



“C.R.”

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

FRIDAY, THE 9<sup>TH</sup> DAY OF JANUARY 2026 / 19TH POUSHA, 1947

WA NO. 1447 OF 2025

AGAINST THE JUDGMENT DATED 30.05.2025 IN WP(C) NO.20053 OF 2025 OF HIGH COURT OF

KERALA

APPELLANT/S:

- 1 GURUVAYUR DEVASWOM EMPLOYEES UNION CONGRESS,  
GURUVAYUR, THRISSUR, REPRESENTED BY ITS GENERAL SECRETARY, PIN - 680101
- 2 SACHIN A.R.,  
AGED 40 YEARS  
S/O. RAMAKRISHNAN, WORKING AS ROOM-BOY, PANCHAJANYAM REST HOUSE,  
GURUVAYUR DEVASWOM, GURUVAYUR, RESIDING AT AYINIPULLY HOUSE,  
THIRUVENKIDAM P.O., GURUVAYUR, THRISSUR, PIN - 680101
- 3 THE PRESIDENT, GURUVAYUR DEVASWOM EMPLOYEES UNION CONGRESS,  
GURUVAYUR, THRISSUR, PIN - 680101

BY ADVS.  
SMT.M.U.VIJAYALAKSHMI  
SRI.K.JAJU BABU (SR.)  
SRI.BRIJESH MOHAN  
SHRI.SACHIN RAMESH  
SHRI.MANIKANTAN S.KANDATHIL  
SMT.AISHWARYA SATHEESAN  
SMT.SREELAKSHMI S.N.



RESPONDENT/S:

- 1 STATE OF KERALA,  
REPRESENTED BY SECRETARY TO GOVERNMENT OF KERALA, REVENUE /DEVASWOM  
DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 2 KERALA DEVASWOM RECRUITMENT BOARD,  
TRAVANCORE DEVASWOM BOARD BUILDING, THIRUVANANTHAPURAM,  
REPRESENTED BY ITS SECRETARY, PIN - 695001
- 3 GURUVAYUR DEVASWOM MANAGING COMMITTEE,  
GURUVAYUR, THRISSUR, REPRESENTED BY ITS ADMINISTRATOR, PIN - 680101

BY ADVS. SRI K.P. HARISH (SR.GP) – R1  
SHRI.V.V. NANDAGOPAL NAMBIAR, SC, KERALA DEVASWOM RECRUITMENT BOARD-R2  
SRI T.K. VIPINDAS, SC – R3

THIS WRIT APPEAL HAVING RESERVED ON 07.08.2025, THE COURT ON 09.01.2026 DELIVERED THE  
FOLLOWING:

JUDGMENT

“C.R.”

**Sushrut Arvind Dharmadhikari, J.**

The present intra-Court Appeal under Section 5 of the Kerala High Court Act 1958 arises out of the judgment dated 30.05.2025 passed in W.P.(C) No.20053/2025, whereby the writ petition filed by the appellants has been dismissed at the admission stage itself.

**Brief Facts:**

2. The appellants herein are the petitioners in W.P.(C) No.20053/2025. The writ petition was filed seeking a declaration that Section 9(1) of the Kerala Devaswom Recruitment Board Act 2015 (for short, ‘KDRB Act’) empowering the Kerala Devaswom Recruitment Board/ the second respondent to prepare select lists for the appointment of candidates to various posts in the Guruvayoor Devaswom and posts in aided educational institutions under the Guruvayoor Devaswom, governed by the conditions of service prescribed in the Guruvayoor Devaswom Employees Regulation, 1983, is



illegal, unconstitutional, and therefore inoperative, along with incidental and consequential reliefs.

2.1 With a view to making the provision for the proper management and administration of the temple, the State Legislature enacted the Guruvayoor Devaswom Act, 1971 (for short, 'Act of 1971'). The Full Bench of this Court, in *Krishnan v. Guruvayoor Devaswom Managing Committee*<sup>1</sup>, held the operative provisions of the Act of 1971 to be unconstitutional and void, and consequently struck down the entire Act.

2.2 The learned Single Judge dismissed the writ petition at the threshold, relying on the judgment of this Court in *Administrator, Guruvayoor Devaswom Managing Committee v. Mayadevi*<sup>2</sup>, and the validity of Section 9 of the KDRB Act was left open.

3. Originally, Section 20 of the Act of 1971 provided for the

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<sup>1</sup> 1979 KLT 350

<sup>2</sup> 2022 KHC 500



appointment of officers and other employees. According to this provision, appointments of all officers and employees of the temple were to be made by the Board, which consisted of:

- (a) the Commissioner, who shall be the Chairman;
- (b) the Administrator;
- (c) an officer professing the Hindu religion, authorized by the District Collector, Thrissur, in that behalf; and
- (d) two persons selected by the Committee from among its members.

Thus, the composition of the Committee was such that there was an overwhelming predominance of Government nominees.

3.1 In *Krishnan* (supra), the Full Bench of this Court held that insofar as Section 20 of the Act of 1971 confers the power of appointment of officers and employees of the temple not on the Managing Committee but on a separate and independent body, namely the Board, it is violative of Articles 26(a), (b), and (d) of the Constitution of India. The KDRB Act was promulgated after a considerable lapse of time, with the intention



to address the infirmities and intricacies pointed out by this Court in *Krishnan* (supra) by establishing an autonomous Board for selecting candidates to be appointed to various posts in the Devaswom Boards of the State of Kerala. However, the KDRB Act was enacted in contravention of the directions issued by this Court in *Krishnan* (supra). The learned Single Judge ought to have decided the case on its merits. Section 20 of the Act of 1971 provides for the appointment of the Officers and employees.

4. The validity of Section 20 was considered and decided in *Krishnan* (supra). Paragraph 54 of the judgment reads as under:

“"54. Very strong objection was taken by the petitioner to the provisions of S.20 which deal with subject of appointment of officers and employees of the Temple. Sub-section (1) of the Section lays down that appointments of all officers and employees of the Temple are to be made by a Board consisting of (a) the Commissioner, Hindu Religious and Charitable Endowments Department (b) the Administrator (c) an officer professing the Hindu religion authorised in that behalf by the District Collector and (d) two persons elected by the Managing Committee from among its members. Sub-section (2) provides that in exercising the power



of appointment conferred by sub-section (1) the Board shall follow such procedure as may be prescribed by the Government. It will be seen that the constitution of the Board is such that three out of its five members are full-time officers of the State Government and the remaining two members are to be elected by the Managing Committee. When under the scheme of the Act the administration, control and management of the Devaswom is to vest in the Managing Committee constituted under S.3 which, we may assume for the purpose of this discussion, is intended to function as a representative of the denomination, it passes one's comprehension as to why the power to appoint the officers and employees of the Temple which is basically an essential component of the right of administration and management of the Temple should be taken out of the hands of the Managing Committee and vested in a totally distinct and independent body, namely, the Board over whose functioning the Managing Committee has absolutely no control. In this connection it was rightly stressed by the petitioner that the employees of the Temple referred to in S.20 will include also the Melsanthi (the Head Priest) and his assistants who are in charge of the performance of the daily rituals and ceremonies inside the sanctum sanctorum. The choice of the Melsanthi and other employees who are to be in charge of the performance of the rituals and ceremonies will necessarily have to be made on the basis of considerations having an intimate bearing on the religious practice, usage and tradition obtaining in respect of the Temple. Hence there is force in the contention of the petitioner that it will be highly detrimental to the interests of the institution and the



denomination to which it belongs to entrust the power of appointment of such employees in the Temple to the Board comprised mainly of officers of the secular Government. Further, the right to make appointments of the officers and employees of the Temple being an important ingredient of the right of administration and management, it should vest in the body which represents the denomination and not in any other agency. The Board constituted under S.20 cannot by any stretch of imagination be regarded as a representative of the denomination. In fact, even according to the respondents, it is only the Managing Committee constituted under S.3 which is to be regarded as the representative of the denomination. In so far as S.20 confers the power of appointment of officers and employees of the Temple not on the Managing Committee but on a separate and independent body, namely, the Board, it must be held that the Section is violative of Article 26 (a), (b) and (d) of the Constitution."

**Appellants' submissions and contentions:**

5. The learned Counsel for the appellants contended that this Court, in ***Krishnan*** (supra), has held that conferring the power of appointment of officers and employees on a separate Board, other than the representative of the denomination, is violative of Article 26 of the Constitution of India. The Guruvayoor Devaswom Managing Committee



is the sole representative of the religious denomination. The right to administration, management, and control of the Devaswom must be vested solely in the Managing Committee and cannot be taken away by the Legislature through the enactment of any other Act.

6. In the light of Articles 25 and 26 of the Constitution of India, the Full Bench of this Court in *Krishnan* (supra) examined in detail the constitutional validity of the Act of 1971. Since the State Government exercised direct or indirect control over the affairs of Devaswom, thereby violating the fundamental rights of religious denominations, this Court struck down not only the relevant provisions but the Act of 1971 itself.

7. Nearly five decades later, the State promulgated the KDRB Act, which came into force on 01.03.2014, with the intention of constituting an autonomous Devaswom Recruitment Board to prepare select lists of candidates for appointments to various posts, other than hereditary posts and posts in educational institutions, within the



Devaswom Boards of the State of Kerala. Section 2(b) of the KDRB Act includes the Guruvayoor Devaswom Managing Committee. Subsequently, the Kerala Devaswom Recruitment Board Rules, 2015 (for short, 'KDRB Rules') were framed and came into effect from 30.05.2015.

7.1 The learned Counsel contended that, in view of the aforesaid KDRB Act and Rules, it is evident that the religious denomination in respect of the Guruvayoor Devaswom has lost its fundamental right under Article 26 of the Constitution to administer, control, and manage its own affairs concerning the selection and appointment of its officers and employees. The enactment of the KDRB Act is in complete violation of the directions issued by this Court in *Krishnan* (supra) and of Article 26 of the Constitution of India.

7.2 Further, it is contended that Section 19 of the Guruvayoor Devaswom Act 1978 (for short, 'Act of 1978') was promulgated with the assent of the President. Any provision of the KDRB Act and the Rules contrary to Act of 1978 would be repugnant and *ultra vires*.



Consequently, the second respondent had no authority to conduct any selection for appointments to the sanctioned posts of officers and other employees of the Guruvayoor Devaswom governed under the Regulations, in violation of Section 19 of the Act of 1978. Therefore, Section 9 of the KDRB Act, to the extent that it permits the Board to prepare select lists for appointment of candidates to various posts in the Guruvayoor Devaswom and posts in aided educational institutions under the Devaswom, is illegal and unconstitutional, and is liable to be declared as unconstitutional and *ultra vires*.

7.3 Furthermore, the conferment of power under Section 9(1) of the KDRB Act upon the Board to conduct selections for appointments to various posts in the Guruvayoor Devaswom is in conflict with, and runs contrary to, the authority vested in a sub-committee constituted by the Managing Committee from among its members under Section 19(3) of the Act of 1978.



7.4 The learned counsel for the appellant further contended that, once the Act of 1971 had been declared unconstitutional, the legislature could not merely seek to validate the actions taken thereunder by enacting the KDRB Act. It was argued that if an earlier legislation has been struck down or rendered inoperative by a Court, any subsequent legislation re-enacting or validating the same provisions, without curing the defects identified by this Court, would also be *ultra vires*.

7.5 Such an exercise would amount to an attempt to legislatively overrule a judicial decision by legislative fiat, which is impermissible in law and would constitute colourable legislation. While the legislature is competent to enact a law to remove the basis of a judgment declaring a statute invalid, it is essential that the amendments introduced bring the law into conformity with the reasoning and conclusions of the court.

7.6 The rule of law would cease to have any meaning if the legislature were permitted to defy judicial pronouncements merely by enacting a validating statute, introducing *pari materia* provisions in the



KDRB Act without curing the defects that formed the substratum of the judgment, or resorting to a non obstante clause as a device to achieve the same. If a statute is enacted solely with the object of nullifying or defying judicial pronouncements, such an enactment or amendment may be declared *ultra vires* as constituting colourable legislation.

8. The learned counsel for the appellant vehemently contended that the Act of 1978, being a special enactment, would prevail over the KDRB Act, as it was enacted to make provisions for the proper administration of the Guruvayoor Devaswom, in the public interest and in the interest of the worshippers of the Temple, so as to ensure its administration in accordance with law, as laid down in *Krishnan* (supra).

**Respondent's submissions and contentions:**

9. The learned counsel for the respondents vehemently argued that this Court had earlier taken note of the absence of a transparent process in the selection and appointment to the Devaswom Boards, as well as allegations concerning the methods of appointment and



recruitment adopted by the Devaswom Boards. In view of these concerns, the Court constituted a Commission headed by Justice Paripoornan, a former Judge of the Supreme Court, along with two other members in *Radhakrishnan C and others v. The Travancore Devaswom Board and others*<sup>3</sup>.

9.1 The Commission submitted its recommendations aimed at ensuring transparency and providing for reservation in appointments to the Devaswom Boards. Based on this report, it was initially decided to entrust the recruitment for five Devaswom Boards in the State of Kerala to the Kerala Public Service Commission (KPSC). However, KPSC expressed its unwillingness to undertake the recruitment process. Consequently, it was decided to constitute a separate recruiting agency, namely, the Kerala Devaswom Recruitment Board (for short, 'KDRB').

9.2 For this purpose, an Ordinance was promulgated in the year 2014, followed by the enactment of the KDRB Act, to provide for the

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<sup>3</sup> Judgment dated 25.08.2008 in W.P.(C) No.22384/2006



constitution of an autonomous Devaswom Recruitment Board for the preparation of select lists of candidates for appointment to various posts, other than hereditary posts and posts in aided educational institutions, under the Devaswom Boards in the State of Kerala, and for matters connected therewith or incidental thereto.

9.3 Upon the coming into force of the KDRB Act on 01.03.2014, the KDRB became the authority responsible for conducting the selection of candidates for various posts in all Devaswom Boards in Kerala, except for hereditary posts and posts in aided educational institutions.

10. It was further submitted that, as per clause (i) of Section 9(1) of the KDRB Act, notwithstanding anything contained in any other existing Act, rules, regulations, orders, judgments, or decrees relating to the appointment of candidates to posts in the Devaswom Boards, the Board shall prepare select lists for the appointment of candidates to various posts, other than hereditary posts.

10.1 Although Section 19(1) of the Act of 1978 empowers the



Guruvayoor Devaswom Managing Committee (GDMC) to appoint all officers and other employees of the Devaswom, the KDRB Act, as expressly provided under clause (i) of Section 9(1), supersedes all other enactments, including the Act of 1978 and the Rules framed thereunder, insofar as the authority to make appointments to the Devaswom Boards is concerned.

10.2 This is a constitutional assignment conferred by the Legislative Assembly of Kerala. This Court, in various judgments, has upheld the authority of the Kerala Devaswom Recruitment Board to conduct the selection process for appointments to various posts in the Devaswom Boards.

11. Furthermore, with regard to the alleged violation of Article 26 of the Constitution of India, it is submitted that the said provision grants every religious denomination, or any section thereof, the freedom, subject to public order, morality, and health, to manage its own religious affairs. In the present case, the religious denomination



concerned is the Hindu community. It is contended that the denominational character is expressly preserved through the recruitment process undertaken by the KDRB, wherein the posts are notified exclusively for members of the Hindu denomination.

11.1 The candidates selected through this process, sharing the same religious beliefs, are entrusted with managing the functions of the Devaswom Boards. Furthermore, appointments to hereditary posts are not made by the KDRB. The KDRB recruits candidates to various posts in the Devaswom Boards from the same cross-section of society from which appointments were made prior to the promulgation of the KDRB Act.

11.2 In view of the aforesaid, the contention that the enactment of the KDRB Act by the legislature violates Article 26 of the Constitution cannot be sustained under any circumstances.

12. It is submitted that the KDRB Act, particularly Section 9(1) thereof, was enacted by the State in response to the need for a



centralized and constitutionally compliant mechanism to ensure a uniform recruitment process for all Devaswom Boards across the State of Kerala. The KDRB Act was intended to replace the earlier piecemeal system of recruitment undertaken by individual Devaswom Boards, thereby safeguarding the process against favoritism and nepotism.

12.1 The KDRB conducts the recruitment process on behalf of the Government of Kerala strictly in accordance with established statutory procedures, providing for rotational reservation among various communities within the Hindu fold, thereby furthering the constitutional vision of equal opportunity for all. Such a comprehensive and uniform approach cannot be achieved if recruitment is carried out independently by each beneficiary institution or Devaswom Board, as this would unduly fragment the system and limit its capacity to represent the Hindu denomination as a whole.

12.2 The KDRB has already conducted recruitment to numerous posts in various Devaswoms in accordance with the requirements



reported by them, to the satisfaction of both the candidates and the religious denomination concerned.

12.3 The purpose of filing the writ appeal by the appellants is to interfere with a transparent process and to “upset the apple cart” that is functioning smoothly and safeguarding the legitimate rights of the community. The motive behind the appeal is merely to delay the proceedings and to defeat the true spirit of this Court’s judgments by raising baseless allegations, contrary to the intent of the statutory assignment conferred by the State and the legal rights of other qualified candidates who have been awaiting appointment.

13. As regards the contention of the learned counsel for the appellants that the KDRB Act cannot prevail on the ground that the Act 1978 is a special enactment and KDRB Act is a general law governing recruitment and selection to the Devaswom Boards, the said argument is untenable and devoid of merit. Hence, the writ appeal, being bereft of merit and substance, is liable to be dismissed with exemplary costs.



**Appearance of Counsel:**

14. Heard Mr K Jaju Babu (Sr.), instructed by Mr Manikantan S Kandathil for the appellants, Mr K.P. Harish, learned Senior Government Pleader for the State, Mr T.K. Vipindas, learned Standing Counsel for Guruvayoor Devaswom Board and Mr V.V. Nandagopal Nambiar, learned Standing Counsel for the Kerala Devaswom Recruitment Board.

**Issues for consideration:**

15. The issues that arise for consideration in this writ appeal are as follows:

- (i) Whether the Guruvayoor Devaswom Act, 1978 (Act of 1978) prevails over the Kerala Devaswom Recruitment Board Act, 2015 (KDRB Act)?
- (ii) Whether Section 9 of the KDRB Act, conferring power on the second respondent to select candidates for appointment to various posts in the Guruvayoor Devaswom, has to be declared illegal and unconstitutional in the light of *Krishnan* (supra)?
- (iii) Whether, by enacting new legislation under the KDRB Act and the



Rules framed thereunder in respect of the Guruvayoor Devaswom, the Guruvayoor Devaswom has lost its fundamental rights under Articles 25 and 26 of the Constitution of India to administer, control, and manage its own affairs regarding the selection and appointment of its officers and employees?

(iv) Whether the legislature has enacted the KDRB Act in violation of the directions in *Krishnan* (supra) and in violation of Article 26 of the Constitution of India?

**Relevant Provisions:**

16. For the purpose of a just and proper adjudication of the matter, the relevant provisions are reproduced below:

***Section 20 of Act of 1971***

16.1 Section 20 of the Act of 1971, which provides for the appointment of officers and employees, is reproduced as follows:

**“20: Appointment of Officer and Employees:**

(1) Appointments of all the officers and employees of the temple shall be made by the Board consisting of:



- (a) The Commissioner who shall be the Chairman
- (b) The Administrator
- (c) An officer professing the Hindu religion authorized by the District Collector, Thrissur in this behalf and
- (d). two persons elected by the committee from among its members.”

16.2 Section 19 of Act of 1978 reads thus:

**19. Appointment of officers and employees**

- (1) Appointment of all officers and other employees of the Devaswom shall be made by the Committee.
- (2) Ten per cent of the posts in each grade of the officers and other employees of the Devaswom shall be reserved for the Scheduled Castes and the Scheduled Tribes, of which one-fifth shall be reserved for the Scheduled Tribes.
- (3) Selection of the officers and other employees of the Devaswom may be made by sub-committees constituted by the Committee from among its members.

Provided that selection of employees to be in charge of the rituals and other ceremonies of the Temple shall not be made by any sub-committee of which the Thantri of the Temple is not a member.

- (4) Subject to the provisions of sub-sections (1), (2) and (3), the Procedure for the selection and appointment of officers and other employees of the Devaswom shall be such as may be determined by the Committee by regulations made in this behalf.



16.3 Section 2(b) of KDRB Act reads as follows:

**“2(b) "Devaswom Board" means the Travancore Devaswom Board or Cochin Devaswom Board or Malabar Devaswom Board or Guruvayoor Devaswom Managing Committee or Koodalmanickam Devaswom Managing Committee;”**

16.4 Section 9 of KDRB Act reads thus:

**9. Functions of the Board.-**

- (1) The Board shall have the following functions, namely:-
  - (i) notwithstanding anything contained in any other existing Act or Rules or Regulations or orders or judgment or decree in respect of the appointment of candidates to the posts in the Devaswom Board, the Board shall prepare select list for the appointment of candidates to various posts other than the hereditary posts and posts in the aided educational institutions in the Devaswom Boards as per the provisions of this Act, Rule and Regulations;
  - (ii) to invite applications, to conduct written examination or interview or written examination and interview and to prepare select list for selection to the various posts other than the hereditary posts under the Devaswom Board, as may be prescribed, as and when the requisition for such examination is received from the concerned Devaswom Board;
  - (iii) to make all required arrangements in connection with the examination including the preparation of question papers, supervision of examinations and valuation, conduct of interview and preparation of the select list;



- (iv) to conduct any other examination relating to Devaswom Board as entrusted by the Government;
- (v) to call for and obtain details regarding the examination from the concerned Devaswom Board.”

16.5 Article 25 of the Constitution of India, reads as under:

**“25. Freedom of conscience and free profession, practice and propagation of religion.**

- (1). Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
- (2). Nothing in this article shall affect the operation of any existing law or prevent the State from making any law-
  - (a) Regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
  - (b) Providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

16.6 Article 26 of the Constitution of India states as follows:

**“26. Freedom to manage religious affairs**

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right-

- (a). to establish and maintain institutions for religious and charitable purposes;



- (b). to manage its own affairs in matters of religion;
- (c). to own and acquire movable and immovable property; and
- (d). to administer such property in accordance with law.”

**Discussion:**

17. The Sree Krishna Temple at Guruvayoor is an ancient temple of unique importance, which owns extensive properties and endowments and in which millions of devotees from all over India place their faith and belief. The Kerala Government first enacted the Act of 1971 to replace the historical management with a state-appointed Managing Committee. This Act was immediately challenged in Court, and in *Krishnan* (supra), a Full Bench of this Court struck down the entire Act of 1971, ruling that it violated Articles 25 and 26 of the Constitution. Following the High Court’s judgment, the Act of 1978 was promulgated to address the legal flaws identified by the Court. Later, the KDRB Act was enacted to bring transparency to the recruitment process within the various Devaswom Boards in Kerala. While the Act of 1978 focused specifically on the administration of Guruvayoor, the KDRB Act



addressed personnel management across all major Devaswom Boards.

18. For ease of reference, a comparison of the conflicting provisions is summarized in the following table:

Feature	Section 19(1) & 19(3) of Act of 1978	Section 9(1) of the KDRB Act
Purpose	Appointment of Officers and Employees	Duty of the Board (to prepare select lists)
Key Provision	Section 19(1): "The appointment of all officers and candidates to the various other employees of the Devaswom shall be made by the Committee."	Section 9(1): "The Board shall prepare select lists for posts, other than hereditary posts and posts in educational institutions, within the Devaswom Boards"
Selection Authority	The power of appointment is vested in the Guruvayoor Devaswom Managing Committee (GDMC).	The power to prepare the select list is vested in the Kerala Devaswom Recruitment Board (KDRB).
Selection Mechanism	Section 19(3): "Selection of the officers and other employees of the Devaswom may be made by a sub-committee constituted by the Committee from among its members..."	Implicit: The KDRB conducts the written tests, interviews, and other procedures necessary to finalize the merit list.
Control	Internal Control: Appointments are made by the GDMC, the body responsible for administration and management.	External Control: The selection process is controlled by an independent Board (KDRB), limiting the GDMC's role to appointing from the list



Feature	Section 19(1) & 19(3) of Act of 1978	Section 9(1) of the KDRB Act
Note	Proviso to 19(3): Selection of employees in charge of rituals/ceremonies shall not be made by any sub-committee of which the <i>Thantri</i> is not a member. This highlights the religious character of appointments.	provided. The original KDRB Act appears to exclude posts in educational institutions and hereditary posts from its purview.

Hence, the Act of 1978 provides that the GDMC (the representative of the denomination) shall make the appointments and selections through a sub-committee of the GDMC, whereas the KDRB Act provides that the KDRB (an external statutory body) shall prepare the select list for those appointments.

#### **Judicial pronouncements:**

##### ***Life Insurance Corporation of India v. D.J. Bahadur<sup>4</sup>***

19. The Supreme Court in this case has held that a general enactment cannot be presumed to repeal or override a special

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<sup>4</sup> (1981) 1 SCC 315



enactment by implication. It has been consistently held that a special law prevails over a general law, even where the general law is later in point of time, unless there is a clear and express legislative intention to override the special statute. The Supreme Court held as follows:

"The general rule to be followed in the case of a conflict between two statutes is that the later abrogates the earlier one (*Leges posteriores priores contrarias abrogant*). To this general rule there is a well-known exception, namely, *generalia specialibus non derogant* (general things do not derogate from special things), the implications of which are thus stated succinctly by Warl Jowitt in 'The Dictionary of English Law':

"Thus a specific enactment is not affected by a subsequent general enactment unless the earlier enactment is inconsistent with the later enactment, or unless there is some express reference in the later enactment to the earlier enactment, in either of which cases the maxim *leges posteriores priores contrarias abrogant* applies."

#### **R.S. Raghunath v. State of Karnataka<sup>5</sup>**

20. In this case, the Supreme Court has categorically ruled that a *non obstante* clause does not automatically nullify a prior special statute,

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<sup>5</sup> (1992) 1 SCC 335



and that courts must examine whether the later law was intended to operate in the same field and effect an express and inevitable repeal. The Court held as follows:

“As already noted, there should be a clear inconsistency between the two enactments before giving an overriding effect to the non-obstante clause but when the scope of the provisions of an earlier enactment is clear the same cannot be cut down by resort to non-obstante clause.”

***Jiostar India Private Limited. v. Competition Commission of India***<sup>6</sup>

21. A recent judgment of this Court has considered whether a law is a general law or a special law and held that the principle of *maxim generalia specialibus non derogant* would apply. The Court held as follows:

48. Discussing the settled law that statutes may become special depending on the different situations they have to deal with. The SICA, 1985 was a subsequent enactment, compared to its predecessor the SFCA, 1951. Though both the enactments carried *non - obstante* clauses, but however the facts and context in which the applicability of both the enactments arose must be closely examined. *Vide Para 9*, holding that the SICA, 1985 being a special enactment in the facts and context of the case at hand to prevail

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<sup>6</sup> 2025 SCC OnLine KER 13387



over the earlier 1951 enactment, the Supreme Court held thus: "**9. Having reached the conclusion that both the 1951 Act and the 1985 Act are special statutes dealing with different situations - the former providing for the grant of financial assistance to industrial concerns with a view to boost up industrialisation and the latter providing for revival and rehabilitation of sick industrial undertakings, if necessary, by grant of financial assistance, we cannot uphold the contention urged on behalf of the respondent that the 1985 Act is a general statute covering a larger number of industrial concerns than the 1951 Act and, therefore, the latter would prevail over the former in the event of conflict. Both the statutes have competing non obstante provisions. S.46 - B of the 1951 Act provides that the provision of that statute and of any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force whereas S.32(1) of the 1985 Act also provides that the provisions of the said Act and of any rules or schemes made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law. S.22(1) also carries a non obstante clause and says that the said provision shall apply notwithstanding anything contained in Companies Act, 1956 or any other law. The 1985 Act being a subsequent enactment, the non obstante clause therein would ordinarily prevail over the non obstante clause found in S.46 - B of the 1951 Act unless it is found that the 1985 Act is a general statute and the 1951 Act is a special one. In that event the maxim generalia specialibus non derogant**



*would apply. But in the present case on a consideration of the relevant provisions of the two statutes we have come to the conclusion that the 1951 Act deals with pre - sickness situation whereas the 1985 Act deals with the post - sickness situation. It is, therefore, not possible to agree that the 1951 Act is a special statute vis - a - vis the 1985 Act which is a general statute. Both are special statutes dealing with different situations notwithstanding a slight overlap here and there, for example, both of them provide for grant of financial assistance though in different situations. We must, therefore, hold that in cases of sick industrial undertakings the provisions contained in the 1985 Act would ordinarily prevail and govern."*

*[emphasis supplied]*

49. A similar craftsmanship was employed by the Supreme Court in the matter of *Life Insurance Corporation of India v. D. J. Bahadur and Ors.*, ((1981) 1 SCC 315) wherein the question arose about the inter se applicability of the Industrial Disputes Act, 1947 (for short, 'ID Act') and the Life Insurance Corporation Act, 1956. The Supreme Court discussed threadbare the test for determining which statute is a special and which is general in the case of overlap. The focus, as was held, must be on the principal subject matter and the particular perspective and the issues which arise for consideration before the Court for resolution. Holding that in the context of industrial disputes between employers and workmen, the ID Act becomes a special statute vis - a - vis the LIC Act, the ID Act would prevail over the provisions of the LIC Act. **Paras 50 to 53** of the judgement of *D. J. Bahadur (supra)*, can be vitally referred at this



juncture as follows:

*"50. The crucial question which demands an answer before we settle the issue is as to whether the LIC Act is a special statute and the ID Act a general statute so that the latter pro tanto repeals or prevails over the earlier one. What do we mean by a special statute and, in the scheme of the two enactments in question, which can we regard as the special Act and which the general? An implied repeal is the last judicial refuge and unless driven to that conclusion, is rarely resorted to. The decisive point is as to whether the ID Act can be displaced or dismissed as a general statute. If it can be and if the LIC Act is a special statute the proposition contended for by the appellant that the settlement depending for its sustenance on the ID Act cannot hold good against S.11 and S.49 of the LIC Act, read with Regulation 58 thereunder. This exercise constrains me to study the scheme of the two statutes in the context of the specific controversy I am dealing with.*

*51. There is no doubt that the LIC Act, as its long title suggests, is an Act to provide for the nationalisation of life insurance business in India by transferring all such business to a Corporation established for the purpose and to provide for the regulation and control of the business of the Corporation and for matters connected therewith or incidental thereto. Its primary purpose was to nationalise private insurance business and to establish the Life Insurance Corporation of India. Inevitably, the enactment spelt out the functions of the Corporation, provided for the transfer of existing life insurance business to the Corporation and set out in detail how the management, finance, accounts and audit of the Corporation should be*



conducted. Incidentally, there was provision for transfer of service of existing employees of the insurers to the Corporation and, sub-incidentally, their conditions of service also had to be provided for. The power to make regulations covering all matters of management was also vested in appropriate authorities. **It is plain and beyond dispute that, so far as nationalisation of insurance business is concerned, the LIC Act is a special legislation, but equally indubitably, is the inference, from a bare perusal of the subject, scheme and sections and understanding of the anatomy of the Act, that it has nothing to do with the particular problem of disputes between employer and employees, or investigation and adjudication of such disputes.** It does not deal with workmen and disputes between workmen and employers or with industrial disputes. The Corporation has an army of employees who are not workmen at all. For instance, the higher echelons and other types of employees do not fall within the scope of workmen as defined in S.2(s) of the ID Act. Nor is the Corporation's main business investigation and adjudication of labour disputes any more than a motor manufacturer's chief business is spraying paints!

### **Analysis:**

#### **Issue Nos.(i) and (ii):**

- (i) *Whether the Guruvayoor Devaswom Act, 1978 (Act of 1978) prevails over the Kerala Devaswom Recruitment Board Act, 2015 (KDRB Act)?*
- (ii) *Whether Section 9 of the KDRB Act, conferring power on the second*



*respondent to select candidates for appointment to various posts in the Guruvayoor Devaswom, has to be declared illegal and unconstitutional in the light of Krishnan (supra)?*

22. Applying these settled principles, it is evident that the KDRB Act which is a general enactment dealing with recruitment procedures across Devaswom Boards, cannot be construed as taking away the core statutory appointment power expressly conferred under Section 19 of Act of 1978, in the absence of an explicit legislative mandate. Accordingly, Section 9 of the KDRB Act must be read harmoniously and subject to Section 19 of Act of 1978, so as to preserve the special statutory autonomy of the Guruvayoor Devaswom Board, and any interpretation suggesting complete supersession would run contrary to the settled principles of statutory interpretation laid down by the Supreme Court.

22.1 It is a settled principle of statutory interpretation that a special law prevails over a general law, and the mere presence of a *non-obstante* clause in the later enactment cannot be read so expansively as



to obliterate the legislative intent behind a prior special enactment, particularly one governing a unique and constitutionally protected religious institution like the Guruvayoor Devaswom.

22.2 Therefore, Section 9 of the KDRB Act must be read harmoniously with Section 19 of the Act of 1978, so as to preserve the exclusive statutory autonomy of the Guruvayoor Devaswom Board in matters of appointment, while giving effect to the objectives of the KDRB Act to the extent they are not inconsistent with the special provisions of the Act of 1978. Any other interpretation would amount to judicially rewriting the statute and defeating the legislative supremacy accorded to the special law.

23. In the above circumstances, Section 9 of the KDRB Act cannot supersede or override Section 19 of the Act of 1978. The Act of 1978 is a special and self-contained statute, enacted with the specific object of regulating the administration of the Guruvayoor Devaswom, and Section 19 expressly vests the statutory power of appointment of officers and



employees in the Managing Committee.

**Issue Nos: (ii) and (iii):**

(iii) *Whether, by enacting new legislation under the KDRB Act and the Rules framed thereunder in respect of the Guruvayoor Devaswom, the Devaswom has lost its fundamental rights under Articles 25 and 26 of the Constitution of India to administer, control, and manage its own affairs regarding the selection and appointment of its officers and employees?*

(iv) *Whether the legislature has enacted the KDRB Act in violation of the directions in Krishnan (supra) and in violation of Article 26 of the Constitution of India?*

24. The right to appoint staff is integral to the right to manage religious affairs under Article 26 of the Constitution of India. The principle established in *Krishnan* (supra), that vesting the power of appointment in a body separate from the denominational representative, *i.e.*, the Guruvayoor Devaswom Managing Committee (GDMC), violates Article 26 of the Constitution of India, remains valid.

24.1 The composition and function of the KDRB, though termed "autonomous," essentially mirrors the problematic separation of powers



found in the Section 20 of Act of 1971. By transferring the power to prepare select lists from the GDMC to the KDRB, the legislature has once again taken a core administrative function away from the religious denomination's representative body.

24.2 Since Act of 1978 (which replaced the Act of 1971) was promulgated with the President's Assent, its specific provisions (like Section 19 on appointments) should prevail over the later KDRB Act passed by the State Legislature, especially on a concurrent list subject, unless the KDRB Act also received President's Assent. This is a powerful constitutional argument that could lead to a declaration of repugnancy, making Section 9 of the KDRB Act void.

Thus, the learned Single Judge erred in dismissing the writ petition based on *Mayadevi* (supra) without addressing the constitutional validity of Section 9 of the KDRB Act.

### **Conclusion:**

25. Under the constitutional framework governing conflict



resolution and judicial precedent, Section 19 of the Act of 1978 is the stronger provision and would prevail, thereby rendering Section 9 of the KDRB Act inoperative as it is inconsistent with Section 19 of the Act of 1978. Accordingly, Section 9 of the KDRB Act is struck down.

**Result:**

The impugned order dated 30.05.2025 passed in W.P.(C) No. 20053 of 2025 by the learned Single Judge is hereby set aside. The writ appeal is allowed with the following directions:

- (i) We declare that Section 9 of the KDRB Act is unconstitutional and shall be inoperative.
- (ii) Any further proceedings relating to the appointment or selection of candidates to various posts shall be undertaken strictly in accordance with the provisions of the Act of 1978.
- (iii) In view of the above, notifications Exts. P1 to P38 issued by the KDRB inviting applications for various posts shall stand quashed.



(iv) Henceforth, the KDRB shall not conduct any selection proceedings for appointments to various posts.

(v) Any appointments already made by the KDRB shall remain undisturbed.

(vi) The Guruvayoor Devaswom Managing Committee, *i.e.*, the third respondent, shall initiate the appointment process afresh by issuing notifications inviting applications for various posts, in accordance with law forthwith. The Special Committee would supervise and control the process right from beginning till end.

(vii) With a view to manage the transition and avoid administrative difficulties, an independent committee is constituted to ensure a free, fair, and transparent selection process to supervise and oversee the recruitment process undertaken in accordance with Section 19 of the Act of 1978. The committee shall comprise:

(a) Justice P. N. Ravindran (Retd.), residing at 62/4993, Sai Kripa, Chittoor Road, Ernakulam, Cochin – 682 011, who shall head the



Guruvayoor Devaswom Managing Committee;

- (b) The Administrator, Guruvayoor Devaswom Managing Committee, and
- (c) Adv. K. Anand, Room No. 1, KMS Wakf Complex, Providence Junction, Ernakulam, Kochi – 682 018, as a Member.

The Guruvayoor Devaswom Managing Committee shall undertake the selection process to various posts forthwith. The two members of the special committee, *i.e.*, (a) would be entitled to a remuneration of Rs.1,00,000/- per month and (c) Rs.50,000/- per month along with conveyance to attend the meeting and other incidental expenses, which shall be borne by the Guruvayoor Devaswom Board.

(viii) The tenure of the Special Committee constituted to supervise and control the appointment process shall be for a period of one year.

(ix) The Registrar General of this Court is directed to communicate this judgment, along with an authenticated copy, to the members of the Special Committee for information and necessary action.



(x) A copy of this judgment shall also be forwarded by the Registry of this Court to the Chief Secretary, Government of Kerala, for information and necessary action.

The writ appeal stands allowed. All Interlocutory Applications as regards interim matters stand closed.

Sd/-

SUSRUT ARVIND DHARMADHIKARI

JUDGE

Sd/-

SYAM KUMAR V.M.

JUDGE

jjj



APPENDIX OF WA NO. 1447 OF 2025

RESPONDENT ANNEXURES

ANNEXURE R3(a)

True copy of the order of Honourable Supreme Court in Civil Appeal No. 4670/2023 and connected cases dated 18-07-2024