

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 12240 OF 2013
IN PIL/18/2011

RAJENDRA BHAUSAHEB GONDKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicants : Mr. S.B.Talekar h/f Mr.P.R.Patil
Advocate for Respondent State: Mr. P.V.Mandlik, Senior Counsel, with
Mr. S.V.Kurundkar
Advocate for Respondent no.2 : Mr. S.R.Chaukidar
Advocate for Respondent No.3 : Mr. V.D.Hon

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CORAM : K.U. CHANDIWAL & V.M. DESHPANDE, JJ.
Dated: May 02, 2014

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PER COURT :-

1. Heard Mr. Talekar, Mr. Chaukidar, Mr. Mandlik, learned Senior Counsel with learned Government Pleader and Mr. Hon, for respective parties.
2. Public Interest litigation is moved before this Court seeking several directions in respect of management of Shri Sai Baba Sansthan Trust (Shirdi), respondent no.2.
3. By virtue of orders dated 13th March, 2012, an Ad hoc Committee for supervision and monitoring management of Shree Sai Baba Sansthan Trust, Shirdi, is appointed consisting of -
 - A) The Principal District Judge, Ahmednagar.
 - B) The Collector, Ahmednagar.
 - (C) The Chief Executive Officer of Shree Sai Baba Sansthan Trust, Shirdi.

4. The State Government was expected to constitute new Committee within a stipulated period of fifteen days and was also directed to take appropriate steps concerning management and formulation of Rules. However, learned Government Pleader informs today that new Committee is not yet constituted by the Government.

5. Mr.Talekar, learned Counsel for the petitioner, has invited our attention to the statements of objects and reasons of Shree Sai Baba Sansthan Trust (Shirdi) Act, 2004, (for short, the Act of 2004) which incorporate in clause (2) as under:

"2. The public religious trust of Shirdi Sansthan of Shri Sai Baba, at Shirdi, District Ahmednagar, has very large numberof devotees all over India, with huge financial resources. It is, therefore, imperative that affairs of such religious trust and its' assets are managed efficiently and fairly for the objectives of the said Trust and in the interest of, its devotees and in public interest. On this analogy most of the big and popular temple trusts are being governed by the different Temple Acts, like the Pandharpur Temple Act, 1973, Shree Siddhi Vinayak Ganpati Temple Trust (Prabhadevi) Act, 1980 or the Tirumala-Tirupathi Devasthanams Act, 1979, etc. It is, therefore, considered expedient by the Government of Maharashtra to enact a special law for the Shree Sai Baba Sansthan Trust (Shirdi) on the same lines and to re-constitute the existing public trust and to replace the existing Board of Management by a statutory body for its more effective and efficient management and to ensure proper and greater utilisation of its funds in the interest of its devotees and public interest, under the supervision and control of the State Government. "

Clause (3) thereof is as under:

"(3) Under this special law the Management Committee is required to expend the Trust Fund for the objective of the Trust and benefits of the devotees and apart from giving all the necessary facilities to the devotees for religious ceremonies and services, and to propagate the teaching of Shree Sai Baba, the Management of the Trust is also to be conferred powers for utilisation of the surplus funds for the wider welfare activities for the benefit of the general public, such as maintaining or giving financial aid to educational institutions, sports academy or institute, public libraries, hospitals, dispensaries, homes for destitute or physically disabled persons or other charitable or religious institutions, or any other non commercial cultural organisation or society involved in the

field of art or literature, registered under the Societies Registration Act, 1860, etc."

6. Shri Talekar, learned Counsel says, there should not be any impediment for the Government to nominate an I.A.S. Officer or I.P.S. officer to man and control the activities of the trust - Shri Sai Baba Sansthan Trust (Shirdi), respondent no.2.

7. As on today, the post of Chief Officer of Shri Sai Baba Sansthan Trust (Shirdi), respondent no.2, is lying vacant. Temporary charge is given to administrative officer. Yearly turnover of Shri Sai Baba Sansthan Trust is nearabout Rs.700 crores. The daily collection of donation is more than Rs. two crores; apart from silver, gold, foreign currency, precious jewelery. There are around 5000 employees working in various departments; either on permanent basis or on contract basis.

8. Owing to infusion of persistent flow of devotees, regular construction activities of guest houses, hospitals, gardens is going on. Presently, there are more than 2500 rooms, 100 halls constructed by the Sansthan and in operation, to accommodate devotees. The strength of daily visiting devotees is crossing more than one lac and even on Sundays, Thursdays, the figure goes to more than five lac devotees.

9. The activities of Shirdi Sansthan are, indeed, by virtue of faith of devotees, has turned at par and comparable to Tirumala-Tirupati Deosthan. By policy decision, three I.A.S. Officers are nominated by the State Government for Tirumala-Tirupati Deosthan and the administration is being taken care of from all dimensions for multifarious development.

10. In the affidavit of Ajay Subhash More, the present Executive Officer of Shri Sai Baba Sansthan Trust, in paragraph No.3, he states as under:

"3. I say that for managing the affairs of the Committee having regard to the nature of work, it is necessary that at least one of the officer

i.e. the post of Executive Officer shall be manned by senior I.A.S. officer and the second post by officer of the rank of Deputy Collector. "

This also indicates that the situation at Sansthan immediately warrants appointment of an I.A.S. Officer to the post of Executive Officer. There will not be a clash of interest even if learned Collector is one of the Member of Ad hoc Committee nominated by Division Bench, referred to above.

11. Our attention was invited by both the sides to the Act of 2004; Section 13(2) thereof reads as under :

"13 (2) The Executive Officer may be selected from amongst the officers not below the rank of the Deputy Collector :

Provided that, such officer shall be a devotee of Shree Sai Baba and shall make such declaration in the prescribed form."

12. The lower limit for nomination of officer is upto the Deputy Collector, however, there is no higher limit for nominating an officer, including an officer in the rank of I.A.S. or I.P.S.

13. A lame excuse was put forward by Mr.Mandlik, learned Senior Counsel with Mr.Kurundkar, learned Government Pleader, that present strength of I.A.S. officers in the State is inadequate and it is not possible to nominate regular officers and, consequently, it will be difficult for the Government to nominate an I.A.S. officer to dedicate his obligation for smooth administration of the Sansthan.

Another feature advanced was, the appointment or nomination of I.A.S. officers would be from General Administrative Department while the nomination of Deputy Collector is by virtue of appointment by Law and Judiciary Department in the light of the said Act.

14. We do not comprehend such submissions as it is for the State administration to have proper planning to appoint an I.A.S. officer in consultation with General Administration or the Department of law. The

inability or difficulty, put forth, in appointing an I.A.S. officer / officers is incredible and improbable.

15. Mr.Mandlik, learned Senior Counsel, while opposing the application, has relied on following judgments:

- (1) AIR 2002 SC 350(1)
(Balco Employees Union (Regd.) v. Union of India and others.
- (2) AIR 2003 SC 1344
Federation of Railway Officers Association and others
vs.
Union of India)
- (3) (2007) 8 SCC 418
(Dhampur Sugar (Kashipur) Ltd. Vs. State of Uttaranchal and others)

16. There cannot be a contest on legal issues. This Court is not carrying any judicial review on administrative orders. This Court merely expects the Government to discharge its obligation in tune with Section 13(2) of the said Act. Since political weightage , apparently, has diluted nomination of an I.A.S. Officer, and as multifarious political influence and interference is increased, necessity has crept in to ask the Government to take decision in tune with Section 13(2) of the said Act. Powers of Division Bench are not eclipsed if the Government skips its obligation to protect interests of the institution and interested persons.

17. We are not attributing deficiencies or lack of confidence in Deputy Collectors, however, considering afore referred large scale activities at Sansthan, it is high time that apart from Deputy Collector an I.A.S. Officer should be In Charge as Executive Officer.

18. We are also informed that in terms of Section 18 of the said Act, Advisory Council consisting of several officials was to be nominated which includes Chairman of the Committee, Collector, Superintendent of Police, District Government Pleader, Divisional Controller of State Transport, Health Officer. However, we are equally informed that such Advisory Council is not yet nominated. There will not be any clash of interest even if such Advisory Council is nominated in the light of the statutory arrangement.

19. The centenary celebrations at Shirdi Sansthan are to commence in the year 2018. Advance arrangements and planning for accommodation for devotees, sanitation, roads, medical facilities, entertainment, housing and Darshan are the priorities. These aspects will have to be complied with in a time frame well in advance as the activities are on large scale; it will be only an I.A.S. officer who will, in the situation, command and ensure early compliances of the requisite items by utilizing huge funds available with the Sansthan. The mismanagement of huge funds / donations at the Sansthan are to be avoided and the same are to be properly utilized, including its investment in nationalized Banks. An I.A.S. officer would certainly keep a tab on irregular and illegal advances to suppliers and donations to unworthy institutions, including construction of guest houses at far off places by utilizing funds of the Sansthan. Such construction activities, are not for the benefit of devotees coming from the country, devotees coming to Shirdi by walking from every nook and corner of the country.

The past experience has indicated mismanagement.

20. In examining the question of Government decision as to policy, judicial review has inbuilt limitation, however, by virtue of Section 13(2) of the said Act, there is a clarification provided for nomination of an I.A.S. officer. The emergent situation demands and justifies necessity to direct the Government for appointing an I.A.S. officer. Hence order:

ORDER

a) We expect and direct the Government of Maharashtra to appoint an I.A.S. Officer within 45 days from today in tune with Section 13(2) of Shree Sai Baba Sansthan Trust (Shirdi) Act, 2004. Application (No.12240/2013) allowed to this extent.

(V.M. DESHPANDE, J.)

(K.U. CHANDIWAL, J.)

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