
(2005) 08 UK CK 0006

In the Uttarakhand High Court

Case No : Writ Petition No. 923 of 2005 (M/B)

Manohar Kant Dhyani

APPELLANT

Vs

Sri Badrinath Kedarnath Mandir Samiti and Others

RESPONDENT

Date of Decision : 29-08-2005

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Sri Badrinath and Sri Kedarnath Temples Act, 1939 — Section 10, 11, 16, 21, 22

Citation : (2006) 1 UC 235

Hon'ble Judges : Cyriac Joseph, C.J;B.C.Kandpal, J

Bench : Division Bench

Advocate : L.K. Tiwari, for the Appellant;

Final Decision : Dismissed

Judgement

Cyriac Joseph, C.J.—The Petitioner claims to be the Ex-Chairman of the Badrinath Kedarnath Mandir Samiti and Ex-Member of Parliament. He has filed this writ petition as a Public Interest Litigation praying for a direction to the Respondents, namely, Sri Badrinath Kedarnath Mandir Samiti, the State of Uttaranchal and the Secretary, Dharamswa Evam Sanskriti Secretariat, Dehradun not to organize the Vishwa Shanti Sammelan with the funds of the Temple Committee. There is also a prayer for a direction to the Respondents not to extend the term of the Mandir Committee of Sri Badrinath and Kedarnath.

2. Having heard Mr. L.K. Tiwari, learned Counsel for the Petitioner and having considered the materials placed on record, we do not find any valid reason and sufficient ground to entertain this writ petition. It is not for the High Court to decide whether the first Respondent Sri Badrinath Kedarnath Mandir Samiti should or should not organize the Vishwa Shanti Sammelan with or without the Temple funds. The Sri Badrinath and Sri Kedarnath Temples Committee was constituted under the provisions of the Uttar Pradesh Sri Badrinath and Sri Kedarnath Temples Act, 1939. According to Section 4 of the said Act, the

ownership of the temple fund shall vest in the deity of Sri Badrinath or Sri Kedarnath as the case may be and the committee shall be entitled to its possession. According to Section 5 of the said Act, the administration and the governance of the Temple and the Temple fund shall vest in the Committee. The duties of the Committee are enumerated in Section 23 of the Act. Such duties include making arrangements for the safe custody of the funds, valuable security and jewellery and for the preservation of the Temple fund; ensuring that the funds of the endowment are spent according to the wishes, so far as may be known, of the donors and making suitable arrangements for the imparting of religious instruction and general education. We do not wish to adjudicate whether the proposed Vishwa Shanti Sammelan is being organized according to the wishes of the donors or whether it is for imparting of religious instruction and general education. We do not have sufficient materials before the Court to decide such questions of fact and faith. We have no reason to presume that the Committee constituted under the Act for the better administration and governance of the Sri Badrinath and Sri Kedarnath Temples and their endowments will misuse the Temple fund for a purpose unconnected with the temples or the wishes and aspirations of the pilgrims and the worshipers. Even assuming that the Temple fund cannot be used for organizing the proposed Vishwa Shanti Sammelan and that such misuse of the funds is an abuse of the powers of the Temple Committee and if the Petitioner is really aggrieved by the decision of the Temple Committee, the Petitioner can approach the Government for the redressal of the grievance and it is not necessary for this Court to interfere in the matter in exercise of its powers under Article 226 of the Constitution of India.

3. According to Section 10 of the said Act, the State Government may remove, or pending proceeding for removal, suspend, the President, the Vice-President or any other members of the Committee, if he has been found guilty of corruption or misconduct in the administration of the Temple or if he has in the opinion of the State Government, acted in the manner prejudicial to the interest of the Temple. According to Section 11 of the Act, if in the opinion of the State Government the Committee is not competent to perform, or persistently makes default in performing the duties imposed on it under the Act, or exceeds or abuses its powers, the State Government may, after due enquiry, by notification dissolve or supersede the Committee and direct the constitution of another Committee, in accordance with the provisions of the Act. u/s 21, the State Government shall have power to call for such information and accounts as may in their opinion be necessary for reasonably satisfying themselves that the Temple and the Temple fund are properly managed, maintained and administered and the Committee shall, on such requisition, furnish forthwith such information and accounts to the State Government. The State Government may issue such directions to the Committee, as they may deem fit and the Committee shall carry them out. As per Section 22, the State Government may depute an officer to inspect any movable and immovable property, records, correspondence, plans, accounts and other documents, relating to the Temple and the Committee and its

employees shall be bound to afford facilities to such officer for inspection. Section 16 lays down that every member of the Committee shall be liable for the loss, waste or misapplication of the Temple fund, if such loss, waste or misapplication is a direct consequence of his willful act or omission while as member and a suit for compensation may be instituted against him either by the Committee or by the Government.

4. In the light of the above provisions in the Act, we are of the view that instead of filing a writ petition under Article 226 of the Constitution of India, the proper remedy available to the Petitioner is to bring to the notice of the Government, the alleged irregularities stated to have been committed by the Temple Committee and to request the Government to take appropriate action in accordance with law. Since the Petitioner has failed to resort to such remedy and since the said remedy is still available to the Petitioner, this writ petition is not maintainable.

5. In the above circumstances, we decline to invoke our jurisdiction under Article 226 of the Constitution of India in this case. The writ petition is dismissed without prejudice to the right of the Petitioner to approach the Government for redressal of his grievance.