

Diwan Singh Bhandari & others ... Petitioners

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State of Uttarakhand & others ... Respondents

Ms. Manisha Bhandari and Mr. Pooran Singh Rawat, Advocates, present for the petitioners

Mr. Paresh Tripathi, Additional Chief Standing Counsel, present for the State of Uttarakhand/respondents

Hon'ble Sudhanshu Dhulia, J. (Oral)

Heard Ms. Manisha Bhandari and Mr. Pooran Singh Rawat, Advocates for the petitioners and Mr. Paresh Tripathi Additional Chief Standing Counsel for the State of Uttarakhand/respondents.

2. The petitioners claim performance of certain religious practices in a temple premises known as “Maa Kotbhamri Mandir Dangoli” temple which is in District Bageshwar. The alleged religious practice involves sacrifice of animals. The petitioner states that it is about one thousand year old practice. Learned counsel for the petitioners relied upon a Division Bench judgment of this Court and states that the District Magistrate and the Administrative Authorities at Bageshwar are imposing restriction upon them, on a total misreading of the Division Bench order dated 19.12.2011.

3. The Division Bench judgment has been perused. On the last occasion, since there was an objection by the State counsel to the fact that there being no clear averment in the writ petition as to where the temple is situated in an urban area or semi-urban areas of rural area, information was sought to this affect from the learned State counsel. Today, learned Additional Chief Standing Counsel for the

State Mr. Paresh Tripathi has given a statement that the temple premises are situated in rural area, which is under the control of Gram Sabha.

4. Before this Court also appears today Sri Dharmendra Barthwal advocate who states that he may be permitted to file an intervention application because the judgment and order dated 19.12.2011 was passed in PIL No. 77 of 2010, which was filed by him. He further submits that the animals sacrifice should not be permitted as, inter alia, these animals sacrifices are being done in full public glare which may not be conducive to and in fact is against public order, morality and health and it is for this reason that the petitioners have rightly been restricted to perform the animals sacrifice. He may file an intervention application in the present matter, which shall then be considered.

5. In the Division Bench judgment it appears that the Division Bench did not specifically proceed on the matter relating to animals sacrifice in rural area as there were statements given in the Court that many of the Hindu Communities which were earlier indulging in such sacrifices have indeed stopped it.

6. The State counsel has also objected to the prayer of the petitioners and has drawn the attention towards para 8 of the judgment of the Division Bench of this Court, which reads as under:-

“8. In the circumstances, it is illegal to sacrifice an animal and leave the corpse of the animal to rot. The person sacrificing an animal can only sacrifice the same, not for the purpose of appeasing the Gods, as he believes, but only for the purpose of arranging food for mankind.”

7. The earlier judgment of a learned Division Bench of this Court was delivered on 19.12.2011 in WPPIL No. 77 of 2010. One aspect, which comes out from the judgment is irrespective whether it is in a rural area or urban area or even semi-urban area, animals sacrifice can only be permitted if the sacrifice is for the arrangement of food for mankind and for no other purposes. Paragraph 11 of the judgment of the Division Bench states it very clearly. It reads as under:-

“11. We, accordingly, conclude the matter and direct the State and its agencies to ensure that no destruction/killing/sacrifice of any nature of any animal takes place outside the registered or licensed slaughter house, if such destruction/killing/sacrifice is to take place in any city, town or urban or semi-urban areas of the State, which areas are within the jurisdiction of municipalities or other local authorities, and to ensure that the purpose of which destruction/killing/sacrifice is to arrange food for mankind and for no other purpose. Though it is not necessary that destruction/killing/sacrifice of animals in rural area should take place within slaughter house, it is obligatory on the part of the State to ensure that such destruction/killing/sacrifice is for the purpose of arranging food for mankind and for no other purpose. We, accordingly, direct the State and its agencies to adhere to their obligations, as indicated above, and to implement the same vigorously, within an appeal to the people of the State as above.”

8. In the body of the writ petition there is no specific averment to this aspect, such as that the animal sacrifice is only for the purpose of arranging food for mankind and for no other purpose. In fact, the petitioners claim that part of the animals, so sacrifice, will be used as “Bhog” and the remaining part for consumption by human beings.

9. In view of the above, till full facts are ascertained in the matter by means of a counter affidavit, no interim

order can be granted to the petitioners. Three weeks time is hereby given to the respondents for filing counter affidavit. Three weeks thereafter is allowed for filing rejoinder affidavit. List the matter immediately after six weeks.

10. The counsel for the petitioner Ms. Manisha Bhandari at this stage submitted that ritual ceremonies are to be performed on 22nd September 2012 onwards and therefore, at least for this year they would not be in a position to make the sacrifice, unless interference is made through an interim order. Moreover time is also running out for them they contend.

11. In view of the above and since no interim relief as prayed by the petitioner has been granted by this Court let a copy of this order be given to the petitioners today itself so that they may, if they so desire, challenge the order in Special Appeal.

(Sudhanshu Dhulia, J.)

17.09.2012

Aswal

