

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

**Saturday, the 19th day of November 2022 / 28th Karthika, 1944
DBP NO. 75 OF 2022**

**IN THE MATTER OF TRAVANCORE DEVASWOM BOARD – SABARIMALA SREE DHARMA SASTHA
TEMPLE – MATTER PERTAINING TO THE HELICOPTER SERVICE PACKAGE FOR SABARIMALA
PILGRIMS BY A LIMITED LIABILITY PARTNERSHIP FIRM – SUO MOTU PROCEEDINGS
INITIATED BASED ON AN ADVERTISEMENT APPEARED IN A WEBSITE – REG:**

PETITIONER:

SUO MOTU

RESPONDENTS:

1. UNION OF INDIA
MINISTRY OF CIVIL AVIATION, RAJIV GANDHI BHAVAN,
SAFDARJUNG AIRPORT, NEWDELHI 110003
2. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -695003
3. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT,
REVENUE(DEVASWOM) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001
4. STATE POLICE CHIEF
POLICE HEAD QUARTERS, VAZHUTHAKKAD, THIRUVANANTHAPURAM-695010
5. THE DISTRICT COLLECTOR
COLLECTORATE, PATHANAMTHITTA-689645
6. THE DISTRICT POLICE CHIEF
DISTRICT POLICE OFFICE, PATHANAMTHITTA- 689645
7. THE COMMISSIONER OF POLICE
OFFICE OF COMMISSIONER OF POLICE, ABDUL KALAM MARG,
MARINE DRIVE, ERNAKULAM, KERALA-682011

8. TRAVANCORE DEVASWOM BOARD
NANTHANCODE, KAWDIAR POST, THIRUVANANTHAPURAM-695003
REPRESENTED BY ITS SECRETARY
9. DEVASWOM COMMISSIONER
TRAVANCORE DEVASWOM BOARD, DEVASWOM BUILDINGS,
NANTHANCODE, THIRUVANANTHAPURAM-695003
10. THE EXECUTIVE ENGINEER
SABARIMALA DEVELOPMENT PROJECT, KUMBAZHA ROAD,
PATHANAMTHITTA, SABARIMALA SANNIDHANAM, SABARIMALA, PIN 689645
11. ENHANCE AVIATION SERVICES LLP
D-75, BIZCOSPACES, 8TH FLOOR, INFRA FUTURE BUILDING,
SEA PORT AIR PORT ROAD, KAKKANAD, KERALA- 682021
*ADDL.R12 TO 14 IMPLEADED
12. THE MINISTRY OF HOME AFFAIRS,
REPRESENTED BY ITS SECRETARY, NORTH BLOCK, NEW DELHI-110 001
13. CHIEF WILDLIFE WARDEN & PRINCIPAL CHIEF CONSERVATOR OF
FORESTS (WILDLIFE), FOREST HEARD QUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM – 695 014
14. THE DEPUTY DIRECTOR (PROJECT TIGER),
PERIYAR WEST DIVISION, PEERMEDU, IDUKKI-685 531

*ARE IMPLEADED AS ADDITIONAL RESPONDENTS 12 TO 14 VIDE ORDER
DATED 19/11/2022 IN DBP 75/2022

BY STANDING COUNSEL FOR TRAVANCORE DEVASWOM BOARD FOR R8 TO R10
BY DEPUTY SOLICITOR GENERAL OF INDIA FOR R1 & ADDL.R12
BY SR.GOVERNMENT PLEADER FOR R2 TO R7 & ADDL.R13 & R14
BY SRI.N.RAGHURAJ, AMICUS CURIAE FOR SABARIMALA SPECIAL
COMMISSIONER

BY SRI.JINISH PAUL, Advocate for R11

THE DEVASWOM BOARD PETITION HAVING COME UP FOR ORDERS AGAIN ON
19/11/2022, UPON PERUSING THE PETITION AND THIS COURT'S ORDER DATED
18/11/2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING.

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

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Dated this the 19th day of November, 2022

ORDER

Anil K. Narendran, J.

The Ministry of Home Affairs, represented by its Secretary, North Block, New Delhi-110 001; Chief Wildlife Warden & Principal Chief Conservator of Forests (Wildlife), Forest Head Quarters, Vazhuthacaud, Thiruvananthapuram – 695 014; and the Deputy Director (Project Tiger), Periyar West Division, Peermedu, Idukki-685 531 are impleaded as additional respondents 12 to 14.

2. Registry to make necessary corrections in the cause title. The learned DSGI takes notice for additional 12th respondent and the learned Senior Government Pleader takes notice additional respondents 13 and 14.

3. This DBP is registered *suo motu* based on the proceedings dated 18.11.2022, since news items appeared in visual media regarding helicopter service packages for Sabarimala pilgrims by a private agency. A Limited Liability Partnership, by name, Enhance Aviation Services Ltd., which is arrayed as 11th respondent herein, is offering helicopter services for Sabarimala pilgrims, in its website 'helikerala.com'. A copy of the printout taken from the website of the 11th respondent forms part of this

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DBP.

4. On 18.11.2022, when this DBP came up for consideration, the learned Senior Government Pleader on instructions submitted that the 5th respondent District Collector and the 6th respondent District Police Chief are not aware of any helicopter operation for Sabarimala Ayyappa Darshan by the 11th respondent. The learned Standing Counsel for Travancore Devaswom Board submitted that the Board has not granted permission to anyone for helicopter service at Nilakkal, in connection with Mandala-Makaravilakku festival season of 1198 M.E. The learned Deputy Solicitor General of India sought time to get instructions from the 1st respondent Union of India, Ministry of Civil Aviation. Having considered the submissions made at the Bar, we issued notice to the 11th respondent, through the 7th respondent Commissioner of Police, Ernakulam, who was directed to depute a Police personnel for that purpose.

5. Today, when this matter is taken up for consideration, the 11th respondent enters appearance through Adv.Sri.Jinish Paul, who seeks time to file vakalath and also the affidavit of the said respondent, explaining the facts and circumstances.

6. The learned Senior Government Pleader, on instructions from the 7th respondent Commissioner of Police, Ernakulam, would submit that the office of the 11th respondent is not functioning in the address

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given in the website 'helikerala.com'. The Police personnel contacted the representative of the 11th respondent in the mobile number shown in the website. The representative informed the Police personnel that the 11th respondent is having only a virtual office. After some time, that Police personnel was contacted by a person, introducing himself as the counsel for the 11th respondent. Subsequently, the representative of the 11th respondent received notice in this DBP from the Station House Officer, Thrikkakkara Police Station.

7. The learned counsel, who entered appearance for the 11th respondent would submit that the 11th respondent is a tour operator in aviation sector, who is mainly arranging helicopter services. The 11th respondent has not yet obtained any permission for conducting helicopter services to Nilakkal, for pilgrims, in connection with Mandala-Makaravilakku festival season of 1198 M.E., either from the Ministry of Civil Aviation, the Travancore Devaswom Board, the District Administration or the District Police. During the course of arguments, the learned counsel could not explain the circumstances in which a misleading advertisement was released by the 11th respondent regarding 'Sabarimala Ayyappa Darshan Helicopter Service Package', which is inclusive of darshan, dolly service, taxi service from Nilakkal to Pamba, etc.

8. Sabarimala is situated in a difficult forest terrain prone to

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natural disasters. Sabarimala is declared a Special Security Zone. The management of Virtual-Q system for Sabarimala darshan is governed by the directions contained in the order of this Court in **Suo Motu v. Travancore Devaswom Board and others [2022/KER/20737 : 2022 SCC OnLine Ker 2185 : CDJ 2022 Ker HC 480]**. As directed in that order dated 22.04.2022 in DBP.No.13 of 2021 and connected cases, verification of Virtual-Q tickets and other related matters are the responsibilities of the Kerala Police, as part of crowd management. For effective crowd management during festival seasons and also monthly poojas the Kerala Police should have access to the database in Virtual-Q system. When specific threat inputs have been received in respect of Sabarimala Temple, the Kerala Police will have to take preventive action after screening and verifying the database.

9. In the order dated 10.11.2022 in SSCR No.23 of 2022 we have noticed the 'Police Bundobust Scheme' prepared to make arrangements for crowd management, to facilitate a safe, secure, smooth and hassle-free darshan for the pilgrims, to ensure the safety and security of the Holy Shrine, premises and devotees including effective measures against extremism or terrorism, to effectively control traffic, to maintain law and order and prevent crime, to attend any kind of natural or man-made disasters during Mandala-Makaravilakku festival season of 1198 ME (2022-23), extending from 15.11.2022 to

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20.01.2023. The Government, vide G.O (P) No.72/2022/Home dated 19.10.2022 declared Sabarimala and its vicinity as a Special Security Zone under Section 83(1) and (2) of Kerala Police Act, 2011, to enable the Police to ensure a safe, secure and hassle-free pilgrimage during Mandala-Makaravilakku festival season of 1198 ME (2022-23). Paragraphs 5 to 9 of the report of the Assistant Inspector General of Police deal with Sabarimala Pilgrim Management System (SPMS) – Virtual-Q System, Service of other State Police Officials, Service of Rapid Action Force (RAF) of CRPF and National Disaster Response Force (NDRF), Aerial Surveillance by Navy and Air Force and implementation of Justice Hariharan Nair Commission Report.

10. In terms of the notification dated 19.10.2022 issued by the State Government, invoking its powers under Section 83(1) and (2) of the Kerala Police Act, 2011, Sabarimala and its vicinity is a Special Security Zone. The 11th respondent offered helicopter services to Nilakkal, which falls under the Special Security Zone notified under Section 83 (1) and (2) of the said Act, even without obtaining necessary permissions from the Ministry of Civil Aviation, the District Administration, the District Police and also the Travancore Devaswom Board.

11. By the order dated 15.11.2022 in SSCR No.23 of 2022 and DBP No.70 of 2022, we held that, the entry of vehicles from Nilakkal has

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to be regulated during Mandala-Makaravilakku festival season of 1198 ME, in terms of the directions contained in the judgment dated 19.11.2019 in W.P.(C)No.30842 of 2019 and connected matter. Light motor vehicles with a seating capacity up to 15, carrying Sabarimala pilgrims, shall be permitted to enter up to Pamba for the purpose of dropping the pilgrims. The drivers of the vehicles concerned shall take back the vehicles to Nilakkal for parking immediately after dropping the pilgrims. When the pilgrims reach Pamba after darshan, upon passing such information, the drivers of the vehicles concerned shall be permitted to re-enter, solely to bring back the pilgrims. No vehicle shall be permitted to park vehicles on the roadside from Nilakkal to Pamba. The above direction will be applicable to three-wheelers, which are not self-driven by pilgrims; however, subject to the conditions of the contract carriage permit. The number of passengers in three-wheelers shall not exceed the passenger capacity. There will be no permission for two-wheelers to go beyond Nilakkal or to park in any place beyond Nilakkal. In case any vehicle is seen parked on the roadside, Police and the Enforcement Wing of the Motor Vehicles Department shall take appropriate action against the owner and driver of that vehicle and take back that vehicle from there to Nilakkal. If the vehicular traffic in Pamba exceeds the available capacity then the Police shall manage the traffic by 'hold and release' mechanism, with prior intimation to the District

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Collector, Pathanamthitta and the Special Commissioner, Sabarimala. The Police shall make efforts to decongest Pamba by deploying adequate Police personnel. The issues, if any, in the management of vehicular traffic between Nilakkal and Pamba, in terms of the directions contained above, shall be brought to the notice of this Court by filing reports by the District Police Chief, Pathanamthitta or the Special Commissioner, Sabarimala. Registrar (Judicial) shall ensure that such reports are placed before the Bench for orders, on the very same day.

12. In the order dated 15.11.2022 in SSCR .No.23 of 2022, we have stated in categorical terms that, no vehicle shall be permitted to be parked on the roadside from Nilakkal to Pamba. Police and the Enforcement Wing of the Motor Vehicles Department shall take stringent action against the owner and driver of those vehicles. The prohibition regarding parking of vehicles on the roadside from Nilakkal to Pamba is absolute, which cannot be permitted to be flouted by motor vehicles exhibiting 'authorised' or 'unauthorised' name boards and emblems.

13. In the order dated 15.11.2022 in SSCR No.23 of 2022, we notice that, openly flouting the prohibitions contained in the State Emblem of India (Prohibition of Improper Use) Act, 2005 and the State Emblem of India (Regulation of Use) Rules, 2007, the 'Official Emblem of the State Government', after incorporating the 'State Emblem of India', is displayed on motor vehicles carrying District Collectors, Law Secretary,

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etc.; and the State Emblem of India is displayed on motor vehicles carrying officers of the Income Tax Department, Customs, Central Excise, etc. Openly flouting Rule 92A of the Kerala Motor Vehicles Rules, 1989 unauthorised name boards are exhibited on motor vehicles owned by Co-operative Societies registered under the Kerala Co-operative Societies Act, 1969; Societies registered under the Societies Registration Act, 1860, the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955, etc.; and even on vehicles owned by Non-Governmental Organisations (NGO's), Public Private Partnerships, etc. Many vehicles are seen plying in the State, carrying the name board 'Government of India', 'Government of Kerala', 'Kerala State', 'Government Vehicle', etc. to mislead the Police, the Enforcement Officers of the Motor Vehicles Department, by giving an impression that the said vehicles are owned by a Government Department. Persons in such vehicles are pretending as if they are Government servants and they are misusing such name boards to escape from the checking of vehicles by Police and Enforcement Officers of the Motor Vehicles Department and to avoid payment of toll at the toll booths and also the restrictions regarding parking or entry of vehicles.

14. Section 171 of the Indian Penal Code, 1860, which deals with wearing grab or carrying token used by public servant with fraudulent intent. As per Section 171, whoever, not belonging to a certain class of

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public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

15. In the order dated 15.11.2022 in SSCR No.23 of 2022 and DBP No.70 of 2022, it was ordered that, the Police and the Enforcement Wing of the Motor Vehicles Department shall take stringent action against those who openly flout the prohibitions contained in the statutory provisions referred to hereinbefore. It was made clear that, the prohibition regarding parking of vehicles on the roadside from Nilakkal to Pamba is absolute, which cannot be permitted to be flouted by any motor vehicle exhibiting 'authorised' or 'unauthorised' name boards and emblems.

16. Considering the fact that Sabarimala and its vicinity has been declared as Special Security Zone in terms of the notification issued under Section 83(1) and (2) of the Kerala Police Act, 2011 and taking note of various aspects of crowd management and other security aspects in Sabarimala, as pointed out in the report of the Assistant Inspector General of Police, which we have referred to in the order dated

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10.11.2022 in SSCR No.23 of 2022, various directions have been issued restricting the movement of vehicles from Nilakkal and prohibiting parking of vehicles on the roadside from Nilakkal to Pamba. Despite all such restrictions, the 11th respondent offered darshan and other facilities to Sabarimala pilgrims as part of its 'Helicopter Service Package' without obtaining any permission whatsoever from the Travancore Devaswom Board.

17. The learned Standing Counsel for Travancore Devaswom Board would submit that the concerned officer of the Board is submitting a complaint today itself, against the 11th respondent.

18. The action/decision taken by the Board shall be brought to the notice of this Court by 21.11.2022.

19. The 5th respondent District Collector and the 6th respondent District Police Chief shall submit their reports on the 'Helicopter Service Package' offered by the 11th respondent, which shall be placed before this Court by 21.11.2022. In the said report they shall state as to whether any other tour operator in the aviation sector is offering similar tour packages to Sabarimala pilgrims, during Mandala-Makaravilakku festival season of 1198 M.E.

20. The learned DSGI would submit that he is yet to get instructions from the Ministry of Civil Aviation on the issues involved in this matter. He shall get necessary instructions from the Ministry of Civil

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Aviation, on the operation of helicopter services in an area which is notified as 'Special Security Zone'.

21. The learned counsel for the 11th respondent would submit that the said respondent shall not proceed further with 'Sabarimala Ayyappa Darshan Helicopter Service Package'.

22. We make it clear that the aforesaid undertaking given by the learned counsel for the 11th respondent, on behalf of the said respondent, will not absolve the said respondent from being proceeded against in accordance with law.

23. The Travancore Devaswom Board shall inform the pilgrims through its Virtual-Q platform that no tour operator in aviation sector has been granted permission for helicopter facility at Nilakkal, for the time being. 11th respondent shall also publish the same in its website.

List on 21.11.2022 at 02:00 p.m. for further consideration.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE

bkn/-