



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 9376 of 2025

Bebi Pal

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Home, Civil
Sectt. Lko. And 3others

.....Respondent(s)

Counsel for Petitioner(s) : Anand Babu Dixit, Rajan Mishra
Counsel for Respondent(s) : C.S.C., Namit Sharma, Ratnesh
Chandra

Court No. - 2

**HON'BLE MRS. SANGEETA CHANDRA, J.
HON'BLE BRIJ RAJ SINGH, J.**

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State Respondents and Sri Saurabh Yadav, Advocate, who has filed his vakalatnama on behalf of the opposite party no.2, which is taken on record.

2. This writ petition has been filed with the following main prayers:-

"a. Issue, a writ, order or direction in the nature of Mandamus commanding the respondent Nagar Nigam Lucknow to forthwith remove all illegal encroachments, including the unauthorized sheds, cupboards, and other non-public structures from the public park situated at Sant Guru Ravidas Nagar, Wazir Hasan Road, Lucknow.

b. Issue, a writ, order or direction in the nature of Mandamus commanding the opposite parties to take effective steps for prevention of all suspicious, illegal and antisocial activities in the public park and maintain law and order, as per the law."

3. It is the case of the petitioner that the petitioner is a resident of Sant Guru Ravidas Nagar, Wazir Hasan Road, Lucknow wherein there is a public park situated in Gali No.4, which is maintained by the Nagar Nigam. Earlier the park was adorned with greenery, plants, swings and basic recreational infrastructure, but some anti-social elements have encroached on such park and installed tin roofs,

brought in household items such as beds, cupboards, coolers, cots, musical instruments and has established a makeshift temple also. When the women residents protested their illegal and disruptive activities, the encroachers have intimidated them. They are regularly threatening and heckling the residents of the colony. The constructions of makeshift religious symbols using cemented pipes and stones has been done, only to gain public sympathy. Such illegal encroachment upon public land has been ignored by the Nagar Nigam despite repeated requests. Under Section 6 of the Uttar Pradesh Parks, Playgrounds and Open Spaces(Preservation and Regulation) Act, 1975, the duty of the authorities to maintain such places has been prescribed. Under Rule 10 of the Uttar Pradesh Parks, Playgrounds and Open Spaces Regulation and Control Rules, 2005 the prescribed authority has a statutory duty which has not been performed by it.

4. Learned counsel for the petitioner has placed reliance upon the order passed by the Division Bench of this Court in Writ-C No. 15691 of 2020 (Ram Bhajan Singh Vs. State of U.P. and Others) decided on 14.10.2020 in a similar matter which was taken up by this Court at Allahabad.

5. Learned counsel appearing for the LDA states that although the LDA is a formal party, on information being received an inspection was carried out and it was found that indeed there was encroachment by anti-social elements on public park and information regarding the same was given, as per the report of the Assistant Engineer and the Junior Engineer of the L.D.A., to the Nagar Nigam.

6. The name of Sri Namit Sharma, Advocate has been shown in the cause list as appearing for the Nagar Nigam, Lucknow, but he has informed that the matter has been allotted to one Sri Rajesh Kumar Singh, Advocate. However, Sri Rajesh Kumar Singh, Advocate has not appeared to assist this Court.

7. We take judicial notice of repeated orders passed by the Supreme Court with regard to unauthorized encroachment on public parks/public places and roads by construction of mazars and

makeshift temples etc on them and the directions issued by the Hon'ble Supreme Court in Union of India Vs. State of Gujarat, Special Leave Petition No. 8519 of 2006 from time to time.

8. Taking note of a news item in Times of India to the effect that 1200 temples and 260 Islamic shrines had encroached upon public space, the High Court of Gujarat had suo moto taken action while issuing notice to 14 persons. The High Court had directed immediate steps for removal of encroachment of religious structures on public spaces without any discrimination and directed submission of reports.

9. The Union of India had filed the Special Leave Petition No. 8519 of 2006 contending that interim direction issued by the Gujarat High Court was in the nature of a final direction. The Supreme Court issued notice on the Special Leave Petition on 04.05.2006 and had stayed the operation of the impugned order. Thereafter, the Additional Solicitor General of India was directed to ask the Central Government to convene a meeting of all concerned Secretaries of respective States to try to take a consensual decision to deal with the problems, such as the present case all over the country. The Supreme Court in its order dated 31.07.2009 directed filing of affidavit by the Secretary, Government of India.

10. The Supreme Court was later informed that the Chief Secretaries of all the States had attended a meeting with a view to evolve a consensus on the problem of encroachment of public spaces by religious structures. A consensus had emerged that no unauthorized construction of any religious institution, namely, Temple, Church, Mosque or Gurudwara etc. shall be permitted on public street/public space. Also, in respect of unauthorized constructions of any religious nature which had taken place in the past, the State Government would review the same on a case to case basis and take appropriate steps. The Supreme Court taking into account such submission by the Union of India had directed the Registry to implead all States and Union Territories as respondents to the petition and issue notices.

11. As interim measure it was directed that *"henceforth no unauthorized construction would be carried out or permitted in the*

name of Temple, Church, Mosque or Gurudwara etc. on public streets/public parks or other public places."

12. The order dated 29.09.2009 had directed that the District Collectors and Magistrates/Deputy Commissioner In-charge of Districts were to ensure that there is total compliance of the order passed by the Supreme Court and to submit a report within four weeks to the concerned Chief Secretaries or Administrators of Union Territories, who in turn were to send their reports to the Supreme Court.

13. The Special Leave Petition as aforesaid was heard on several occasions and atleast 26 orders were passed therein mentioning contents of affidavits filed by Chief Secretaries/Administrators of various States/Union Territories. In order dated 27.07.2010, the Supreme Court noted the affidavit filed by the Chief Secretary of the State of U.P. finding it to be vague, and directed comprehensive affidavit to be filed on the basis of information received from District Collectors from all Districts indicating total number of unauthorized religious places/constructions on public lands, public parks and public places and indicating as to how many of them had been removed, relocated or regularized. The State of U.P. was also directed to formulate guidelines with regard to prevention of such unauthorized constructions to recur.

14. In the order dated 13.09.2011, the Supreme Court noted the affidavit filed by the Chief Secretary of the State of U.P. dated 05.05.2011. It mentioned that the State had identified 45,152 unauthorized religious structures. It further indicated that in compliance of directions of the Supreme Court the State had framed a policy for reviewing on case to case basis, regarding removal, regularization and relocation of unauthorized constructions. It was also indicated that 47 constructions had been removed, 26 constructions had been relocated and 27345 constructions had been identified on which decision had to be taken by District Level Committees for regularization on case to case basis.

15. Since a continuing Mandamus had been issued and the

Supreme Court was monitoring the situation compliance reports were filed by all the States and Union Territories including the State of U.P. from time to time. This compliance has been noted by the Supreme Court in its orders dated 10.05.2016 and 31.01.2018, when the Supreme Court disposed of the Special Leave Petition No. 8519 of 2006 with the following observations:-

"To enure the implementation of directions issued by this Court, consensus has been arrived at Bar and in our opinion, rightly, that the implementation of the order should be supervised by the concerned High Courts. We, consequently, remit the above matters to the respective High Courts for ensuring implementation of the orders in effective manner.

The concerned records be transmitted to the respective High Courts. The interim orders wherever passed, shall, continue until the matters are considered by the High Court, In case any clarification is required, it would be open to the parties to approach this Court. The High Court will have the jurisdiction to proceed in the Contempt of any of the orders passed by this Court.

Pending applications shall also be transmitted to the High Court."

16. It is evident that the Supreme Court has directed the District Magistrates/ Administrators In-charge of Districts to take necessary steps to prevent any unauthorized construction of public spaces/public perks/public roads etc.

17. We, therefore, direct the Commissioner, Nagar Nigam, Lucknow to ask the Deputy Commissioner concerned to enquire from the Beat Constables as to how they have permitted such makeshift temples in public park to be constructed and why no report was submitted to the appropriate authority in this regard.

18. The Commissioner of Police, Lucknow shall also ensure that the Deputy Commissioner concerned will file his affidavit regarding action taken by the Station House Officer of the Police Station concerned, for preventing unauthorized constructions in public spaces and as to

why he did not report the matter to the District Magistrate/higher authorities.

19. We direct Sri Namit Sharma, Advocate to inform to the Commissioner, Nagar Nigam, Lucknow of the order passed today.

20. We also direct the Commissioner, Nagar Nigam, Lucknow to ask the appropriate Officer to inspect the park and submit a report regarding how such constructions have come up.

21. List this case on 14.10.2025, on which date, personal affidavit shall be filed by the Commissioner, Lucknow Municipal Corporation with regard to compliance of our order passed today.

(Brij Raj Singh,J.) (Mrs. Sangeeta Chandra,J.)

September 23, 2025

Darpan Sharma