

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN  
&  
THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

Thursday, the 30<sup>th</sup> day of March 2023 / 9th Chaithra, 1945  
WP(C) NO. 10154 OF 2023 (T)

**PETITIONER:**

HINDU SEVA KENDRAM REG. NO.563/IV/2019 68/991, 2ND FLOOR, THARAKANS  
COMPLEX, K.K.PADMANABHAN ROAD, ERNAKULAM NORTH.P.O. KOCHI-682 018,  
REPRESENTED BY ITS TREASURER, SREEKUMAR MANKUZHY, PIN - 682018

**RESPONDENTS:**

1. STATE OF KERALA REPRESENTED BY ITS SECRETARY TO GOVERNMENT  
\*[DEPARTMENT OF DEVASWOM,] KERALA GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM-695 001 \*[AS PER ORDER DATED 23/03/2023 IN WP(C)  
10154/2023 DESCRIPTION OF R1 IS CORRECTED AS REVENUE (DEVASWOM)  
DEPARTMENT, INSTEAD OF DEPARTMENT OF DEVASWOM], PIN - 682031
2. MALABAR DEVASWOM BOARD REPRESENTED BY ITS SECRETARY, HOUSEFED  
COMPLEX ERANHIPALAM P.O., KOZHIKODE, PIN - 673003
3. THE COMMISSIONER MALABAR DEVASWOM BOARD, HOUSEFED COMPLEX  
ERANHIPALAM P.O., KOZHIKODE, PIN - 673003
4. THE EXECUTIVE OFFICER THIRUMANDHAMKUNNU BHAGAVATHI DEVASOM  
ANGADIPPURAM.P.O., MALAPPURAM DIST-679 321, PIN - 679321
5. M.C.SREEDHARA VARMA RAJA, TRUSTEE, THIRUMANDHANKUNNU BHAGAVATHI  
DEVASOM ANGADIPURAM P.O, MALAPPURAM DIST, PIN - 679321
6. M.R.MURALI, PRESIDENT, MALABAR DEVASWOM BOARD, HOUSEFED COMPLEX,  
ERANHIPALAM P.O., KOZHIKODE, PIN - 673003

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 restrain respondents 1 to 5 from conducting a public meeting on 01-04-2023 with the participation of political personalities as part of the temple festival by Thirumadhamkunnu Bhagavathi Temple and constitute an adhoc committee for the conduct of temple festival 2023 pending disposal of this case.

This petition again coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 29.03.2023 and upon hearing the arguments of M/S.R.KRISHNA RAJ, E.S.SONI, KUMARI SANGEETHA S.NAIR, RESMI A & R.PRATHEESH (ARANMULA) Advocates for the petitioner, SRI. S. RAJMOHAN, SENIOR GOVERNMENT PLEADER for R1 (By Order), SRI. R.LAKSHMI NARAYAN, STANDING COUNSEL for R2 & R3 and of SRI. MAHESH. V. RAMAKRISHNAN, Advocate for R4, and of COUNSEL for R5 (b/o) the Court passed the following:

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN  
&  
THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

Thursday, the 30<sup>th</sup> day of March 2023 / 9th Chaithra, 1945  
WP(C) NO. 10406 OF 2023 (A)

**PETITIONER:**

P V MURALEEDHARAN, AGED 61 YEARS, S/O. VASUDEVAN, RESIDING AT  
PRASADAM, ELAMKOOR P O, MANCHERY, MALAPPURAM DISTRICT, PIN - 676122

**RESPONDENTS:**

1. STATE OF KERALA REPRESENTED BY THE SECRETARY REVENUE (DEVASWOM)  
DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM,  
PIN - 695001
2. MALABAR DEVASWOM BOARD HOUSEFED COMPLEX, ERANHIPALAM, KOZHICODE  
DISTRICT 673006 REPRESENTED BY SECRETARY, PIN - 673006
3. THIRUMANDHAMKUNNU BHAGAVATHY TEMPLE, ANGADIPPURAM, PERINTHALMANNA  
MALAPPURAM REPRESENTED BY ITS TRUSTEE, PIN - 673321
4. \*MANAGER (CORRECTED) THIRUMANDHAMKUNNU BHAGAVATHY DEVASWAM, POST BOX  
NO.5, ANGADIPPURAM PO, MALAPPURAM DISTRICT, PIN - 673321  
(DESCRIPTION OF THE 4TH RESPONDENT IS SUO MOTU CORRECTED AS  
'EXECUTIVE OFFICER', INSTEAD OF 'MANAGER' AS PER ORDER DATED  
27-03-2023 IN WP(C) 10406/2023)
5. CONVENOR, THIRUMANDHAMKUNNU BHAGAVATHY TEMPLE POORAM 2023 ORGANIZING  
COMMITTEE, THIRUMANDHAMKUNNU BHAGAVATHY TEMPLE, ANGADIPPURAM P O,  
PERINTHALMANNA, MALAPPURAM, PIN - 673321

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 direct the respondents 1 to 4 not to permit the members from the Muslims community to function as the members of the 2023 Thirumandhamkunnu Bhagavathy Temple Pooram Committee, pending disposal of this Writ Petition (C).

This petition again coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 29-03-2023 and upon hearing the arguments of M/S C.RAJENDRAN, B.K.GOPALAKRISHNAN & R.S.SREEVIDYA, Advocates for the petitioners, SRI. S. RAJMOHAN, SENIOR GOVERNMENT PLEADER for R1, STANDING COUNSEL for R2, and of SRI. MAHESH V. RAMAKRISHNAN, Advocate for R4, the court passed the following :

"C.R"

**ANIL K. NARENDRAN & P.G. AJITHKUMAR, JJ.****W.P.(C)Nos.10154 & 10406 of 2023****Dated this the 30<sup>th</sup> day of March, 2023****ORDER****Anil K. Narendran, J.**

The issue involved in these writ petitions relates to the conduct of the Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple, Angadippuram, which is a controlled institution under the Malabar Devaswom Board.

2. W.P.(C)No.10154 of 2023:- The petitioner, namely, Hindu Seva Kendram, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of certiorari to quash the decision taken by the 2<sup>nd</sup> respondent Malabar Devaswom Board constituting an organising committee consisting of non-Hindus, as seen in Ext.P1, for the conduct of Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple. The petitioner has also sought for a writ of mandamus commanding respondents 1 to 5 not to conduct a public meeting on 01.04.2023, with the participation of political personalities, as part of Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple; and a writ of mandamus commanding respondents 1 to 5 to strictly follow

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the provisions of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965 and the Rules made thereunder and restrain the entry of non-Hindus into Sree Thirumandhamkunnu Bhagavathy Temple, including the members of the organising committee. The 4<sup>th</sup> respondent is the Executive Officer of Sree Thirumandhamkunnu Bhagavathy Devaswom and the 5<sup>th</sup> respondent is the hereditary trustee of the said Devaswom.

2.1. On 12.03.2023, when this writ petition came up for admission, the learned Senior Government Pleader took notice on admission for the 1<sup>st</sup> respondent State. The learned Standing Counsel for Malabar Devaswom Board took notice on admission for respondents 2 and 3. Urgent notice on admission by special messenger was ordered to respondents 4 and 5, returnable by 27.03.2023. The service of notice on the 6<sup>th</sup> respondent was dispensed with for the time being. The learned Standing Counsel for Malabar Devaswom Board was directed to get instructions.

3. W.P.(C)No.10406 of 2023:- The petitioner, who is a devotee of Sree Thirumandhamkunnu Bhagavathy, has filed this writ petition, during the pendency of W.P.(C)No.10154 of 2023, seeking a writ of certiorari to quash the constitution of

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the committee, as evidenced by Ext.P1, for conducting Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple. The petitioner has also sought for a writ of mandamus commanding respondents 1 to 4 to delete members of Muslim community from the committee for conducting Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple; and a writ of mandamus commanding the respondents not to constitute any committee for conducting Poorams, festivals, etc., in Sree Thirumandhamkunnu Bhagavathy Temple, with the members of Muslim community.

3.1. On 24.03.2023, when this writ petition came up for admission, the learned Senior Government Pleader took notice on admission for the 1<sup>st</sup> respondent State. The learned Standing Counsel for Malabar Devaswom Board took notice on admission for the 2<sup>nd</sup> respondent. Urgent notice on admission by special messenger was ordered to respondents 3 to 5, returnable by 27.03.2023. The learned Standing Counsel was directed to get instructions and the writ petition was ordered to be listed, on 27.03.2023, along with W.P.(C)No.10154 of 2023.

4. On 27.03.2023, when the above writ petitions came up for consideration, one of the arguments advanced by the learned counsel for the 4<sup>th</sup> respondent Executive Officer was

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that the constitution of the committee for conducting Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple, from 28.03.2023 till 07.04.2023, was based on a decision taken in the meeting convened in the temple premises on 06.12.2022. The brochure of the Pooram festival was published in the 1<sup>st</sup> week of March itself. By the order dated 27.03.2023, the learned counsel for the 4<sup>th</sup> respondent was directed to make available for the perusal of this Court the files relating to the constitution of the committee for conducting Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple.

5. The 4<sup>th</sup> respondent Executive Officer has filed a counter affidavit dated 28.03.2023, opposing the reliefs sought for in this writ petition. On 28.03.2023, the learned counsel for the 4<sup>th</sup> respondent has made available for the perusal of this Court the minutes books of 'staff meetings', 'hereditary trustee meetings' and 'Pooram-2023 Sangadaka Samithi meetings'. On 29.03.2023, After arguing for some time, the learned counsel for the 4<sup>th</sup> respondent Executive Officer sought time to get instructions on the arguments advanced by the learned counsel for the petitioner in W.P.(C)No.10154 of 2023, with specific

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reference to the allegations in the 5<sup>th</sup> paragraph (at page No.8) of that writ petition.

6. Today, when this matter is taken up for consideration, the 5<sup>th</sup> respondent hereditary trustee in W.P.(C)No.10154 of 2023 entered appearance through counsel. We heard the learned counsel for the petitioner in the respective writ petitions, the learned Senior Government Pleader, the learned Standing Counsel for Malabar Devaswom Board, the learned counsel for the Executive Officer of the Devaswom and also the learned counsel for the Hereditary Trustee of the Devaswom.

7. The learned Senior Government Pleader would submit that the 1<sup>st</sup> respondent State has called for a report from the Malabar Devaswom Board on the issue raised in these writ petitions. The 1<sup>st</sup> respondent State requires some more time to file counter affidavits in these writ petitions. The learned Senior Government Pleader would point out that the 1<sup>st</sup> respondent State has no role in the conduct of Pooram Festival in Sree Thirumandhamkunnu Bhagavathy Temple, which is a controlled institution under the Malabar Devaswom Board. The learned Standing Counsel for Malabar Devaswom Board also seeks time to file counter affidavit on behalf of the 2<sup>nd</sup> respondent Board.

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8. Having considered the pleadings and materials on record and also the submissions made at the Bar, we find that the issue raised in these writ petitions regarding the constitution of committees in temples, which are controlled institutions under Malabar Devaswom Board, requires detailed consideration, after the filing of counter affidavits by the 1<sup>st</sup> respondent State and the 2<sup>nd</sup> respondent Malabar Devaswom Board. The said respondents and also the 5<sup>th</sup> respondent hereditary trustee in W.P.(C)No.10154 of 2023 are granted four weeks' time to file counter affidavit.

9. The main grievance of the petitioner in the respective writ petitions is against the constitution of the committee for conducting Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple. The interim relief sought for in W.P.(C)No.10154 of 2023 is an order restraining respondents 1 to 5 from conducting public meeting on 01.04.2023 with the participation of political personalities as part of the temple festival in Sree Thirumandhamkunnu Bhagavathy Temple and to constitute an ad hoc committee for the conduct of temple festival of 2023. The interim relief sought for in W.P.(C)No.10406 of 2023 is an order directing respondents 1 to 4 not to permit the members of Muslim

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community to function as members of the Pooram Committee of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple, pending disposal of that writ petition.

10. The Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple is from 28.03.2023 till 07.04.2023. Though the date of publication of Ext.P1 notice is not disclosed in the counter affidavit filed by the 4<sup>th</sup> respondent Executive Officer, the learned counsel for the 4<sup>th</sup> respondent would submit that it was one published on 08.03.2023. W.P.(C)Nos.10154 of 2023 and 10406 of 2023 were filed before this Court on 20.03.2023 and 22.03.2023 respectively.

11. Section 14 of the Madras Hindu Religious and Charitable Endowments Act, 1951, deals with Temple Advisory Committee. As per sub-section (1) of Section 14, for the purpose of ensuring the adequate participation of Hindu devotees, a committee may be constituted for each temple in the name "(name of the temple) Temple Advisory Committee", not inconsistent with the existing custom and practices. As per sub-section (2) of Section 14, the Temple Advisory Committees formed under sub-section (1) shall be approved by the Board. As per sub-section (2) of Section 14, the composition of a

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Temple Advisory Committee under sub-section (1) shall be in such manner as may be prescribed.

12. In **Payyannur Sree Subrahmanya Swami Kshethrodharana Samithi and another v. Malabar Devaswom Board and other [2013 (3) KHC 849]** a Division Bench of this Court was dealing with the challenge made against Section 14 of the Madras Hindu Religious and Charitable Endowments Act, 1951 as substituted by Amending Act 31 of 2008, the Madras Hindu Religious and Charitable Endowments (Amendment) Rules, 2009 inserting 'the Rules under Section 14(3)' and Circular No. HRJ 1-5144/2009 dated 03.08.2009 issued by the Commissioner, Malabar Devaswom Board. This Court held that the object sought to be achieved by the constitution of Temple Advisory Committees provided in the opening part of sub-section (1) of Section 14 of the Act is for ensuring the adequate participation of Hindu devotees. While sub-section (1) of Section 14 provides for the participation of Hindu devotees, Rule 2 provides for nomination from among locally residing Hindu persons having interest in the affairs of the temple. The impugned Section 14 and the impugned Rules are so made that they insulate the maintenance of existing customs and practices of each temple. The constitution of a

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Temple Advisory Committee shall not be inconsistent with the existing customs and practices. This is the dictate of sub-section (1) of Section 14.

12.1. The Division Bench noticed that the Madras Hindu Religious and Charitable Endowments Act and the Rules, including the impugned amendments to the Act and Rules, are made in such a manner that the administration of the institution by the hereditary trustee or the trustees is never intended to be impaired, except in cases where it becomes necessary to remove the hereditary trustee or the trustees or appoint non-hereditary trustees or to frame a scheme for the purpose of the temple in question. Insofar as involvement in a Temple Advisory Committee under the impugned Rules and Section 14 of the Act is concerned, one has to be not merely a Hindu but a Hindu person having interest in the affairs of the temple, thereby meaning that such person should be one who would fall within the definition of the term 'person having interest' in Section 6(11)(b) of the Act. This means that only a person, who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat, can be included as a member

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of a Temple Advisory Committee. The scheme of the Act and the Rules framed thereunder not only insulates the authority of the hereditary trustee or the trustees to preserve and have matters of religion in a temple in terms of such customs, practices and usages, it gives no room for any authority to interfere with that. The statutory prescription to visit and remove or modify the office of a trustee is itself circumscribed to the effect that such exercise could be only to ensure the management in terms of the customs and practices. It is not to obviate or to be in derogation thereof. Such being the statutory situs and setting of the impugned Section 14 of the Act and the impugned Rules, the Division Bench found no ground to hold that those provisions are unconstitutional. Equally, on the face of sub-section (3) of Section 14 of the Act and the general rule-making power, as contained in Section 100 of the Act, the Division Bench repelled the challenge to the impugned Rules that it is in excess of the rule-making power under the Act.

12.2. The Division Bench noticed that unlike the Travancore-Cochin Hindu Religious Institutions Act, 1950, and the manner of management of the different temples falling under the Travancore Devaswom Board and the Cochin Devaswom Board; insofar as the Madras Hindu Religious and

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Charitable Endowments Act is concerned, many of the temples are autonomous bodies administered in terms of the schemes framed either by the Deputy Commissioner or earlier by the District Court and the control of the Malabar Devaswom Board over such institutions in terms of the provisions of the Madras Act is only supervisory. Even in relation to temples where a scheme is not framed, but the establishment continues to be under the control of a hereditary trustee or trustees, the legal status of that institution does not become anything different. With this in view, the Division Bench considered the plea that the terms of the circular are in excess of the authority and sweep of Section 14 of the Act and the impugned Rules and it has been issued beyond the authority of the Commissioner.

12.3. The Division Bench noticed that Section 8B of the Madras Hindu Religious and Charitable Endowments Act, which empowers the Malabar Devaswom Board to assume the direct management of any religious institution provided the trustees request the Board to take over its management unconditionally. Except in cases where direct administration is so assumed, the statutory authority under the Madras Act would remain regulatory and supervisory to the entire extent as provided by the different provisions of that Act. Reverting to the impugned

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circular, the Division Bench found that the provisions thereof, if operated, would be a parallel administrative mechanism whereby the matters relating to different aspects of the temple, including festivals, etc., would essentially be under the control of such Temple Advisory Committees. Recalling sub-section (1) of Section 14 of the Act, it is clear that the Statute never contemplated any such authority with the Temple Advisory Committees. The provision was only intended to ensure adequate participation of Hindu devotees, not inconsistent with the existing customs and practices. The purpose of the participation of Hindu devotees as envisioned in sub-section (1) of Section 14 cannot be to create a managerial institution or a committee which will meddle with the affairs relating to the administration of the temple or any matter related thereto. Matters relating to customs, usages and practices include matters relating to festivals and organising different functions in connection with the rituals of the temple. Those are not matters which can be meddled with by the Temple Advisory Committees. The administration of the temple is clearly with the hereditary trustee or the trustees, as the case may be, except in cases of institutions which fall under Section 8B of the Act and of course those temples in relation to which the non-

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hereditary trustees or fit persons have been appointed. Going by sub-section (1) of Section 14 of the Act, read with Rule 2 of the impugned Rules, the Temple Advisory Committees would merely be a committee of persons having interest in the affairs of a temple, to ensure the adequate participation of Hindu devotees. Nothing beyond.

12.4. On the question as to whether the powers of the Commissioner to issue circulars include the power to issue any circular of the nature of the one impugned, the Division Bench noticed that the impugned circular does not quote any statutory authority. It merely refers to decision No.3 taken by the Board on 09.07.2009. Section 14 of the Madras Hindu Religious and Charitable Endowments Act provides for Temple Advisory Committees and enjoins that the composition of a Temple Advisory Committee shall be in such manner as may be prescribed. The impugned Rules prescribe for nominations by the Malabar Devaswom Board. Such nominations are for members at clauses (c) to (e) of Rule 1 of the impugned Rules. While the power to prescribe the composition of a Temple Advisory Committee is left by the Act to be in terms of what may be prescribed, that Statute does not provide subordinate legislative power or regulatory executive authority to

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enumerate the powers, duties and functions of Temple Advisory Committees. The nature of duties and responsibilities fixed on the Chairman, Secretary and Treasurer under the impugned circular essentially give them the authority to take donations from the public, issue receipts, maintain bank accounts and get involved in different other aspects which are predominantly matters relating to the management of any establishment, whether it is religious or not. No such authority is seen available to a Temple Advisory Committee in terms of Section 14 of the Act or the impugned Rules. The insulation of the temple, its customs, usages, office of hereditary trustee or trustees from interference by the Temple Advisory Committees is one of the grounds on which the validity of Section 14 and the impugned Rules have been upheld hereinabove. The provisions in the impugned circular essentially run to the contrary; by enabling the Temple Advisory Committees to make recommendations to the temple authorities in matters relating to temple festivals, renovations, naveekaranakalasam and other special chatangukal (ritualistic functions) which have to be held from time to time. What has been done by the impugned circular is essentially to take away what stands protected in terms of the different statutory provisions as regards the office of the

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hereditary trustee or the trustees and their eligibility to regulate the customs, usages and practices and rituals in the temples. Therefore, the impugned circular invades the right of the hereditary trustee or the trustees to manage and administer a temple unless found in statutory proceedings to be liable to be removed from such office. The Division Bench noticed that the manner in which nominations are to be made to the Temple Advisory Committees in terms of the impugned circular also tends to indicate that the criticism levelled by the petitioners, that the attempt is to infuse persons of the political choice of those in power, comments acceptance. The impugned circular goes beyond the limits of the provisions of Section 14 of the Act and the impugned Rules, as noted above. Under such circumstances, the Division Bench held that the impugned circular is ultra vires the Act and the impugned Rules, therefore, arbitrary and liable to be declared as void and inoperative. The Division Bench allowed the writ petitions in part, quashing the impugned circular dated 03.08.2009 issued by the Commissioner of Malabar Devaswom Board.

13. After the decision of the Division Bench in **Payyannur Sree Subrahmanya Swami Kshethroddharana Samithi [2013 (3) KHC 849]** quashing the impugned circular

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dated 03.08.2009, the formation of committees consisting of the devotees in temples which are controlled institutions of Malabar Devaswom Board, for the specific purpose of conducting festivals or renovation works are governed by the provisions contained in Circular No. HRH5/8246/2006 dated 15.06.2007 issued by the Commissioner, Hindu Religious and Charitable Institutions (Administration) Department. Clause (1) of the said circular reads thus;

1) ക്ഷേത്രങ്ങളിൽ ഉത്സവാഘോഷങ്ങൾ, നവീകരണ പ്രവർത്തനങ്ങൾ എന്നിവ നല്ലരീതിയിൽ നടത്തുന്നതിനായി ആവശ്യമെങ്കിൽ ഭക്തജനങ്ങളെ ഉൾപ്പെടുത്തിക്കൊണ്ട് കമ്മറ്റി രൂപീകരിക്കാവുന്നതാണ്. ഇങ്ങനെ രൂപീകരിക്കുന്ന കമ്മറ്റികൾ ക്ഷേത്രത്തിൽ യാതൊരു കാരണവശാലും സ്ഥിരമായി പ്രവർത്തിക്കാൻ പാടുള്ളതല്ല. ഒരു വർഷത്തേക്കോ അല്ലെങ്കിൽ ഉദ്ദേശ്യലക്ഷ്യങ്ങൾ പൂർത്തീകരിച്ചതിനുശേഷമോ അല്ലെങ്കിൽ കമ്മറ്റിയുടെ പ്രവർത്തനം അവസാനിപ്പിക്കുന്നതിന് വകുപ്പ് കമ്മീഷണർ ഉത്തരവ് പുറപ്പെടുവിക്കുകയോ ചെയ്യുന്നതുവരെ ഇതിൽ ഏതാണ് ആദ്യം വരിക, അത് കഴിഞ്ഞാൽ കമ്മറ്റി പിരിച്ചുവിടേണ്ടതാണ്.” (underline supplied)

14. As held by the Division Bench in **Payyannur Sree Subrahmanya Swami Kshethrodharana Samithi [2013 (3) KHC 849]** the scheme of the Madras Hindu Religious and Charitable Endowments Act and the Rules framed thereunder not only insulates the authority of the hereditary trustee or the trustees to preserve and have matters of religion in a temple in

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terms of such customs, practices and usages, it gives no room for any authority to interfere with that. Matters relating to customs, usages and practices include matters relating to festivals and organising different functions in connection with the rituals of the temple. Those are not matters which can be meddled with even by a committee consisting of the devotees, constituted under the provisions contained in Circular No. HRH5/8246/2006 dated 15.06.2007, for the specific purpose of conducting temple festivals. The administration of the temple is clearly with the hereditary trustee or the trustees, as the case may be, except in cases of institutions which fall under Section 8B of the Act and of course those temples in relation to which the non-hereditary trustees or fit persons have been appointed.

15. The stand taken by the 4<sup>th</sup> respondent Executive Officer in paragraph 5 of the counter affidavit dated 28.03.2023 is that, in the meeting convened in the premises of Sree Thirumandhamkunnu Bhagavathy Temple on 27.02.2023, an organising committee was constituted, which is not for the purpose of conducting the festival. The festival is being conducted directly by the temple. Since Pooram Festival is to be held for 12 days and thousands of worshipers and general public visit the temple every day and participate in Prasada

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Oottu, it is highly necessary to get the assistance from the general public. It was with such an idea that a committee was constituted by including people's representatives, i.e., the Member of Parliament, the Member of Legislative Assembly, etc. The said committee was only for the purpose of giving necessary assistance, as and when required, to the temple administration in the conduct of festival and they have absolutely no involvement or control in the conduct of the festival or financial matters relating to the same. The rites and ceremonies to be performed as part of the Pooram Festival are in the absolute control of the Tantri and the same are being performed, as decided and instructed by the Tantri.

16. During the course of arguments, the submission made by the learned Standing Counsel for Travancore Devaswom Board is that 'Pooram-2023 Sangadaka Samithi' constituted, as evidenced by Ext.P1, is only an 'ornamental committee' to ensure public participation in Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple. The learned Standing Counsel could not offer any explanation for constituting such a committee in Sree Thirumandhamkunnu Bhagavathy Temple, instead of a committee consisting of the devotees, under the provisions contained in Circular No.

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HRH5/8246/2006 dated 15.06.2007, for the purpose of conducting Pooram Festival. The learned counsel who entered appearance for the 5<sup>th</sup> respondent hereditary trustee submitted that the hereditary trustee is against the constitution of 'Pooram-2023 Sangadaka Samithi'.

17. In the instant case, admittedly, the administration of Sree Thirumandhamkunnu Bhagavathy Temple is with the sole hereditary trustee, who is arrayed as the 5<sup>th</sup> respondent in W.P.(C)No.10154 of 2023, who is duty bound to preserve and have matters of religion in the temple in terms of such customs, practices and usages. Matters relating to customs, usages and practices include matters relating to festivals and organising different functions in connection with the rituals of the temple. A committee like 'Pooram-2023 Sangadaka Samithi' constituted, as evidenced by Ext.P1, cannot meddle with such matters in the administration of Sree Thirumandhamkunnu Bhagavathy Temple by the 5<sup>th</sup> respondent hereditary trustee. It is made clear that, in the absence of a committee consisting of the devotees, constituted under the provisions contained in Circular No.HRH5/8246/2006 dated 15.06.2007, the entire activities in connection with Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple shall be conducted

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by the temple administration and 'Pooram-2023 Sangadaka Samithi' cannot meddle with any such matters.

18. The learned counsel for the 4<sup>th</sup> respondent would point out the statutory remedy available under Section 18 of the Madras Hindu Religious and Charitable Endowments Act and also that under Section 99 of the said Act, in case the petitioner in the respective writ petitions has any grievance against the constitution of any committee for the conduct of Pooram Festival of 2023 in Sree Thirumandhamkundu Bhagavathy Temple. When the constitution of 'Pooram-2023 Sangadaka Samithi' is in flagrant violation of the provisions contained in Circular No. HRH5/8246/2006 dated 15.06.2007 and also the principles laid down in the decision of this Court in **Payyannur Sree Subrahmanya Swami Kshethrodharana Samithi [(2013) (3) KHC 849]** we find no merits in the contention raised by the learned counsel for the 4<sup>th</sup> respondent on the maintainability of these writ petitions.

19. In **Travancore Devaswom Board v. Mohanan Nair [(2013) 3 KLT 132]** a Division Bench of this Court noticed that in **A.A. Gopalakrishnan v. Cochin Devaswom Board [(2007) 7 SCC 482]** the Apex Court emphasised that it is the duty of the courts to protect and safeguard the interest

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and properties of the religious and charitable institutions. The relevant principles under the Hindu law will show that the Deity is always treated similar to that of a minor and there are some points of similarity between a minor and a Hindu idol. The High Court therefore is the guardian of the Deity and apart from the jurisdiction under Section 103 of the Land Reforms Act, 1957 viz. the powers of revision, the High Court is having inherent jurisdiction and the doctrine of *parens patriae* will also apply in exercising the jurisdiction.

20. The Commissioner, Malabar Devaswom Board shall ensure strict compliance of the provisions contained in Circular No.HRH5/8246/2006 dated 15.06.2007 in the conduct of temple festivals in temples which are controlled institutions under the Malabar Devaswom Board, in case the hereditary trustee or trustees, as the case may be, of the respective temple decides to constitute a committee to render necessary assistance to the temple administration for conducting temple festival.

21. Another challenge made in W.P.(C)No.10406 of 2023 is against the conduct of a 'cultural meeting', which is scheduled to be held on 01.04.2023 in Pooram ground of Thirumandhamkunnu Devaswom. The statement made in

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Ext.P1 notice regarding the attendees of the 'cultural meeting' scheduled to be held on 01.04.2023 is as follows;

"രാഷ്ട്രീയ സാമൂഹ്യ സാംസ്കാരിക രംഗങ്ങളിലെ പ്രമുഖർ പങ്കെടുക്കുന്നു"

22. Relying on the decision of this Court in **Zamorin Raja of Calicut v. State of Kerala [2022 (3) KLT 601]** the learned counsel for the 4<sup>th</sup> respondent Executive Officer would contend that the activities in connection with the conduct of a 'cultural meeting' during Pooram Festival of 2023 in Sree Thirumandhamkunnu Bhagavathy Temple is a secular activity subservient to the law coming under Article 26(d) of the Constitution of India. The learned Standing Counsel for Malabar Devaswom Board would argue that, although the idea of secularism may have been borrowed in the Indian Constitution from the West, it has adopted its own unique brand of secularism based on its particular history and exigencies which are far removed in many ways from secularism as it is defined in European countries, United States of America and Australia.

23. A temple festival has to be conducted in accordance with the custom, rituals and practices of a temple. Politics has no role to play in the conduct of daily worship and ceremonies and festivals in temples. See: **Major Vellayani Devi Temple Advisory Committee v. State of Kerala [2023 (2) KHC**

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**290]** Similarly, cultural or social activities unconnected with temple worship have no role to play in temple festivals.

24. During the course of arguments, the learned counsel on both sides referred to various provisions under Chapter VII of the Madras Hindu Religious and Charitable Endowments Act, which deals with budgets, accounts and audit. Section 70 of the Act deals with budgets of religious institutions. As per sub-section (2) of Section 70, every budget of a religious institution shall make adequate provision for the matters enumerated in clauses (a) to (d) thereof. Section 71 of the Act deals with accounts and audit and Section 74 deals with rectification of defects disclosed in audit and the order of surcharge against the trustees, etc. The submission of the learned counsel for the petitioner in W.P.(C)No.10154 of 2023 is that the expenditure to be incurred by the Devaswom for conducting a 'cultural meeting' on 01.04.2023 and that to be incurred in connection with 'Mandandri Puraskara Samarpanam' falls outside the scope of matters enumerated in clauses (a) to (d) of sub-section (2) of Section 70. With reference to the allegations in the 5<sup>th</sup> paragraph (at page No.8) of W.P.(C)No.10154 of 2023, the learned counsel for the 4<sup>th</sup> respondent Executive Officer would submit that the Devaswom has already incurred that

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expense in connection with 'Mandandri Puraskara Samarpanam'.

25. On 28.03.2023, the learned counsel for the 4<sup>th</sup> respondent has made available for the perusal of this Court the minutes books of 'staff meetings', 'hereditary trustee meetings' and 'Pooram-2023 Sangadaka Samithi meetings'. It is not discernible from the minutes book of 'hereditary trustee meetings' or 'Sangadaka Samithi meetings' as to whether the 5<sup>th</sup> respondent hereditary trustee or his representatives had any role in the decision-making process regarding the constitution of 'Sangadaka Samithi', the conduct of a 'cultural meeting' or 'Mandandri Puraskara Samarpanam'.

26. It is for the 5<sup>th</sup> respondent hereditary trustee to file counter affidavit explaining the facts and circumstances.

27. As already made clear, in the absence of a committee consisting of the devotees, constituted under the provisions contained in Circular No. HRH5/8246/2006 dated 15.06.2007, the entire activities in connection with Pooram Festival of 2023 in Sree Thirumandhamkунnu Bhagavathy Temple shall be conducted by the temple administration and 'Pooram-2023 Sangadaka Samithi' cannot meddle with any such matters.

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28. The question as to whether the expenditure to be incurred by Sree Thirumandhamkunnu Bhagavathy Devaswom for conducting a 'cultural meeting' on 01.04.2023 and that to be incurred in connection with 'Mandandri Puraskara Samarpanam' falls outside the scope of matters enumerated in clauses (a) to (d) of sub-section (2) of Section 70 of the Madras Hindu Religious and Charitable Endowments Act will be decided in this writ petition. Any expenditure incurred by the Devaswom in that regard, which is beyond the scope of matters enumerated in clauses (a) to (d) of sub-section (2) of Section 70 of the Act shall attract the provisions under sub-section (8) of Section 74.

List on 30.05.2023 for the counter affidavits of respondents 1 and 2 and also that of the 5<sup>th</sup> respondent hereditary trustee.

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

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

MIN

**APPENDIX OF WP(C) 10154/2023**

**Exhibit P-1**

**TRUE COPY OF THE RELEVANT PAGES OF BROCHURE OF THIRUMADHAMKUNNU POORAM DATED NIL**

**APPENDIX OF WP(C) 10406/2023**

**Exhibit P-1**

**A TRUE PHOTOCOPY OF THE RELEVANT PAGES OF THE NOTICE OF "THRIUNANDHAMKUNNU POORAM 2023" AND LIST OF POORAM COMMITTEE PUBLISHED BY THE DEVASWOM BOARD WITH THE MEMBERS OF THE MUSLIM COMMUNITY**

