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Court No. - 29

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 453 of 2022

Petitioner :- Shahida

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Surendra Kumar Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Pritinker Diwaker,J.

Hon'ble Ashutosh Srivastava,J.

Delivered by Hon'ble Ashutosh Srivastava, J.

This writ petition under Article 226 of the Constitution of India styled as Public Interest Litigation has been instituted for consideration of the representation dated 17.1.2022 (Annexure-4 to the writ petition) addressed to the District Magistrate, Mathura (respondent No. 2 herein) to grant leave to the persons / non vegetarians of such 22 Wards of Mathura Vrindawan Nagar Nigam, Mathura notified as "Holy Place of Pilgrimage" under Notification dated 10.9.2021 issued by the Addl. Chief Secretary, Government of U.P. and consequently, notification imposing complete ban on running meat, fish, egg shops etc., and suspending the licence of shops, non veg hotels etc., with immediate effect and for permitting easy transportation of such restricted materials from outside for marriage and other ceremonial functions. It is also prayed that the local police may not harass such persons in transporting the restricted materials from outside into such 22 notified Wards.

It is contended on behalf of the petitioner that she is a permanent resident of Mewati Mohalla, Matiya Gate, Govind Nagar, District Mathura and is a social worker elected as *Parshad* Ward No. 38, Matiya Gate, District Mathura. The State Government under Notification dated 10.9.2021 has notified 22 Wards of Mathura Vrindawan Nagar Nigam as "Holy Place of

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Pilgrimage". A consequential order dated 11.9.2021 has been passed by the Food Processing Officer, Food Safety and Drugs Administration, Mathura whereunder the registration of the shops selling meat and non vegetarian restaurants have been suspended with immediate effect. It is contended that on account of such restrictions imposed, the non vegetarian persons residing in the Wards so notified are being deprived of their choice of meals and also from carrying on their business and livelihood.

It is further argued that the restriction imposed is violative of Article 19 (1) (g) and Article 21 of the Constitution of India. The authorities are also not permitting the transportation of the restricted materials from other Wards where there is no such restriction for personal consumption or consumption in marriages and other ceremonial functions which restriction is most arbitrary and cannot be permitted. The representation on behalf of the residents of the Wards seeking leave for easy transportation of the restricted item have not been considered and as such, the petitioner is constrained to approach this Court for redressal of her grievance which in fact is the grievance of the majority of the population of the Wards declared as "Holy Place of Pilgrimage".

Shri Manish Goyal, learned Addl. Advocate General assisted by Shri A. K. Goyal, learned Addl. Chief Standing Counsel, in opposition to the Writ (PIL), submits that Mathura and Vrindawan are prominent places having great historical and religious importance being the birth place and *Kreedha Sthal* of Lord Krishna. Lacs and lacs of devotees from India and abroad visit Mathura-Vrindawan for Holy Darshan, blessing and virtuous upliftment. Several places of Mathura and Vrindawan are of religious and tourism importance. The State Government

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with a view to maintain the historical, religious, tourism importance and above all the sanctity of the Holy places issued a Notification dated 10.9.2021 declaring 22 Wards of Nagar Nigam Mathura Vrindawan to be "Holy Place of Pilgrimage". The State Government vide Government Order dated 17.9.2021 restricted the sale / purchase of meat, liquor and eggs in the aforesaid 22 Wards of Nagar Nigam Mathura Vrindawan. In other Wards, there exists no such restriction. The petitioner has not challenged the Notification dated 10.9.2021 issued by the State Government nor the Government Order dated 17.9.2021 imposing restriction on sale / of meat, eggs and liquor etc.

It is further submitted that no fundamental right of the petitioner under Article 19 (1)(g) and Article 19 (6) of the Constitution of India can be said to have been infringed by imposing reasonable restrictions on 22 Wards only. Similar reasonable restrictions in respect of Rishikesh Municipality has been upheld in the case of ***Darshan Kumar and others versus The State of U.P. and another (AIR 1997 All 209)*** which decision has been affirmed by the Apex Court in the case of ***Om Prakash and others versus State of U.P. and others*** reported in ***2004 (3) SCC 402***. It is accordingly submitted that the relief claimed in the Writ (PIL) is not tenable and the Writ (PIL) is liable to be dismissed.

We have heard learned counsels for the parties and have perused the record.

From a perusal of the averments made in the petition and the relief claimed therein, it is apparent that the Notification dated 10.9.2021 and the Government Order 17.9.2021 issued by the State Government have not been impugned in the writ petition. In the absence of any challenge to the above Notification and the Government Order, it can safely be presumed that the petitioner is not aggrieved by the same. This Court, therefore,

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does not deem it appropriate to dwell into the validity of the aforesaid Notification and the Government Order. The grievance of the petitioner appears to be with regard to the harassment being faced by the non vegetarian residents of the 22 Wards in transportation of such restricted materials from outside such restricted Wards into the restricted wards for private consumption, for marriage and other ceremonial purposes.

The Notification dated 10.9.2021 merely declares 22 Wards of the Nagar Nigam Mathura Vrindawan to be "Holy Place of Pilgrimage". The petitioner cannot be said to have any grievance against the same. We also do not find any clear violation of any Constitutional provision by the said Notification. It is the prerogative of the Government to declare any place as "Holy Place of Pilgrimage". Mere declaration of any particular place as "Holy Place of Pilgrimage" does not mean that any restriction has been imposed and the said act is illegal. We are of the opinion that it is the privilege of the State to do so. ***India is a Country of great diversity. It is absolutely essential if we wish to keep our Country united to have tolerance and respect for all communities and sects. It was due to the wisdom of our founding fathers that we have a Constitution which is secular in character and which caters to all communities, sects lingual and ethnic groups etc., in the Country. It is the Constitution of India which is keeping us together despite all our tremendous diversity, because the Constitution gives equal respect to all communities, sects, lingual and ethnic groups etc., in the Country.***

The Government Order dated 17.9.2021 issued by the State Government on the other hand imposes a restriction upon the sale / purchase of meat, liquor and eggs in the 22 Wards of the

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Nagar Nigam Mathura-Vrindawan. This restriction has been imposed only with respect to 22 Wards and is not applicable to other Wards of the city. Thus, there is no complete ban. The allegation of the petitioner that State Authorities are harassing such consumers of the restricted material (meat, liquor and eggs) in transportation of the same is merely a bald and sweeping statement. No material has been brought on record to substantiate this allegation.

Though in the writ petition certain grounds have been taken by the petitioner in relation to violation of the fundamental rights and even violation has been pointed out, but surprisingly no relief has been prayed for in the writ petition.

In view of the above, in absence of any challenge to the Notification dated 10.9.2021 or to the Government Order dated 17.9.2021, we deem it appropriate not to comment upon their validity or otherwise.

We are not inclined to entertain this writ (PIL). It is accordingly, ***dismissed.***

Order Date :- 28.3.2022
Ravi Prakash

(Ashutosh Srivastava, J.)

(Pritinker Diwaker, J.)