
(2007) 04 MP CK 0072
In the Madhya Pradesh High Court

Ramawtar Chaurasiya

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 27-04-2007

Acts Referred:

Madhya Pradesh Maa Sharda Devi Mandir Adhiniyam, 2002 — Section 1(2), 25, 4

Citation : AIR 2008 MP 83

Hon'ble Judges : A.K. Patnaik, C.J;K.K. Lahoti, J

Bench : Division Bench

Judgement

A.K. Patnaik, C.J.—Both these writ petitions relate to Maa Sharda Devi Mandir at Maihar in District Satna in the State of Madhya Pradesh.

2. The State Legislature has enacted The Madhya Pradesh Maa Sharda Devi Mandir Adhiniyam, 2002 (for short the Adhiniyam), which has admittedly come into effect by a notification issued by the State Government under Sub-section (2) of Section 1 of the Adhiniyam. Section 4 of the Adhiniyam provides that notwithstanding anything contained in any decree or order of any Court or any custom or usage or contract, sanad, instrument, deed or property, engagement to the contrary, the ownership of the Mandir and all the endowments which have been or may after the enactment of the Adhiniyam be made for the benefit of the Mandir in the name of any person whatsoever or for the convenience, comfort or benefit of the pilgrims visiting the Mandir and all offerings including Chadotri shall vest in the deity of Maa Sharda Devi. Section 5 (1) of the Adhiniyam provides that the administrative control and management of the Mandir and its endowments shall vest in Maa Sharda Devi Mandir Managing Committee (for short the Committee). Section 11 of the Adhiniyam provides that subject to the provisions of the Adhiniyam and the rules made thereunder, it shall be the duty of the Committee inter alia to arrange for the proper performance of worship, "puja archana" and the daily and periodical rites of the Mandir, to provide facilities for the offerings of worship by devotees, to ensure the safe custody of funds, valuables and jewelleryes and the preservation and management of the

properties vested in the Mandir. Section 16 of the Adhiniyam provides for appointment of Administrator of the Mandir by the State and further states that the Committee shall exercise its power of administration, control and management of the Mandir through the Administrator. Section 17 (1) of the Adhiniyam provides that the posts of officers and employees of the Committee shall be created after prior approval of the State Government. Section 17 (2) of the Adhiniyam provides that appointment of all officers other than Administrator and other employees of the Mandir shall be made by the Collector. Section 18 (1) provides that all Pujaris, Pandas Sevaks and servants attached to the Mandir or in receipt of any emoluments or perquisites therefrom and all licences shall be under the control of the Administrator. Section 25 of the Adhiniyam provides inter alia that the State Government or the Commissioner may issue such direction to the Committee as it/he may deem fit and the Committee shall abide by the same. Section 37(1) of the Adhiniyam provides that the Committee shall be entitled to take and be in possession of all movable and immovable and movable properties including the funds and jewelleries, records, documents and other assets belonging to the Mandir.

3. In accordance with the aforesaid provisions of the Adhiniyam, the Committee is in possession of all movable and immovable properties of the Maa Sharda Devi Mandir and is also running the administration of the Mandir. The State Government issued an order on 9-11-2006 to the effect that Shri Swami Devi Prasad Pandey, the Head Pujari of Maa Sharda Devi Mandir, Maihar, would be entitled to a share of one anna in the Chadotri (offerings made to Maa Sharda Devi). The petitioner in Writ Petition No. 3786 of 2007 has challenged the order dated 9-11-2006 of the State whereas the petitioner in W. P. No. 50 of 2007, Shri Swami Devi Prasad Pandey, has prayed that the order dated 9-11-2006 issued by the State Government be implemented forthwith.

4. Mr. G. S. Ahluwalia, learned Counsel appearing for the petitioner in W. P. No. 3786 of 2007 submitted that under the scheme of the Adhiniyam, the ownership of all movable and immovable properties and all offerings including Chadotri, vests in the deity of Maa Sharda Devi and therefore, the State Government has, in directing that one-anna share out of Chadotri will be paid to the Head Pujari of the Mandir, acted ultra vires the provisions of the Adhiniyam. He submitted that under the Adhiniyam, the custody and management of the movable and immovable properties of the temple as well as its administration vest in the Committee and that the Committee has passed a resolution dated 16-8-2005 to the effect that the salary will be granted to the employees engaged in the temple and no one would be entitled to a share in the offerings including Chadotri made to Maa Sharda Devi.

5. Mr. K. K. Trivedi, learned Counsel appearing for the petitioner in W. P. No. 50 of 2007, on the other hand, submitted that the father of the petitioner had been getting one anna share in the Chadotri (offerings made to Maa Sharda Devi since 1939 and the petitioner has been getting one anna share in Chadotri since 1979,

after the death of his father. He submitted that the State Government has taken into consideration these facts and has issued the order dated 9-11-2006 directing that the petitioner would be entitled to one anna share of the Chadotri made to Maa Sharda Devi. He submitted that on account of the resolution adopted by the committee, the petitioner is not being paid his one anna share out of the Chadotri.

6. We have examined the provisions of the Adhiniyam and we find that u/s 3(k) of the Adhiniyam, "Pujari" has been defined to mean "any person who is authorised to perform worship, puja- archana or other rituals or services connected therewith" and Section 18 (1) of the Adhiniyam provides inter alia that Pujari attached to the Mandir or in receipt of any emoluments or perquisites therefrom is under the control of the Administrator. Thus, after the enactment of the Adhiniyam and after the take over of the administration and properties of the Maa Sharda Devi Mandir by the Committee under the Adhiniyam, the Pujari continues to perform worship, puja-archana and other ritual services connected therewith in the mandir and is also entitled to such emoluments or perquisites as may be granted to him by the authorities under the Adhiniyam. The Committee, no doubt, has the power of administration and management of the Mandir, as also the custody over the movable and immovable properties and funds of the Mandir, but u/s 25 of the Adhiniyam, vast powers of control have been conferred on the State Government or the commissioner.

7. Section 25 of the Adhiniyam, relevant as it is, for disposal of these cases is quoted hereunder:

25. The State Government or the Commissioner shall have the power to call for all such information and accounts as may in its/his opinion be necessary for reasonably satisfying itself/himself that the Mandir is properly maintained, the endowments thereof are properly administered and their funds are duly appropriated to the purpose for which they were founded or exist; and the Committee shall on such requisition, furnish forthwith such information and accounts to the State Government or the Commissioner, as the case may be. The State Government or the Commissioner may issue such direction to the Committee as it/he may deem fit and the committee shall carry them out.

8. It will be clear from the last limb of Section 25 of the Adhiniyam, quoted above, that the State Government or the Commissioner may issue such direction to the Committee as it/he may deem fit and the Committee shall carry them out. The word "shall" used in the last limb of Section 25 of the Adhiniyam, quoted above, indicates that the direction, of the State Government has to be followed by the Committee. In other words, a statutory duty has been cast on the Committee to abide by the direction of the State Government issued u/s 25 of the Adhiniyam. Hence, even if the Committee is of a different view than that of the State Government and is of the opinion that a Pujari should not be paid a share out of the Chadotri (offerings made to Maa Sharda Devi it has to follow the directions of the State Government until the directions are modified or cancelled

by the State Government by any subsequent directions.

9. Mr. Sanjay K. Agrawal, learned Deputy Advocate General appearing for the State submitted that the Collector Satna has not been paying the one-anna share of the petitioner in Writ Petition No. 50 of 2007 as directed by the State Government in the order dated 9-11 -2006 because the resolution of the Committee adopted in its meeting held on 4-1-2007 has been sent to the State Government for re-consideration and the orders of the State Government are awaited on such reconsideration. But as we have indicated above, once the State Government has issued a direction u/s 25 of the Adhiniyam, such direction has to be complied with in view of the mandatory provisions of Section 25 of the Adhiniyam and neither the Committee nor the Collector who is also an authority under the Adhiniyam, can delay compliance of the directions issued by the State Government u/s 25 of the Adhiniyam on the ground that the Committee has proposed the reconsideration of the directions issued by the State Government.

10. For the aforesaid reasons, we dispose of these two writ petitions with a direction that the direction of the State Government in the order dated 9 11 -26 to pay one anna share to the petitioner in W. P. No. 50 of 2007 shall be forthwith carried out by the respondents 2 and 3, namely, the Collector, Satna and the Administrator, and the Maa Sharda Devi Mandir Managing Committee but we make it clear that it will be open for the State Government to consider the resolution of the Managing Committee of Maa Sharda Devi Mandir adopted in its meeting held on 4-1-2007.