SPP Guiding Case No. 229: Administrative Public Interest Litigation by the People's Procuratorate of Chengzhong District, Xining, Qinghai Province Urging Protection of Hongjue Temple

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Keywords

Administrative public interest litigation / cultural relic protection / restoration obligation / promotion of the utilization of cultural relic value

Holding

Where an immovable cultural relic is seriously damaged or there is a serious risk of damage, causing harm to the public interest, the procuratorial organ shall urge the cultural relic administrative department to comprehensively perform its supervision and administration duties for cultural relic protection in accordance with law, and urge and guide the user of the cultural relic to implement its protection responsibility; where the user of the cultural relic lacks the capacity for restoration, it may suggest that the local government provide assistance in accordance with law and carry out restoration protection, and jointly do a good job in the utilization of the cultural relic value.

Basic Facts

Hongjue Temple was built in 1390 and is located in Xining City, Qinghai Province. It is an important hub for the deep integration of the Han, Tibetan, Hui, Mongolian and other ethnic groups. At the beginning of the seventh century, Princess Wencheng passed through this place on her way to Tibet and built a throne enshrining a life-size statue of Sakyamuni at the age of twelve, and Tibetan Buddhism founded Hongjue Temple on this site. In 1951, after the Tenth Panchen Lama went to Beijing to participate in the signing ceremony of the Seventeen-Article Agreement on the Peaceful Liberation of Tibet, the principal responsible persons of the Northwest Bureau of the CPC Central Committee saw off the Tenth Panchen Lama at Hongjue Temple for his first entry into Tibet. Hongjue Temple played an important bridging role in enhancing the connection between successive central governments and Tibetan Buddhism, and in 1998 it was approved and announced by the People's Government of Qinghai Province as a key cultural relic protection unit of Qinghai Province.

For historical reasons, a certain enterprise of Xining City moved into Hongjue Temple in 1967 and built workshops, office buildings and staff residential buildings within the temple. In 2006, the enterprise, in accordance with cultural relic protection provisions, vacated the Panchen Palace and a main hall of Hongjue Temple and handed them over to the Qinghai Buddhist Association for restoration, but the front incense hall was still used as a warehouse, and the main body of the cultural relic was not properly managed and restored, and had already shown conditions such as subsidence and collapse.

Procuratorate Performance of Duties

Case filing and investigation. In June 2020, the People's Procuratorate of Chengzhong District, Xining City (hereinafter referred to as the "Chengzhong District Procuratorate") discovered the case clue while carrying out a special public interest litigation procuratorial campaign for cultural relic protection. The Chengzhong District Procuratorate's preliminary investigation found that the public interest had been harmed, and upon research and judgment, the conditions for case filing were met. Upon approval reported through the levels of

the People's Procuratorate of Qinghai Province, the Chengzhong District Procuratorate filed and investigated the clue on January 7, 2021.

After filing, the Chengzhong District Procuratorate, through on-site survey and retrieval of archives, verified that the front incense hall of Hongjue Temple was used as a warehouse by a certain enterprise, and that, except for the beam-frame structure which remained in its original state, the roof had collapsed, the columns had sunk and tilted, and the gable walls, doors and windows were relatively seriously damaged. It was also ascertained that the Culture, Sports, Tourism and Technology Bureau of Chengzhong District, Xining City (hereinafter referred to as the "Chengzhong District Culture and Tourism Bureau"), knowing that the main part of the front incense hall of Hongjue Temple was damaged, that the enterprise had stopped production and was in poor financial condition, and that it lacked the capacity for restoration, failed to organize cultural relic restoration, and had been negligent in performing its supervision and administration duties for cultural relic protection.

On January 13, 2021, the Chengzhong District Procuratorate held a hearing, inviting deputies to the district people's congress, members of the CPPCC, people's supervisors and cultural relic experts to participate, and conducted a public hearing on the historical value, restoration necessity and restoration approach of Hongjue Temple. The hearing participants unanimously held that the enterprise involved in the case lacked restoration capacity, and suggested that it vacate the front incense hall of Hongjue Temple, that the Chengzhong District Culture and Tourism Bureau carry out emergency restoration, and that the workshops and office buildings within the temple be demolished. The Chengzhong District Procuratorate adopted the hearing opinions.

Issuance of procuratorial suggestion. In view of the fact that the enterprise involved in the case lacked restoration capacity, that the Chengzhong District Culture and Tourism Bureau had not lawfully performed its supervision and administration duties for cultural relic protection, and that the front incense hall of Hongjue Temple remained in a damaged state, the Chengzhong District Procuratorate, in accordance with the relevant legal provisions, issued a procuratorial suggestion to the Chengzhong District Culture and Tourism Bureau on January 13, 2021, urging it to lawfully perform its supervision and administration duties and ensure that the front incense hall of Hongjue Temple was properly protected and effectively utilized.

Rectification. After receiving the procuratorial suggestion, the Chengzhong District Culture and Tourism Bureau urged the enterprise involved in the case to move out of Hongjue Temple. On January 28, 2021, the enterprise vacated the front incense hall of Hongjue Temple and formally handed it over to the Chengzhong District Culture and Tourism Bureau for emergency restoration. On March 2 of the same year, the Chengzhong District Culture and Tourism Bureau made a written reply to the procuratorial suggestion: a restoration plan had been formulated and application for restoration funds was being made to the higher-level unit. After receiving the reply, the Chengzhong District Procuratorate conducted follow-up supervision over the restoration of Hongjue Temple. The Chengzhong District Culture and Tourism Bureau used the special funds allocated by the Department of Culture and Tourism of Qinghai Province to restore the front incense hall of Hongjue Temple; at the same time, it reported the case to the People's Government of Chengzhong District to seek funds for the demolition of other enterprise production buildings within the temple and relocation compensation. In June 2023, the Hongjue Temple restoration project was completed.

The Chengzhong District Procuratorate, the Ethnic and Religious Affairs Bureau of Chengzhong District, the Chengzhong District Culture and Tourism Bureau and other units visited patriotic religious figures, consulted historical archives, and deeply explored the historical value of Hongjue Temple in promoting exchanges, communication and integration among all ethnic groups, as well as the historical deeds of the older generation of revolutionaries in promoting the peaceful liberation of Tibet and enhancing ethnic unity. In June 2024, the Ethnic and Religious Affairs Commission of Qinghai Province built the front incense hall of Hongjue Temple into the main exhibition hall of the "Qinghai Province Education Base for Ethnic Unity and Progress", which, with the great national spirit centered on patriotism as the main line, displayed the typical

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stories and precious images of Hongjue Temple in enhancing the connection between successive central governments and Tibetan Buddhism, educating and guiding people of all ethnic groups to forge a strong sense of community for the Chinese nation, and promoting the effective utilization of cultural relics.

Guiding Significance

When handling administrative public interest litigation cases for the protection of immovable cultural relics, the procuratorial organ shall supervise the cultural relic administrative department to comprehensively perform its supervision and administration duties for cultural relic protection in accordance with law. According to the Cultural Relics Protection Law, the cultural relic administrative departments of local people's governments at or above the county level exercise supervision and administration over the protection of cultural relics within their respective administrative regions; they shall strengthen supervision and inspection of the protection of immovable cultural relics, promptly discover problems and hidden dangers, prevent safety risks, and urge and guide the users of cultural relics to perform their protection duties. With respect to immovable cultural relics at risk of damage, the procuratorial organ shall supervise the cultural relic administrative department to comprehensively perform its supervision and administration duties for cultural relic protection; where the user lacks the capacity for restoration, it may suggest that the local government provide assistance in accordance with law and organize and carry out restoration protection. While protecting immovable cultural relics, attention shall be paid to jointly doing a good job in the exploration, interpretation and revitalized utilization of cultural relic value, so as to better give play to the functions and roles of cultural relics in historical research, cultural inheritance, value guidance and science education.

Relevant Legal Provisions

Articles 8, 9 and 21 of the Law of the People's Republic of China on the Protection of Cultural Relics (2017 Amendment) (currently Articles 9, 10, 11, 12 and 32 of the 2024 Revision).

Paragraph 4 of Article 25 of the Administrative Litigation Law of the People's Republic of China (2017 Amendment).

Paragraph 1 of Article 21 of the Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Procuratorial Public Interest Litigation Cases (effective 2021).

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