

**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 8th day of October 2024 / 16th Aswina, 1946
WP(C) NO. 34716 OF 2024(L)

PETITIONERS:

1. MANOJ S NAIR, AGED 53 YEARS, S/O. P.C. SHANMUGAN NAIR, RESIDING AT ANANDHABHAVAN, ERUMELY P.O., ERUMELY, KOTTAYAM, PIN - 686509
2. ARUN SATHEESH, AGED 33 YEARS, S/O. SATHEESAN P.K., RESIDING AT VANCHIKAPPARA HOUSE, ERUMELY P.O., ERUMELY, KOTTAYAM, PIN - 686509

RESPONDENTS:

1. TRAVANCORE DEVASWOM BOARD REPRESENTED BY ITS SECRETARY, DEVASOM BOARD HEADQUARTES, NANTHANCOD, KOWDIAR P.O., THIRUVANANTHAPURAM, PIN - 695003
2. THE DEVASWOM COMMISSIONER, TRAVANCORE DEVASWOM BOARD, DEVASOM BOARD HEADQUARTES, NANTHANCOD, KOWDIAR P.O., THIRUVANANTHAPURAM, PIN - 695003
3. THE DEPUTY DEVASWOM COMMISSIONER, TRAVANCORE DEVASWOM BOARD, OFFICE OF THE DEPUTY DEVASWOM COMMISSIONER, PATHANAMTHITTA, PIN - 689645
4. THE ADMINISTRATIVE OFFICER, ERUMELY DHARMA SASTHA TEMPLE, ERUMELY DEVASWOM, TRAVANCORE DEVASWOM BOARD, ERUMELY TOWN, KOTTAYAM, PIN - 686509
5. ADDL.R5. THE STATION HOUSE OFFICER, ERUMELY POLICE STATION, ERUMELY P. O. KOTTAYAM DISTRICT, PIN - 686509
6. ADDL.R6.SUNEESH K. A., RESIDING AT KALLAPLAKKAL, THEKKETHU KAVALA, KOTTAYAM-686519
7. ADDL.R7. SOMARAJAN, RESIDING AT VAZHIMANGALATHU VEEDU, ERUMELY, KOTTAYAM - 686509 (ADDL.R5 TO R7 ARE IMPEADED AS PER ORDER DATED 08-10-2024 IN IA 1/2024 IN WPC 34716/2024)
8. ADDL.R8. THE STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT, REVENUE (DEVASWOM) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001 (IS SUO MOTU IMPEADED AS ADDL.R8 AS PER ORDER DATED 08-10-2024 IN WPC 34716/2024)

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay all the tender proceedings in Clause B7 and B8 of Exhibit P1 forthwith.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this court's order dated 04-10-2024 and upon hearing the arguments of SAJITH KUMAR V., VIVEK A.V., SREEHARI V.S., Advocates for the petitioners, STANDING COUNSEL for the respondents 1 to 4 and of SENIOR GOVERNMENT PLEADER for addl. R5 and addl.

R8, the court passed the following:



ANIL K. NARENDRAN & P.G. AJITHKUMAR, JJ

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W.P.(C)No.34716 of 2024
.....

Dated this the 8th day of October, 2024

ORDER

Anil K. Narendran, J.

The learned Standing Counsel for Travancore Devaswom Board takes notice on admission for respondents 1 to 4 and the learned Senior Government Pleader for additional respondents 5 and 8. The learned counsel for the petitioner to serve a copy of the writ petition to the learned Senior Government Pleader today itself.

2. Issue urgent notice on admission by special messenger to respondents 6 and 7, returnable by 15.10.2024.

3. The petitioners, who are the devotees of Lord Ayyappa, have filed this writ petition seeking a writ of certiorari to quash clauses B7 and B8 in Ext.P1 tender notification issued by the 3rd respondent Deputy Devaswom Commissioner, Pathanamthitta, in respect of Erumeli Devaswom, for the year 1200ME (2024-25). Clauses B7 and B8 in Ext.P1 relate to 'Pottukuthal', i.e., applying Vibhuthi, Sindoor and Chandanam, by Sabarimala pilgrims after 'Pettathullal' and holy bath at Erumeli, on their way to Sabarimala.

4. On 04.10.2024, when this matter came up for consideration, the learned Standing Counsel for Travancore Devaswom Board submitted that only with an intention to prevent exploitation of the pilgrims by unauthorised persons, who are collecting exorbitant amounts from them, the Board introduced 'Pottukuthal' as a Kuthaka item in Ext.P1 tender notification. The learned Standing Counsel has made available for the perusal of this Court two video clippings of certain persons giving Vibhuthi, Sindoor and Chandanam at Erumeli Devaswom to Sabarimala pilgrims, after collecting money unauthorisedly from the pilgrims. The learned Standing Counsel sought time to place on record those video clippings, in a Pen Drive.

5. During the course of arguments, the specific stand taken by the learned Standing Counsel for Travancore Devaswom Board, based on the instructions already received, is that 'Pottukuthal', i.e., applying Vibhuthi, Sindoor and Chandanam by Sabarimala pilgrims after 'Pettathullal' and holly bath at Erumeli, is not part of the rituals of Sree Dharma Sastha Temple, Erumeli. However, it is a usage that is being followed by the pilgrims, during Maasapoojas in Sabarimala Sree Dharma Sastha Temple and Mandala-Makaravilakku festival seasons.

6. The learned counsel for the petitioners would submit that certain retired Devaswom employees are behind those who are illegally collecting money for 'Pottukuthal' at Sree Dharmasastha Temple, Erumeli, during Maasapoojas in Sabarimala Sree Dharma Sastha Temple and Mandala-Makaravilakku festival seasons. On the other hand, the learned Standing Counsel for Travancore Devaswom Board would submit that the 2nd petitioner used to engage persons for 'Pottukuthal' in Sree Dharma Sastha Temple, Erumeli, during Maasapoojas in Sabarimala Sree Dharma Sastha Temple and Mandala-Makaravilakku festival seasons and such persons are unauthorisedly collecting money from the pilgrims.

7. As already noticed hereinbefore, the specific stand taken by the learned Standing Counsel for Travancore Devaswom Board is that 'Pottukuthal' by Sabarimala pilgrims after 'Pettathullal' and holy bath at Erumeli is not part of the rituals of Sree Dharma Sastha Temple, Erumeli. In view of the provisions under Section 15A of the Travancore-Cochin Hindu Religious Institutions Act, 1950, the Travancore Devaswom Board has a duty to see that the regular traditional rites and ceremonies according to the practice prevalent in the religious institutions are performed

promptly; and to establish and maintain proper facilities in the temples for the devotees.

8. In terms of the orders passed by this Court during Mandala-Makaravilakku festival seasons, 'Viri' facility, toilet facility and Annadhanam are provided to Sabarimala pilgrims in Sabarimala Edathavalams and other temples under the management of Travancore Devaswom Board, Cochin Devaswom Board and Guruvayur Devaswom Managing Committee. In addition to that, such facilities are provided in various temples, which are controlled institutions under the Malabar Devaswom Board. The activities in such Edathavalams and temples are being monitored by this Court, through periodical reports of the concerned Assistant Commissioner/Administrator of the respective Devaswoms/Devaswom Managing Committee, in order to ensure that there is no exploitation of pilgrims, including those coming from other States, and that such pilgrims, which include senior citizens, children of tender age and persons with disabilities, have a safe and comfortable pilgrimage during Mandala-Makaravilakku festival seasons. No such pilgrims can be permitted to be exploited by any person, in the temples under the management of the respective Devaswoms/Devaswom Managing

Committee, including Travancore Devaswom Board.

9. The learned Standing Counsel for the Travancore Devaswom Board would submit that three mirrors are already there in the nadappanthal and aanakottil of Sree Dharma Sastha Temple, Erumeli for Sabarimala pilgrims performing 'Pettathullal' to apply Vibhuthi, Sindoor and Chandanam, free of cost, during Maasapoojas in Sabarimala Sree Dharma Sastha Temple and Mandala-Makaravilakku festival seasons. In addition to that, the pilgrims are given 'prasadam' in the temple.

10. In such circumstances, the Travancore Devaswom Board shall take necessary steps to ensure that no person is permitted to collect any money from Sabarimala pilgrims or any devotees for applying Vibhuthi, Sindoor and Chandanam in Sree Dharma Sastha Temple, Erumeli or at the places where the pilgrims have holy bath at Erumeli, after performing 'Pettathullal'.

List for further consideration on 15.10.2024.

Sd/-
ANIL K. NARENDRAN, JUDGE

Sd/-
P.G. AJITHKUMAR, JUDGE

Dxy

APPENDIX OF WP(C) 34716/2024

Exhibit P1

**A TRUE COPY OF THE NOTIFICATION ISSUED BY ROC NO.
176/2024/LELAM DATED 15.08.2024 ALONG WITH THE SCHEDULE
OF ITEMS TO BE TENDERED**

