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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23-10-2026

CORAM

THE HON'BLE MR JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE DR.JUSTICE P.MURUGAN

WP(MD) No. 30452 of 2026

CNR:{HCMD011532442026}

Case QR

Thangam Venkatesh
S/o.Krishnamoorthy,
No.15-14, Bangaru Bhavan,
TEMCY Colony 3rd Street,
Old Vilangudi,
Madurai,
Tamil Nadu - 625018

..Petitioner

Vs

1. The State of Tamil Nadu
   Rep. by its Principal Secretary to Government,
   Hindu Religious and Charitable Endowments
   Department,
   Fort.St.George,
   Chennai - 600 009

2. The Commissioner,
   Hindu Religious and Charitable Endowments
   Department,
   119, Uthamar Gandhi Salai,
   Nungambakkam,
   Chennai - 600034

3. The Additional Commissioner (Administration),
   Hindu Religious and Charitable Endowments
   Department, 119, Uthamar Gandhi Salai,
   Nungambakkam,
   Chennai - 600 034

4. The Additional Commissioner (Inquiries),
   Hindu Religious and Charitable Endowments

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Department,
119, Uttamar Gandhi Slai,
Nungambakkam,
Chennai - 600 034

..Respondents

PRAYER: Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Mandamus directing the Respondents to conduct enquiry against the violators of the statutory provisions of the Tamil Nadu Temple Entry Authorization Act, 1947 and the rules framed thereunder based on the Petitioners complaint dated 17.10.2026, and strictle enforce the statutory provisions of the Tamil Nadu Temple Entry Authorizaion Act, 1947 and Sections 23 and 24(4) of the Tamil Nadu HR and CE Act, 1959, by forming necessary enquiry committees as well as complaints section to prevent individuals bearing other religiou symbols and non-adherents from entering restricted temple sanctums and mandapams in light of the judgments of the Honble Supreme Court of India and this Honble High Court in this regard and pass such further or other orders as this Honble Court may deem fit and proper in the circumstances of this case and thus render justice.

For Petitioner: Mr.G.Aravinthsamy

For Respondents: Mr.P.V.Balasubramanian,
Additional Advocate General,
Assisted by Mr.M.P.Senthil,
Government Pleader.

ORDER

Can non-Hindus enter the precincts of an Agamic temple? In fact, this issue is no longer *res integra*. Two learned single Judges of this Court (Justice T.Ramaprasada Rao in the year 1972 and Justice

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S.Srimathy in the year 2024) have already answered this question. In view of certain recent developments, the petitioner herein has invited this Bench to render an authoritative pronouncement. We propose to do so even though the learned Additional Advocate General submitted that the procedure laid down in the relevant laws and rules are being followed and will continue to be followed.

2. 'Temple' has been defined as follows:-

> " 'Temple' means a place, by whatever designation known used as a place of public religious worship, and dedicated to, or for the benefit of, or used as of right by the Hindu Community or any section thereof as a place of public religious worship." (Section 6(20) of the Tamil Nadu HR&CE Act, 1959). The Tamil Nadu Temple Entry Authorisation Act, 1947, has a slightly expanded definition. Section 2(1) of the said Act reads as follows:-
>
> " 'Temple' means a place, by whatever name known which is dedicated to, or for the benefit of, or used as of right by the Hindu Community or any section thereof as a place of public religious worship, and includes subsidiary shrines and mandapams attached to such place."

We shall apply the expanded definition found in the 1947 Act.

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3. Temple entry became a contentious issue following social awakening among the depressed communities in the Hindu fold. Till the commencement of the 20th century, they were forbidden from even setting their foot on the outer boundaries of the temples. Thanks to the strenuous efforts taken by reformers and saints such as Swami Vivekananda, Shri Narayana Guru, Swami Sahajananda and political leaders such as Mahatma Gandhi and Dr.Ambedkar, the Hindu society realised its monstrous folly and amends were made, Article 25 of the Constitution of India provides for throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. Various state legislations had earlier declared that no Hindu shall be prevented from entering the temple premises. Of course, this was always subject to the usages and customs followed in particular temples. Take North Indian temples like Kashi. Any Hindu devotee can touch the 'Shivling' and offer 'abishekam' personally. Not so here. The sanctum sanctorum of Agamic temples is beyond the bounds of all Hindus except the Shivacharyas / Dhikshidhars /Bhattars or those who discharge priestly roles. One may be a Brahmin but he also has to stop at the entrance of the 'Garbhagriha'. The reference to Brahmins need not be given any mischievous spin. All communities stand on the same footing. But Brahmins were placed at the apex spot in the caste hierarchy. But temple customs and usages will not

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permit Brahmins too from entering the sanctum sanctorum. Exception is made on the eve of 'Kumbabishekam' (consecration ceremony).

4. When Rule 4A was introduced in the Temple Entry Authorisation Rules providing for admitting even non-Hindus in the temple premises, it was struck down as ultra vires of the parent Act by Justice T.Ramaprasada Rao in ***Kalyan Dass Vs. State of Tamil Nadu (1972 SCC OnLine Mad 104)***. It was held therein as follows:-

> "**24.** ... It is nobody's case that non-Hindus ever had a right to enter Hindu temples not for worship but for sight-seeing and as tourists — Hindu temples are always treated as places of worship and such veneration to the temples, its place, rituals, and practices connected thereto have become part of the Karmakanda of Hindu theology. ... **There is positive indicia to hold that if a Hindu temple is intended for the spiritual benefit of all classes of Hindus and the temple as a whole starting from the Gopuram and leading to the Dwajasthambam, Arthamandapam, Mahamantapam and Garpagraham is to be kept undefiled and unpolluted, no non-Hindu can for pleasure and social evaluation seek entry into such temples.** The purpose of such entry is totally unconnected with any matter of religion known to Hinduism and to Hindus. Such entry would negate the very object and avowed purpose of the temple entry itself which says that entry into temples is

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available to all classes of Hindus.

...

26. ... I am unable to appreciate how Rule 4-A which is challenged in this Writ Petition serves any of the purposes of the Act or furthers the accredited policy of the Act. The policy is set out in the title and in the preamble. The purpose is to remove the ban on a class of Hindus who were denied the rights which other Hindus enjoyed. A non-Hindu is not a Hindu. He belongs to a different class. He cannot on mundane and social considerations claim the same privilege or right as a Hindu regarding entry into a Hindu Temple. The Legislature also cannot, in exercise of its rule making power, treat the non-Hindu in the abstract as a Hindu, by ignoring the policy and intendment of the temple entry Act. This is a well-known proposition of law."

Even though we endorse the conclusion of the learned Judge, we disapprove one of the reasons assigned by His Lordship. According to the learned Judge, near a Muslim mosque, no band or music or amusement could pass by so as to disturb the peace of the precincts of the mosque, no matter whether it is Namaz time or not. This runs counter to several precedents including that of the privy council in ***Manzur Husan Vs. Muhammad Zaman (AIR 1925 PC 36)***. If a mosque has been constructed abutting a road or a highway, it would be atrocious to dictate to the users of the highway as to how they should exercise their lawful

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right of passage. The right of the other communities and religionists to take their processions cannot be curtailed by citing the situs of mosques and churches. Likewise, Hindus also cannot prevent the other religionists from taking their processions in the customary manner on the ground that they pass in front of temples.

5. Justice Srimathy in ***D.Senthilkumar Vs. Government of Tamil Nadu (2024 SCC OnLine Mad 154)*** held as follows:-

> "**39.** For the reasons discussed above, the writ petition is allowed with the following directions to the respondents:
>
> i) The respondents shall install Boards indicating that "Non-Hindus are not allowed inside temple after Kodimaram" in the entrance of the temples, near Kodimaram and at prominent places in the temple.
>
> ii) The respondents are directed not to allow the Non-Hindus who do not believe in Hindu religion.
>
> iii) If any Non-Hindu claims to visit particular deity in the temple, then the respondents shall obtain undertaking from the said Non-Hindu that he is having faith in the deity and he would follow the customs and practices of Hindu religion and also abide by the Temple customs and on such undertaking the said Non-Hindu may be allowed to visit the temple.

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iv) Whenever a Non-Hindu is allowed based on the undertaking the same shall be entered in the register which shall be maintained by the temple.

v) The respondents shall maintain the temple premises by strictly following the agamas, customs and practices of the temple."

The occasion for filing such a case arose because a few non-Hindus wearing burqas sought entry to the hill top of Pazhani temple. When the temple authorities resisted, it was argued that Pazhani temple was a tourist place. Repelling such a plea, the learned Judge remarked that the temple is not a picnic spot or a tourist spot. It was further observed that if a non-Hindu does not have faith, he cannot be allowed entry into the temple and there can be no question of hurting his sentiments.

6. Even though the law has thus been declared in categorical terms, we notice in recent times that there are egregious breaches. Mr.Badrudeen Mustafa, an MLA representing the Madurai Central Constituency where the famed Meenakshi temple is located, went inside the temple premises soon after his election. He claimed that he had a right to inspect if proper amenities are being provided. He also went up the temple towers on the occasion of Kumbabishekam. It is ironical that the said MLA proclaimed that Sanatana Dharma ought to eradicated.

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7. We take judicial notice of the fact that a Hon'ble Minister who is a Christian by faith, entered Thiruchendur temple without giving the undertaking required from Non-Hindus. We have the illustrious instance of the Hon'ble Chief Minister of Tamil Nadu Shri Joseph Vijay who worshipped Goddess Meenakshi after signing the undertaking. The Hon'ble Chief Minister who is a Christian by faith was not asked to convert to Hinduism. He was only requested to affirm his reverence for the deity. This is what we call as an inclusive approach. We recall instances from the holy life of Kanchi Maha Periyava. When some foreigners and persons belonging to other faiths would express their desire to embrace Hinduism, he not only discouraged them but called upon them to show greater fidelity to their faith. When Justice Ismail of the Madras High Court used to visit him, Periyava respected the great judge's sentiments by giving him sandal wood paste instead of 'Viboothi'.

8. 'Chamchagiri' is endemic to our political culture. The party workers as a mark of sycophancy hang around their leader. They tend to make a bee-line for him. Whether the occasion is appropriate is beside the point. A jocular instance comes to our mind. A well known Minister was having a good time in a spa. Somehow word spread around. Soon, a

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good number of Chamchas obsequiously entered the spa and offered their pranams. Much to the acute embarrassment of the Neta. One can imagine how the party workers would conduct themselves when they come to know that their leader, be he an MLA or Minister, is to visit their local temple. Out of sheer enthusiasm, they will follow suit without bothering if they can enter the premises or not. We take judicial notice of a video doing rounds in the social media of persons wearing skull caps, pushing their way through in Thiruvannamali Arunachaleswarar temple, notwithstanding the vigorous protests of the devotees. The HR&CE staff stood as mute spectators.

9. Not only Chamchagiri but also optics matters in a democracy. We know of one political leader, who is a fundamentalist subscribing to a non-Hindu faith. But he would make it a point to visit the temple and also prominently display the religious mark on his forehead. This was to play to the gallery. The vote value of such a display, is obvious.

10. We hold that usages and customs of temple cannot kneel down before such display of Chamchagiri and optics.

11. That is why, we deem it necessary to render an authoritative pronouncement. We made it clear at the very outset that the scope of this

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judgment is confined to Agamic temples. Lord Ayyapa has devotees cutting across religions. Shirdi Sai Baba is also beyond religion. Both Hindus as well as Muslims claimed him as their own. Of course now, he is more a part of the Hindu pantheon.

12. We decided to go back to the fundamentals. Can it be said that the presence of certain persons in the vicinity of the deity can be said to cause pollution or defilement? Agamas have definite and clear injunctions in this regard. Certain classes of Hindus were not even permitted to cross the flag-pole. But such Agamic injunctions can no longer pass muster. Constitution ranks paramount and such regressive theological injunctions have to necessarily give way. But we hasten to add that those injunctions will hold good in respect of non-Hindus who do not sign the undertaking.

13. The Division Bench of Madras High Court in ***Gopala Moopanar v. Dharmakarta Subramaniya Iyer, 1914 SCC OnLine Mad 104*** dealt with a dispute between upper caste Hindus, namely, Brahmins, Vellalars and Mudaliyars on the one hand, and Ilaivaniyars on the other. One of the warring factions, namely, Ilaivaniyars, belonged to the Shudra Varna. The key issue in dispute was whether a community belonging to

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Shudra Varna can claim worship rights in an Agamic temple beyond the flag-pole. The Court categorically ruled as follows:-

> "The castes below the Sudra are most of the *Prathilomas* and those who are classed as Anthiyajhas and out-castes or *Pathithas*. The *prima facie* right of the Brahmins to enter the temple was negatived in the case in *Venkatachalapthi* v. *Subbarayadu* (1) because the plaintiff, there, it was proved by the defence evidence, had, in the eyes of the community frequenting to temples became *Pathitha* and outcaste by marrying a widow. Though there are 28 Sivagamas, the Kamitagama is the Agama most quoted in these matters and the substance of the other Agamas has been digested in 18 paddhathies, of which Sakala-gamasara, Varunapaddhathi and Nirvachanapaddhathi are those most frequently referred to. In the Nirvachanapaddhathi it is said that Sivadwijas should worship in the Garbhagriham, Brahmins from the ante chamber or Sabah Mantabam, Kshatriyas, Vysias and Sudras from the Mahamantabham, the dancer and the musician from the Nrithamantabham east of the Mahamantabham and that castes yet lower in scale should content themselves with the sight of the Gopuram. Taking it then as indisputable that the plaintiffs belong to the Sudra caste, they are *prima facie* entitled to worship from the Mahamantabham, one of the halls west of the bull near the Dwajastamba and east of the Garbhagraham..."

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In ***Sankaralinga Nadan v. Raja Rajeswara Dorai (1908 SCC OnLine PC 10),*** question arose as to whether the appellants therein and the caste to which they belonged had legal right to enter and worship in a temple at Kamudi. The Privy Council held as follows:-

> "Where an institution exists for the purpose of religious worship, but the exact form of worship, or the class for whose benefit it was established, cannot be discovered from the instrument creating the trust, or where, as in the present case, there is no such instrument, the Court can find no other means of deciding those questions than through the medium of an inquiry into what has been the usage of the worshippers in respect thereto, and, if the usage is a lawful one, it is the duty of the Court to support that usage on the suit, legally instituted, of any person interested. It is not in the power of individuals having the management of the institution to alter the purpose for which it was founded, or to say to the other worshippers, 'We have changed our opinions, and you, who resort to this place for the purpose of worshipping in the customary manner, shall no longer enjoy the benefit intended for you unless you conform to the alteration which has taken place in our opinions, even to the extent of submitting to the presence of other worshippers who are prohibited by custom and the shastras from entering into the temple.' **It is not in the**

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> **power of any trustee to say this to the other worshippers in a temple. On the contrary, it is the duty of the trustee to maintain the customary usage of the institution, and if he fails to do so he is, in our opinion, guilty of a breach of trust, and still more so if he deliberately attempts to effect a vital change of usage and to make it binding on the worshippers by obtaining a decree of the Court to establish it.**"
>
> The above Privy Council decision is relevant since it cast a duty on the trustees to ensure that the usages and customs of the temple are maintained. In other words, they are bound to prevent the entry of persons whose very presence will defile the sanctity of the temple. Of course, those decisions rendered in the context of an altogether different clime should be understood and applied in the background of our Constitution. In other words, those decisions should be held applicable in respect of non-Hindus.

14. **Gopala Muppanar** was approved in ***Venkataramana Devaru v. State of Mysore, (1957) 3 SCC 385.*** The Constitution Bench judgment was authored by Justice T.L.Venkatarama Ayyar (described as the greatest Judge by H.M.Seervai). It was held therein as follows:-

> "**26.** ... There is, it should be noted, a fundamental distinction between excluding persons from temples open for purposes of worship to the Hindu public in general on the ground that they belong

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to the excluded communities and excluding persons from denominational temples on the ground that they are not objects within the benefit of the foundation. The former will be hit by Article 17 and the latter protected by Article 26, and it is the contention of the appellants that Article 25(2)(*b*) should not be interpreted as applicable to both these categories and that it should be limited to the former. The argument was also advanced as further supporting this view, that while Article 26 protects denominational institutions of not merely Hindus but of all communities such as Muslims and Christians, Article 25(2)(*b*) is limited in its operation to Hindu temples, and that it could not have been intended that there should be imported into Article 26(*b*) a limitation which would apply to institutions of one community and not of others ....”

15. In ***Seshammal v. State of T.N., (1972) 2 SCC 11,*** the Constitution Bench of the Hon'ble Supreme Court held as follows:

“On the consecration of the image in the temple the Hindu worshippers believe that the Divine Spirit has descended into the image and from then on the image of the deity is fit to be worshipped. Rules with regard to daily and periodical worship have been laid down for securing the continuance of the Divine Spirit. The rituals have a two-fold object. One is to attract the lay worshipper to participate in the worship carried on by

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the priest or Archaka. It is believed that when a congregation of worshippers participates in the worship a particular attitude of aspiration and devotion is developed and confers great spiritual benefit. **The second object is to preserve the image from pollution, defilement or desecration. It is part of the religious belief of a Hindu worshipper that when the image is polluted or defiled the Divine Spirit in the image diminishes or even vanishes. That is a situation which every devotee or worshipper looks upon with horror. Pollution or defilement may take place in a variety of ways. According to the Agamas, an image becomes defiled if there is any departure or violation of any of the rules relating to worship. In fact, purificatory ceremonies have to be performed for restoring the sanctity of the shrine** [1958 SCR 895 (910)]. Worshippers lay great store by the rituals and whatever other people, not of the faith, may think about these rituals and ceremonies, they are a part of the Hindu religious faith and cannot be dismissed as either irrational or superstitious."

16. We do not want to stop with citing precedents. The statutory provisions are equally clear. Section 10 of the HR&CE Act makes it clear that every person from the Commissioner to the last grade servant shall profess the Hindu religion. Section 24(3) of the HR&CE Act makes it clear that even the officers under the Act, shall have due regard to the

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religious practice or usage, while exercising the right of entry within the premises of the institution. Section 24(4) states that nothing in Section 24 of the Act shall be deemed to authorise any person who is not a Hindu to enter the premises or place referred to in the provision.

17. The petitioner herein is a Hindu. He is entitled to insist that the trustees of the various Agamic temples in Tamil Nadu uphold the Agamic injunctions by not permitting non-Hindus who do not sign the undertaking from crossing the flag-pole. If such entry is permitted, it would defile the sanctity of the temple. We intend to go a step further. Even entry into the temple premises, cannot be permitted for non-Hindus who sport their religious markers and who do not subscribe their reverence for the deity concerned. This subscription must be in the format prescribed by the institution concerned. We say so by deriving inspiration from ***Kalyan Dass*** wherein it was observed that the entire temple precincts has to be held sacrosanct and also the statutory definition found in the 1947 Act. This writ petition is allowed on these terms. No costs.

(G.R.S.,J.) **(P.M.N.,J.)**
23-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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