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WP-3716-2010

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 16th OF JULY, 2026WRIT PETITION No. 3716 of 2010

*NARAYAN DAS (DELETED) (A) THROUGH LRS PRADEEP BAIRAGI
AND OTHERS*

*Versus**STATE OF M.P. AND OTHERS*

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Appearance:

Shri V K Bhardwaj - Senior Advocate with Shri Anand V. Bhardwaj -
Advocate for the petitioners.

Shri Shiraz Qureshi - Govt. Advocate for the respondent/State.
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ORDER

The petitioners have filed the present writ petition under Articles 226 and 227 of the Constitution of India assailing the legality, validity and propriety of the order dated 23.08.2004 passed by the Collector, District Shivpuri, whereby the petitioners were directed to be removed from the post of priest (Pujari) of the temple and proceedings for reconstruction of the temple were ordered to be initiated, reversing the order dated 05.01.2004 passed by the Sub-Divisional Officer, Kolaras, by which the proceedings against the petitioners had been dropped. The petitioners also call in question the order dated 27.04.2005 passed by the Commissioner, Gwalior Division, Gwalior dismissing the appeal preferred by them, as well as the order dated 31.03.2010 passed by the Upper Chief Secretary, State of Madhya Pradesh, dismissing the revision petition and affirming the orders passed by the



subordinate authorities.

2. The short facts necessary for the disposal of the present petition are that the petitioners are the priests of the temple Radha Gopalji Shri Ram Jankiji, situated at Village Kolaras, District Shivpuri, Madhya Pradesh. The temple and the agricultural land attached to it were originally granted to the ancestors of the petitioners by His Highness Madhav Rao Scindia in the early 20th century via a grant deed for the maintenance and upkeep of the temple. Since the inception of the grant, the ancestors of the petitioners, and subsequently the petitioners, have been continuously managing the temple, performing the daily worship, and paying the requisite property taxes for the temple property. In the historical revenue records, specifically the Khasra entries for the years 1951, 1952, 1953, 1960, and 1961, the temple was recorded as Bhumiswami, and there was no entry indicating the State of Madhya Pradesh as the owner or manager. However, in the year 1976-77, the name of the Collector was entered as the Manager of the temple land in the revenue records without knowledge of the petitioners. The dispute arose when certain local residents filed a complaint alleging that the petitioners had mismanaged the temple property, allowed encroachment on the temple land, and misappropriated the income generated therefrom. It was further alleged that the temple of Radha Gopalji was no longer standing at the spot. Upon receiving the complaint, the Tehsildar initiated removal proceedings. In their reply before the Sub-Divisional Officer, Kolaras, the petitioners clarified that there were historically two deities/temples—Radha Gopalji and Ram Jankiji. The structure of the Radha Gopalji temple had fell into a severely dilapidated



condition over the decades and ultimately collapsed. Consequently, in the year 1972, to ensure the safety and continuous worship of the deities, the idols of Radha Gopalji were safely shifted to the nearby Ram Jankiji temple, where the petitioners have since been performing regular prayers and managing the affairs without any interruption. The Sub-Divisional Officer directed an inquiry into the matter. The Superintendent Land Manager, Gwalior, conducted a spot inspection and submitted a detailed inquiry report. The report explicitly stated that the original temple structure was in a completely dilapidated state and had naturally fallen down, due to which the idols were shifted to the other active temple. The inquiry report found no financial irregularities, misappropriation of land, or mismanagement on the part of the petitioners. It was also noted that the petitioners had repeatedly requested the State authorities to allocate funds for the reconstruction of the collapsed temple structure, but no assistance was provided. Based on this report, the Sub-Divisional Officer, vide order dated 05.01.2004, dropped the removal proceedings against the petitioners and recommended that the State government allocate funds for the reconstruction of the temple. Being aggrieved by the Sub-Divisional Officer's order, an appeal was preferred before the Collector, District Shivpuri. The Collector, vide order dated 23.08.2004, ignored the detailed spot inquiry report of the Superintendent Land Manager and partly allowed the appeal, directing the reconstruction of the temple and initiating steps to remove the petitioners. The petitioners challenged this order before the Divisional Commissioner, Gwalior, but the appeal was dismissed on 27.04.2005. A subsequent revision filed before the



Upper Chief Secretary, State of Madhya Pradesh, was also dismissed on 31.03.2010. Hence, the petitioners have filed the present writ petition.

3. Learned counsel for the petitioners submitted that the impugned orders passed by the Collector, the Commissioner, and the Upper Chief Secretary are patently illegal, arbitrary, and suffer from a complete non-application of mind. It was argued that the revenue authorities failed to appreciate the detailed factual report submitted by the Superintendent Land Manager, which clearly exonerated the petitioners of any charge of mismanagement or land grabbing.

4. Learned counsel vehemently argued that the collapse of the ancient Radha Gopalji temple was an act of time and nature, owing to its dilapidated condition, and cannot be attributed to any negligence on the part of the priests. The shifting of the sacred idols to the Ram Jankiji temple was a necessary and pious act to preserve the sanctity of the deities and ensure uninterrupted daily rituals.

5. It was further submitted that under Section 158(1)(b) of the Madhya Pradesh Land Revenue Code, 1959, read with the provisions of the Madhya Bharat Land Revenue Code, the temple, through its priests, had acquired the status of Bhumiswami, which is duly supported by the Khasra entries from 1951 to 1961. The subsequent entry of the Collector's name as Manager in 1976-77 was done unilaterally and is bad in law.

6. Learned counsel for the petitioners further invited the attention of this Court to an earlier round of litigation in Writ Petition No. 2136 of 2005, wherein this Court, by order dated 19.03.2010, had set aside the auction



notice issued by the Tehsildar in respect of the temple land, holding the same to be arbitrary and without authority of law. This Court had observed that the agricultural holdings vested in the Deity/Devasthan and not in the State, and merely describing the land as "Milkiat Sarkar" under the department of "Aukaf" relating to "Devasthan" would not confer any right upon the State to auction the same. Consequently, the auction proceedings were held to be unsustainable in law. Learned counsel further submitted that the residents of the village had executed a Panchnama in support of the petitioners, and the Nagar Panchayat, Kolaras had also issued a certificate certifying that the petitioners are continuously discharging their duties as priests of Shri Ram Jankiji Temple and there has been no mismanagement in the affairs of the temple. On the strength of the aforesaid submissions, learned counsel prayed for quashment of all the three impugned orders.

7. Refuting the arguments of the petitioners, the learned counsel for the State/respondents supported the impugned orders. It was submitted that the land attached to the temple is Aukaf (trust) property, and the State government, through the Collector, is the ultimate custodian and manager of such public religious trusts.

8. The counsel argued that since the physical structure of the Radha Gopalji temple has ceased to exist on the designated government-managed land, the petitioners have failed in their primary duty to protect and maintain the temple property. The shifting of the idols to another private or separate temple structure without prior permission of the district administration or the Aukaf branch constitutes a serious irregularity.



9. The State counsel further contended that the revenue authorities, after evaluating the local complaints, rightly concluded that a new temple structure needs to be reconstructed at the original site and the management of the property must be regulated strictly in accordance with the law to prevent any private encroachment under the garb of priesthood. Thus, the counsel submitted that the writ petition, being devoid of merit, deserves to be dismissed.

10. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court finds that the foundation of the impugned orders rests solely on the allegation that the original structure of the temple of Radha Gopalji had ceased to exist and the petitioners had failed in their obligation to maintain and manage the temple property.

11. The report submitted by the Superintendent Land Manager, Gwalior, pursuant to the directions issued by the Sub-Divisional Officer, Kolaras, categorically records that the original temple structure had become extremely old and dilapidated and had collapsed due to the passage of time and natural deterioration. The inquiry further established that in order to preserve the sanctity of the deities and to ensure continuity of worship and religious rituals, the idols of Shri Radha Gopalji were shifted to the nearby Shri Ram Jankiji Temple where regular worship and religious ceremonies continued uninterrupted under the supervision of the petitioners. Significantly, the inquiry report did not find any instance of financial irregularity, embezzlement, misappropriation of temple income, encroachment upon temple land, or misuse of temple property by the



petitioners.

12. The order passed by the Sub-Divisional Officer dated 05.01.2004 was based upon the aforesaid detailed factual inquiry and recorded a clear finding that no misconduct or mismanagement was attributable to the petitioners. The Sub-Divisional Officer, instead of recommending punitive action, considered it appropriate to suggest that the competent authorities provide financial assistance for reconstruction of the collapsed temple structure so that the original place of worship could be restored. This approach was consistent with the material available on record and with the obligation of the State to preserve and protect public religious institutions.

13. The Collector, while exercising appellate jurisdiction, reversed the well-reasoned findings recorded by the Sub-Divisional Officer without assigning any cogent reason for discarding the findings contained in the inquiry report of the Superintendent Land Manager. The appellate authority neither pointed out any perversity in the findings of the inquiry officer nor referred to any independent material demonstrating negligence, misconduct, or misappropriation on the part of the petitioners. Mere existence of local complaints cannot constitute sufficient basis for removal of hereditary priests who have admittedly been managing the affairs of the temple for decades unless such allegations are substantiated by credible evidence.

14. This Court further finds substance in the submission advanced on behalf of the petitioners that the historical revenue records from the years 1951 to 1961 consistently recorded the deity or temple as Bhumiswami and did not indicate the State Government as owner of the property. The



subsequent recording of the Collector as Manager in the revenue records in the year 1976-77, by itself, does not confer ownership rights upon the State nor it extinguishes the rights and obligations of the deity or the persons lawfully managing its affairs. The earlier decision of this Court rendered in Writ Petition No.2136 of 2005, whereby the auction proceedings initiated by the revenue authorities in respect of the temple land were set aside, also lends support to the contention that the temple property vests in the deity or devasthan and not in the State merely because the land is shown in the revenue records under the head of Aukaf or Milkiat Sarkar.

15. The contention of the respondents that shifting of the idols from the collapsed structure to another temple amounted to dereliction of duty cannot be accepted. The preservation of the idols and continuation of worship constitute the essence of temple management and religious administration. When an ancient structure becomes unsafe and unfit for worship, the act of transferring the idols to a nearby functional temple to ensure uninterrupted performance of religious rituals cannot be treated as misconduct or abandonment of duty. Rather, such conduct reflects diligence and devotion on the part of the petitioners in safeguarding the interests of the deity and the religious sentiments of the devotees.

16. The material placed on record, including the Panchnama executed by villagers and the certificate issued by the Nagar Panchayat, Kolaras, further indicates that the petitioners have continuously discharged their duties as priests and that there exists no material demonstrating any act of mismanagement or misuse of temple property. In the absence of any proven



misconduct, the drastic consequence of removal of the petitioners from the office of priest could not have been ordered.

17. The orders passed by the Collector, District Shivpuri dated 23.08.2004, by the Commissioner, Gwalior Division, Gwalior dated 27.04.2005, and by the Upper Chief Secretary, State of Madhya Pradesh dated 31.03.2010 are therefore found to be arbitrary, unsupported by evidence, and vitiated by non-consideration of relevant material, particularly the inquiry report of the Superintendent Land Manager and the findings recorded by the Sub-Divisional Officer. The authorities below have failed to assign legally sustainable reasons for interfering with the order dated 05.01.2004 passed by the Sub-Divisional Officer, Kolaras.

18. Accordingly, the writ petition deserves to be and is hereby **allowed**. The impugned order dated 23.08.2004 passed by the Collector, District Shivpuri, the order dated 27.04.2005 passed by the Commissioner, Gwalior Division, Gwalior, and the order dated 31.03.2010 passed by the Upper Chief Secretary, State of Madhya Pradesh are hereby quashed and set aside. The order dated 05.01.2004 passed by the Sub-Divisional Officer, Kolaras, dropping the proceedings against the petitioners, stands restored.

19. With the aforesaid, this petition stands **allowed and disposed of**.

(MILIND RAMESH PHADKE)
JUDGE