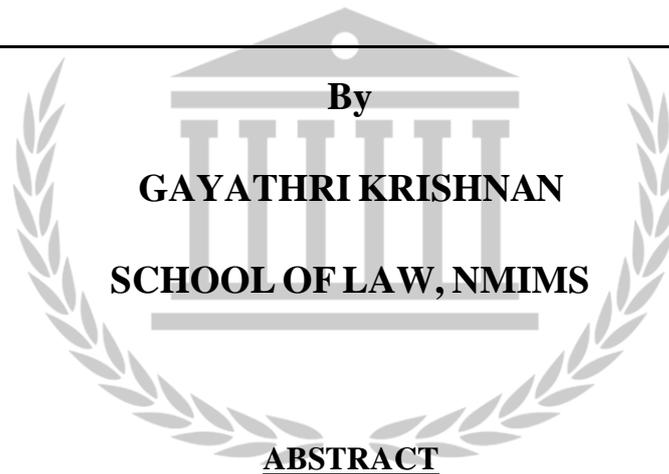

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CASE COMMENT: SARIKA VS ADMINISTRATOR, SHRI MAHAKALESHWAR MANDIR COMMITTEE, UJJAIN (MP) & ORS. (AIR 2020 SC 4174)



Judges are classified as conservative, moderate, or liberal in their views on the law and judicial interpretation. The interpretation of a one liner constitutional article could be implicated in infinite ways, one such is related to the interference of judiciary in sensitive matters related to customs and traditions in India. The case of Sarika Vs Administrator, Shri Mahakaleshwar Mandir Committee, Ujjain (Mp) & Ors. talks about giving maintenance for a historic temple which is depleting in its structure. Is the government liable for maintaining the temple; Can the Supreme Court pass guidelines to maintain the structure of the temple and ask the government to pay towards the maintenance of the temple? This is discussed in the article below.

Keywords: Judiciary, Cultural Differences, Hinduism, Lord Shiva, maintenance.

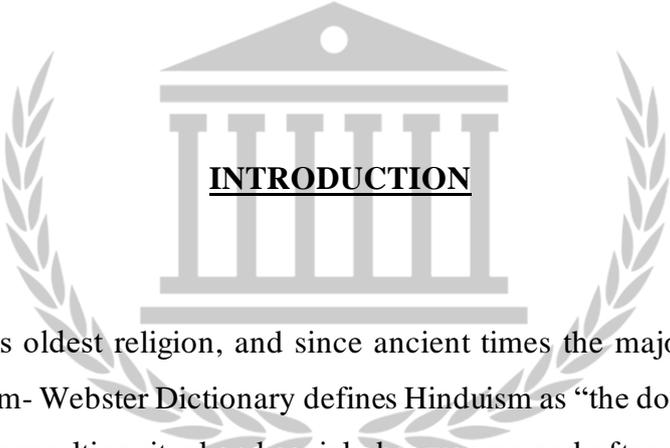
CASE NAME: Sarika Vs Administrator, Shri Mahakaleshwar Mandir Committee, Ujjain (Mp) & Ors.

CITATION: AIR 2020 SC 4174

CASE NUMBER: M.A 1235 OF 2019 In CIVIL APPEAL NO. 4676 OF 2018

BENCH: Justice Arun Mishra, Justice Krishna Murai and Justice BR Gavai

JUDGMENT PASSED ON: 1st September 2020.



INTRODUCTION

Hinduism is one of world's oldest religion, and since ancient times the majoritarian population in India follows the religion. Merriam- Webster Dictionary defines Hinduism as “the dominant religion of India that emphasizes dharma with its resulting ritual and social observances and often mystical contemplation and ascetic practices”.

Lord Shiva is revered as the Supreme God and Creator of the Universe in Hinduism. According to a legend, Lord Brahma and Vishnu went to fight a long time ago in order to gain dominance over the other. Shiva emerged in front of them in the form of a huge pillar of light. To find the ends of this radiant pillar, Brahma went upwards, and Vishnu went downwards. Vishnu accepted defeat on not being able to find the end whereas Brahma chose to lie. Shiva emerged, cursing Brahma that he will not be worshipped till the end of eternity and blessed Vishnu for his piousness. This pillar of radiance is called 'Jyotirling'. The Indian saint Adi Shankaracharya who revived Hinduism in 800 CE, has mentioned 12 most important Jyotirlings in his Dwadasha Jyotirling Stotram situated in different locations of India.

The Ujjain Mahakaleshwar Jyotirlingam is one of the 12 Jyotirlingams. The Mahakaleshwar Jyotirlingam is a temple devoted to Lord Shiva, and the shrine of Lord Shiva is considered one of the most sacred abodes. It's in the Indian state of Madhya Pradesh, in the historic city of Ujjain. The temple is located on the banks of the K Shipra River. The lingam is said to be 'Swayambhu,' drawing strength (Shakti) from inside, whereas other lingams and photo frames get their energy through mantra-shakti.

FACTS OF THE CASE

This case has been lodged in the Supreme Court of India for more than 5 years now. This case was concerning the prevention of erosion of Shiva Lingam at Sri Mahakaleshwar Temple at Ujjain. In one of the orders by the Supreme Court dated August 19, 2020, the court asked the temple committee to file a status report and to take necessary precaution for the protection of the Lingam. The Supreme Court in further orders appointed an Expert Committee inclusive of both Archaeological Survey of India and Geological Survey of India. Subsequently, the expert committee made a visit to the temple and found that the 'Jyotirlingam' of Lord Mahakal is eroding. More than 30 sq. cm scalp of the holy 'jyotirlingam' has come out with nearly 7mm-8mm thickness from the eastern side along with 3-4 similar circular patches, having 2-2.5 cm diameter and 6.5mm depth, just above the bigger patch. The lingam is naturally having a geological scale on the western side. The two visible carvings on the lingam have raised concern as these can split the lingam into three pieces in the future.

The offerings from the devotees i.e Milk, Curd, Ghee, Panchamrut and other offerings in the form of Gulal, Abeer and Kumkum; which are bought from the stores outside the temple were substandard and had a proportional significance in the cause and factors of the depletion.

Dr. Ram S Shrivastava, a well-known scientist who has been studying the holy lingam since 1953, believes that one of the causes of erosion is the pouring of chlorinated water at a rate of nearly 25,000 litres per day by the 80 pundits and 16 Brahmin families massaging the lingam on a rotating basis with Bhat Shringar, Bhang Shringar, and others. The amount of milk and other contributions might be measured in tonnes. Almost every visitor touched the sacred shrine, which they frequently stroked and pushed during prayers. This has been a major source of depletion.

Articles included in the above case: -

1. Article 142, Constitution of India.¹
2. Article 25, Constitution of India.²
3. Article 26, Constitution of India.³
4. Article 49, Constitution of India.⁴
5. Article 51(A), Constitution of India.⁵

¹ INDIA CONST. art. 142.

² INDIA CONST. art. 25.

³ INDIA CONST. art. 26.

⁴ INDIA CONST. art. 49.

JUDGMENT

The Bench is comprised of Justice Arun Mishra, BR Gavai and Krishna Murari for the present case.

“The Supreme Court in its judgment dictated guidelines to prevent the Lingam from further eroding, them being:

1. No Devotee should do any rubbing of the Shiva Lingam.
2. The Temple Committee should ensure that the pH value of the Bhasma during the Bhasma Aarti is improved and the Shiva Lingam is preserved from further deterioration and to implement the best methodology to prevent further damage to the Lingam.
3. The Temple Committee ensures that the weight of the Mund Mala and Serpakarnahas is further reduced to preserve the Shiva Lingam from Mechanical abrasion.
4. The rubbing of curd, ghee, honey on the Shiva Lingam by the devotees is also a cause of erosion, and only pouring of a limited quantity of pure milk is allowed by the committee. Whereas in the traditional puja to be done on behalf of the temple, all pure materials can be used.
5. Poojaries, Janeupati, Khutpati, Purohits, and their authorized representatives strictly ensure that no visitor or devotee rub the Shiva Lingam at any cost. If any devotee does it, accompanying Poojari or Purohit shall be responsible. No rubbing of Shivalingam to be done by anyone except during traditional Puja and Archana performed on behalf of the Temple Committee.
6. The entire proceedings of Puja and Archana in Garbh Griha to be video recorded 24 hours and be preserved for at least six months. If any violation is found by any Poojari, Purohit the Temple Committee can take suitable action against them.
7. No Panchamrita to be poured on Shiva Lingam by any devotee.
8. The Temple Committee shall provide pure milk from its resources to the visitors and devotees for offering and make arrangements for that and should ensure that no impure or adulterated milk is offered to the Shiva Lingam.”

⁵ INDIA CONST. art. 51(A)

CRITICAL APPRAISAL

In this case, Justice Arun Mishra's conservatism affected his religious decisions, as the judge adopted a progressive stance and ruled in favour of the temple officials, requesting the government to preserve the decaying "lingam" at Mahakaleshwar Temple in Ujjain. This judgement might be regarded as in curium since Justice Arun Mishra did not refer to Chief Justice Dipak Misra's ruling on the restoration of religious sites destroyed in the Gujarat riots of 2002.⁶ The 3 Bench Supreme Court Bench comprising of Justice Arun Mishra, BR Gavai and Krishna Murari passed an order to safeguard the lingam and to conserve it; the Bench has also directed the government to contribute 41.30 lakh for the purpose of restoration as soon as possible. The Court may also have an upkeep with the current happenings of the case and has directed to come up with a detailed project report for repair and maintenance. In the case of Chandranageshwar temple, the bench directed the committee to come up with a comprehensive plan and its implementation. The Bench further stated that "unfortunately the performance of necessary rituals is the most neglected aspect in temples, and new poojaris do not understand them; the same should not be the situation. There is no scope for commercialization. The various religious rituals and ceremonies are to be performed regularly." Therefore, we can say that this is the first time that the court has found it appropriate to regulate the functions and daily rituals of a Hindu temple and curtailing the rights of the poojaris and devotees in some way.

Therefore, we can say that the Supreme Court is adapting to progressive changes and to the necessary changes in the society.

NSLRJ
Giving voices, Shaping Careers

⁶ The State of Gujarat vs. I.R.C.G, C.A.No.-003249-003249-2016