IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14851 of 2024

==========

Bhadai Chaudhary Son of Late Nathuni Yadav Resident of Village-Hathaura, P.S.-Husainganj, District-Siwan.

... ... Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Home Department, Bihar, Patna.
2. District Magistrate, Siwan.
3. Superintendent of Police, Siwan.
4. Sub Divisional Officer, Sadar, Siwan.
5. Sub Divisional Police Officer, Sadar, Siwan.
6. S.H.O. Hussainganj Police Station, Siwan.

... ... Respondents

==========

Appearance :
For the Petitioner/s : Mr.Harshvardhan Shivsundaram, Advocate
For the Respondent/s : Mr.Madhukar Mishra, AC to SC-16

==========

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR
ORAL JUDGMENT
Date : 20-08-2026

Heard the learned counsel for the petitioner and the learned counsel for the State

2. In the instant Writ petition, the petitioner has prayed for the following reliefs:

> *"(i) To issue appropriate direction, order or writ in the nature of Mandamus directing the respondents to grant license to the petitioner to conduct 'Mahabiri Julus' (religious procession) of Akhara No.1 through the traditional route fixed long back in the village Hathaura under Husainganj police station of Siwan district and to allow at least 300 devotees to participate in the*

WEB COPY

said procession for offering prayer and worship to Lord Hanuman.

(ii) To hold and declare that prohibiting the devotees of Akhara No.1 of Hathaura village to participate in the aforesaid religious procession amounts to infringement of their fundamental rights guaranteed under Article 25 of the Constitution of India.

(iii) To grant any other relief or reliefs to which the petitioner is entitled for."

3. The case of the petitioner, is that he is a devotee of Akhara No.1, a Hindu religious group of village Hathaura, and that a license for conducting *'Mahabiri Julus'* on the 11th day of Bhadrapad Krishna Paksha has been granted to the devotees of the said Akhara every year since 1958. It is his case that while 200 devotees were permitted in the year 2012 and 2013, the number was progressively and arbitrarily curtailed by the respondent police authorities without assigning reasons to 150 in 2014, 100 in 2015, and eventually to a mere 5 devotees from the year 2023 onwards, along with an alteration of the traditional route and as such the petitioner seeks appropriate direction from this Hon'ble Court, directing the respondents to grant license to the petitioner to conduct *'Mahabiri Julus'* (religious procession) of Akhara No.1 through the traditional

WEB COPY

route fixed long back in the village Hathaura under Husainganj police station of Siwan district and to allow at least 300 devotees to participate in future processions.

4. Learned counsel for the petitioner submitted that the license granted in favour of Akhara No.1 has consistently been for a route which has never been the subject matter of any complaint of breach of peace, and that in the Peace Committee meeting dated 16.08.2023 the devotees of Akhara No.1 were compelled to agree to restrict their number to 5 and to alter their traditional route under threat of denial of license altogether. It was submitted that representations dated 20.08.2023 and 23.08.2023 to the District Magistrate, Siwan went unanswered, compelling the petitioner to approach this Hon'ble Court. Reliance was placed upon ***Dargah Committee v. Union of India, AIR 1961 SC 1402, and Gulam v. State of U.P.,*** reported in ***AIR 1981 SC 2198***, to submit that once the right of a community to take out a religious procession along a customary route is established, it cannot be curtailed merely because it is opposed by another community, and that it is for the police to protect the exercise of such lawful right rather than to "abdicate" its authority before a body of miscreants.

5. Learned counsel for the petitioner further

WEB COPY

submitted, that the report of the Sub-Divisional Police Officer, Siwan dated 31.10.2024 exaggerates the law-and-order concern by clubbing the devotees of multiple Akharas together as though they were all devotees of Akhara No.1 and that the petitioner is not named as an accused in Husainganj P.S. Case No. 304 of 2024; and that, in a subsequent and significant development, the SHO and Inspector of Police have themselves recommended a license for a Tazia procession of 1000 persons armed with lathi, bhala and sword on the very same route which, according to the petitioner, exposes the discriminatory treatment meted out to the devotees of Akhara No.1.

6. Learned counsel for the State, submitted, that with the objective of maintaining law and order, the short-term licenses are granted in such matters and in the present case the reduction in numbers was necessitated by the fact that against a sanctioned strength of 5 devotees, 1700 to 2000 persons would in fact assemble and participate between 2015 and 2022, resulting in a number of cases. It was further, submitted that in the year 2024, the petitioner and the accompanying crowd set fire to a government vehicle belonging to the Block Development Officer, Husainganj, and pelted stones upon police personnel, It was also submitted that the impugned restriction is

WEB COPY

not discriminatory but a considered, security-driven measure, arrived at upon due verification by the Sub-Divisional Police Officer, Sadar, Siwan.

7. Having considered the submissions of the parties, it would be apposite to examine the settled position of law on this aspect. The Hon'ble Supreme Court has time to time reaffirmed that while the Constitution protects the right to practice one's religion, such rights are not unfettered and must harmonize with the rights of others and societal norms, This principle finds consistent illustration in the Hon'ble Court's own jurisprudence; for instance in the case of ***Dr. M. Ismail Faruqui v. Union of India*** reported in (**1994 (6) SCC 360**) the Hon'ble Supreme Court held that, while offer of prayer or worship is a religious practice, its offering at every location where such prayers can be offered would not be an essential or integral part of such religious practice unless the place has a particular significance for that religion so as to form an essential or integral part thereof. Places of worship of any religion having particular significance for that religion, to make it an essential or integral part of the religion, stand on a different footing and have to be treated differently and more reverentially. Further, in the case of ***Church of God v. K.K.R. Majestic Colony Welfare***

WEB COPY

reported in ***((2000) 7 SCC 282),*** It was held that no religion prescribes or asks to offer prayers with the help of loudspeakers and by disturbing the peace of the public and that in a civilised society, no such activities must be performed in the name of religion which causes harm to infirm or old people, students, or children.

8. After going through these judgments, it can be concluded that Articles 25 and 26 guarantees the freedom of religion but are subject to public order, morality, and health constraints further as much as there is need of freedom to practice and profess one's own religion there is also the necessity of maintaining public tranquility, particularly in residential areas and hence here the state plays an important role in regulating activities that may harm public health and welfare.

9. In view of the settled position of law as discussed above, this Court holds that while the right to profess and practice religion — including taking out religious processions — is protected under Articles 19(1)(b) and 25 of the Constitution, this right is not absolute. The constitutional protection extends only to what is essential and integral to the religious practice, not to every mode or manner of its exercise.

WEB COPY

10. Having heard the learned counsels for the parties and perused the materials on record, it becomes imperative to reiterate that in India secularism is a part of the basic structure of the Constitution. The State remains neutral towards all religion, treats every faith with equal respect (sarva dharma samabhava), and guarantees freedom to practice and profess any religion. The right to take out a religious or civic processions is a recognized civil and fundamental right under Article 19(1)(b) and Article 25 of the Constitution. However, they are subject to reasonable restrictions. The reasonable restrictions denotes to legal limits on individual rights and freedom by the state to balance personal liberty with collective public welfare, national security, and social order. Hence, no Constitutional right is absolute; unchecked freedom can cause great harm to society at large.

11. Further, the petitioner's apprehension that the number of devotees may be restricted to five in the future is premature and unreasonable, as such restrictions, if any, would depend on the prevailing law and order situation of the locality at the time permission is actually sought, and cannot be adjudicated upon on the basis of a hypothetical future contingency.

WEB COPY

12. In view of the aforesaid facts and circumstances of the case, this Court finds no merit in the present writ petition.

13. Accordingly, the present writ petition stands dismissed. Pending I.A's, if any, stands disposed of.

(Alok Kumar, J)

Manish/-

AFR/NAFR	**A.F.R.**
CAV DATE	28.07.2026
Uploading Date	20.08.2026
Transmission Date	NA

WEB COPY