

(2016) 09 RAJ CK 0037

In the Rajasthan High Court

Case No : Civil Writ Petition No. 11613 of 2016

Shri Ganesh Jan Seva Samiti (Registered) Baswa

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 01-09-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 2 WLCRajUC 491

Hon'ble Judges : Mr. Kanwaljit Singh Ahluwalia, J.

Bench : Single Bench

Advocate : Mr. Umesh Vyas, Advocate, for the Petitioner; Mr. D.V. Tholia, AAG, for the Respondents

Final Decision : Allowed

Judgement

Mr. Kanwaljit Singh Ahluwalia, J.—The present petition has been filed under Article 226 of the Constitution of India, praying that permission may be granted to the petitioner to provide water and food through Bhandara to the devotees who visit Shri Ganesh Trinetra Temple, Ranthambore at Sawai Madhopur during the annual fair organised near precincts of the Mandir.

2. It is contended that for providing water and food to the devotees, the petitioner organisation had to approach this Court by filing SBCWP No. 9960/2009 and a co-ordinate Bench on 19.8.2009, permitted the petitioner organisation to install water hut and further arrange Bhandara at the Mela place. The petitioner organisation was also permitted to ply vehicles i.e. two mini trucks and a maruti car. The order dated 19.8.2009 passed by the co-ordinate Bench reads as under:-

"Issue notice.

Mr. Gajjanand Mishra Manav, Dy. Govt. Counsel is directed to accept notice on behalf of the respondents.

He seeks two weeks time to file reply. Time prayed for is allowed.

The matter was heard for consideration grant of interim order.

Meanwhile, the petitioner is permitted to install a water hut (Dharmarth Pyau) and further arrange a bhandara at the mela place. The petitioner is also permitted to ply the vehicles i.e., Two Mini Truck bearing No. RJ29-G-0402, RJ29-GA-0531 and maruti car No. RJ14-1478 from 21.8.2009 to 24.08.2009."

3. The story was not different in the year 2010. Again the petitioner organisation filed a writ petition, SBCWP No. 12378/2010 and a co-ordinate Bench again allowed the same by passing detailed order on 9.9.2010. The same story was repeated in the year 2011. In the year 2012, SBCWP No. 14122/2012 this Court granted permission by passing a detailed order on 14.9.2012. The order dated 14.9.2012 reads as under:-

"1. The case of the petitioner-Samiti is that it is a registered Samiti for providing facilities to devotees who visit Shri Ganesh Trinetra Temple, Ranthambhore at Sawai Madhopur during Ganesh fair. The petitioner-Samiti is aggrieved of non-consideration of its application by the Collector, Sawai Madhopur for permission to hold "Bhandara" and set up water hut/s at Patali Devi Temple situate 1/2 km away from Shri Ganesh Trinetra Temple.

2. Counsel for the petitioner submits that the permission for holding "Bhandara" and setting up water hut/s for the pilgrims visiting the Ganesh Temple during the fair had been granted by the respondents in the earlier years during Ganesh fair at Patali Devi Temple. However, permission for this year's Ganesh fair scheduled between 15.09.2012 to 19.09.2012 has been arbitrarily denied. It is submitted that in the earlier years when permission was granted, the petitioner-Samiti was never in breach of the conditions of the permission.

3. Mr. Inder Raj Saini, AAG appearing for the State on instructions submits that in the event the petitioner-Samiti were to approach the Collector, Sawai Madhopur, its pending application is likely to be considered sympathetically and permission to hold "Bhandara" and set up water hut/s during Ganesh fair scheduled between 15.09.2012 to 19.09.2012 is likely to be granted.

4. Heard the counsel for the petitioner-Samiti and Mr. Inder Raj Saini, AAG for the State.

5. In view of the concession of Mr. Saini, AAG, this writ petition is disposed of with the direction to the Collector, Sawai Madhopur to consider and dispose of the petitioner-Samiti's pending application for permission to hold "Bhandara" and set up water hut/s during Ganesh fair at Patali Devi Temple scheduled between 15.09.2012 to 19.09.2012 by 15.09.2012.

6. Stay application needs no address in view of the disposal of the writ petition."

4. In the year 2013, the petitioner organisation had to again approach this Court by filing a SBCWP No. 16012/2013 and this Court on 6.9.2013 passed the

following order:-

"Issue notice to the respondents. Rule be made returnable within two weeks. Notices be given Dasti to the learned counsel for the petitioner.

Meanwhile, the respondents are directed to permit the petitioner Samiti for organising Bhandara and establish Water Hut at Patali Devi Mandir in the Shri Ganesh Trinetra Temple fair which is scheduled from 6.9.2013 to 10.9.2013. The respondents shall also permit the petitioner Samiti to ply two mini trucks No. RJ29-GA- 0531 and RJ29-GA-2793 and jeep No. RJ14-UA-3817 to the Bhandara place."

5. Same thing happened in the year 2014 and in SBCWP No. 8905/2014, a co-ordinate Bench had passed the following order:-

"Issue notice by making it returnable within two weeks. Notices may be given "dasti", as prayed.

In the meanwhile, the respondents are directed to permit the petitioner Samiti for organising Bhandara and establish Water Hut at Patali Devi Mandir in the Shri Ganesh Trinetra Temple fair which is scheduled from 26th August, 2014 to 30th August, 2014. The respondents shall also permit the petitioner Samiti to ply two mini trucks Nos.RJ-29-GA-0531, RJ-23/GA-2793, Van No. RJ-29/UA- 1170 and Jeep No. RJ-29/T-0263 to the Bhandara place."

6. Again on 10.9.2015, on writ petition filed by the petitioner organization, a co-ordinate Bench passed a detailed order in SBCWP No. 12704/2015. The said order reads as under:-

"Issue notice to respondent. Mr. S.K. Gupta seeks time to file reply. Time prayed for is allowed.

Counsel for the petitioner submits that in respect of previous years in similar situation the petitioner Samiti has been allowed to install water-hut and to arrange Bhandara at Patali Devi Temple at Ganesh Trinetra Fair. It is submitted that this year the said fair is commencing September 13, 2015 and ending September 17, 2015. Therefore a similar permission be granted.

Having heard counsel for the parties and taking into consideration the previous interim orders and no serious objection thereto being raised by the respondents No. 1&2, I would direct that during the Ganesh Trinetra fair between September 13, 2015 and September 17, 2015, the petitioner Samiti be allowed to install a water hut and hold bhandara at Patali Devi temple, subject to maintaining cleanliness and undertaking that no loudspeakers or sound making instrument will be used. The undertaking to this effect be filed before the Mela Magistrate. The Mela Magistrate is directed to ensure that conditions of this order are not violated. Further the petitioner Samiti would be allowed transportation of material necessary for the water-hut and Bhandara by a single trip of Trucks No. RJ-29-GA-0531 and RJ-23-G-2793 on September 13/14, 2015 and thereafter a

single trip of these trucks for carrying out material from the temple on September 17/18, 2015. The petitioner Samiti shall also be allowed during the tenure of fair between September 13, 2015 and September 17, 2015 to use the jeep No. RJ- 05-C-1332 to the place of Bhandara and back once a day.

List the case on October 5, 2015."

7. In the year 2016, the petitioner organisation has to again approach this Court. It is sad that the Administration has not taken note of the orders passed every year by this Court since 2009. The Administration considering the orders passed by this Court in previous years ought not have put unnecessarily road blocks.

8. Consequently, after hearing the learned counsel for the parties, the present writ petition is allowed. Permission is granted to the petitioner organisation in same terms as in interim order dated 10.9.2015 passed in Shri Ganesh Jan Seva Samiti v. State of Rajasthan & Others (S.B. Civil Writ Petition No. 12704/2015).

9. The petitioner organisation is permitted to install water hut and hold bhandara at Patali Devi temple from 02.09.2016 to 06.09.2016, subject to maintaining cleanliness and undertaking that no loud-speakers or sound making instruments will be used. The undertaking to this effect be filed before the Mela Magistrate. The Mela Magistrate is directed to ensure that conditions of this order are not violated. Further the petitioner Samiti would be allowed transportation of material necessary for the water-hut and Bhandara by a single trip of two vehicles and a jeep to be used by the petitioner organisation and the registration number of said vehicles shall be specified in the undertaking to be filed by the petitioner organisation before the Mela Magistrate.