

**HIGH COURT OF JAMMU AND KASHMIR**  
AT JAMMU

OWP No. 229/2011

Date of Decision: 03 .01.2015

Vikas Dhawan v State of J&K and ors.

Coram:

*Hon'ble Mr. Justice Bansi Lal Bhat-Judge*

*Appearing counsel:*

For petitioner (s) : Petitioner-Vikas Dhawan present  
in person  
For respondent(s) :Mr. D. C. Raina, Sr. Advocate with  
Mr. Anil Verma, Advocate

i)	Whether approved for reporting in Digest/Journal/Media	Yes/No.
ii)	Whether approved for reporting in Digest/Journal	Yes/No

Following reliefs have been claimed in the instant  
petition.

“(a) to permit and ensure the use of only 100% Herbal  
Kumkum/Sindoor made of traditional and safe  
ingredients for applying Tilak on the forehead of  
devotees;

(b) to sell Pooja Samagri containing 100% Herbal  
Kumkum/Sindoor made of traditional and safe  
ingredients in all relevant shops under the control of

respondent No. 2 as an essential part of the Bhaint items offered to Mata Vaishno Dev Ji;”

Petitioner, claiming to be a manufacturer of Herbal products is aggrieved of use of unknown ingredients and Synthetic Chemicals in the name of Kumkum and Sindoor products in religious shrines and temples. The case set up by the petitioner is that Kumkum and Sindoor used for applying Tilak to devotees and sold as an essential part of Pooja Samagri present in Bhaint items offered to Mata Vaishno Devi Ji inside the Holy Shrine as well as other temples en-route the holy shrine of Mata Vaishno Devi Ji are different from the ones used in the Pindi-Poojan of Mata Vaishno Devi Ji. It is alleged that Kumkum and Sindoor products such as Ashtagandha Chandan, Kumkum Powder, Sindoor Powder, Roli, Liquid Sindoor, Tilak, Tika, Pottu, Tilakam etc. sold all over the country are made with the help of unknown ingredients, synthetic chemicals, Azo Dyes, Industrial Dyes, Toxic and poisonous ingredients like Lead Oxide/Crude Red Lead/ Mercury Sulphite/ Rhodamine B etc. which can cause skin Cancer, Anemia, Kidney Disorders, Growth Retardation, Learning Disabilities, Lack of Vision,

Hereditary disorders etc. Petitioner claims to have conducted research to ascertain the ingredients used for manufacturing of Kumkum and Sindoor as per Vedic scriptures and found that herbal ingredients like Rakt-Chandan and Kesar were traditionally used as Kumkum/Sindoor in the Pindi-Poojan inside the holy shrine. However, the Kumkum and Sindoor sold en-route the shrine of Shri Mata Vaishno Devi Ji was manufactured from synthetic chemicals and industrial Dyes etc. causing serious health hazards. Petitioner claims to have undertaken a project of manufacturing herbal Kumkum/Sindoor from Rakt-Chandan (Lal Chandan) out of a strong desire to do something good for the society. However, he, did not obtain a patent on the novel product manufacture, lest he is misunderstood to denounce the spurious Kumkum/Sindoor for commercial gain. Respondent No. 2 is stated to have permitted the sale of Kumkum/Sindoor (Lal Chandan Tilak) made by the petitioner at its two Souvenir shops, but did not permit its sale in the Bhaint shops. However, consequently, respondent No. 2 stopped buying the Herbal Kumkum/Sindoor from petitioner in February 2009 on the basis of some complaints.

Petitioner claims to have made number of representations against rejection of his bids. It is alleged that respondent No. 2 did so under the influence of vested interests. It is alleged that Pooja Samagri containing Kumkum/Sindoor was removed from the list of Bhaint items in NIT dated 27.02.2010 under the false pretext of security concerns, though Narel (coconut) was being accepted as Bhaint from devotees before Darshans at the entry point of Shrine premises.

Respondent No. 2 has filed objections.

The stand taken in the objections is that petitioner had raised issues which are purely factual. Besides, petitioner is claiming enforcement of contract/promotion of his business through the medium of instant writ petition. It is pleaded that the writ petition is not maintainable on both these counts. It is further pleaded that no writ petition lies against Shri Mata Vaishno Devi Shrine Board and official respondents 1 and 3 are neither necessary nor proper parties. It is pleaded that for security arrangements the review committee had taken several decisions relating to pilgrimage. One of the decisions taken in the security meeting was with regard to carrying of

Sindoor to holy Shrine. The security review meeting dated 04.03.2010 decided that carriage of Sindoor to cave shall be stopped forthwith for security reasons. It is pleaded that the petitioner was trying to promote and serve his business interest by seeking direction from this Court to allow the selling of Sindoor being manufactured by him. It is further pleaded that it is the only Herbal Sindoor Tilak which is being applied on forehead of the pilgrims inside the Cave Shrine and the Herbal Sindoor is being received on donation basis from the donors. However, sale of Herbal Sindoor at private shops in Shrine area is not banned.

Heard and considered.

From averments made in the petition, it is clearly borne out that the petitioner wants to promote his products for commercial gain notwithstanding the fact that he claims to be concerned about use of Kumkum/Sindoor manufactured from unknown ingredients, synthetic preparation etc. by the devotees which frequent the market including the shops en-route the holy shrine of Mata Vaishno Devi Ji. The concern shown by the petitioner, though portrayed as a desire to protect the devotees from health hazards emanating out of

use of non-herbal Kukkum/Sindoor, appears to be an attempt on the part of the petitioner to gloss over the truth and promote his commercial products claiming to be purely herbal in nature. Petitioner has not been able to conceal the factum of his being dropped from the list of suppliers on the basis of complaints about impurities found in his products. The averments made in the petition leave no room for doubt that the petitioner wants to thrust his products, stated to be based on purely herbal ingredients, on the Shrine Board oblivious of the fact that the security concern and threat perception assessed from time to time by the security review committee found it hazardous to allow Kumkum/Sindoor at the Bhaint shops though its sale in private shops was not prohibited. Furthermore, in absence of scientific studies to the contrary to pointing out that the use of non-herbal Kumkum/Sindoor poses a health hazard, prohibition on use of such products may not be warranted. The factual issue raised cannot be decided by invoking writ jurisdiction of this Court under Article 226 of Constitution of India.

From averments made in the petition and the nature of relief claimed in the petition, it is manifestly clear that the

relief is sought against respondent No. 2-Shri Mata Vaishno Devi Shrine Board. Inclusion of respondent No. 1-State and respondent No. 3- Commissioner/Secretary Health Department of J&K Government is an unnecessary surplusage in the petition and arraying of respondents 1 and 3 is unwarranted. Once respondents 1 and 3 are struck out, as being unnecessary and improperly impleaded respondents, the question raised by respondent No.2 regarding maintainability of the petition would be the sole issue to be dealt with.

This issue has been dealt with by a Division Bench of this Court in case titled *Omkar Sharma and ors vs. Shri Mata Vaishno Devi Shrine Board* and connected matters, reported in 2005 (1) SLJ 260, wherein it was held that Shri Mata Vaishno Devi Shrine Board has been constituted under a statute and in absence of any control of the Government it cannot be said to be “State” or an “authority” within the meaning of Article 12 of the Constitution of India. It was further held that writ petition for enforcement of fundamental rights against the Shrine Board would not be maintainable.

The dictum of law is loud and clear that Shri Mata

Vaishno Devi Shrine Board, not being an instrumentality of the State, is not amenable to the writ jurisdiction of this Court. That being so, the instant writ petition is held to be not maintainable and is, accordingly, dismissed.

**(Bansi Lal Bhat)**  
**Judge**

**Jammu**  
03.01.2015  
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