

Presented On: 22.11.2021

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

W.P. (C) No. 25645 of 2021

<b>S.J.R. Kumar</b>		<b>Petitioner</b>
	<b>V</b>	
<b>The Travancore Devaswom Board &amp; Ors.</b>		<b>Respondents</b>

**REPLY AFFIDAVIT FILED BY THE PETITIONER TO THE STATEMENT FILED BY THE RESPONDENTS 1 AND 2 AND TO THE REPORT OF THE LEARNED SPECIAL COMMISSIONER DATED 17.11.2021 AS PER THE DIRECTION OF THIS HON'BLE COURT ON 18.11.2021**

**AND**

**INTERIM APPLICATION FOR DIRECTION FILED UNDER RULE 150 OF THE KERALA HIGH COURT RULES**

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**V. Sajith Kumar (S-1032) (K/373/2000)**

**Vivek A.V. (K/531/2017) (V-733)**

**Godwin Joseph (K/1422/2018)**

**Aparna Chandran (K/781/2020)**

**Remya Varma N.K. (K/1085/2021)**

Counsels for the Petitioner

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

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**Dated this the 22<sup>nd</sup> day of November, 2021**

**V. SAJITH KUMAR**  
**Counsel for the Petitioner**

**BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM**

**W.P. (C) No. 25645 of 2021**

<b>S.J.R. Kumar</b>		<b>Petitioner</b>
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**REPLY AFFIDAVIT FILED BY THE PETITIONER TO THE STATEMENT FILED BY THE RESPONDENTS 1 AND 2 AND TO THE REPORT OF THE LEARNED SPECIAL COMMISSIONER DATED 17.11.2021 AS PER THE DIRECTION OF THIS HON'BLE COURT ON 18.11.2021**

I, S.J.R. Kumar, S/o. Late K. Sridharan Pillai, aged 67 years, residing at Park Villa, K.V. 62, Panampilly Nagar, Cochin – 682 036, do here by solemnly affirm and state as follows:

- 1.I am the Petitioner in the above Writ Petition. I am conversant with the facts and circumstances of this case.
- 2.All the averments in the Statement filed by the Standing Counsel for Respondents 1 and 2 except those which are specifically admitted hereunder are denied.
- 3.The Writ Petition was filed by the Petitioner praying for a direction commanding the Respondents to ensure that only Satwik/pure materials of high quality are used in the preparation of Nivedyam/Prasada for Lord Ayyappa at Sabarimala Temple and for other reliefs.
- 4.The allegations against this Petitioner in Para 3 are absolutely incorrect. The Petitioner is a devotee and the General Convenor of Sabarimala Karma Samithi and a party to the pending proceedings before the Hon'ble

Supreme Court seeking protection of the age-old customs and rituals at Sabarimala Temple. The Petitioner rightly disclosed all the relevant facts that came to his notice and any allegation to the contrary is highly unfair. The attempt of the Respondent authorities is to "*shoot the messenger*" than to correct their mistakes.

5. The averment in Para 4 as regards malicious intention to stall the sale of Aravana and Unniyappam at Sabarimala is highly unfair. The statement only indicates that they are concerned only about the commercial interest and not serious about sanctity and purity of Nivedya presented to Lord Ayyappa. Only if case the customs and rituals of the temple are protected, the material progress would take place. After failing to protect the Thantrik rituals at temple by providing Satwik/pure materials for the preparation of Nivedyam/Prasada at Sabarimala, the Respondents have no authority to put blame on this Petitioner for bringing their faults to the notice of this Hon'ble Court.

6. The contentions in Para 5 are in relation to procurement of Jaggery from M/s. Vardhan Agro Processing Ltd., Maharashtra. It is also contended that Jaggery supplied were of good quality up to September 2021. However, the Respondent has not made clear whether the same Jaggery was used for preparation of Nivedyam till it was found unsafe in September 2021. The statement also fails to provide any account of the stock of Aravana and Unniyappam which were made of Jaggery procured from M/s. Vardhan Agro Processing Ltd. The Respondents have not made available the lab test reports of the Jaggery used for the preparation of Nivedyam at the temple, while the Jaggery supplied by M/s. Vardhan Agro

Processing Ltd. was in use. Instead, they have appended a report showing the quantity of Jaggery supplied to Sabarimala as well as the lab test reports of the Aravana supplied to the devotees. The matter in issue is the quality of the Jaggery used for the preparation of Nivedyam at temple. However, **all the lab reports produced are of the recent batch of Aravana produced using the Jaggery procured from M/s. S P Sugars Ltd. The Respondents have not made available the lab test reports of the Jaggery supplied by M/s. Vardhan Agro Processing Ltd. and used at Sabarimala for the preparation of Nivedyam.** Even the lab test reports of Jaggery supplied by M/s. S P Sugars Ltd. have been omitted. The lab test reports only indicate the moisture and quantity of sugar in Aravana instead of the chemical or biological content in the product, which are crucial for determining their propriety for human consumption.

7. At this juncture, it is highly relevant to record the relevant lines from the report of the Special Commissioner as regards the Jaggery procured from M/s. Vardhan Agro Processing Ltd.

*"It is true that in the cover of the said Jaggery, there is a writing that it is Halal. It is written as follows: **"HALAL: JUH/HRC/437/2018."***

Thus, it is clear that the Respondents 1 and 2 were using Halal Certified Jaggery till recently at Sabarimala. It was certified unsafe only in September 2021.

8. The Special Commissioner in his report however, includes the inputs obtained from the Chief Vigilance Officer, Travancore Devaswom Board as

regards the word HALAL in the cover of Jaggery. It is stated that for the purpose of exports to some Middle East Countries, the HALAL certification is required and hence, such certification is made in the cover. It also indicates that the said company had complied with the requirements of certifying agency for preparation of Jaggery and had obtained the certification. The HALAL certification is being granted only on fulfilling the rituals and practices prescribed by the Muslim community in the food manufacturing process. Only those who are prepared to follow the same would be able to procure the HALAL certification from the concerned. The Travancore Devaswom Board would have procured Satwik/Pure Jaggery without specific certification as regards the compliance of rituals and customs of another religious community for the preparation of Nivedyam at Sabarimala Temple following Hindu Thantrik rituals.

9. The averments in Para 6 of the Statement are highly misleading and is in contradiction to the report submitted by the learned Special Commissioner, Sabarimala. The learned Special Commissioner in his report dated 17.11.2021 stated as follows:

*"..Thereafter in the month of September 2021, it was again tested and it was found to be infested with insects and **unsafe** and the sample had foul odour."*

(Emphasis supplied)

However, the Respondents 1 and 2 maintains that it was found not suitable only for preparation of Vazhipadu at Sabarimala and the prohibition for sale is only for the articles for human consumption or use and the auction was made clearly mentioning that stock is not suitable for

preparation of Vazhipadu. Interestingly, the Respondents conceded that there is prohibition for sale for human consumption or use. In view of the report of the Special Commissioner, it is clear that the Jaggery infested with insects and having foul odour is unsafe for human consumption.

10.The *unsafe food* is defined in S. 3(1) (zz) of the Food Safety and Standards Act, 2006. As per sub clause (ix), the article having been infected or infested with insects is unsafe. The sub clause (ii) provides that filthy, rotten, decomposed, etc. are also unsafe. In view of the report of the Special Commissioner, it is clear that the Respondents 1 and 2 conducted sale of "unsafe food" through auction, which is prohibited and punishable under various sections including S.26 and S. 59 of the Food Safety and Standards Act, 2006.

11.In reply to the averments in Para 6 and Para 7 of the Statement filed by the Respondents 1 and 2, it is humbly submitted that the contention as regards the use of old Jaggery for being used as raw material in the manufacture of cattle feed and allied products are not convincing. The details as regards Southern Agro Tech India Pvt. Ltd. available in Public domain evidences that they are in the business related to Hotels and restaurants. They were incorporated only on 06.07.2020. The name of the directors is shown as Kottoor Krishnankutty Anju and Edathiparambil Narayanan Gopakumar. The allied companies are involved in the edible extraction business and in the food processing units besides real estate business. A true copy of the relevant pages of the details regarding Southern Agro Tech India Pvt. Ltd. downloaded from

<https://connect2india.com> is produced herewith and marked as **Exhibit**

**P3.**

12.The NIC (National Industrial Classification) Code of the Southern Agro Tech India Pvt. Ltd. is shown as 55208 in Exhibit P3. 55208 is the NIC code for Cooking Services and not for the manufacturing of Cattle feeds. There is separate NIC code for the companies involved in the manufacturing of Cattle feeds. The NIC code for industries involved in the manufacture of Cattle feeds is 15331. A true copy of the relevant pages of the National Industrial Classification downloaded from the website of Government of India, Ministry of Statistics and Programme Implementation is produced herewith and marked as **Exhibit P4.**

13.Therefore, the contention of the Respondents 1 and 2 that unsafe Jaggery will be used as raw material for the manufacture of Cattle feeds and allied products is not with bonafides. Further, Jaggery is not an ingredient for the preparation of Cattle feeds in the normal course. Further, decomposed Jaggery is not fit for consumption by cattle as well.

14.The Respondents contended in Para 5 that the old stock of Jaggery, supplied by M/s. Vardhan Agro Processing Ltd. was tested at the lab and the same was forwarded to Sannidhanam for preparation of Vazhipad on 27.04.2021. However, in Para 7 of their Statement it is stated that the Tender for supply of Jaggery for the period from 2020-2021 was awarded to M/s. S P Sugars Ltd. and they started supply from April 2021. But it was purchased at a time when huge quantity of Jaggery supplied by M/s. Vardhan Agro Processing Ltd. was remaining at Pamba and the same was tested and declared "unsafe" only during September 2021. Furthermore,



the remaining stock of Jaggery supplied by M/s. Vardhan Agro Processing Ltd. was auctioned to M/s. Southern Agro Tech India Pvt. Ltd only in October 2021. Therefore, the Respondents are bound to explain why fresh stock of Jaggery (50,000 kgs) was collected from M/s. S P Sugars in April 2021 while more than 3,36,940kgs of Jaggery supplied by M/s. Vardhan Agro Processing Ltd. was remaining at the Godown in Pamba with approval of 3<sup>rd</sup> Respondent for preparation of Vazhipad.

15.The averments in Para 10 of the Statement are highly misleading. The Respondents herein are trying to trivialize the use of Halal Certified Jaggery in a Hindu temple following Thantrik rituals. The Petitioner has already addressed the contentions on the matter in Para 7 and 8 above. The learned Special Commissioner in his report had recorded that the said Jaggery is having HALAL Certification. There is no justification to use Halal Certified Jaggery for the preparation of Nivedyam in a Hindu temple following Thantrik rituals and customs.

16.The averments in Para 11 is highly unfair. The Respondents should reveal the persons who are hurting the religious feelings of the pilgrims and destroying the communal harmony. In fact, the Respondents 1 and 2, through their irresponsible and callous attitude is hurting the religious sentiments of crores of devotees of Sabarimala throughout the world. They are not interested in protecting the customs, traditions and rituals at Sabarimala temple. The Respondents are attempting to put the blame of their failures on others without managing the affairs of the temple as per the traditions and customs.

17.It is humbly submitted that as per the Hindu religious beliefs, in a temple, the Thantri is believed to be the father of the deity and in every matter involving the sanctity and serenity of the deity embodied in the Holy Shrine, the opinion of the Thantri is highly essential and it is regarded as most sacred. As per the Statement and the Report of the learned Special Commissioner, it became evident that unholy and impure Halal Jaggery might have been used in the preparation of Nivedyam at Sabarimala temple. Therefore, the opinion of the Thantri in the matter is highly essential to unveil the divine opinion and the remedial measures to restore serenity to the deity.

18.In the above circumstances, this Hon'ble Court may be pleased to direct the Respondents 1 and 2 to obtain the opinion of the Tantri on the propriety of using Halal Jaggery in preparing Nivedyam for the Lord Ayyappa and the remedial measures required at the Temple, otherwise serious prejudice will be caused to the Petitioner and to the devotees of Lord Ayyappa.

19.The 3<sup>rd</sup> Respondent would not have permitted the Respondents 1 and 2 to auction the Jaggery which was found unsafe for human consumption. They were under obligation to confiscate and destroy the unsafe food material as per the provisions of the Food Safety and Standards Act, 2006. **Furthermore, the Respondents would have seen that the requirement of HALAL certification for export to some Arab countries itself shows that there is some distinguishable characteristics to such products that distinguish them from the quality standards prescribed under the 2006 Act and Rules.** The

Respondents failed to see that the HALAL certification shows compliance of the religious rituals of Muslim community and the use of such materials is an infraction of the sanctity and purity of Nivedya presented to Lord Ayyappa for the preparation of Nivedyam at Sabarimala and would amount to the violation of religious freedoms guaranteed under the Constitution of India. The use of food materials prepared as per the religious practices and rituals of another religion would affect the sanctity of Nivedyam, which is to be partaken by the devotee as Prasada.

20. There is no merit in any of the averments in the Statement filed by the Standing Counsel for Respondents 1 and 2 and the Writ Petition is liable to be allowed with costs to this Petitioner.

21. All what is stated above is true to the best of my personal knowledge and belief and I have not suppressed any material facts.

Dated this the 22<sup>nd</sup> day of November, 2021

**Deponent**

Solemnly affirmed and signed before me by the deponent whom I know personally on this the day of 22<sup>nd</sup> day of November, 2021 in my office at Ernakulam.

**V. SAJITH KUMAR**  
**Advocate**

**BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM**

**I.A. No. of 2021**

**In**

**W. P. (C) No: 25645 of 2021**

**Petitioner/Petitioner :-**

S.J.R. Kumar S/o. Late K. Sridharan Pillai, aged 65 years, residing at Park Villai, K.V. 62, Panampilly Nagar, Cochin – 682 036.

v.

**Respondent(s)/ Respondent(s): -**

1. The Travancore Devaswom Board, represented by its Secretary, Nandancode, Kawdiar Post, Thiruvananthapuram – 695 003.
2. The Commissioner, Devaswom Commissioner's Office, Travancore Devaswom Board, Nandancode, Kawdiar Post, Thiruvananthapuram – 695 003.
3. The Commissioner, Commissionerate of Food Safety Kerala, Office of the Commissioner of Food Safety, Thycaud P.O, Thiruvananthapuram – 695 014.

**INTERIM APPLICATION FOR DIRECTION FILED UNDER RULE 150 OF THE KERALA HIGH COURT RULES**

For the reasons stated in the accompanying Affidavit and for the reasons to be urged at the time of hearing, it is humbly prayed that the Honorable Court may be pleased to direct the Respondents 1 and 2 to obtain the opinion of the Thantri on the propriety of using Halal Jaggery in preparing Nivedyam for the Lord Ayyappa and the remedial measures required at the Temple.

Dated this the 22<sup>nd</sup> day of November, 2021

**V. Sajith Kumar**  
Counsel for the Petitioner