

Court No. - 37**Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 4003 of 2006**Petitioner :-** Re: Ganga Pollution**Respondent :-** State Of U.P. And Others**Counsel for Petitioner :-** Vijay Chandra Srivastava,A.K. Gupta,A.K. Srivastava,Amit Negi,Anil Tiwari,Arun Kumar,Arvind Agarwal,Baij Nath Yadav,Baleshwar Chaturvedi,D.B. Mishra,D.S. Mishra,Jagdish Tewari,K.C. Pandey,P.N. Mishra,S.K. Srivastava,S.K. Tyagi,Shailesh Singh,Sharad Kr. Srivastava,Sunita Sharma,Tarun Agarwal,V.B. Singh,V.C. Mishra,Vivek Mishra,Yogesh Krishna Mishra**Counsel for Respondent :-** C.S.C.,A.K. Mishra,Ajay Bhanot,Anjani Kumar Mishra,B.D. Shukla,C.L.Pandey,Chandan Sharma,Dr. H.N.Tripathi,H.N. Singh,H.P. Dubey,Hem Pratap Singh,Iqbal Ahmad,J.J.Munir,Jyotindra Misra, A.G.,Kashif Zaidi,M.C. Chaturvedi,M.C. Tripathi,M.K.Alam,Mehboob Ahmad,Mohd.Khursheed Alam,Mridul Tripathi,N. Misra,Omprakash Yadav,P.S. Baghel,Pankaj Kumar Shukla,R.B. Shukla,Rajendra Kumar Misra,Rajiv Lochan Shukla,Ravi Kant,S.A. Lari,S.G.Hasnain, Addl.A.G.,S.M.A. Kazmi,S.P. Kesharwani,S.P. Singh,Saumya Misra,Suneel Dubey,T.M.Khan,Tahir Husain,Tanmay Agarwal,Udain Nandan,Umesh Narain Sharma,Vivek Birla,Vivek Verma,W.A. Hashmi**Hon'ble Ashok Bhushan,J.****Hon'ble Arun Tandon,J.****Re:Modification Application No.301922 of 2013.**

Heard Shri A.K. Gupta, learned Amicus Curiae, Shri Daya Shanker Mishra, and Shri Saurabh Basu for the Bengali Welfare Association, Allahabad, Shri S.P, Gupta, learned Advocate General and Shri Ramesh Upadhyay, learned Chief Standing Counsel for the State.

An application has been filed on behalf of the Bengali Welfare Association, Allahabad, making following prayer.

"It is therefore, Most Respectfully prayed that this Hon'ble Court may graciously be pleased to reconsider the aforementioned facts for the immersion of the Goddesses Durga and to permit the Barwaris to perform the immersion of Goddess Durga as per their rituals and traditions till there is no proper alternative arrangement provided by the District Administration and further permit the representatives of all barwaris

to be impleaded as necessary parties and allow them to be heard, otherwise the petitioner shall suffer an irreparable loss and injury."

Shri Daya Shanker Mishra, and Shri Saurabh Basu appearing for the Bengali Welfare Association, Allahabad, submitted that the idols of Goddess Durga have been traditionally immersed in the river Yamuna and in spite of the order of this Court passed last year on 09/10/2012, no alternative arrangement has been made by the State.

The matter relating to immersion of Goddess Durga for this year was heard on 30/9/2013 and 07/10/2013 by the Court. On 07/10/2013, an affidavit was filed on behalf of the District Magistrate, duly sworn by Sunil Kumar, Additional City Magistrate-1st, Allahabad.

After hearing the learned Chief Standing Counsel and the learned Additional Chief Standing Counsel following order was passed on 07/10/2013:

"Affidavit filed on behalf of the District Magistrate, Allahabad is taken on record.

This Court in its order dated 06.11.2012 had recorded the stand of the district administration, that in the year 2013 alternate site shall be found out for the purposes of immersion of idols after Durga Puja. We therefore directed that State to find out suitable alternative place for immersion of idols before next Durga Puja festival so that immersion of idols is avoided in the river Ganga and Yamuna. In the affidavit, which has been filed today, it is mentioned that the number of the idols, which have been installed in the district of Allahabad at various Durga Pooja Pandal, are thousands in number. Certain correspondence between the authorities has also been brought on record.

After examining the affidavit of the District Magistrate

we find that hardly any effective steps have been taken in past one year so as to arrange for suitable alternative places for immersion of idols. The date for immersion of idols is fixed well in advance, the administration has failed to carry out the assurance given to the Court in the previous year and as recorded in our order dated 06.11.2012.

Sri Ramesh Upadhyay, learned Chief Standing Counsel suggested that idols may be permitted to be dipped in the river and then taken out to be kept in containers and then transported to places out the city area. The suggestion does not appear to be practicable. We further apprehend that introduction of such a practice for the first time may result in adversely affecting the sentiments of the followers and may create a serious law and order problem. Even otherwise all pollutants in the idols would enter the river once the idol is dipped in the river water. We directed on 30th September, 2013 that no idols' immersion shall be permitted in this year in river Ganga and Yamuna. We see no reason to relax the said direction.

We are of the view that the administration must find out alternate appropriate places with sufficient water and provide necessary facilities, including the route, road lights etc. for immersion of the idols. Let the State take all steps in that regard for providing all the necessary facilities so that the idols of Durga Pooja Pandals are immersed at places other than river Ranga and Yamuna.

We repeat that no idols immersion shall take place in river Ganga and Yamuna.

Apart from immersion in river Ganga and Yamuna

other places may be identified, developed and provided for by the district administration for the purpose.

We further direct that the State Government may issue appropriate direction to the district administration of all other districts, from where river Ganga and Yamuna flow, to ensure that suitable alternate places for immersion of idols are provided from next year. Immersion of idols in river Ganga and Yamuna must be stopped from 2014 throughout the State. The State Government must also provide necessary infrastructures in that regard to all the districts including the district of Allahabad, including release of funds.

Affidavit, pertaining to the STPs, filed today by the State is taken on record.

The issue in that regard shall be considered on the next date."

In support of the modification application, it has been contended by the learned counsel for the applicant that the Court may allow the immersion of idols of Goddess Durga and other idols this year also in the river Yamuna/Ganga. It is submitted that religious sentiments and feelings of large number of persons are involved, hence the immersion be permitted in the river Yamuna/Ganga.

The matter regarding immersion of Goddess Durga was taken a year before on which date an application was also filed by the Bengali Welfare Association, Allahabad as well as by the District Administration, where categorical statements were made that the immersion of idols be permitted in the year 2012 in the river and from the next year, the immersion of idols be made at suitable alternative place as determined by the administration. The Administration was directed by the Court to find out suitable alternative place and provide parking/lights for safe and

convenient immersion of idols. The court is dismay to note that inspite of the order passed by the Court, the Administration has not taken appropriate steps in that regard.

When the matter was earlier heard on 07/10/2013, it was suggested that certain places are in the process of identification for providing alternative arrangement. It is a matter of common knowledge that the establishment of Durga Puja Barwaris are increasing day by day. It was pointed to the Court that at least 103 Durga Puja Pandals are in the city itself and minimum of five idols are there in each Barwaris. There are large number of places in the State of U.P. and other places where there are no river and immersion of idols is undertaken at those places in ponds. In the Villages also where there are no river, idols of Goddess Durga are immersed in the pond. Last year, the State Administration as well as the Bengali Welfare Association, Allahabad, had sought permission of the Court for immersion of the idol of Goddess Durga in the river Ganga/Yamuna for the year 2012 by filing an affidavit that from this year (2013) no immersion shall take place in river Yamuna/Ganga .

When the matter is taken up after a year, the Court is being asked to go backward and take steps back. The order was passed by the Court keeping in mind the ever increasing river pollution and to save the river Ganga/Yamuna. It is the responsibility of the State to provide safe and proper place not only for immersion of idols but also to provide all help with regard to all persons who practice different faith and religions. All necessary facilities are required to be provided by the State and the State cannot take benefit of its own inaction and come to the Court and say that they have not performed their duties and the Court may take a step backward. The Court does not appreciate the stand taken by the State. As noted in our earlier orders, in the last year before immersion and after immersion, the water was got analysed by the U.P. Pollution Control Board, and it was found after immersion that the quality of the water has deteriorated. Thus, it cannot be an issue that immersion of large number of idols running into thousands shall not pollute the water.

After hearing the parties, the Court had taken a decision that idols

of Goddess Durga will not be immersed in the river Ganga/Yamuna this year. We see no justification to recall/relax our order. It is the duty of the Administration to provide alternative suitable place including ponds and other facilities for safe and convenient immersion of idols.

We direct that necessary details for immersion of all the idols be published in the local newspapers of Allahabad on Sunday i.e. 13/10/2013 so that all Pandals/Barwaris may come to know the places identified for immersion of idols and convenience regarding traffic/parking.

We direct the Director General of Police, and Principal Secretary, (Home) to ensure that the entire process of immersion of idols is safely and conveniently undertaken including all traffic restrictions and safe way to all the Durga Puja Barwaris.

During the course of hearing, it has been suggested that pond across the river Ganga at Phaphamau has been identified. It has been stated by Shri Daya Shanker Mishra, learned Senior Advocate that there are no proper way to reach the said pond. It is for the administration to provide all necessary arrangements at that place for immersion of idols including way, parking place, jetty and lights.

We, direct that this order be brought to the notice of the Director General of Police, and Principal Secretary, (Home) and the Chief Secretary of the State to ensure all necessary arrangements to be made in this regard. The District Administration and the State may ensure that all proper and necessary arrangements are made in this regard.

The application is disposed of accordingly.

Order Date :- 11.10.2013

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