



1<sup>st</sup> May, 2021

Instructions for the Secretary

*in*

Kashi Vishwanath Temple-Gyanvapi Mosque Negotiations

[Pursuant to the Order of the Allahabad High Court, dated 18<sup>th</sup> April, 2021]

**THE LEGAL LANDSCAPE**

The legal advisors have stated that under the Places of Worship Act, 1991, the suit is barred, and there can be no hope of the suit succeeding while that Act remains in force. The observations of the Supreme Court in *M. Sadiq v. Mahant Suresh Das* [Ayodhya Case] on the Places of Worship Act, 1991 solidified the position even more. There was not much hope for the civil suit brought by Late Somnath Vyas—however, a petition alleging that the entire Places of Worship Act, 1991, is arbitrary and unconstitutional has recently been admitted for hearing in the Supreme Court. It has provided minimal leverage to SKVTT—the uncertainty regarding the validity of the Places of Worship Act, 1991 is probably why the SKVTT even proposed a negotiation in the first place. In its absence, the negotiating position of the SKVTT was very weak, though it has improved somewhat in light of the challenge. Your advisors, however, are certain that the validity of the Act will be upheld.

The AIM was planning to join as an intervenor in the petition challenging the constitutional validity of the Places of Worship Act, 1991. However, in light of the negotiation meeting, that decision was held off, pending the outcome of the negotiation.

One may adopt and refer to any legal arguments to advance interests during the negotiation. The counsel shall be part of the negotiating team for that purpose.

## **THE VACANT PLOT**

The SKVTT submitted before the High Court that it would be willing to hand over a piece of vacant land owned by it near the Kashi Vishwanath Temple Area for construction of the Mosque at that site. However, this is was contingent on the AIM agreeing to hand over the current site of the Gyanvapi Mosque to the SKVTT. The AIM expressed willingness to hear out the SKVTT over the negotiation table. However, this proposal is completely untenable. In light of the strength of your legal case under the Places of Worship Act, such an exchange makes no sense. You are not authorized to hand over the land on which the Mosque currently stands.

You may consider accepting such a proposal only in the circumstance that the SKVTT agrees to become an intervenor in the petition challenging the constitutionality of the Places of Worship Act with you—supporting the validity of the Act.

## **A SWAP**

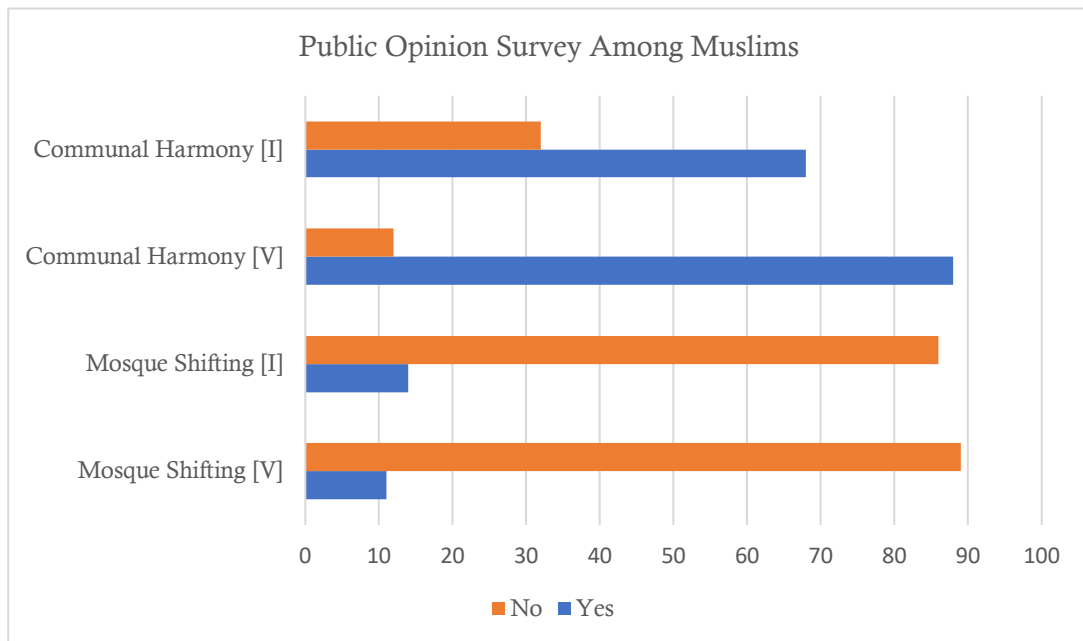
There was a leak in the newspapers that the AIM is willing to agree to a swap—the SKVTT receiving the land on which the Gyanvapi Mosque currently stands, and the AIM receiving the land on which the present Kashi Vishwanath Temple currently stands. It was leaked by the AIM, in order to expose the hollowness of the exchange proposed by the SKVTT in the Allahabad High Court. This is something you do not have the authority to agree to, though you may propose the same to indicate the untenability of the SKVTT's original suggestion. You must be careful though—this is not something that the AIM is actually on board with, and you cannot have a settlement on those terms.

## **THE ASI SURVEY**

Presently, the ASI survey ordered by the civil court stands stayed by the Allahabad High Court. The survey would entail excavations and tests in the complex of, and on, the Gyanvapi Mosque. The AIM is concerned that this would lead to damage to the Mosque. It is absolutely vital that you prevent the ASI survey from taking place for this reason. In any case, you have no qualms stating publicly or privately, that the Gyanvapi Mosque was built after demolition of the original Kashi Vishwanath Temple at the site. The AIM considers the history regrettable, but the Places of Worship Act makes this fact irrelevant.

## PUBLIC OPINION

Surveys were conducted across the country by the AIM and the Uttar Pradesh Sunni Central Wakf Board. These may be relied upon to aid your negotiation strategy. While you are not beholden to these views absolutely, it is your duty to represent, and act in accordance with these views, as far as possible. However, the instructions provided herein override the public opinion. It is important to remember that public acceptance of the settlement reached is vital to maintaining peace and calm in the immediate as well as long run. The following results (in percentage) were received:



### Question Descriptions:

**Communal Harmony [I]**—Sample Participants: Muslims Across India—  
Question: Is communal harmony more important than the placement of the Gyanvapi Mosque?

**Communal Harmony [V]**—Sample Participants: Muslims in City of Varanasi—  
Question: Is communal harmony more important than the placement of the Gyanvapi Mosque?

**Mosque Shifting [I]**—Sample Participants: Muslims Across India—  
Question: Should the Gyanvapi Mosque be shifted to a nearby location to allow construction of Kashi Vishwanath Temple at that site?

**Mosque Shifting [V]**—Sample Participants: Muslims in City of Varanasi—  
Question: Should the Gyanvapi Mosque be shifted to a nearby location to allow construction of Kashi Vishwanath Temple at that site?

## **RIOT SITUATION**

You must remain cognizant that there is grave risk of riots and protests in Varanasi and other parts of the country, in light of the recent order for the ASI Survey, and the stay granted by the High Court. You find yourself in a Catch-22 situation—inaction may lead to unrest, while action may lead to even more unrest. You are advised to tread carefully.

In either case (whether any settlement is reached or not), you must issue a joint statement with the SKVTT, designed to heal communal wounds and tensions. You may also contemplate undertaking confidence building measures along with the SKVTT. While these measures may not have much to do with the ultimate solution of the dispute, they are vital, especially for harmony in the city of Varanasi in the immediate future. The Uttar Pradesh Sunni Central Wakf Board has advised that this is vital.

## **PUBLIC STATEMENT**

It is vital to get the content and wording of the public statement right—the main goal is to assuage the grievance felt by Muslims in the city and in the country. The CEO of the SKVTT and the Secretary of the AIM are expected to make a joint press statement in person right after the negotiation meeting. A draft of the statement must be agreed upon during the session.

It must, of course, include whatever settlement is reached during the negotiation on various issues. You must push for inclusion of a line supporting the spirit of the Places of Worship Act, in principle—though this is not essential. You must certainly get an acknowledgement from the SKVTT, regarding the persecution of Muslims in India, in recent times. Whether any final settlement is reached or not, it is important for the Muslim community to hear understanding of the alienation or fear that they feel due to political rhetoric and actions. This could go a long way in healing communal tensions. You should make clear that the purpose behind the same is not to assign blame to the Hindu community, but to heal divides.

The AIM understands the historical grievance of the Hindu community, and if it will help, you may acknowledge, and express regret that Hindu places of worship were wrongly demolished in the past by Muslim rulers.

The statement must be issued whether or not any settlement is reached.

## CONCLUSION

You have the authority to settle the dispute on the terms described above. If that occurs, the Allahabad High Court would issue a consent decree recording the terms of the settlement as a binding decree, and dispose of the suit filed by Late Somnath Vyas, which sought the land on which the Gyanvapi Masjid currently stands, as well as any applications relating to that suit. The circumstance under which you may give away the land on which the Mosque currently stands, has already been outlined above.

You do not have the authority to give up possession or the legal claim to the land on which the Mosque currently stands, except in the form of a settlement as contemplated in these instructions.

This is the first and only round of negotiation, with no future opportunities. If the negotiation fails, the suit will be decided by the courts—likely, in accordance with the Places of Worship Act, 1991.

On behalf of the AIM.