

Presented on: 17.11.2021
(Subject –Sabarimala – Use of Spoiled and Halal Certified Jaggery – Violation of Rituals and Customs – Use of Plastic Bags – Violation of Tender Conditions)

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

(Special Original Jurisdiction)

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

S. J. R. Kumar		Petitioner
	v.	
The Travancore Devaswom Board & Ors.		Respondents

WRIT PETITION FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

V. Sajith Kumar (S-1032) K/373/2000
Vivek A.V. (V- 733) (K/531/2017)
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
(Special Original Jurisdiction)**

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

S. J. R. Kumar		Petitioner
	v.	
The Travancore Devaswom Board & Ors.		Respondents

Synopsis

The Petitioner, a devotee of Lord Ayyappa is bringing to the notice of this Hon'ble Court the illegal actions on the part of the Respondents in procuring Halal Certified Jaggery for the preparation of "Prasada" including "Aravana" and "Unniyappam" at Sabarimala Temple in violation of rituals and customs prevailing in the Hindu Community. The Aravana and Unniyappam are the main offering to the Lord Ayyappa at Sabarimala. Nivedyam offered to the deity is distributed as Prasada to the devotees. It is highly necessary that Nivedyam is prepared using Satwik/pure materials in a clean and hygienic environment. Only in case Nivedyam is offered as per the wishes of the deity, the Prasada would carry the blessings of the deity. The use of Halal certified food materials, which is specifically prepared as per the religious beliefs of another community, is not a Satwik/pure material to be offered to Lord Ayyappa, a Naishtika Brahmachari meditating in Yoga asana. The actions on the part of the Temple administration are highly illegal and violative of religious rights guaranteed under Part III of the Constitution of India.

List of Dates:

15.07.2021	Tenders invited by Travancore Devaswom Board for supply of Jaggery Powder at Pampa for the period from 01.10.2021 to 30.09.2022.
16.11.2021	Newspaper reports showing use of Halal Certified Jaggery at Sabarimala

Points to be urged:

1. Whether the actions on the part of the Respondents in permitting usage of Non-satwik/impure food materials for the preparation of Nivedya/Prasada at Sabarimala is illegal and violative of the religious rights guaranteed under Part III of the Constitution of India?
2. Whether the actions on the part of the Respondent authorities to auction impure Halal Jaggery to an individual for resale to the public instead of destroying it as per the food safety standards is permissible?

Precedents:

NIL

Dated this the 17th day of November 2021

V. Sajith Kumar
Counsel for the Petitioner

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

(Special Original Jurisdiction)

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

Petitioner: -

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.

V.

Respondent(s): -

1. The Travancore Devaswom Board, Devaswom Head Quarters, Nandancode, Kawdiar Post, Thiruvananthapuram – 695 003, represented by its Secretary.
2. The Devaswom Commissioner, Devaswom Head Quarters, 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.

WRIT PETITION FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

*All process and other notices to the Petitioner may be served on his/her/their counsel **M/s. Sajith Kumar V., Vivek A.V., Godwin Joseph, Aparna Chandran, Remya Varma N.K.** Advocates, Pranavam Law Chambers, CC42/1224-A, M. M. Road, Cochin-18 and those to the Respondents may be served on their addresses shown above.*

1. The Petitioner, a devotee of Lord Ayyappa is bringing to the notice of this Hon'ble Court the illegal actions on the part of the Respondents 1 and 2 in procuring Halal Certified Jaggery for the preparation of "Prasada" including "Aravana" and "Unniyappam" at Sabarimala Temple in violation of rituals and customs prevailing in the Hindu Community.
2. The Petitioner is an engineer by profession and a social worker. He has been working among Hindu organizations for the last one decade. Presently, he is the General Convenor of Sabarimala

Karma Samithi, an organization formed to protect the customs and traditions at Sabarimala Temple, and is a party to the pending proceedings before the Hon'ble Supreme Court of India. He has also raised various issues relating to Sabarimala before this Hon'ble Court several times.

3. Hindus make offering of food to the Lord and later partake of it as "Prasada", a holy gift from the God. What is offered to the God is "Nivedyam" and when it comes back to the devotees, it becomes "Prasada". It is believed that "Prasada" has deities' blessings residing within it. In its material sense, "Prasada" is created by a process of giving and receiving between human devotee and divine God. When it is offered to a deity, it is believed that the Deity enjoys/tastes a bit of the offering which is then temporarily known as "Bhogya" and thus "Prasada" is also called "Bhagavan Bhog" or Sacred food.
4. There is explanation about "Prasada" in Rig Veda and it was only through Shiv Purana that Prasada gained reference as an offering of material substance. It is essential to provide Satwik/pure food or a vegetarian item to Gods and as per the practice, the food is always being prepared in clean and hygienic place. One has to make food with stable food as preparing food for the deities is an act of conveying our reverence. The ingredients used for making the food must be clean as it aids in imbibing "Satwik Gunas". It is

always insisted and followed that food prepared in clean utensils could not be tasted before offering it to Gods or Goddesses.

5. It is submitted that Aravana and Unniyappam are the major Vazhipadu/Prasadam of Lord Ayyappa in Sabarimala Temple. It is believed that Aravana and Unniyappam prepared at the temple are offered to the deity as Nivedyam and the remains are offered to the devotees as Prasadam. It is highly necessary that Nivedyam offered to the deity is out of Satwik/pure materials and use of materials other than Satwik/pure would result in divine displeasure which will in turn badly affect devotees taking Prasadam from the temple.
6. The Lord Ayyappa is a Naishtika Brahmachari. Lord Ayyappa is seen at Sabarimala Temple in Yoga asana which is a meditating position. It is highly necessary that clean and Satwik/pure materials are used in the Nivedyam offered to the deity considering the very nature of the deity and the strict adherence to Vrutha insisted for the devotees. Even the devotees are expected to follow Satwik food during the period of Vrutham prior to their pilgrimage to Sabarimala temple. The pilgrimage to Sabarimala is a devoted practice requiring 41 days of Vrutham followed by the journey to the temple by ascending towards the Poonkavanam of Swami Ayyappan.
7. It is submitted that to the surprise of the devotees, the Temple administration was using spoiled Halal certified Jaggery powder for

the preparation of Nivedyam and Prasada at Sabarimala. The actions on the part of the Respondents invite two serious illegalities. Firstly, use of spoiled materials would create health hazards to the innocent devotees. Secondly, use of Halal Certified Jaggery which is prepared as per the religious practices of another religion in the temple and offering the same to the deity would amount to serious violation of religious customs and rituals followed at the temple from time immemorial. The use of Satwik/pure materials for preparation of Nivedyam is an age old practice and highly necessary to maintain customary practices and beliefs at the Temple. Now it came to the light that the Devaswom Administration was using Halal Certified Jaggery for offering Nivedyam at the temple. A true copy of the newspaper reports dated 16.11.2021 in Breaking News Kerala, Navakerala News and East Coast Daily and a copy of the news report dated 17.11.2021 in Janmabhoomi daily are produced herewith and marked as **Exhibit P1**, **Exhibit P1(a)**, **Exhibit P1(b)** and **Exhibit P1(c)** respectively.

8. It is submitted that the Devaswom Administration and the 3rd Respondent would have ordered destruction of the spoiled Jaggery instead of auctioning it to an individual at a lower rate of Rs. 16.30/kg. There is an office of 3rd Respondent at Pampa along with Lab facilities to test the quality of the food materials supplied to Sabarimala. As per the practice being followed, the spurious and

impure materials were being destroyed at the place without permitting it to be used by the public through other means. In this case, the Devaswom Board failed to follow the usual procedure and permitted resale by auctioning it to individual purchaser. It will create serious public issues since the spoiled Jaggery is likely to return to the market and innocent public would fall prey to profit mongers. Thus, the action of the Devaswom Administration permitting resale of spoiled Jaggery that could reach the public is an illegal act requiring criminal prosecution.

9. It is submitted that the Sabarimala Devaswom Administration also failed to take care of the practices and rituals at Sabarimala Temple by permitting Halal certified Jaggery for preparation of Nivedyam. The religious scholars of the Muslim community have been proclaiming publicly that saliva is a necessary ingredient for certifying Halal in the preparation of food materials. The religious scholars took the above view by interpreting holy texts and its valid interpretations. However, different views were also expressed by a section of religious leaders. In view of the recent controversy as regards spitting on food materials to make it Halal and the responses from religious scholars, people at large are highly anxious and obnoxious on the use of Halal certified food materials even for the household purposes. It is highly disheartening to see that the food materials prepared following the rituals and religious practices of another religion with its certification is accepted as

food material for the preparation of Nivedyam/Prasada in a Hindu temple having its own rituals and customs. In such circumstances, the Devaswom Administration would have the responsibility to alleviate the fear and apprehension of the devotees about the use of Halal certified or contaminated materials in the preparation of Nivedyam at Sabarimala temple.

10. It is submitted that Devaswom Board is obtaining the supply of Jaggery Powder through E-tender. In the tender notification, serious conditions are prescribed. Only the manufacturer is entitled to participate in the tender. The tenderer is liable to be prosecuted in case of variations from the prescribed standards under the Food Safety and Standards Regulation 2011. There is also a condition that it should be packed in non-plastic sacks only and there is a prohibition for use of plastic bags. A true copy of the E-tender notification No. ROC 35/2021/Sab dated 15.07.2021 for supplying Jaggery powder at Pampa issued by the 2nd Respondent is produced herewith and marked as **Exhibit P2**.

11. However, in this particular case, Jaggery was supplied in Plastic bags in violation of Exhibit P2 tender conditions. The administration also failed to ensure that the Jaggery supplied were not in variance from the prescribed standards under the Food Safety and Standards Regulation 2011. Thus, the administration has caused huge loss to the Devaswom Board by failing to adhere

to the standards fixed in the tender notifications. Actions on the part of the Respondents are highly arbitrary, illegal, and unjust.

Petitioner has no other effective and speedy remedy than to approach this Honourable Court under Article 226 of the Constitution of India and prays for appropriate reliefs on the following among other

GROUND

- A. The actions on the part of the Respondents in using spoiled Halal Certified food materials for the preparation of Nivedyam at Sabarimala Temple, violating the Hindu customary rituals and practices are highly illegal and unjust.
- B. The Aravana and Unniyappam are the main offering to the Lord Ayyappa at Sabarimala. Nivedyam offered to the deity is distributed as Prasada to the devotees. It is highly necessary that Nivedyam is prepared using Satwik/pure materials in a clean and hygienic environment. Only in case Nivedyam is offered as per the wishes of the deity, the Prasada would carry the blessings of the deity. The use of Halal certified food materials, which is specifically prepared as per the religious beliefs of another community, is not a Satwik/pure material to be offered to Lord Ayyappa, a Naishtika Brahmachari meditating in Yoga asana. The actions on the part of the Temple administration are highly illegal and violative of religious rights guaranteed under Part III of the Constitution of India.
- C. The religious leaders of the Muslim community have been proclaiming publicly that saliva is a necessary ingredient for

certifying Halal in the preparation of food materials. The religious scholars took the above view by interpreting holy texts and its valid interpretations. However, different views were also expressed by another section of religious leaders. In view of the recent controversy as regards spitting on food materials to make it Halal and the responses from religious scholars, people at large are highly anxious and obnoxious on the use of Halal certified food materials even for the household purposes. It is highly disconsolate to see that the food materials prepared following the rituals and religious practices of another religion with its certification is accepted as food material for the preparation of Nivedyam/Prasada in a Hindu temple having its own rituals and customs. The temple being a place having importance for purity and cleanliness, use of materials having disputed quality as regards purity and cleanliness for preparation of Nivedyam is highly unfair and unjust.

D. The officials of the Devaswom Board have committed a serious crime hurting the Hindu religious sentiments by permitting the usage of Halal Certified materials for the preparation of Nivedyam/Prasada to Lord Ayyappa. The Halal Certification is a process peculiar to Muslim community involving their rituals and practices. Using a material created out of religious practices of another religion as offering to Lord Ayyappa is a criminal insult on the beliefs and customs of Ayyappa devotees. A devotee may not find wrong in case the Food Safety Authority of India or other

authorities competent to fix the quality of the food materials certifies the ingredients of a Nivedyam/Prasada, if it is to ensure purity of the materials. However, in this particular case, the materials prepared following a different religious order has been used at the Temple against the customs and traditions. The Devaswom Administration are repeatedly establishing that they are not prepared to protect the rituals and customs, but only intends to extract the devotees. Actions on the part of the Devaswom Authorities and highly unfair and violative of the religious rights guaranteed under the Constitution of India.

- E. Sabarimala temple is a place of religious prominence. Each year, devotees from the length and breadth of the country visit the temple and obtain blessings from the Lord Ayyappa. The temple, the customs, the offerings and Nivedyam being followed/ prepared at the temple and the pilgrimage by the devotees have been formulated centuries ago and the same has been followed uninterruptedly. Any deviation from the customary practices as per the whims and fancies of the state administration would result in the violation of rights and freedoms guaranteed under Article 21 and 24 of the Constitution. Actions on the part of the Respondents in flouting the centuries old practices in preparation of Nivedyam by using non Satwik/impure materials in violation of the customary practices is highly illegal and unjust.

- F. The rituals and practices being followed in Sabarimala Temple are based on Hindu religious beliefs. The rituals and practices followed at Sabarimala temple is unique and distinct and is followed by the devotees and pilgrims from time immemorial. The Aravana and Unniyappam available as the Prasada of Lord Ayyappa is believed to the embodiment of the spirit of Lord Ayyappa and a part of the Nivedyam presented to the Lord. The Nivedyam/Prasada is a sacred material to the devotees and any attempt to impair the faith of the pilgrims by using food materials prepared/certified as per the rituals and customs of another religion in the preparation of the Nivedyam/Prasada is highly illegal and arbitrary and violative of the religious freedoms guaranteed under Part III of the Constitution of India.
- G. The tender conditions clearly stipulate that plastic shall not be used. However, the materials removed from the stockyard of the Devaswom Board were in plastic bags. They also failed to ensure safety standards as per the 2011 regulations. The gross inaction on the part of the Devaswom officials enabled the tenderer to flout the tender condition and to cause loss of crores of Rupees to the Devaswom Board. The actions on the part of the administration in failure to comply with the tender conditions are highly illegal and unfair.

For the reasons stated above and for other reasons to be urged at the time of hearing it is humbly prayed that this Honourable Court may be pleased to:

- I. To issue a writ of mandamus or any other appropriate writ, order or 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.
- II. To issue a writ of mandamus or any other appropriate writ, order or direction commanding the Respondents to confiscate impure and spoiled Halal Jaggery to prevent it from being sold/distributed for consumption among public.
- III. To issue a writ of mandamus or any other appropriate writ, order or direction commanding the Respondents to conduct an enquiry into the violation of tender conditions by purchasing impure Halal Jaggery for offering to Lord Ayyappa and to take appropriate steps against erring officials by fixing liability for the loss suffered by the Devaswom Board.
- IV. Grant such other reliefs as may be prayed for and as the Court may deem fit to grant and
- V. Grant the cost of this Writ Petition.

Interim relief

For the reasons stated in the Writ Petition and in the accompanying affidavit it is respectfully prayed that this Hon'ble Court may be pleased to:

Direct the Respondents to stop forthwith the distribution of Aravana and Unniyappam made of impure Halal Jaggery and not to use it any further for the preparation of Nivedyam/Prasada at Sabarimala Temple.

Dated this the 17th day of November 2021

S. J. R. Kumar
Petitioner

V. Sajith Kumar
Counsel for the Petitioner