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“IN RE: AMARNATH SHRINE(2013) 3 SCC 247 SUPREME COURT OF INDIA”

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ABSTRACT

This case commentary discusses the Supreme Court of India’s suo motu action in In Re: Amarnath Shrine, (2013) 3 SCC 247 and how the Court contributed to the evolving jurisprudence relating to public interest matters. The Court undertook an inquiry into the reasons for the large number of deaths of pilgrims during the 2012 Amarnath Yatra and asked if the State had fulfilled its constitutional duty to safeguard the right to life with dignity under Article 21, right to movement under Article 19(1)(d) and right to freedom to practice religion under Article 25. The Court constituted a Special High-Powered Committee (SHPC), accepted the findings of experts and converted their recommendations into directions relating to health infrastructure, environmental sanitation, animal track safety measures, registration and security arrangements for the Yatris. The Court’s intervention in order to save lives of pilgrims is praiseworthy as it was an effective step to fill the void created by executive inaction. However, the real test for the Court would be to ensure compliance of its directions on an ongoing basis. The case raises fundamental questions that are germane to the environmental jurisprudence as well as to the rights jurisprudence. It questions whether courts can direct Parliament to legislate in ecologically sensitive areas where unregulated religious tourism is taking a mounting toll on Himalayan ecosystems.

INTRODUCTION

The Supreme Court of India made a major judicial decision when it dealt with three key issues relating to public safety, environmental protection, and the safeguarding of fundamental rights during religious events in the Amarnath Shrine case. The annual Amarnath Yatra is a Hindu pilgrimage during which hundreds of thousands of devotees visit the Amarnath cave shrine located in the Himalayan region of Jammu and Kashmir. The pilgrimage is not merely a private religious undertaking; it is, in significant measure, a state-managed public event, with the Shri Amarnath Shrine Board (SASB) constituted under a statute of the State Legislature.

The Supreme Court took suo motu cognizance of the matter in 2012 when a series of news reports highlighted the pilgrims' suffering due to inadequate infrastructure, limited medical facilities, poor sanitation, and the lack of proper crowd management at the pilgrimage routes. The devotees have to cover the tough mountainous terrain on foot mainly through the Baltal and Pahalgam routes even in the harshest weather conditions. Many pilgrims died as they fell ill due to the extreme weather and the hospital could not provide assistance on time. The increasing number of pilgrims also led to environmental degradation as the area is ecologically sensitive, and there were very few means of waste disposal, and tourists were allowed to roam freely. The Court not only summoned the Union of India and the State of Jammu and Kashmir

for answers but also the Shri Amarnath Shrine Board while simultaneously issuing the formation order.

ISSUES

1. Whether the State has met its constitutional duty to protect pilgrims' fundamental rights of the right to life with dignity, safety, and free movement (Articles 21, 19(1)(d), and 25 of the Constitution of India)?
2. What are the concrete measures for safety, health, amenities, and environment?
3. The scope of courts in giving directions where law or policy is missing, impacting fundamental rights and public interest?
4. How to reconcile religious freedom and right to pilgrimage with environmental protection in a climatically sensitive area?

RULE

- Article 21 of the Constitution of India has been changed from a strict prohibition against the deprivation of life and personal liberty to a wider right to life in a dignified manner, understanding the latter to mean among other things the right to health care, safe conditions of movement, and a clean and healthy environment. Therefore, the protection of the environment is very much a part of the protection of life, especially in situations where human life and human well, being are endangered by the deterioration of the environment.
- Article 19(1)(d) grants citizens the liberty to move without any restrictions throughout the territory of India however this basic right can be curtailed reasonably as per Article 19(5) for the sake of the general public.
- Likewise, Article 25 guarantees the freedom to follow one's religion and to change it, but these liberties are subject to the limitations imposed by considerations of public order, morality, and health.
- The Directive Principles of State Policy contained in Articles 47, 48 A and 49 besides the fundamental duty under Article 51A(g) stress the obligation of both the State and citizens to protect public health, conserve the environment, and preserve natural and cultural heritage.
- These principles are frequently read in conjunction with Article 21 in order to advocate for concepts such as sustainable development and inter-generational equity.
- Articles 32 and 142 authorize the Supreme Court to give directions for the purpose of ensuring the effective enforcement of fundamental rights, especially in cases where there are legislative gaps.
- Key environmental doctrines that have been used by courts to guide their interpretation of laws include:
- sustainable development which tries to integrate development with nature protection to a certain extent,

- the precautionary principle that advocates for taking precautionary measures even if scientific evidence is not fully conclusive^[1], and
- the public trust doctrine which states that natural resources are the property of the State but the State is simply a trustee for the public.^[2]
- The Universal Declaration of Human Rights, 1948 (UDHR), especially Article 1 (dignity, freedom and equality) and Article 25(2) (right to a standard of living adequate for health and wellbeing), were cited as a basis for the enlarged interpretation of Article 21 and the State's mandate.
- Environment (Protection) Act 1986 was regarded as an expression of the constitutional duty of the government to take proper steps for the protection of the environment.

APPLICATION

The Supreme Court's suo motu intervention on July 13, 2012 marked a monumental example of judicial activism when the Apex Court took note of the disturbing press reports from The Times of India and The Hindustan Times about the deaths in the 2012 Amarnath Yatra, 67 in 17 days, going by 105 in 45 days the previous year. The reports revealed a series of cardiac arrests falls hypoxia, and stampedes on the dangerous routes from Baltal and Pahalgam base camps to Panchtarni and the holy cave, which have to be walked along with narrow and unprotected paths, lack of medical facilities, poor sanitation, and improper waste management. Conceiving the breach of rights guaranteed by Articles 21 (life with dignity), 19(1)(d) (free movement), and 25 (religious freedom), the Court opted to serve a notice to the Union of India, Jammu & Kashmir (J&K) State, and Amarnath Shrine Board (ASB/SASB)^[3], seeking the clarifications regarding the yatra which the court noticed is not only an expression of religious fervour but also a state function.^[4]

By July 20th, with the death toll rising (from 84 to 97 over just three days), the Court set up a Special High-Powered Committee (SHPC) composed of representative from the Union Ministry, the J&K Chief Secretary, and the Director Generals of BSF/ITBP. The committee was given the main task of carrying out a site inspection. Their report dated September 6, 2012 covered eight main areas: health environment registration, access control security track conditions, and amenities. All the parties agreed to it, subject to obtaining clearances, which led the Court to accept it in its entirety, while also giving it mandatory and binding directions classified as short, and long, term by a Sub, Committee (Chief Secretary, Home Secretary J&K, CEO SASB).^[5] The Chief Secretary, Health Secretary, and CEO were to be held personally accountable for the work up to the level of compliance. They were given powers to request for clarifications or even point out the instances of non-compliance.

Health Measures

Each pilgrim must have a health certificate checked by an Expert Medical Committee (Union Health Ministry, J&K specialists through State Health Secretary) with a standardized checklist. This is done by authorized government doctors or listed private institutions (publicized by CEO SASB). This will ensure the pre-screening of the pilgrims.^[6] Medical aid camps (MACs) should rationalize the location of their facilities, they should be increased in number, well-equipped/spacious, especially at Sangam, Holy Camp Lower, Kalimata Top Railpathri Nagakoti Wavbal Sheshnag, and lower Holy Cave (those led by the ITBP are already included

in this list). Increasing the number of Indian Systems of Medicine camps along the routes. Union Health Ministry supplies specialists/GDMOs from the most, pilgrim states, train J&K staff on high, altitude sickness, and provide portable Hyperbaric Chambers. Tents/Huts kept warm (25, 26C) at Holy Cave Sangam Panchtarni Sheshnag Poshpatri. A committee (CEO SASB, a high, altitude expert) is developing junk, food, free menus; the public is informed through documentaries, AIR/Door darshan, pamphlets in local languages on dos/don'ts.

Environmental and Sanitation Directives

Bio-digester toilets upgraded through the professionals; STPs at Baltal/Nunwan upgraded to treat garbage, including the langar grease/ biology waste. The State Public Health Engineering manages the provision of water in sanitation contracts, the growth of facilities along langar routes. Blandishment vigilantly imposed; SASB places filters over water where camps/langars, pilots place schemes and also erect pictorial signs. Segregation of waste into compost pits is done in Langars; there is no clearance without facilities. Garbage trucks are multiplying; solid waste disposal follows yoga. Ranga Moth-Domail Road is widened/upgraded with Ranga Moth-Domail state road protection against dust/ mud. State Pollution Control Board (SPCB) does annual studies of water of Lidder/Sindh River, modernizes laboratories. SHPC puts emphasis on routine environmental impact assessments (EIA when statutory), separation of water bodies to low-temperature curb contamination.

Track and Infrastructure Improvements

Tracks broadened up to 12 ft and with rough surfaces, iron grills/retaining walls/railing through realignment; no metalled roads. One-way traffic of palkis/horses vs. pedestrians close to Shrine, prefabricated matting/rough cement tiles on track Baltal, tracks Panchtarni, Chandanvadi. Shelters every now and then; tentative ones at Shrine. The iron grill of holy cave has been swapped with transparent fibre (or 12-inch holes through which people see).

Registration, Access, and Security

SASB restricts number of annual pilgrims per weather/track/infrastructure; colourcoded/date/route-specific permits are required on gates. Pre-registration of the home-state advanced and the on-spots (Srinagar/base camps), and releases were done in batches and reports so as to decongest. Additional mountain rescue teams (MRTs) J&K Police deployed in 3 years; CAPFs upgrade personnel equipment. Principal Secretary Home holds SOPs evacuation (air ambulances); CEO seeks NGO/red cross assistance.

According to the Court, which invoked Article 32, the motive of this legislature-coloured intervention to substitute inaction-induced rights abuses was well bearing because of its widespread implication. [7] Directions are aligned to the principles of sustainable development and precautionary policies, which are based on the input of experts, and do not place any impracticality. A Sub-Committee is supervising, and reports to Court. This plan will gut reform in yatra management, I would argue that enforcement is the acid test- judicial fiat should be coupled with responsible implementation of such fiat to stop repeat tragedies (in ecologically vulnerable areas).

CRITICAL ASSESSMENT

The judgment gets several things right. It does not treat preventable pilgrim deaths as just an administrative issue. It turns constitutional principles into clear, practical steps. It also creates

an accountability system that, at least in theory, could be effective. Finally, it expands on the idea of inter-generational equity in environmental rights, giving future courts something to build on. However, there are important problems that need to be mentioned. The biggest issue is how hard it is to enforce these directions. Indian courts have made important rulings on the environment and safety before, but they are not always put into practice. Holding the Chief Secretary and CEO personally responsible sounds good, but officials change, governments shift, and people forget about old court orders. The Sub-Committee approach only works if someone keeps making sure the rules are followed, and courts are not set up to do that over the long term. There is also the issue of democratic legitimacy. The SHPC's suggestions about limits on pilgrims, route planning, environmental rules, and how langars operate are all policy decisions. These are choices about balancing different interests in a specific place and religious setting. Parliament, or at least the State Legislature, would be better suited to make these decisions in an open and transparent way. The Court stepped in because the executive failed, but just because the intervention was justified does not mean it was the best way to handle things.

Another issue is that the judgment does not look at why the number of pilgrims has increased so quickly or what it would take to keep those numbers sustainable in the long run. The directions do not address the social, religious, and economic reasons behind the growth of the Yatra. Setting limits on pilgrims can control numbers for a year, but it does not solve whether those limits can last for decades when both religious feelings and the local economy push for more visitors.

Finally, the Court is working in a very complex area that involves things like high-altitude medicine, environmental limits, mountain engineering, and waste management. The Court's main tools are legal, not technical. The SHPC model was a good way to bring in expert advice, but how well it works depends on the skills and independence of the committee members. That is something the Court cannot control.

CONCLUSION

In Re: Amarnath Shrine was an important case when it was decided and it still matters today. It showed that courts can enforce positive duties under Article 21, even if the legislature has not made specific laws. The case also added meaning to the environmental side of the right to life, especially in the context of high-altitude pilgrimage tourism, which the Court had not dealt with before. It created a model where judicial directions are guided by experts and supervision, which, despite its flaws, is more thoughtful than doing nothing or making laws from the bench.

Whether the judgment actually worked is a different question, and it takes more than legal analysis to answer. If pilgrim safety and environmental conditions at the Amarnath Yatra improved for the long term after 2013, then the judgment deserves its good reputation. But if the directions were ignored, like many other court orders, it would just be remembered as an important principle without much real impact. The deeper issue is whether India needs legislation that properly governs ecologically sensitive pilgrimage sites, with enforceable environmental limits and long-term management frameworks, was not resolved by this case and could not have been. That is a job for Parliament, and until Parliament does it, courts will keep being asked to fill the gap one crisis at a time.

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