

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE P.G. AJITHKUMAR

MONDAY, THE 23RD DAY OF SEPTEMBER 2024/1ST ASWINA, 1946

DBP NO. 67 OF 2024

IN THE MATTER OF COCHIN DEVASWOM BOARD-REPORT NO.33 OF 2024 IN COMPLAINT NO.125 OF 2023-REGARDING USE OF MOBILE PHONES IN SRI VADAKKUMNATHAN TEMPLE-PROHIBITION OF RECORDING VIDEOS USING MOBILE PHONES IN THE THEKKINKAD MAIDAN-SUO MOTU PROCEEDINGS INITIATED-REG

COMPLAINANT:

SRI. NARAYANANKUTTY.K.
28/575/3, PALIYAM ROAD THRISSUR-680 001.

RESPONDENTS:

- 1 THE COCHIN DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, ROUND NORTH,
THRISSUR, PIN-680 001.
- 2 THE DEVASWOM MANAGER,
SREE VADAKKUMNATHAN TEMPLE DEVASWOM, ROUND NORTH,
THRISSUR-680 001.

*ADDL.R3 STATE OF KERALA, REPRESENTED BY THE PRINCIPAL
SECRETARY TO GOVERNMENT,
REVENUE (DEVASWOM) DEPARTMENT,
GOVERNMENT SECRETARIATE,
THIRUVANANTHAPURAM - 695 001

*ADDL.R4 DEVASWOM COMMISSIONER, COCHIN DEVASWOM BOARD,
SWARAJ ROUND NORTH, THRISSUR-680 001

*ARE SUO MOTU IMPLEADED AS ADDITIONAL RESPONDENTS

3 AND 4 VIDE ORDER DATED 23.09.2024 IN DBP.NO.67
OF 2024

BY ADV SHRI.S.RAJMOHAN, SENIOR G.P.
SRI K P SUDHEER, SC, CDB,
SRI P RAMACHANDRAN, AMICUS CURIAE

THIS DEVASWOM BOARD PETITION HAVING COME UP FOR
ADMISSION ON 23.09.2024, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

ORDER**Anil K. Narendran, J.**

This DBP is registered based on Report No.33 of 2024 of the learned Ombudsman in Complaint No.125 of 2023, made by the complainant against the use of mobile phones inside Vadakkumnathan Temple and also in Thekkinkad Maidan for videography. In the complaint it is alleged that the Cochin Devaswom Board is permitting videography inside the temple premises.

2. Pursuant to the notice issued in Complaint No.125 of 2023, the 2nd respondent Devaswom Manager filed a reply before the learned Ombudsman, wherein it is stated that, photography is not permitted inside the temple; however for marriage functions the same is permitted on payment of Rs.720/-. Though boards are displayed inside the temple and security personnel are informing about the prohibition of photography and videography, photographs and selfies are being taken on mobile phones, without the knowledge of Devaswom authorities. In the reply it was pointed out that there is no facility for deposit of mobile phones in the office of Vadakkumnathan Devaswom. Inside the temple, shooting of videos can be done only with the permission of the Devaswom Board and Archaeology Department. However,

there are instances where people secretly take photos and videos on their mobile phones. During festivals, when several people visit the temple, audio and visual media people also shoot videos showcasing the importance of the temple, rituals performed in the temple etc., which are normally done for publicity so as to increase the number of devotees. But as a rule, photography of Devaprathishta is not permitted in any case.

3. After conducting an enquiry, the learned Ombudsman has filed Report No.33 of 2024, after taking note of the directions contained in the judgment of this Court in W.P.(C)No.33334 of 2023 regarding film shooting in Thekkinkadu Maidan. Paragraphs 5 and 6 of the report of the learned Ombudsman read thus;

"5. In this regard, in the judgment in W.P.C.No.33334 of 2023 the court held as follows:

".....Any permission granted for film shooting in the parking area of the Kshethra maidan or near the roads leading to Sree Vadakkumnathan temple from 'Manikandanaal' area, parking are, etc., will result in the movement of the devotees through those roads leading to the temple being restricted or regulated by the members of the production unit or even by 'bouncers' engaged by the production units in film shooting sites. Therefore, the Cochin Devaswom Board cannot grant permission for any such activities in Sree Vadakkumnathan Kshethra Maidan."

6. In the above facts and circumstances, how to prevent use of mobile phone and taking photograph using the

same, inside the temple, is a matter to be considered by the Board. It is suggested by the Assistant Commissioner, if mobile phone is permitted to be carried inside the temple premises, misuse by devotees cannot be ruled out. But, if deposit of mobile phone is insisted at the counter outside, arrangements will have to be made by the Devaswom Board for the same and security personnel will have to be appointed. However, if this is done, naturally more care has to be taken for collecting the mobile phones from the devotees and a token should be issued so that the mobile phone is returned to the rightful owner. This being a policy matter, is left to be decided by the Board. Therefore, whether any direction is to be issued in the matter of using mobile phone be considered by the Honourable High Court and appropriate orders issued."

4. On 18.07.2024, when this DBP came up for consideration, the learned Standing Counsel for Cochin Devaswom Board sought time to get instructions.

5. Heard the learned Standing Counsel for Cochin Devaswom Board for respondents 1 and 2 and the learned Senior Government Pleader for the 3rd respondent.

6. The Travancore-Cochin Hindu Religious Institutions Act, 1950, was enacted to make provisions for the administration, supervision and control of incorporated and unincorporated Devaswoms and of other Hindu Religious Endowments and Funds. Chapter VIII of the Act deals with the Cochin Devaswom Board. Clause (5) of Section 61 of the Act

defines 'incorporated and unincorporated Devaswoms' to mean incorporated and unincorporated Devaswoms specified in Schedules I and II respectively of the Cochin Devaswom Verumpattom Settlement Proclamation, XXIII of 1118. Ernakulam Shiva Temple is a temple under Ernakulam Devaswom, which is an incorporated Devaswom under the management of the Cochin Devaswom Board.

7. Section 62 of the Act deals with vesting of administration in the Board. As per sub-section (1) of Section 62, the administration of incorporated and unincorporated Devaswoms and Hindu Religious Institutions which were under the management of the Ruler of Cochin immediately prior to the first day of July, 1949 either under Section 50G of the Government of Cochin Act, XX of 1113, or under the provisions of the Cochin Hindu Religious Institutions Act, 1 of 1081, and all their properties and funds and of the estates and all institutions under the management of the Devaswom Department of Cochin, shall vest in the Cochin Devaswom Board. As per sub-section (2) of Section 62, notwithstanding the provisions contained in sub-section (1) the regulation and control of all rituals and ceremonies in the temple of Sree Poornathrayeesa at Trippunittura and in the Pazhayannur Bhagavathy temple at

Pazhayannur shall continue to be exercised as hitherto by the Ruler of Cochin.

8. Section 68 of the Act provides for administration by the Board as a trustee. As per sub-section (1) of Section 68, subject to the provisions of the Act and of any other law for the time being in force, the Board shall be bound to administer the affairs of incorporated and unincorporated Devaswoms and institutions under its management in accordance with the objects of the trust, the established usage and customs of the institutions and to apply their funds and property for such purposes. As per sub-section (2) of Section 68, notwithstanding anything contained in sub-section (1), the Board may, out of the funds under their control, set apart such sum as they deem fit for the educational uplift, cultural advancement and economic betterment of the Hindu community, after providing adequately for the purposes of the institutions which have to be met from the said fund.

9. Section 73A of the Act deals with the duties of the Board. As per Section 73A, it shall be the duty of the Board to perform the functions enumerated in clauses (i) to (iv), namely, (i) to see that the regular traditional rites according to the practice prevalent in the religious institution are performed

promptly; (ii) to monitor whether the administrative staff 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 major temples for the devotees.

10. Section 4 of the Kerala Hindu Places of Public Worship (Authorization of Entry) Act, 1965 deals with the power to make regulations for the maintenance of order and decorum and the due performance of rites and ceremonies in places of public worship. As per sub-section (1) of Section 4 of the Act, the trustee or any other person in charge of any place of public worship shall have power, subject to the control of the competent authority and any rules which may be made by that authority, to make regulations for the maintenance of order and decorum in the place of public worship and the due observance of the religious rites and ceremonies performed therein. As per the proviso to sub-section (1) of Section 4 no regulation made under this sub-section shall discriminate in any manner whatsoever, against any Hindu on the ground that he belongs to a particular section or class. In view of the provisions in clause (ii) of sub-section (2) of Section 4, the Cochin Devaswom Board is the competent authority referred to in sub-section (1) in relation to a

place of public worship situated in any area to which Part II of the Act extends.

11. In exercise of the powers conferred by Section 4 of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965, the State Government made the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules 1965. In view of the provisions contained in clause (iii) of Rule 5 of the said Rules, no person shall do any act which is opposed to custom or established usage of the places of public worship or would derogate the purity and cleanliness of the places of public worship and its premises.

12. During the course of arguments, the learned Standing Counsel for Cochin Devaswom Board would submit that a report dated 10.05.2024 submitted by the Chief Vigilance Officer, Cochin Devaswom Board regarding the use of mobile phones in the temple premises has already been forwarded to the Board for appropriate orders, which is now pending consideration.

13. Having considered the materials on record and also the submissions made at the Bar, we deem it appropriate to direct the Cochin Devaswom Board to take an appropriate decision on the matter, taking note of the statutory provisions referred to hereinbefore and ensure maintenance of order and



decorum in all temples its management, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a certified copy of this order.

This DBP is disposed of as above.

**Sd/-
ANIL K. NARENDRAN,
JUDGE**

**Sd/-
P.G. AJITHKUMAR,
JUDGE**

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