

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

TUESDAY, THE 13TH DAY OF DECEMBER 2022 / 22ND AGRAHAYANA,
1944

DBP NO.91 OF 2022

IN THE MATTER OF TRAVANCORE DEVASWOM BOARD - TDB
PROCEEDINGS INITIATED - REG.

PETITIONER:

SUO MOTU

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
REVENUE (DEVASWOM) DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM - 695001.
- 2 TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY, NANTHANCODE,
KAWDIAR POST, THIRUVANANTHAPURAM - 695003.
- 3 EXECUTIVE OFFICER,
SABARIAMALA DEVASWOM.
- 4 DISTRICT POLICE CHIEF,
PATHANAMTHITTA.
- 5 STATION HOUSE OFFICER,
PAMBA POLICE STATION.
- 6 STATION HOUSE OFFICER
SANNIDHANAM POLICE STATION.

SR GP SRI. S RAJMOHAN, SRI G BIJU, SC, TDB

THIS DEVASWOM BOARD PETITION HAVING COME UP FOR ADMISSION ON
13.12.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER

“CR”

Anil K. Narendran, J.

This DBP is registered *suo motu* based on a complaint dated 30.11.2022 submitted by a devotee of Lord Ayyappa of Sabarimala Sree Dharma Sastha Temple, which is mailed to Registrar General of this Court, complaining about the pilgrims bringing posters and huge photographs of celebrities, politicians, etc. at Sabarimala Sannidhanam. Three photographs attached to the complaint are reproduced hereunder;





By proceedings dated 12.12.2022, Registry was directed to initiate *suo motu* proceedings and list the matter before the Devaswom Bench.

2. Heard the learned Senior Government Pleader for respondents 1 and 4 to 6, the learned Standing Counsel for respondents 2 and 3 and also the learned Amicus Curiae for Special Commissioner, Sabarimala.

3. Sabarimala Sree Dharma Sastha Temple is situated inside Periyar Tiger Reserve, which is a prominent pilgrim centre in Kerala, where lakhs of pilgrims trek the rugged terrains of Western Ghats to have darshan of Lord Ayyappa. Sabarimala Sree Dharma Sastha Temple and Malikappuram Temple come under the Travancore Devaswom Board. Pamba Ganapathy Temple also

comes under the Travancore Devaswom Board, which is a holy spot on the way from Pamba to Sannidanam, dedicated to Lord Ganesha, where the pilgrims offer prayer for safe trekking to Sannidanam.

4. Travancore-Cochin Hindu Religious Institutions Act, 1950 enacted by the State Legislature makes provision for the administration, supervision and control of incorporated and unincorporated Devaswoms and of other Hindu Religious Endowments and Funds. Section 15A of the Act, inserted by Act 5 of 2007, with effect from 12.04.2007, deals with duties of the Board. As per Section 15A, it shall be the duty of the Board to perform the following functions, namely, (i) to see that the regular traditional rites and ceremonies according to the practice prevalent in the religious institutions are performed promptly; (ii) to monitor whether the administrative officials and employees and also the employees connected with religious rites are functioning properly; (iii) to ensure proper maintenance and upliftment of the Hindu religious institutions; (iv) to establish and maintain proper facilities in the temples for the devotees.

5. Section 24 of the Act deals with maintenance of Devaswoms, etc., out of Devaswom Fund. As per Section 24, the

Board shall, out of the Devaswom Fund constituted under Section 25, maintain the Devaswoms mentioned in Schedule I [i.e., incorporated Devaswoms], keep in a state of good repair the temples, buildings, and other appurtenances thereto, administer the said Devaswoms in accordance with recognised usages, make contributions to other Devaswoms in or outside the State and meet the expenditure for the customary religious ceremonies and may provide for the educational upliftment, social and cultural advancement and economic betterment of the Hindu community.

6. Section 31 of the Act deals with management of Devaswoms. As per Section 31, subject to the provisions of Part I and the rules made thereunder, the Board shall manage the properties and affairs of the Devaswoms, both incorporated and unincorporated as heretofore, and arrange for the conduct of the daily worship and ceremonies and of the festivals in every temple according to its usage.

7. Under the provisions of the Travancore-Cochin Hindu Religious Institutions Act, the Travancore Devaswom Board is duty bound to see that the regular traditional rites and ceremonies according to the practice prevalent in Sabarimala are performed promptly; and to establish and maintain proper facilities in

Sabarimala for the devotees. The Board shall, out of the Devaswom Fund, maintain and administer Sabarimala Devaswom in accordance with recognised usages and meet the expenditure for the customary and religious ceremonies. Subject to the provisions of Part I of the Act and the Rules made thereunder, the Board shall manage the properties and affairs of Sabarimala Devaswom and arrange for the conduct of the daily worship and ceremonies and of the festivals in Sabarimala according to the usage.

8. According to Oxford Dictionary, 'worshipper' is a person who shows reverence and adoration for a deity. Right to worship is a civil right, of course in an accustomed manner and subject to the practice and tradition in each temple.

9. In **Sajeev Sastharam v. State of Kerala and others [2022 (7) KHC 295 : 2022/KER/64654]** this Court held that a 'worshipper', who shows reverence and adoration for Lord Ayyappa, is duty-bound to exercise his right to worship in an accustomed manner and subject to the practice and tradition in Sabarimala. The restrictions imposed at Sabarimala during Maasa Poojas and festival seasons, including Mandala-Makaravilakku festival season, are applicable to all 'worshippers', who are duty-

bound to obey such restrictions, in order to ensure a smooth flow of pilgrims in front of the Sopanam of Sabarimala Sree Dharma Sastha Temple and darshan for all pilgrims in the queue.

10. When the average footfall at Sabarimala reaches 80,000-90,000 pilgrims per day, 70 to 80 pilgrims will have to move through 'Pathinettampadi' (holy 18 steps) and through the barricades in front of the Sopanam of Sabarimala Sree Dharma Sastha Temple in a minute, in order to ensure that all the pilgrims have darshan of Lord Ayyappa when the Sanctum Sanctorum remains open. The guards and Police officers on duty at the Sopanam have to regulate the movement of pilgrims through the barricades, in an appropriate manner, causing least inconvenience to the pilgrims. By the order dated 10.11.2022 in DBP No.56 of 2022, this Court directed the Police Special Officer posted at Sannidhanam, who is in the rank of Deputy Superintendent of Police, to keep constant vigil over crowd management at Pathinettampadi and Sopanam, in order to ensure a smooth flow of pilgrims.

11. In terms of the orders of this Court in SSCR No.23 of 2022 and connected cases, special queue facility at the Nadapanthal of Sabarimala Sannidhanam is being provided to

aged persons, persons with disability, children below 10 years and also persons having health issues. Everyday thousands of aged persons and children are availing the special queue facility provided at Nadapanthal. The police personnel posted at Pathinettampadi (holy 18 steps) take special care in the case of aged persons, persons with disability, children below 10 years, etc.

12. As held by this Court in **Sajeev Sastharam [2022 (7) KHC 295]**, a 'worshipper', who shows reverence and adoration for Lord Ayyappa, is duty-bound to exercise his right to worship in an accustomed manner and subject to the practice and tradition in Sabarimala. Therefore, no pilgrim can be permitted entry to Sabarimala Sannidhanam, through Pathinettampadi or to have darshan in front of the Sopanam of Sabarimala Sannidhanam, carrying posters and huge photographs of celebrities, politicians, etc., as seen from the photographs reproduced hereinbefore. The 2nd and 3rd respondents shall take necessary steps to ensure that every worshipper of Lord Ayyappa exercise his right of worship at Sabarimala Sannidhanam, in an accustomed manner and subject to the practice and tradition in Sabarimala.

13. A news item appeared in online media of the performance made by a drummer by name Sivamani, in front of

the Sopanam of Sabarimala Sannidhanam. As per that news item, the video of playing drum in front of Sopanam at the time of opening of Sanctum Sanctorum has gone viral on YouTube. Two screenshots taken from the news item that appeared on 30.11.2022 are reproduced hereunder;



14. As already noticed hereinbefore, under the provisions of the Travancore-Cochin Hindu Religious Institutions Act, the Travancore Devaswom Board is duty bound to see that the regular traditional rites and ceremonies according to the practice prevalent in Sabarimala are performed promptly. The Board is

duty bound to arrange for the conduct of the daily worship and ceremonies and of the festivals in Sabarimala according to the usage. When a 'worshipper', who shows reverence and adoration for Lord Ayyappa, is duty-bound to exercise his right to worship in an accustomed manner and subject to the practice and tradition in Sabarimala, the Sopanam Officer ought not to have permitted playing of drum in front of the Sopanam of Sabarimala Sannidhanam by a pilgrim.

15. The learned Standing Counsel for Travancore Devaswom Board would submit that the Sopanam Officer ought not to have permitted playing of drum by a pilgrim in front of the Sopanam of Sabarimala Sannidhanam. A show cause notice has already been issued to the Sopanam Officer regarding the above incident. The Board shall take necessary steps to ensure that such incidents are not repeated at Sabarimala Sannidhanam, in future.

Having considered the materials on record and also the submissions made by the learned Senior Government Pleader and also the learned Standing Counsel for Travancore Devaswom Board, we deem it appropriate to dispose of this DBP by directing the Travancore Devaswom Board to take necessary steps to ensure that no pilgrim is permitted entry to Sabarimala

Sannidhanam, through Pathinettampadi, or to have darshan in front of the Sopanam of Sabarimala Sannidhanam, carrying posters and huge photographs of celebrities, politicians, etc. as seen from the photographs reproduced hereinbefore and that, no pilgrim is permitted to play drum or other similar instruments in front of the Sopanam of Sabarimala Sannidhanam, since every 'worshipper', who shows reverence and adoration for Lord Ayyappa, is duty-bound to exercise his right to worship in an accustomed manner and subject to the practice and tradition in Sabarimala.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE