



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 23rd OF APRIL, 2025

WRIT PETITION No. 11232 of 2023

SOLOMAN SHANTWAN AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WITH

WRIT PETITION No. 31599 of 2023

ELIZABETH BHAN AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Piyush Shrivastava - Advocate for the petitioners in W.P.No.11232/2023.

Shri Lokesh Mehta-Advocate for the petitioners in W.P.No.31599/2023.

Ms. Bhagyashree Gupta-Govt. Advocate appearing on behalf of Advocate General.

Shri Anshuman Singh, Advocate along with Ms. Darshana Baghel, Advocate for the respondents no.7 and 8.

Shri Baldeep Singh Gandhi, Advocate for the respondent/intervener.

ORDER

- 1] Heard finally with the consent of the parties.
- 2] This order shall also govern the disposal of **W.P.No.11232/2023** and **W.P.No.31599/2023** as in all these two petitions, identical reliefs



have been sought. For the sake of convenience, the facts as narrated in **W.P.NO.11232/2023** are being taken into consideration.

3] This petition (**W.P.NO.11232/2023**) has been filed by the petitioners seeking the following reliefs:-

“1. That, the Petition may kindly be allowed & the Respondents may kindly be directed to permit the Petitioners to enter inside the Church to perform prayer & other religious activities as per their convenience & tradition.

2 .That, the state Respondents/authorities may kindly be directed to look/enquire into the matter in accordance with law & also provide proper co-operation for proper functioning of the Church & its activities keeping in view the convenience & tradition of all the followers of Christian Community, who visit the Church for prayer etc.

3. That, any other relief which this Hon'ble Court deems appropriate in the facts & circumstances may kindly be granted to the Petitioners.

4. That, the cost of the Petition may kindly be awarded to the Petitioners .”

4] The petitioners’ grievance is that despite being the members of the Builder Memorial Church situated at Ambedkar Nagar (Mhow) District Indore, the respondents are not allowing them to enter into the Church and perform prayers and other religious activities.

5] The case of the petitioners is that the properties of the said church were transferred in the name of the Trustees of Builder Memorial Congregation vide the registered deed executed in the year 1956, and, the present petitioners are the legal representatives of the



Trustees of Builder Memorial Congregation and are involved in the functioning of the church since the beginning.

6] It is the further case of the petitioners that as the church was in need of a 'Priest', who could properly perform all the religious activities, and for this purpose as the Church of North India was already providing its religious services, the Builder Memorial Church also adopted the services of the Church of North India by paying them the requisite fees.



7] It is further the case of the petitioner that in the course of time, the authorities of the Church of North India like *Bishop* and *Pastor* started various irregular and illegal activities in the management of the Builder Memorial Church by adding members of their choice in the Committee and by doing other illegal activities. When the petitioners questioned about the aforesaid activities, and the duly elected existing Committee was dissolved on 8.10.2022, and an ad-hoc Committee was constituted, which also led the petitioners and other members of the Church to pass a resolution terminating the services of Church of North India on 09.10.2022, but despite such resolution, the Church of North India, the respondent no.6 herein has not taken any action in this regard, and on the contrary, they restrained the members of the Church to perform the religious activities even in the holy days of Christmas, New Year and Easter Festival of Christian community.



8] The aforesaid dispute between the parties also led to filing of FIR, on 09.10.2022, (Annexure P-7) at the instance of the petitioners. A representation (Annexure P-8) was also filed by the petitioners to the SDOP, Mhow, District Indore for entering into the church and perform the religious right but no action has been taken. Subsequent representations have also been filed before the concerned authorities but there was no response on the part of the respondents which, has led the petitioners to file the present petition.

9] Shri Piyush Shrivastava, learned counsel for the petitioners has submitted that appropriate orders may be passed so that the petitioners can perform the religious activities in the church. It is also submitted that the official respondents No.1 to 5/State may be directed to enquire into the matter and take appropriate action against the private respondents.

10] In support of his submissions, learned counsel for the petitioners has relied upon various decision rendered by the Supreme Court in the case of *Dhirendra Nath Das Vs. Hrishikesh Mukherjee and others reported as AIR (38) 1951 Calcutta 93, Sri Venkataramana Devaru and others VS. State of Mysore and others reported as AIR 1958 SCC 255 (V 45 C 42), Kunhammad Makkaru Vs. Abdul Rahiman reported as 1961 SCC online Ker 88, Vinod Kimar M.Malavia and others Vs. Maganlal Mangaldas Gameti and*



others reported as (2013) 15 SCC 394 and Indian Young Lawyers Association and other (Sabarimala Temple in RE) Vs. State of Kerala and others reported as (2019) 11 SCC 1.

11] Shri Anshuman Singh, learned counsel for the respondents no.7 and 8 on the other hand has vehemently opposed the prayer.

12] However, Shri Singh, has also submitted that the respondents no.7 and 8 are not at all averse to the petitioners and other members of the Church entering into the Church and performing their religious activities, and, thus, his undertaking may be recorded, and, the petition may be disposed of as no further order is required to be passed.

13] Shri Singh, learned counsel for the respondents no.7 and 8 has also submitted that even otherwise, no case for interference under Article 226 of the Constitution of India is made out as the petitioners can resort to the Civil Court to ventilate their grievance.

14] In rebuttal, Shri Piyush Shrivastava, learned counsel for the petitioners has also relied upon the aforesaid decisions rendered by the Supreme Court, and it is submitted that this Court is competent to pass the appropriate orders looking to the violation of the fundamental rights of the petitioners.

15] Shri Piyush Shrivastava, learned counsel appearing for the



petitioners has relied upon a decision rendered by the Supreme Court in the case of *Vinod Kumar M.Malavia and others Vs. Maganlal Mangaldas Gameti and others reported as (2013) 15 SCC 394* wherein it is held that formation of the Church of North India is vitiated by several legal lapses and its unification had no legal foundation. It is also submitted that even under Sections 133 and 147 of the Code of criminal procedure, 1973, the State has the power to maintain public order, tranquility and to prevent breaches of the peace. It is also submitted that the respondents' status as a paid service provider in the church have already been terminated, and they do not have any authority to stay in the church anymore.

16] Heard. Having considered the rival submissions, and on perusal of the documents filed on record, this Court is of the considered opinion that there are disputed question of facts involved in the case, and it is not a case of violation of fundamental rights of the petitioners, who belong to the Christian community for the reasons that the opposite side also belongs to the same community, and, it is a dispute between two faction of the same community, which can only be decided by a Court of competent jurisdiction after recording the evidence, and not by the High Court while exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India on the basis of the documents filed by the parties on record.



17] In such circumstances, no case for interference is made out. However, considering the fact that the petitioners are also the members of the said church and as undertaken by Shri Anshuman Singh, learned counsel appearing for the respondents no. 7 and 8, that the petitioners and other members of the Church shall be allowed to access the church freely, in accordance with the timings of the Church.

18] So far as the reliance placed on the decisions by counsel for the parties are concerned, the same are distinguishable on the facts and are of no avail to them.

19] In view of the same, no case for interference is made out and both the petitions are hereby *disposed of* with the aforesaid observations.

20] With the aforesaid, W.P.No.11232/2023 and W.P.No.31599/2023 stands *disposed of*.

21] Signed copy of the order be kept in the record of WP No.31599/2023.

(SUBODH ABHYANKAR)
JUDGE

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