

**IN THE SUPREME COURT OF INDIA  
(CIVIL WRIT JURISDICTION)**

WRIT PETITION (CIVIL) NO. 463/2024

UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA

**IN THE MATTER OF:**

Association for

Protection of Civil Rights (APCR) .....Petitioner

Versus

The State of UP & Ors ...Respondents

**REPLY ON BEHALF OF  
THE STATE OF UTTAR PRADESH**

1. That the present Reply is being filed by the State of Uttar Pradesh, the Respondent No.1 herein, to captioned Writ Petition, being Writ Petition (Civil) No.463/2024. The present Reply is being sworn to by the Divisional Commissioner, Saharanpur, State of Uttar Pradesh and the factual averments are based on official records whilst the legal submissions are based on legal advice received and believed to be true. The present Reply is only a preliminary Statement, and the Answering respondent herein craves leave to file further Affidavit(s)/Statement(s)/Replies, if so required.
2. All averments made in the captioned Writ Petition, save matters of record, and averments specifically admitted hereinafter, are denied. Any averment not specifically denied may be deemed to be denied, and non-traverse of any specific averment may not be treated as an admission on the part of the State.

3. It is humbly submitted that the present Writ Petition, filed by the Petitioner under Article 32 of the Constitution of India challenges the directives issued by the Police Department of the State of Uttar Pradesh and the State of Uttarakhand dated 17-07-2024 and 19-07-2024 respectively, requiring food sellers to display the names and identities of the owners at their eateries along the Kanwar Yatra route. The Petitioner alleges that such directives are in violation of Article 14, 15, 17, 19(1)(g), and 21 of the Indian Constitution.
4. In the said Writ Petition, the Petitioner seeks the following reliefs:

*“(a) Issue a Writ of certiorari or mandamus or any other appropriate writ, order or direction quashing any instructions, directions, orders, circulars, commands, policy, press- releases, etc. whether written or oral issued by the respondents/, police/ state, which has the effect of requiring food sellers (including Dhaba owners, restaurants, shops, fruit or vegetable sellers, hawkers etc.) to display the names/ identities of the owners or workers at their place of work being violative of Article 14, 15, 17, 19(l)(g) and 21 of the Constitution;*

*b) Issue a Writ of prohibition or mandamus or any other appropriate writ, order or direction prohibiting the respondents from issuing or enforcing any commands whether written or oral, which requires, either directly or indirectly, food sellers (including Dhaba owners, restaurants, shops, fruit or vegetable sellers, hawkers etc.) to display the names/ Identities of the owners or workers at their place of work, being violative of Article 14, 15, 17, 19(l)(g) and 21 of the Constitution;*

*c) Issue a Writ of mandamus or any other appropriate writ, order or direction requiring the respondents to ensure that*

*there Is no discrimination or profiling, either directly or indirectly, of food sellers (including Dhaba owners, restaurants, shops, fruit, or vegetable sellers, hawkers etc,) which in any way Interferes with their rights to freely conduct trade and business guaranteed under Articles 14,15,17,19(i)(g) and 21 of the Constitution;*

5. At the outset, it is submitted that the Petitioner has no fundamental rights which can be enforced under Art. 32 of the Constitution. The petition is therefore misconceived and not maintainable.
6. Moreover, it is submitted that the State of Uttar Pradesh, being committed to the secular values enshrined in our Constitution, protects the religious sentiments of every individual regardless of his or her religion. To this end, the State always takes steps to ensure that all religious festivals/functions of all religious denominations are celebrated/ carried out peacefully, without offending the religious sentiments of the people, and takes measures to prevent any untoward law and order situation.
7. In fact, the State is obliged not to discriminate on the grounds of religion. Hence, during the festivals of all communities, both majority and minority, special attention is bestowed by the State. For instance, traffic restrictions are in place all over the State during the holy festivals of Muharram and Eid (in fact, as is well known, arrangements are made for village fairs for the sale and purchase of goats during that period). Even the movement of pigs is restricted, as it would offend the religious sensibilities of the minority community, which by and large, consider pigs unclean and do not partake of pig meat. It is a matter of common knowledge that during the Haj

season, when pilgrims go to Mecca Medina after registration with the Haj Committee of the Government of India, special care is taken by the Centre and States, including at airports, to ensure the availability of, inter alia:

- i. special Wazoo (washing) facilities;
  - ii. prayer areas;
  - iii. dedicated check in counters; and
  - iv. Haj guest houses for rest prior to reaching the airport
8. Thus, care is taken by the State to ensure that persons of all religions, faiths and beliefs coexist and equal importance is given to their festivals.

It is submitted that the impugned Press Release was issued solely in the interest of ensuring a peaceful completion of the Kanwar Yatra, in which more than 4.07 Crores of Kanwariyas participate annually. The aforesaid press release dt 17.07.2024 was based on the meeting held on 13.07.2024 under the chairmanship of the Commissioner Saharanpur division for the Successful conduct of the Kavadi Yatra 2024.

True Translated Copy of the Minutes of the Divisional meeting held in the auditorium of circuit house Saharanpur dated 13.07.2024 under the Chairmanship of commissioner, Saharanpur Division is marked and annexed here as **ANNEXURE R/1 (Pg 12-22)**.

9. It may be noted that the directive is limited to the route of the Kanwar Yatra for a period of less than 2 weeks. The Kanwar Yatra is an annual pilgrimage during the holy month of Shravan performed by devotees of Lord Shiva who walk barefoot, during which water from the holiest of Indian rivers,

i.e. the Ganga, is carried on the shoulders of devotees from Haridwar and other holy places, for being offered to Lord Shiva at various places of worship across the State and even beyond the State.

10. The crores of devotees carry the Kanwars barefoot, over a distance of approximately 200-300 kilometres. As per Hindu mythology, the tradition is said to date back to when Lord Parshuram, an ardent devotee of Lord Shiva, started his first Kanwar Yatra during Shravan month. He offered Gangajal to the Shivlingam on Trayodashi Tithi. Since then, this practice has been carried on by the saints who are followers of Lord Shiva.
11. One of the earliest depictions of a Kanwar pilgrim is found in a picture which was drawn by Montgomery, in 1858. A large part of the Yatra traverses through the districts of Muzaffarnagar in UP.

True Copy of the Maps highlighting the distance covered in Kanwar Yatra along with the Maps highlighting the Route in respect of which guidelines have been enforced is marked herewith and annexed as **ANNEXURE R/2 (Pg 23-27)**

12. The yatra is an arduous journey, where some Kanwariyas , i.e. the Dak Kanwariyas, do not even stop to rest once the Kanwar is on their shoulders. There are sacred features of the pilgrimage, such as the fact that the Kanwar, once filled with holy Gangajal, is not to be kept on the ground; nor under the shadow of the gular tree. It may also be noted that a Kanwaria embarks on the Yatra after years of preparation. The 2-week yatra is preceded by weeks and months of planning, procuring the Kanwar (made of bamboo) and the devotees, in

the belief that the participation in the Yatra is akin to a pilgrimage, or even penance that would bestow on the devotee the favour of Lord Shiva. The Kanwariyas follow a strict vegetarian, satvik diet, eschewing onion, garlic and all other tamasic foods. Satvik food does not just mean the preparation of food without onions and garlic, but is also the manner of preparation of the food, similar to falhar during other festivals when fasting ceremonies are undertaken.

13. In this background, it is obvious that for the crores of such pilgrims, many of whom are not literate, and who are walking barefoot with religious fervour, even small confusions regarding the kind of food they are served, has the potential to hurt their religious sentiments and cause flare ups, especially in a communally sensitive area like Muzaffarnagar. A bare look at some of the photographs annexed herewith, would demonstrate the confusion which would arise in the minds of such devotees. Reference may also be made to Regulation 2.1.1 (5) of the Food and Safety Standards (Licensing & Registration of Food Businesses (Regulations), 2011, framed under Section 92(2)(a) read with Section 31 of the Food and Safety Standards Act, 2006, which requires registration of all “petty food” businesses and mandatory disclosure of the photo ID of the owner and Registration Certificate, which sadly is lacking in most dhabas, with some even lacking registration.

True Copies of the photographs of some of the eateries along the Kanwar Yatra route is annexed herewith and marked as **Annexure R/3** (Pg 28-30). True Copy of the Food and Safety Standards (Licensing & Registration of Food Businesses (Regulations), 2011 is annexed herewith as **Annexure R/4**.

14. It may be noted that the idea behind the directives is transparency and informed choice of the consumer/Kanwaria regarding the food they eat during the period of the Yatra, keeping in mind their religious sentiments so that they don't, even accidentally, fall foul of their beliefs. Such situations would obviously lead to flare ups where lakhs and crores of people are walking barefoot carrying holy water. A mishap in the form of taking a meal unwittingly of a place that would have otherwise not been of their choice, could, for the Kanwaria, vitiate the entire Yatra, peace and tranquillity in the area, the maintenance of which, is the bounden duty of the State. In fact, it may be noted that in the past week itself, there have been flareups and altercations on the Kanwar Yatra route with respect to onions and garlic being served at the eateries.
15. It is submitted that the requirement of mere transparency, with prominent disclosures of the names of the operators of the eateries and the type of food they serve is certainly not discriminatory or restrictive at all. In fact, even a complete closure of slaughter houses in Gujarat for a period of 9 days during the Jain festival has been upheld by this Hon'ble Court, keeping in mind the sentiments of the devotees, in **Hinsa Virodhak Sangh Vs Mirzapur Moti Kuresh Jamat and Ors (2008) 5 SCC 33**, where this Hon'ble Court has specifically noted:

*“Moreover, in the above observation in V.G. Row case it is also mentioned that courts must act with a sense of responsibility and self-restraint with the sobering reflection that the Constitution is meant not only for people of their way of thinking but for*

*all, and the majority of the elected representatives of the people have in authorising the imposition of the restrictions considered them to be reasonable.”*

16. That it is humbly submitted it is for this reason that the directives issued have been by the Muzaffarnagar police (which in any event are temporary in nature and have been issued only for the duration of the Kanwar Yatra, which spans from 22-07-2024 to 06-08-2024). The temporary nature of the directives ensures that they do not inflict any permanent discrimination or hardship on the food sellers, simultaneously ensuring maintaining the sentiments of Kanwariyas and their religious beliefs and practices. Moreover, the said guidelines have only been issued for a limited geographical extent.
17. That it is humbly submitted, the directives issued by the State were passed in response to the complaints received from the Kanwariyas regarding confusion caused by the names of the shops and eateries. The police authorities, upon receiving such complaints, took action to address the concerns of the pilgrims and maintain law and order.
18. That it is also submitted, the State has imposed no ban or prohibition on the trade or business of the food sellers (except the restriction on selling non veg food), and they are free to conduct their business as usual. The requirement to display the names and identities of the owners is merely an additional measure to ensure transparency and avoid any potential confusion among the Kanwariyas.
19. That it is also to be noted that the directives do not impose any discrimination based on religion, caste, or community. The requirement to display the names and identities of the

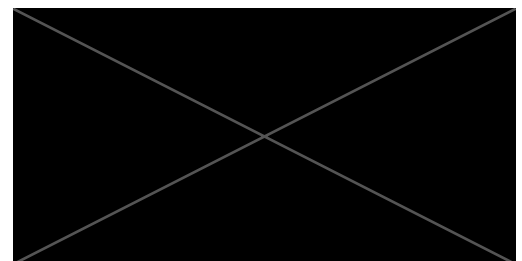


owners applies uniformly to all food sellers along the Kanwar Yatra route, irrespective of their religious or community affiliations.

20. That the directives are also aimed at ensuring public safety and order during the Kanwar Yatra, given the large number of participants and the potential for communal tensions, it is imperative to take preventive measures that ensure a peaceful and harmonious pilgrimage. Past incidents have shown that misunderstandings regarding the type of food being sold have led to tensions and disturbances. The directives are a proactive measure to avoid such situations.
21. That the directives also align with the fundamental duties of citizens as enshrined in Article 51A of the Constitution, which calls upon every citizen to promote harmony and the spirit of common brotherhood amongst all the people of India. By ensuring that the religious sentiments of the Kanwariyas are respected, the directives promote harmony and contribute to the spirit of brotherhood and peaceful coexistence.
22. Thus, it is humbly submitted that the writ petition merits to be dismissed.

**Through**

**Respondent No.1**



**New Delhi: 25.07.2024**