Shri Harishchandra Parab, Prakash Jadhav and Arun Chavhan have stated as under:

"5. We state that as required by this Hon'ble Court we hereby undertake to conduct ourself in an

ordinary manner, to be law abiding and of good behavior, during the conduct of the said festival on 11/10/2025. However, it will be an utmost importance, that the trustees of the Petitioner Trust also to file the Good conduct certificate, in the interest of law and considering the coming Village festival on 11.02.2025.”

4. Ms. Karnik has also fairly submitted that her clients - the intervenors had made an application dated 28 January 2025 to the Tahsildar, Kankavali, in which a request was made that as per the tradition, the festival be permitted to be celebrated on land Gat No. 153A. The relevant prayer as made in the said application reads thus :

“(Official Translation of a photocopy of Point No.5, being a Marked Portion, typewritten in Marathi)

5) Hence, it is requested to grant permission to the Applicant and also to the devotees, villagers and the ‘Mankari’ (i.e. the persons entitled to some honour) from the villages viz. (Illegible) and Bhairavgaon to celebrate the ‘Mhay’ Festival which is being celebrated since the olden times, as per the religious tradition, on the land bearing Gat No.153-A, during the period from the date 11.02.2025 to 12.02.2025 like every year. We undertake not to commit any such act causing breach of peace in any manner, in the said area. Therefore, it is humbly requested to grant permission to us to celebrate the aforesaid festival. This is the humble request.

Date : 28.01.2025.

Yours faithfully,”

5. On the other hand as clear from the prayers as made by the petitioners - Bhairavnath Mandir (Devasthan) Trust in the Writ Petitions as noted by us hereinabove, the prayer is also that the festival and rituals be held on land Gat No. 153A. In fact to this effect, an application was also made by the petitioner to the Tahsildar, Kankavali dated 7 January 2025.

6. It thus clearly appears that there is a consensus between both the groups namely the petitioner and the intervenors, that the festival as also the rituals for the ancient festival which begins on 11 February 2025, are held on land Gat No.153A as traditionally held.

7. In this view of the matter, and such consensus between the parties, we are of the opinion that there is nothing for the Tahsildar to decide in the applications dated 7 January 2025 and dated 28 January 2025 as made by the intervenors. Thus, the 2025 festival be celebrated on Gat No. 153A.

8. In so far as the other contentions of the parties are concerned these are not the proceedings in which any dispute *inter se* between the petitioner and the rival group touching their respective rights and / or affairs of the Trust, can be adjudicated.

9. We keep open all contentions of the parties, however with a caution that none of the parties on any personal issues / disputes between them shall in any manner, disturb the law and order during the ensuing festival and the solemnity and sanctity of the religious festival shall be maintained at any cost.

10. The Tahsildar shall accordingly issue no objection for the festival to be held at Gat No. 153A. We are informed that the petitioner has already obtained consent from the owners of Gat No.153.

11. Disposed of in the aforesaid terms. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)