

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDHAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

TUESDAY, THE 4TH DAY OF JANUARY 2022 / 14TH POUSHA, 1943

SSCR NO. 1 OF 2022

PETITIONER:

SUO MOTU

BY ADV SUO MOTU

RESPONDENTS:

- 1 THE TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY, NANTHANCODE,
KAWDIAR POST, THIRUVANANTHAPURAM - 695 003.
- 2 THE CHIEF ENGINEER,
TRAVANCORE DEVASWOM BOARD, NANTHANCODE,
KAWDIAR POST, THIRUVANANTHAPURAM - 695 003.
- 3 THE DEVASWOM COMMISSIONER,
TRAVANCORE DEVASWOM BOARD, NANTHANCODE,
KAWDIAR POST, THIRUVANANTHAPURAM - 695 003.
- 4 STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIATE,
THIRUVANANTHAPURAM - 695 001.

SRI S.RAJMOHAN-SR GOVERNMENT PLEADER ;
SRI G.BIJU-STANDING COUNSEL- TRAVANCORE DEVASWOM
BOARD ;
SRI N.RAGHURAJ- AMICUS CURIAE

THIS SABARIMALA SPECIAL COMMISSIONER REPORT HAVING COME UP
FOR ADMISSION ON 04.01.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

ORDER

Anil K. Narendran, J.

The Special Commissioner, Sabarimala, has filed this Report, pursuant to the directions contained in the order of this Court dated 16.12.2021 in SSCR No.18 of 2021, regarding the shortage of employees at Sabarimala Sannidhanam, Pamba and Nilakkal. In the order dated 16.12.2021 in SSCR No.18 of 2021, the 3rd respondent Devaswom Commissioner was directed to depute 20 additional staff from the Establishment Wing and also 200 additional Class-4 employees for special duty at Sabarimala, Pamba and Nilakkal. The Devaswom Commissioner was directed to issue orders within two days and to report the said fact before this Court. In the said order, it was made clear that, in case, any of the employees deputed for special duty at Sabarimala, Pamba and Nilakkal are reluctant to join duty, other than on genuine medical grounds, they shall be proceeded against by initiating disciplinary proceedings.

2. In this report filed by the Special Commissioner, it is pointed out that the turnout of employees posted for special

duty in Sabarimala during the festival season is far less than that ordered by this Court for Class-4 and daily wage employees. As per the statement given by the Executive Officer, Sabarimala, dated 02.01.2022, 30 employees from the Establishment Wing, 76 employees in Class-4 category and 61 daily wage employees alone have so far reported for duty. A copy of the letter dated 02.01.2022 of the Executive Officer, Sabarimala, is enclosed along with this report.

3. As per the report of the Special Commissioner, in order to completely count the accumulated currency notes and coins in the Bhandaram of Sabarimala Temple, at least 100 Class-4 employees from 19 groups of Travancore Devaswom Board are required to be posted at Sabarimala. Out of the said 100 Class-4 employees, at least 80 employees are required to clear the counting of pending and accumulated currency notes and coins in the Bhandram. In this report, the Special Commissioner is seeking necessary direction to the Travancore Devaswom Board and also the Devaswom Commissioner to explain why sufficient number of Class-4 employees and daily wages employees are not posted for Sabarimala duty, in spite

of the order of this Court in SSCR No.18 of 2021, and a further direction to the Devaswom Commissioner to furnish the details of employees, if any, who are reluctant to proceed for special duty at Sabarimala and also the list of male employees, who have so far not done Sabarimala duty for the last 2 years.

4. Today, when this report was taken up for consideration in the forenoon, it was ordered to be listed at 1.45 p.m., and the learned Standing Counsel for Travancore Devaswom Board and also the learned Senior Government Pleader were directed to get instructions.

5. The learned Standing Counsel for Travancore Devaswom Board, on instructions, would submit that, 67 staff from Establishment Wing, 420 Class-4 employees and 390 daily wage employees have already reported for special duty at Sabarimala during Mandala-Makaravilakku season. In addition to this, 50 students of Kshethra Kalapeedam have also reported for duty. The Executive Officer, Sabarimala, in his report dated 02.01.2022 has reported to the Special Commissioner, the number of staff in the Establishment Wing, Class-4 employees and also the daily wage employees reported

for Sabarimala duty, as on 02.01.2022, as per which, 30 staff from the Establishment Wing, 76 Class-4 employees and 61 daily wage employees joined Sabarimala duty. The Executive Officer, Sabarimala, has forwarded another report dated 03.01.2022 to the Devaswom Commissioner, as per which, 8 more Class-4 employees reported for special duty at Sabarimala. The learned Standing Counsel for Travancore Devaswom Board would submit that the 3rd respondent Devaswom Commissioner shall take necessary steps to ensure that the remaining employees also report for special duty at Sabarimala within one or two days.

6. The learned Senior Government Pleader, on instructions from the Local Funds Audit, would submit that the total number of employees deputed for counting currency notes in the Bhandaram is only 145, which is against the requirement of above 200 employees for that purpose.

7. The learned Amicus Curiae for the Special Commissioner would submit that, it is for the Devaswom Commissioner to take necessary steps to ensure that all the staff from Establishment Wing and Class-4 employees report

for special duty at Sabarimala within one or two days. The Devaswom Commissioner shall collect the details of the staff or employees, who are reluctant to join special duty, from the concerned Assistant Devaswom Commissioners and initiate stringent action.

8. Travancore-Cochin Hindu Religious Institutions Act, 1950 enacted by the State Legislature makes provision for the administration, supervision and control of incorporated and unincorporated Devaswoms and of other Hindu Religious Endowments and Funds. Sabarimala Devaswom is an incorporated Devaswom mentioned in Schedule I of the Act, under Chengannur Group, Pathanamthitta Taluk. As per Section 3 of the Act, the administration of incorporated and unincorporated Devaswoms and of Hindu Religious Endowments and all their properties and funds as well as the fund constituted under the Devaswom Proclamation, 1097 M.E. and the surplus fund constituted under the Devaswom (Amendment) Proclamation, 1122 M.E. which were under the management of the Ruler of Travancore prior to the first day of July, 1949, except the Sree Padmanabhaswamy Temple, Sree

Pandaravaka properties and all other properties and funds of the said temple, and the management of all institutions which were under the Devaswom Department shall vest in the Travancore Devaswom Board.

9. As per Section 15A of the Act, it shall be the duty of the Board to perform the following functions, namely, (i) to see that the regular traditional rites and ceremonies according to the practice prevalent in the religious institutions are performed promptly; (ii) to monitor whether the administrative officials and employees and also the employees connected with religious rites are functioning properly; (iii) to ensure proper maintenance and upliftment of the Hindu religious institutions; (iv) to establish and maintain proper facilities in the temples for the devotees. Section 16 of the Act deals with supervision and control by the Board. As per Section 16, the Board shall, subject to the provisions of Part I of the Act, exercise supervision and control over the acts and proceedings of all officers and servants of the Board and of the Devaswom Department. As per Section 31, subject to the provisions of Part I and the rules made thereunder, the Board shall manage

the properties and affairs of the Devaswoms, both incorporated, and unincorporated as heretofore, and arrange for the conduct of the daily worship and ceremonies and of the festivals in every temple according to its usage.

10. Under the provisions of the Act, the Board is duty bound to see that the regular traditional rites and ceremonies according to the practice prevalent in Sabarimala are performed promptly; to monitor whether the administrative officials and the employees, and also the employees connected with religious rites are functioning properly; and to establish and maintain proper facilities in Sabarimala for the devotees. The Board shall, out of the Devaswom Fund, maintain and administer Sabarimala Devaswom in accordance with recognised usages and meet the expenditure for the customary religious ceremonies. Subject to the provisions of Part I of the Act and the Rules made thereunder, the Board shall manage the properties and affairs of Sabarimala Devaswom and arrange for the conduct of the daily worship and ceremonies and of the festivals in Sabarimala according to the usage.

11. In **Rajani P. Kuttan and another v. State of**

Kerala and others [2021 (6) KHC 513] a Division Bench of this Court noticed that among the 1250 Temples managed by the Travancore Devaswom Board, only 60 major Temples are self-sufficient and the rest are being managed utilising the surplus income from Sabarimala Devaswom. The total number of sanctioned posts in various categories in the Travancore Devaswom Board is 5692 and the total number of pensioners is 5749. The major source of revenue of the Travancore Devaswom Board is the income received by way of offering by the devotees, the amount received from vazhipadu and the revenue generated through the auction of temple premises for various activities in connection with rituals and festivals in the Temples. Paragraph 59 of the said decision reads thus:

59. The Financial position of the Devaswom Board:- The competent officer of the Devaswom Board filed an affidavit dated 14.06.2021 stating its financial position. It is submitted that there are 1250 temples under the Administrative Control of the Devaswom Board. The total number of sanctioned posts in various categories in the Devaswom Board is 5692, and the total number of pensioners is 5749. It is further submitted that the major sources of revenue of the Devaswom Board are the income received by way of offerings from devotees, the amount received from vazhipadu, and the revenue

generated through the auction of the temple premises for various activities in connection with rituals and festivals in the temples. Besides this, the Devaswom Board gets an approximate sum of 14 crores per annum by way of the rent of the buildings owned by it. The annual contribution from the State Government under Article 290A of the Constitution of India is Rs.80 lakhs. It is further submitted that among the 1250 temples managed by the Devaswom Board, only 60 major temples are self-sufficient, and the rest are being managed utilising the surplus income from Sabarimala Devaswom. Now, due to the spread of the Covid-19 pandemic, the temples remain closed, and the major source of income has come down. The Devaswom Board is finding it difficult even to pay the salary of the existing employees. The pleadings regarding the financial position of the Devaswom Board in the affidavit dated 14.06.2021 have not been controverted by the petitioners. (underline supplied)

12. When the surplus income from Sabarimala Devaswom is being utilised for managing 1190 Temples under Travancore Devaswom Board which are not self-sufficient, for payment of salary to Devaswom employees and also for payment of pension to its pensioners, the reluctance shown by the employees of the Travancore Devaswom Board in reporting for special duty during Mandala-Makaravilakku season at

Sabarimala, Pamba and Nilakkal cannot be viewed lightly.

13. The 3rd respondent Devaswom Commissioner shall obtain, by **05.01.2022**, reports from the concerned Assistant Devaswom Commissioners, the names of the staff in the Establishment Wing and Class-4 employees, who failed to report for special duty at Sabarimala, Pamba and Nilakkal, other than on genuine medical grounds. On receipt of such report, a copy of the same shall be furnished to the Special Commissioner, Sabarimala, so as to enable him to file a fresh report before this Court before **06.01.2022**.

14. On receipt of reports from the concerned Assistant Devaswom Commissioners, the Devaswom Commissioner shall initiate appropriate proceedings against the staff in the Establishment Wing and Class-4 employees, who failed to report for special duty at Sabarimala, Pamba and Nilakkal, other than on genuine medical grounds, and the action taken shall be reported to this Court.

15. The Devaswom Commissioner shall also call for from the concerned Assistant Commissioners, the list of male employees who have not done Sabarimala special duty for the last two years. On receipt of such report, a copy of the same

shall be furnished to the Special Commissioner, so as to enable him to file fresh report before this Court, seeking appropriate orders.

With the above directions, this Report is disposed of.

Sd/-
ANIL K. NARENDRA
JUDGE

Sd/-
P.G. AJITHKUMAR
JUDGE

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