

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 29TH DAY OF OCTOBER, 2021

BEFORE

THE HON'BLE MR. JUSTICE M.I.ARUN

WRIT PETITION NO.201776/2021 (GM-POLICE)

Between:

Anjuman Khidmat-E-Islam Committee,
Kalkeri, Tq: Sindagi, Dist: Vijayapura
Represented by its Chairman
Hussainsab S/o Bandagisab Bhadegar,
Aged about 70 years, Occ: Agriculture,
R/o Kalkeri, Tq: Talikote, Dist: Vijayapura.

... Petitioner

(By Sri Ravi B. Patil and Sri B.A. Lahori, Advocates)

And:

1. The Deputy Commissioner
And the District Executive Magistrate,
Vijayapura District, Darbar Hall,
Vijayapura - 586 101.
2. The Superintendent of Police,
S.P.Office, Vijayapura - 586 101.
3. The Assistant Commissioner,
Vijayapura/Indi,
Mini Vidhana Soudha, 1st Floor,
Kanakadas Badavane,
Vijayapura - 586 101.

4. The Tahasildar,
Talikote Taluka,
Dist: Vijayapura - 586 101.
5. The Police Sub Inspector,
Talikote Police Station,
Dist: Vijayapura - 586 101.

... Respondents

(By Sri Mallikarjun Sahukar, HCGP)

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India, 1950, praying to issue a writ of certiorari to quash the impugned order dated 12.08.2021 bearing No.RB/M.A.G/CR-31/2021-22 passed by the 1st respondent as at Annexure-J as illegal and arbitrary and issue a writ of mandamus, directing the respondents No.1 to 5 from interfering in the day to day performance of prayer (namaz) in the Hire Masuti (masque) premises situated in Sy.No.482 (625) of Kalakeri village, Tq. Talikote, (Sindagi Taluka) Dist. Vijayapura.

This petition coming on for Preliminary Hearing this day, the Court made the following:

O R D E R

The instant writ petition is filed by the petitioner contending that it is a registered committee under the provisions of the Karnataka Wakf Act, 1995 and it is in-charge of Hire Masuti (Masjid) situated at Kalakeri in Talikote Taluka, Vijayapura District. The said Masjid is situated in Wakf property and is being used regularly for

offering Namaz by the members of the Muslim community. However, there was a dispute during Moharam period in respect of installing Mohram panjas and it resulted in a litigation before the Civil Court. The dispute involved members of the Hindu community also. Further, Ganapati Festival was also fast approaching and given the sensitivity of the situation, the District Administration deemed it appropriate to prohibit celebration of Moharam in the said Hire Masuti and also offering of Namaz. Hence, the order at Annexure-J under the provisions of Section 39(1) of the Police Act, 1963 was passed, wherein offering of Namaz was prohibited in Hire Masuti until further orders.

2. Aggrieved by the same, the instant writ petition is filed.

3. The petitioner contends that the Moharam festival is over and installation of Moharam panjas does not arise for consideration. Further, Ganapati Festival is also over and no untoward incident has happened in the place and that being the case, the order at Annexure-J has

outlived its utility. It is further contended that even otherwise Annexure-J is bad in law, because there was no threat to any peace in the vicinity at any particular point of time and offering of regular Namaz has been banned illegally by the authorities.

4. Learned counsel for the petitioner further undertakes that petitioner would ensure peaceful offering of Namaz at Hire Masuti and takes the responsibility to see that the devotees will not create any unrest at any point of time including the Deepavali Festival.

5. Per contra, learned High Court Government Pleader submits that the area is communally sensitive and Annexure-J was warranted. He submits that the same would be reviewed in the near future. His submission is placed on record.

6. The reason stated in Annexure-J to the writ petition is that, there was a dispute between the members belonging to Hindu and Muslim Communities in respect of

installation of Moharam panjas. Because of the same, it was felt, there may be certain unrest during the celebration of Ganapati Festival. For the said reasons, offering of Namaz was temporarily prohibited by virtue of Annexure-J. Moharam is over and Ganapati Festival is also over. Further, a citizen of this country can practice and professes any religion without causing any disturbance to other citizens. Reading of Annexure-J shows, there was prohibition of Namaz only because of the dispute regarding installation of Moharam panjas and Ganapati Festival. Both having passed, in my opinion, Annexure-J has outlived its utility. Hence, the following:

ORDER

- i. The writ petition is allowed.
- ii. The order dated 12.08.2021 bearing No.RB/M.A.G./CR-31/2021-22 passed by the first respondent vide Annexure-J to the writ petition is hereby set aside.

- iii. People are permitted to offer Namaz at Hire Masuti without causing disturbance to others.
- iv. Respondents are at liberty to initiate appropriate proceedings in future depending upon the circumstances that arises.
- v. No order as to costs.

**SD/-
JUDGE**

LG