Serial No. 91

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case:- WP(C) No. 1433/2025
CM No. 3393/2025
Cav No. 1237/2025

Shri Nav Durga Jhaleri Mata Trust .....Appellant(s)/Petitioner(s)

Through: Mr. G. S. Thakur, Advocate.

Vs

UT of J&K and others ..... Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG
Mr. Aseem Kumar Sawhney, Advocate
Mr. Mohd. Kashif Malik, Advocate.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
(04.06.2025)

Cav No. 1237/2025

1. Heard learned counsel for the caveator. Caveat stands discharged.

WP(C) No. 1433/2025

2. This writ petition comes up with important constitutional questions of law with respect to the power of the Executive to take over in entirety a Hindu religious place without any legislative authority and instead by referring to the directions of the Division Bench of this Court.

3. In addition, an important question of law is also incidentally getting confronted in this writ petition before this Court is that for how long the UT of Jammu & Kashmir and Ladakh can go without an Advocate General in office in whose absence section 92 of the Code of Civil Procedure, 1908 is suffering suspended

animation as if section 92 of the Code of Civil Procedure, 1908 has to await Government of UT of Jammu & Kashmir/Ladakh to appoint an Advocate General whereupon with respect to any institution bearing charitable or religious nature meant for public purpose can be afforded a better administration and management by Advocate General's indulgence in approaching a Principal Civil Court of Original Jurisdiction in any given District of UT of Jammu & Kashmir/Ladakh wherein such an institution of charitable or a religious nature meant for public purposes is located. Therefore, there is a scope for this Court to come intervening by calling upon the Government of UT of J&K to apprise this Court about the state of affairs related to the appointment of an Advocate General for UT of J&K.

4. Now coming to the present writ petition, the petitioner identifies itself to be a trust constituted for service of Shri Nav Durga Jhaleri Mata Shrine which is located in village Pangal, tehsil Katra, district Reasi. The Deity is a natural born deity located in a Cave. The exact location of the khasra number housing the cave is still open to dispute as to whether it is in the khasra No. 330/1 or in khasra No. 655/314 of village Pangal.

5. Be that as it may, the petitioner identifying itself as a trust is feeling aggrieved of the intervention which has come from the office of the Divisional Commissioner, Jammu acting through its Dy. Legal Remembrancer who vide its communication No. 601/RA/CC-

7016154 dated 28.04.2025 is meaning to concur with a purported meeting held on 06.02.2025 wherein it came to be decided that the affairs of Shri Nav Durga Jhaleri Mata Shrine to be looked after by Shiv Khori Shrine Board till legislation is not enacted to deal with religious place in reference in UT of Jammu & Kashmir.

6. The petitioner has come forward assailing this indulgence from the office of the Divisional Commissioner, Jammu saying that the interference by the Administration of UT of J&K in the religious affairs related to the religious place of the Hindu religion is without any constitutional basis and is amounting to hostile takeover rather than leaving the religious place to be administered and managed by the Hindu Community itself.

7. Mr. Aseem Kumar Sawhney, Advocate is representing Deepak Kumar who claims to be a devotee of Shri Nav Durga Jhaleri Mata and is on caveat in the name of Deity.

8. The concern of Mr. Aseem Kumar Sawhney, learned counsel with respect to the religious place in question is that at the end of the day it should be the common concern of one and all to see that the religious place is best administered and managed without becoming a matter of business and monopoly in the hands of the select few whosoever they may be.

9. Mr. Aseem Kumar Sawhney, Advocate has drawn the attention of this Court that in a Public Interest Litigation initiated by his client Deepak Kumar in the name of Deity Shri Nav Durga

Jhaleri Mata in WP(C) PIL No. 11/2022, the Division Bench, vide an order dated 15.09.2022, was pleased to pass some directions with liberty to the petitioner to approach the Government and the Chief Secretary of UT of J&K for looking into the matter with respect to the administration and management of the religious place.

10. Mr. Aseem Kumar Sawhney, Advocate appearing for the caveator has also drawn the attention of this Court to the judgment of the Division Bench of the Hon'ble High Court in PIL No. 24/2018 titled **"Ajay Kumar Sharma Vs. State of J&K and another"** wherein by virtue of the judgment dated 25.02.2022, the Hon'ble Division Bench came to make some pertinent observations with respect to the mode and manner of the looking after the better administration and management of the religious places which otherwise are not falling under the domain of any management or under the domain of any legislative domain as mentioned in para-52 of the judgment.

11. There is a scope for intervention of the Court in the matter considering the fact that the Deity Shri Nav Durga Jhaleri Mata is a perpetual minor and, therefore, it becomes equally a binding concern of this Court as well to come into play and see to it that the affairs related to the Deity are not let to suffer mishandling/mischief and other acts of omission and commission be it at the hands of the persons who claim themselves to be the custodian/guardian of the religious place related to the Deity or for that matter the persons

who oppose the custodian/guardians of the said religious place. It is where the role of an Advocate General is envisaged under section 92 of the Code of Civil Procedure, 1908 but office of Advocate General is in vacancy in UT of Jammu & Kashmir and Ladakh since long leaving a live provision a dead letter of law.

12. Issue notice to the respondents.

13. Mrs. Monika Kohli, learned Sr. AAG accepts notice on behalf of the respondents and seeks time to file reply within a period of four weeks.

14. Mr. Deepak Kumar, S/o Moti Ram, R/o Seela, District Reasi, J&K is also impleaded as respondent No. 5 in the writ petition and on his behalf Mr. Aseem Kumar Sawhney, learned counsel accepts notice and seeks time to file reply within a period of four weeks.

15. This Court *suo moto* impleads Shri Mata Vaishno Devi Shrine Board as the respondent No. 6 in the writ petition for the sake of form as the proforma respondent. Mr. Adarsh Sharma, standing counsel for the Shri Mata Vaishno Devi Shrine Board accepts notice as well.

16. In the meantime, the operation of the impugned communication No. 601/RA/CC-7016154 dated 28.04.2025 shall remain stayed.

17. In the meantime, the Chief Executive Officer of the Mata Vaishno Devi Shrine Board, Katra is hereby appointed as *ex-officio* interim administrator/receiver of the Shri Nav Durga Jhaleri Mata religious place who shall be well within his right to look after day to day administration and management of the religious place for the sake of service of the devotees/pilgrims visiting the place for the purpose of paying homage or rendering the service be it religious or social.

18. All the donations/contributions offered with respect to the Deity to be collected and received by the CEO of the Shri Mata Vaishno Devi Shrine Board to the exclusion of all others and proper account to be maintained without indulging in any spending there from unless and until prior permission sought from this Court.

19. This order is, however, subject to modification or alteration upon filing of the reply by the respondents to the writ petition.

20. Mr. Aseem Kumar Sawhney, Advocate has handed over the compilation which is taken on record of the case.

21. List on 16.07.2025.

(RAHUL BHARTI)
JUDGE

JAMMU
04.06.2025
Shivalee