



2026:AHC:74259-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 10803 of 2026

Aseen

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Intekhab Alam Khan, Janardan Singh
Counsel for Respondent(s)	:	C.S.C.

A.F.R.

Court No. - 40

**HON'BLE SARAL SRIVASTAVA, J.
HON'BLE GARIMA PRASHAD, J.**

(Delivered by Hon'ble Garima Prashad,J.)

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State.
2. The petitioner, by means of the present writ petition, has sought the following reliefs:

“(i) Issue a writ, order or direction in the nature of mandamus commanding the respondent authority to provide security/protection and permission of the prayer (Namaz) at the private premises (i.e. area 82.80 sqr mtr of Abadi Land) of petitioner situated at Village Ikona, Pargana Rajpura, Tehsil Gunnaur, District Sambhal.

“(ii) Issue a writ, order or direction in the nature of mandamus commanding the respondent no.2/District Magistrate Sambhal to consider and pass the appropriate order upon the representation dated 15.11.2005 pending before him within stipulated period, otherwise petitioner shall suffer irreparable loss and injury.”

3. The petitioner's case is that Namaz has been offered on a piece of land at Village Ikona, District Sambhal, which he claims to be his private property. He alleges that the respondent authorities are

restraining such prayers. The petitioner asserts ownership over the land on the basis of a registered gift deed dated 16.06.2023, and contends that the restraint violates his fundamental rights under Articles 19, 25, 26, 27 and 28 of the Constitution, as persons professing Islam are entitled to offer Namaz without interference.

4. It is further alleged that such interference is arbitrary and is being carried out in collusion with certain social elements, thereby obstructing the petitioner and other persons from offering prayers. Reliance has been placed upon the decisions of the coordinate benches of this Court in ***Munazir Khan v. State of U.P. & Others*** (Writ-C No. 5996 of 2026), ***Pastor Selvakumar Samu v. State of U.P.*** (Writ-C No. 32058 of 2024, decided on 19.03.2025), ***Marantha Full Gospel Ministries v. State of U.P.*** (Writ-C No. 1097 of 2026, decided on 27.01.2026) and ***Emmanuel Grace Charitable Trust v. State of U.P.*** (Writ-C No. 1080 of 2026, decided on 27.01.2026) to contend that prayers can be conducted on private premises without requiring prior permission.

5. *Per contra*, learned Standing Counsel submits, on the basis of written instructions, that the land in question, being Khata No. 613, Gata No. 629, is recorded as Abadi land falling under Category Shreni-6(2), i.e. land meant for public use, and that the petitioner has no ownership rights over the same. The said gift deed dated 16.06.2023 allegedly executed by one Deen Mohammad in favour of the petitioner, in respect of an area of 82.80 sq. meters, does not disclose any Gata number, Khata number or identifiable revenue particulars, and is based only on vague boundary descriptions. It therefore cannot confer any legal title upon him.

6. It is also brought on record that as per the report of the Sub-Divisional Magistrate, Namaz has traditionally been offered at the said location only on the occasion of Eid, and that no restriction has been imposed on such established practice. The petitioner, however, is attempting to introduce regular large scale congregational prayers by inviting persons from within and outside the village.

7. It is further brought on record that Village Ikona has a mixed population and has remained peaceful for decades. Even the petitioner, in his own representation, has acknowledged that villagers have been living harmoniously for more than 50 years. The photographs annexed with the petition themselves demonstrate that Namaz has been offered only on specific traditional occasions such as Eid.

8. Learned Standing Counsel has further relied upon several Government Orders dated 16.07.2024, 16.08.2024, 24.03.2025 and 11.02.2026, all of which consistently mandate that while religious practices are to be respected, no new traditions or non-traditional activities shall be permitted and that established practices must be adhered to in order to maintain public order.

9. It has further been submitted that even with respect to Hindu festivals like Holika Dahan, it has been specifically directed that such ceremonies shall be conducted only at traditional sites and not in public thoroughfares or new locations, thereby reinforcing the consistent administrative policy of preservation of established traditions.

10. Having considered the submissions, the issue that arises for consideration is:

“Whether, and to what extent, the rights guaranteed under Articles 25 and 26 extend to the conduct of congregational religious activities, whether on public land or private premises”

11. Freedom, in a constitutional society, is always accompanied by responsibility towards others. The Constitution protects the right to practice religion, but it also makes it clear that this right is subject to public order, morality and health. It is not an unlimited right. It cannot be exercised in a way that affects others or disturbs the normal functioning of public life. As is often said, one person’s freedom ends where it begins to affect someone else.

12. When it comes to public land, the position is straightforward.

Public land is meant for everyone and is controlled by law. No individual can claim a right to use it for regular religious gatherings. Such use affects movement, access and safety, and in appropriate situations, communal equilibrium; it must therefore be regulated. It is the State's obligation to ensure equal access, civic order and non-discriminatory administration.

13. The law in this regard is well settled. In ***Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt*, 1954 SCR 1005**, the Supreme Court recognized protection in matters of religion, but made it equally clear that the right is not dissociated from the constitutional limitations expressly written into Article 25. In ***M. Ismail Faruqui v. Union of India*, (1994) 6 SCC 360**, it was observed that Namaz may be offered anywhere, which means that no particular place can be claimed as a matter of right.

14. In ***Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501**, the Supreme Court emphasised the importance of maintaining social harmony, civic peace and the rule of law and reminded that courts must be mindful of the practical impact of their decisions. Where a claim to hold religious congregation on public land has the potential to create social tension, the constitutional court must ensure that the conditions necessary for peaceful coexistence are maintained.

15. In this context, it must be recognised that existing lawful practices, long-regulated arrangements, or permissions granted for limited or specific purposes may stand on their own footing; but no new or unilateral claim can be founded merely on religion or personal preference. The State is constitutionally entitled, and in appropriate cases duty bound, to prevent the use of public land without lawful authority.

16. The position in respect of private property stands on a different footing. Private prayer, family worship, and such limited devotional activity as remains genuinely internal to the premises ordinarily fall within the protected domain of Articles 25 and 26. This protection,

however, is confined to activity that is truly private, occasional, and non-disruptive. It does not extend to transforming any private premises into a de facto public religious venue.

17. Once the activity assumes such a congregational character, it is no longer merely a matter of inward faith. It begins to produce external consequences: it may draw repeated attendance, including persons beyond the immediate household, affect ingress and egress, create traffic and parking concerns, alter the character of the locality, generate noise, require policing, and in sensitive areas, create the possibility of inter-community tension. At that stage, the activity assumes a public or quasi-public dimension. It is not that the private property loses all protection, but that the use of such property, to that extent, no longer remains purely private for constitutional purposes and becomes amenable to reasonable regulation.

18. This position is consistent with the decisions relied upon by the petitioner. In ***Munazir Khan vs. State of U.P. & Others, Pastor Selvakumar Samu vs. State of U.P., Marantha Full Gospel Ministries vs. State of U.P. and Emmanuel Grace Charitable Trust vs. State of U.P.***, the Court protected bona fide prayer within private premises and held that such personal religious exercise cannot be arbitrarily interfered with. However, those decisions cannot be read as laying down that organized or regular congregational activity on private premises is wholly immune from regulation. They recognise a limited protection, namely where prayer remains confined to a private, non-disruptive setting. Where the activity extends beyond that sphere and begins to affect the public domain, lawful regulation follows. These decisions do not confer a right to convert private premises into an unregulated congregational space.

19. Further, the law does not require the authorities to wait for an actual disturbance to occur. Where an activity is likely to affect public order, the State is entitled to act in advance. The test is not the religious nature of the activity, but its public consequences. This approach is consistent with the constitutional principle of secularism, which requires equal treatment of all religions and equal application

of law. While the State must permit private worship, it is equally bound to regulate activities that affect public order, whether on public land or on private premises. Maintaining this balance is essential to the working of Articles 25 and 26 in a constitutional system.

20. In light of the above discussion, the issue so framed stands answered in the following terms:

- (i) Public land is meant for common use, and no individual or group can claim a right to use it as an exclusive or recurring religious space; the State is bound to ensure equal access and cannot permit preferential or exclusive use of such land.
- (ii) The right to practise religion is subject to public order, including access, movement and peaceful living, and cannot be exercised in a manner that interferes with these rights of others.
- (iii) Private property may be used for personal and limited religious activity so long as it remains genuinely private, occasional and non-disruptive; however, once such use extends to regular or organized congregational activity involving persons beyond a limited private sphere, it falls outside the protected domain and may attract regulatory control.
- (iv) Where such activity in the private property becomes regular, organized or large in scale, it may amount to a change in the nature of use of the premises and is subject to applicable laws, including planning and local regulations.
- (v) The introduction or expansion of a religious use or practice not previously prevalent, particularly where it disturbs the existing social balance, is not protected under Articles 25 and 26. The State is not required to wait for actual disruption and may take reasonable preventive measures where such activity is likely to affect public life.

21. Turning to the facts of the present case, the material on record does not support the claim advanced by the petitioner. The pleadings in the writ petition are vague and lack material particulars. No

specific incident, date, time or identifiable act attributable to any authority has been disclosed. The allegations of interference, threats and collusion with unnamed persons are general in nature and are not supported by any material. Such pleadings do not meet the standard required for invoking the jurisdiction of this Court under Article 226 of the Constitution.

22. On the basis of the material placed on record, this Court finds that the land in question is recorded as public land. The claim of ownership rests entirely on a purported gift deed dated 16.06.2023, which does not contain basic land particulars such as Gata or Khata numbers and is based only on vague boundary descriptions. Such a document does not establish any identifiable title and cannot displace the revenue record.

23. Even otherwise, if the land is assumed to be private, the petitioner is not entitled to the relief sought. The record shows that he is not protecting an existing practice, but seeking to introduce regular congregational gatherings, including persons from within and outside the village. It is admitted that Namaz was earlier offered only on specific occasions such as Eid. This expansion beyond a limited private sphere falls outside the protected domain and is subject to regulation.

24. In these circumstances, no enforceable legal right is made out. This Court cannot grant relief on such a basis, particularly where the matter has implications for public order and social harmony.

25. Accordingly, the writ petition is dismissed. No order as to costs.

(Garima Prashad,J.) (Saral Srivastava,J.)

April 6, 2026

Sachin Mishra