

**"Violation Of Article 26(d)": High Court Stops AP Govt From Taking Over Ahobilam Mutt Temple**

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**IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI  
PRASHANT KUMAR MISHRA, C.J., D.V.S.S. SOMAYAJULU; J.**

**W.P.(PIL) No.231 of 2020, W.P.No.5105 of 2019 and W.P.No.806 of 2021; 13.10.2022**

**K.B. SETHURAMAN versus STATE OF A.P.**

*Petitioner Advocate: - G.L. Narasimha Rao; Respondent Advocate: - G.P. for Endowments, G. Ramana Rao (SC for Endowments Rayalaseemaregion; G.V.S. Ganesh*

**COMMON ORDER**

**Prashant Kumar Mishra, C.J.,**

The arguments in these cases were commenced by the learned senior counsel Sri C.R.Sridharan in W.P. (PIL) No.231 of 2020. Sri W.B.Srinivas, learned senior counsel argued on behalf of the petitioners in other two Writ Petitions. Learned Advocate General argued on behalf of the respondent-State.

2. W.P. (PIL) No.231 of 2020 is preferred by a person claiming to be a devotee and a person interested in the Ahobilam Math and Temple. The petitioner prays for any writ, order or direction, more particularly, one in the nature of a writ of quo warranto questioning the authority of the 2<sup>nd</sup> respondent in appointing the 3<sup>rd</sup> respondent as Executive Officer of Sri Ahobila Mutt Parampara Aadheena Sri Lakshmi Narasimha Swamy Devasthanam and the authority by which the 2<sup>nd</sup> respondent has directed the 3<sup>rd</sup> respondent to change the age-old traditional administration in the name of Srivan Satagopa Sri to the one under the name and seal of the 3<sup>rd</sup> respondent and to quash the appointment order as well as order to operate bank accounts in the name and seal of the 3<sup>rd</sup> respondent thereby restoring the tradition of administration and operation of bank accounts by the Jeeyar of Sri Ahobila Mutt.

3. The prayer in W.P.No.5105 of 2019 is for issuance of a Writ of Mandamus declaring the action of the 2<sup>nd</sup> respondent in imposing the 3<sup>rd</sup> respondent – Executive Officer in the administration of Ahobilam Devasthanam, which is under the management of Ahobilam Math, as unconstitutional, being ultra vires of the Act 30 of 1987, without jurisdiction, arbitrary, illegal and violative of the fundamental rights of the devotees of the Ahobilam Temple.

4. The prayer in W.P.No.806 of 2021 is for issuance of a Writ of Mandamus declaring the action of the 2<sup>nd</sup> respondent in appointing the 3<sup>rd</sup> respondent as Executive Officer vide proceedings Rc.No.E2/15021/202/2020 dated 30.12.2020 and imposing the administration of the 3<sup>rd</sup> respondent on Ahobilam Devasthanam which is under the management of Ahobilam Math.

5. It is stated in the writ affidavit in W.P. (PIL) No.231 of 2020 that Ahobilam Temple has been under the control of Sri Ahobilam Mutt since time immemorial. The details and history of Ahobilam Temple has been described in the following manner:

“According to Brahmanda Purana, Ahobilam is the place where the Lord Ahobila Narasimha Swamy killed the demon Hiranya Kasipu and after saving Prahlada took oath on him to live in a cave in Ahobila Kshetram on the banks of river Bhavanashini near Gajakundam and ordered Prahlada to stay before him.”

“The Lord who saved Prahlada and took the oath on himself to reside in a cave in Ahobilam, appeared before Sri Kidambi Srinivasacharya, gave Sanyasa Deeksha, a ritual that is needed to become the Jeeyar (pontiff), and the authority to administer Ahobilam Mutt temple to him. The Lord also handed over the idol of Lord Malola Narasimha Swamy with Lakshmi (Utsava Moorthy) to the Jeeyar with instructions to carry the idol with him and spread the philosophy of Sri Vaishnavism and do Prapatti to his followers. Prapatti is a ritual which would help the inner soul to render services to God once the person leaves this material world. As the First Jeeyar of Sri Ahobila Mutt got the Sanyasa Deeksha and temple administration directly from the Lord, Sri Kidambi Srinivasacharya was called by the name Sri Narasimha Jeeyar or Srimad Azhagiyasinghar, which in Tamil means beautiful lion. Receiving the orders of the Lord, Sri Narasimha Jeeyar traveled from Ahobilam to Alwar Thirunagari and installed Nammalwar Vighram there. For this great service, Sri Narasimha Jeeyar was honoured with Hamsa Mudra of Nammalwar and the title Sri Adivan Satagopa Yattheendra Mahadesikan.”

“Successive Jeeyars of Sri Ahobila Mutt are the trustees to Sri Ahobila Mutt Parampara Aadheena Sri Lakshmi Swamy Ahobilam Devasthanam since then in succession continuously without any disturbance from any quarters and are administering the said temple in the name of Nammalwar – Srivan Satagopa Sri. This entire history has its reference in Sankeerthanas of Sri Thallapaka Annamacharya, the disciple of Sri Adivan Satagopa Yattheendra Mahadesikan and in Amukthamalyada written by Sri Krishnadevaraya, the famous Vijayanagara ruler which clearly establishes the inseparable connection between Sri Ahobila Mutt and Sri Ahobila Mutt Parampara Aadheena Sri Lakshmi Narasimha Swamy Devasthanam Ahobilam.

“The rituals and worship in Sri Ahobila Mutt Parampara Aadheena Sri Lakshmi Narasimha Swamy Devasthanam, Ahobilam are being done as per the Pancharatra Agama Sastra. According to the tenets “Mutt Sampradaya Niroopanam” in Paramapurusha Samhitha of Sri Pancharatra Agama, Temples which follow Mutt Sampradaya will have the Mathadhipathi of the Mutt, as the Dharmakartha (trustee) to administer the temple. The Dharmakartha will be the primary Sishya of such Mutt who will be appointed following the Guru Sishya Lineage. Hence it is very clear that Sri Ahobila Mutt Parampara Aadheena Sri Lakshmi Narasimha Swamy Devasthanam, Ahobilam is having a best temple administrative system as per the Agama due to the fact that the Jeeyars of Sri Ahobila Mutt are in charge of the administration of the temple as per the divine instructions of Lord Ahobila Narasimha. Thus it is clearly evident that Sri Ahobila Mutt Parampara Aadheena Sri Lakshmi Narasimha Swamy Devasthanam Ahobilam and institution of Sri Ahobila Mutt are interdigitated.”

6. The writ affidavit would further refer to the publications of various Government Departments to substantiate that the Temple Sri Ahobila Mutt Parampara Aadheena Sri Lakshmi Narasimha Swamy Devasthanam was administered by the successive Jeeyars of Sri Ahobila Mutt from time immemorial. Further details and history of Ahobilam Temple has been described in the following manner:

“The Records bearing numbers A.R.No.66 of 1915 and A.R.No.73 of 1915 in the publication of Archeological Survey of India, South India Inscriptions Volume XVI published by the Director General Archeological Survey of India in 1972, clearly states that the lands belonging to the temple Sri Ahobila Mutt Parampara Aadheena Sri Lakshmi Swamy Devasthanam was administered by the Jeeyars of the Sri Ahobila Mutt and the revenues from the said lands were also utilized as per the instructions of the Jeeyars of the Sri Ahobila Mutt in the name of Srivan Satagopa Sri.”

“The record bearing A.R.No.70 of 1915 discloses that the then 7<sup>th</sup> Jeeyar of Sri Ahobila Mutt had represented to Vijayanagara King Rangaraya of Aravidu dynasty ruling from Penugonda who sent Kondraju Vankataraju under the instructions of the then Jeeyar to recapture Ahobilam, from one Ibhuramu (Ibrahim Qutub Shah) of Golkonda and others, and restore its past glory in the year 1584 and for the assistance rendered the Jeeyar granted the temple

honours to him. The inscription also highlights the unique Guru Sishya Lineage (Parampara) that is followed as per the divine instruction of Ahobila Lakshmi Narasimha Swamy. It also states that all services to the said temple shall be done through Sri Ahobila Mutt. This clearly proves once again that the entire temple administration with unfettered rights were in the hands of the Jeeyars of Sri Ahobila Mutt.”

“A manual of the Kurnool District in the Presidency of Madras compiled by Sri Narahari Gopalakristnamah Chetty, Deputy Collector, Pyapali, Kurnool, printed at the Government Press, Chennai in 1886, clearly records that the administration of the temple and its endowments are in the hands of the Jeeyar of Sri Ahobila Mutt and they are managed by representative appointed by the Jeeyar of Sri Ahobila Mutt.”

“The temple monograph of Sri Ahobila Narasimha Swamy Temple Ahobilam by Sri P. Sitapathi, Commissioner of Archives, Archeology & Museums and Oriental Manuscripts Library published by the Director, Archeology & Museums, Government of Andhra Pradesh in 1982, reveals that the temple at Ahobilam continued to be under the Jeeyars of Sri Ahobilam as on date of publication of the monograph and that the Endowments Department of Andhra Pradesh has not yet taken over the temple.”

“A book titled “The Narayana Svami Temple at Mekote” by one Dr. Vasantha, published by Directorate of Archeology and Museums Mysore in the year 1991, also affirms that the First Jeeyar being appointed as the Pontiff of Sri Ahobila Mutt also known as Van Satagopa Jeeyar Matha by the divine orders of Lord Narasimha and successive Jeeyars affixing the surname Sathagopa Jeeyar, which was given by Nammalwar.”

“A report on the Inscriptions of Tirumal Tirupathi Devasthanam collections with illustrations by the Archeologist of the Devasthanam Sri Sadhu Subramanya Sastry first published in 1930 and reprinted in 1998, discloses the details about establishment of Sri Ahobila Mutt and installation of the idol of Nammalwar at Alwar Thirunagari and the Jeeyars of Sri Ahobila Mutt being referred to as Van Satagopa Jeeyar.”

7. Learned senior counsel for the writ petitioner in the PIL submits that the entire dispute centers around the power of the State to appoint an Executive Officer for the Ahobilam Temple. Learned senior counsel states that the State does not have the authority to appoint the Executive Officer for the Math or Temple as per the Endowments Act (30/87). He relies upon Chapter V of the Act to submit that the Maths are given a special status and the right to manage their affairs. By appointing an Executive Officer the status and independence of the Mathadipathi is sought to be taken away as per the counsel. He submits that the powers of administration of the Mathadhipathi are sought to be taken away by this action. He submits that the Math and the Temple are in fact inseparable and have existed as an integral unit from times immemorial. He points out that the Temple situated in Kurnool District, Andhra Pradesh is not separate and distinct from the Ahobilam Math, which is presently based in Tamil Nadu. According to him both are an integrated whole.

8. He relies upon the historical/epigraphical data and also literature like Brahmanda Purana etc., to submit that the Lord Narasimha Swamy himself gave sanyasa deeksha to the first Jeeyar and handed over the idol ‘Utsava Murthy’ and directed him to spread the philosophy of Sri Vaishnavism throughout the land. Learned senior counsel submits that the current head is the 46<sup>th</sup> Mathadipathi who has been administering the Temple and the Math. He highlights the fact that the Mathadhipathis have the traditional title of “Satagopa Jeeyar”.

9. He relies upon the following publications to trace the ancestral history of the Math and the Temple:

- (i) The life of the singer-saint Annamacharya published in 1949 by the Tirumala Tirupati Devasthanam;
  - (ii) A Telugu University publication which shows the extract from the book Amuktamalyada written by Sri Krishna Devaraya and published by Telugu University;
  - (iii) Translations of the South Indian inscriptions published by Archeological Survey of India pertaining to the years 1554 A.D., etc., which shows donations to the Ahobilam Temple by Satagopa Jeeyar, the trustee of the Temple.
  - (iv) A stone inscription of 1584 which shows that the Temple was captured by Muslim rulers of the era and the 7<sup>th</sup> successor of Satagopa swamy has prevailed upon a local war guard to free the Temple;
  - (v) A inscription pertaining to 1564 at Dharmavaram, wherein a reference is made to the Mathadipathi to establish the path of Vedas and an inscription of the year 1564 also.
10. In addition, he relies upon the Manual of the Kurnool District in the Presidency of the Madras Province, printed in 1886 which also traces the history of this Temple. This manual mentions that the temple is said to have been established by Pratapa Rudra, and 'Adi Satagopa Jeeyangar' is the priest in-charge. The successors of the Jeeyangar have always been its warders as per this publication.
11. He also refers to a publication made by the Government of Andhra Pradesh, which is the Temple monograph of Ahobilam Narasimha Swamy Temple which states that the temple continues to be under the Ahobilam Math even till date. It is mentioned in the publication that the Endowment Department did not take over the Temple.
12. Learned counsel also relies upon the archeological and historical study of the Narayana Swamy Temple at Melkote, published in the year 1981 by the Directorate of Archeology, Mysore, which also states that the Satagopa Jeeyar is said to have received initiation into sanyas ashram by the Lord himself and that his successors, who were in-charge of the Math have prefixed the surname of Satagopa Jeeyar.
13. To a similar effect is the publication of the Tirumala Tirupati Devasthanam (TTD) in 1998 with regard to the inscription available with the TTD. In this epigraphical report also it is mentioned the activities of the first three jeeyars of Ahobilam Temple.
14. Learned senior counsel traces the history of this Temple based on this epigraphical /historic/literary reports and argues that since time immemorial, this Temple was administered by the Jeeyars of Ahobilam Math only and that the Temple does not have an independent existence.
15. He also points out that in 2014, the Government of Andhra Pradesh sought to appoint a non-hereditary Trust Board by issuing G.O.Ms.No.346 dated 17.10.2014. Thereafter, the same was withdrawn by passing G.O.Ms.No.386 dated 19.11.2014, basing upon the report of the Commissioner, Endowments Department, which stated that there is no practice for appointment of a non-hereditary trustee. The said letter is also referred to as an integral part of the submission to argue that the Government itself recognized its lack of control over the Temple and Math.
16. Mr. C.R. Sridharan, learned senior counsel refers to a debate under calling attention motion that took place in Legislative Assembly of Andhra Pradesh, wherein the Hon'ble Minister for Endowments, Government of Andhra Pradesh, admitted that Government cannot appoint Executive Officer to Sri Ahobilam Mutt. The Hon'ble



Minister, while replying to a request to post an Executive Officer at Ahobilam Temple, informed the house that “there is no provision for doing that. We cannot do it. This is because there are different rules regarding Temples and Mathams. When request was again made to post Executive Officer at the Temple by amending the Act, the Hon’ble Minister once again stated that “this indeed a divine kshetra. There is no doubt about that. Unfortunately, since 110 years, it has been under the control and administration of the Head of the Matham. We have no powers or authority or opportunity to post a Executive Officer who will control the head of these Mathams.”

17. Relying upon the definitions of a Math, Religious Institution and a Temple under the 1951 Hindu Endowments Act, learned counsel argues that the place of religious worship appurtenant to the Math is also defined in Section 2 (10). He cites the case law etc., to argue that “appurtenant “does not necessarily mean contiguous or adjacent to, and that even if Temple is situated in Andhra Pradesh and the Math is in Tamil Nadu, still the definition is applicable. He also submits that Sections 38 to 51 of the Act will not apply to the Math in question and that the appointment of an Executive Officer or any other Officer can only be in with certain limited circumstances and on cogent grounds like mismanagement etc. He submits that even under the present Act 30 of 1987 also the position remains the same and that the activities of the Math cannot be interfered with except under limited circumstances which are not at all present in this case. He points out that no grounds like mismanagement, renouncement of Hinduism etc., exist for the appointment of Executive Officer. It is pointed out that the case law on the subject, which is given as a compendium is very clear and only under certain limited circumstances, the State can interfere in the activities of the Math and that too for a limited point of time for the purpose of rectifying some clear faults like mismanagement, violation of customs etc. He points out that this activity of the State in appointing an Executive Officer is a direct violation of Article 26 and the rights guaranteed therein. Learned counsel relies upon the case law to support his submissions.

18. Sri W.B. Srinivas, learned senior counsel appearing for the petitioners in other two writ petitions adopts the arguments of the learned senior counsel for the petitioner in PIL. In addition, he also stresses the fact that since time immemorial the Math has been administering the Temple and that the Temple does not have an independent existence by its own. It is argued that this tradition has been continued and that 46 Mathadipathies have been appointed in succession as per this tradition only. He also points out that the interference by the State can only be for a limited period and under certain limited circumstances only like proven mismanagement etc. In the case on hand, he argues that those circumstances do not exist. He points out that in the Endowments Acts from 1921 till date the position has virtually remained the same and that the Maths have been given a special status with minimal governmental interference. It is also submitted that only a Manager was appointed earlier and that too with the consent of Mathadipathi. This was also ratified by the State. However, after a few decades the State began to call the ‘Manager’ as Executive Officer. This was also protested by the Mathadipathi. He submits that by taking advantage of this change in the nomenclature of the Manager the State is trying to interfere with the activities of the Math. In all other aspects he adopts the legal and factual submission.

19. The Learned Advocate General argued the matter at length on behalf of the respondents. He points out that the Executive Officer has been appointed long ago in this case and that after passage of a long period of time, the action is being

challenged. Learned Advocate General submits that the Ahobilam Math and the Temple are separate and distinct entities. It is pointed out that the Math is situated in the State of Tamil Nadu, whereas the Temple is situated in Andhra Pradesh. Therefore, the provisions of the Endowments Act of Andhra Pradesh apply to the Temple. Learned Advocate General draws the distinction between the Math and the Temple and points out that the Temple is a place of public religious worship unlike a Math which caters to a certain group or class of people, who are engaged in spiritual services etc. He points out that the Temple in this case gives unrestricted access to the people and the restrictions which are placed under the Act with regard to Math are not applicable to the temple. The Temple as per the learned Advocate General is very distinct and different from the Math. Therefore, he submits that the provisions of the Act are squarely applicable and that respondent-State has authority to appoint an Executive Officer for the temple. Learned Advocate General also points out that as the income of the Temple crossed the fixed statutory limits, appropriate notification was also issued under Section 6 of the Endowments Act from 1987 itself and subsequently reclassified basing upon the income and other data of the Temple. He submits therefore that the action of the State cannot be faulted. He relies upon an earlier scheme formulated in 1946 and states that although it was not recorded as a decree it was acted upon and the Manager/EO was appointed pursuant thereto. He relies upon case law and a note submitted to support his submission. He therefore justifies the action of the State and prays that the writs must be dismissed.

**COURT:**

20. A primary question to be decided in order to resolve the controversy between the petitioners and the respondents is - whether Ahobilam Temple is a part and parcel of the Ahobilam Math. This is therefore taken up for consideration at the outset.

21. The facts which are not in dispute are that the Ahobilam Math is based in Tamil Nadu, whereas the Ahobilam Temples are located in Kurnool District of the State of Andhra Pradesh.

22. The main contention of the petitioners is that considering the history, tradition, practices etc., of this particular Temple and the Math - the Temple and the Math are inseparable. The respondents on the other hand state that the Math and the Temple are separate and distinct entities which are located in two different States.

**Epigraphic Material, Historical Literature, Government Publications etc :**

23. Learned senior counsel appearing for the petitioners highlights the fact that the 46<sup>th</sup> Pontiff or Matadipathi is currently the head of the institution and that since times immemorial, the Pontiff also known by his title "Satagopa Yatindra/Satagopa Jeeyar", has been the head of the Temple and the Math. Learned senior counsel for the petitioners argued the fact that the first Jeeyar of the Temple Sri Adivan Satagopa Yatheendra Maha Desikan was given sanyas and a "utsava vigraham" of the Lord by the Lord Narasimha and asked to propagate the philosophy of Srivaishnavism. Learned senior counsel states that since then, for more than 600 years, the Jeeyar/Pontiff has been administering the Temple and the Math. Learned senior counsel also submits that neither the authenticity nor the contents of the documents, photographs, epigraphs etc., which have been described with clarity in the writ affidavit were ever denied by the respondents. He argues that as the same are not denied- they are deemed to have been accepted. Emphasis is laid on them and arguments are presented on the basis of these documents. Learned counsel for the petitioners

relies upon a publication of 1949 on the life of the singer-saint Sri Annamacharya, which describes that the Lord himself gave 'Kashayam' (saffron robes), 'Tridandam' (three sticks) and 'Mantras' as a Guru to a Satagopa Muni, who is otherwise known as Sri Adivan Sataagopa Yattheendra Maha Desikanfounder of Ahobilam. He relies upon a copy of the publication made by the Telugu University, Hyderabad of the famous work Aamukthamalyada written by Srikrishna Devaraya, wherein also it is stated that Lord Narasimha gave robes of Sanyas to Satagopa Muni and that Swami Ramanuja was reborn in the hills to perpetuate his lineage. This book also describes that the successors of Satagopa Muni are teaching Bhakthi to his followers through the Math. Learned counsel also relies upon the translation of South Indian inscription of Vijayanagar Dynasty published by the Archeological Survey of India, which is found in a slab of the Temple relating to 1554 AD. This talks of a grove and garden belonging to the god Ahobaleswara by Satagopa Jeeyar, the trustee of the Temple and others. He also relies upon an inscription of a slab which is found in the Temple relating to the year 1584, which details the fact that the Ahobilam Temple was captured by Hande Chief, who held it for five to six years. At the request of the 7<sup>th</sup> successor, Adi Van Satagopa Swami, the ruler called Rangaraya directed one Kondraju Venkataraju to wage a war. He accordingly defeated the Hande and placed the idol back in the shrine. Similarly, he points out that in the nearby Tenali, a stone inscription was found pertaining to the year 1564 AD. It describes the grant of a village Lingamdina to lord Narasimha. It also mentions the fact that Sri Parankusa Sri Van Satagopan is the one who established the path of the Vedas.

24. Relying upon a publication called the Manual of the Kurnool District in the Presidency of Madras, which was published in 1886 by B.Hill, Government Press, learned senior counsel points out that Ahobilam in Kurnool is the most sacred Vishnu Temple. The shrine is believed to be established by Pratapa Rudra and Adi Satagopa Jeeyangar is the priest in-charge. He further states that his successor known as Ahobilam priests have always been its warders and that the present warder resides in Tiruvallur. Learned counsel also relied upon a further publication made by the Director of Archeology and Museums, Government of Andhra Pradesh 1982, which is a Temple Monograph. This also clearly states that the Ahobilam Temple continues to be under the Jeeyars of Ahobilam even as on date (1982). Similarly, a publication of the Directorate of Archeology and Museums (1991) of the Narasimha at Melkote also mentions that the one Satagopa Jeeyar Matham (Ahobalam Matham) is the founder of the Matham. It mentions a passage in the famous work Amukthamalyada by Krishna Devaraya which states that the Satagopa Jeeyar carried out vigorous propaganda to establish Sri Vaishnava faith in Andhra. It is also mentioned that the Pontiffs are the Mathadhipathies and bear the surname 'satagopa jeeyar'. Learned senior counsel also relies upon a report published in 1998 on the inscriptions of the TTD epigraphical series. There is reference to a Sannidi Guru parampara, a work in Tamil dealing with lives of the first three heads of the Ahobilam Math. It is mentioned in this work also that the first head was initiated into Sanyas by the Lord himself and later he continued his journeys. The further religious activities of the other successors are also described with great clarity. The fact that the Ahobilam Math has been established by one Satagopa Jeeyar is also mentioned here. The activities of the said Jeeyar are described with clarity.

25. Relying on these historical/archeological material, learned senior counsels argue that from time immemorial, the Jeeyars of the Ahobilam are spreading Srivaishnavism, are followers of Sri Ramanujam and are a denominational sect. This

Court also agrees with the submission of the learned senior counsels, that none of these epigraphical, historical or other data has actually been controverted or refuted by the State. No material is filed to contradict these facts. These are also specifically pleaded in the Public Interest Litigation but the contents of the same have also not been denied at all. It is also pertinent to note that almost all the publications are of the State or its departments only and are thus data/documents from official sources only.

26. The issue as to whether Gazetteers, travelogue books and other historical documents can be treated as evidence by the Court has been considered by the Hon'ble Supreme Court in a catena of judgments with reference to sub-section (1) and sub-section (2) of Section 3 and Section 57 of the Indian Evidence Act. In **Sukhdev Singh v. Maharaja Bahadur of Gidhaur**, reported in **AIR 1951 SC 288**, the Hon'ble Supreme Court held that the statement in the Gazetteer is not necessarily conclusive, but the Gazetteer is an official document of some value, as it is compiled by experienced officials with great care after obtaining the facts from official records. In **Gopal Krishnaji Ketkar v. Mohd. Jaffar Mahomed Hussein**, reported in **AIR 1954 SC 5**, the Hon'ble Supreme Court referred and relied on the Gazetteer of Bombay to observe thus in paragraph 4:

"4. The shrine has a curious, and in some respects legendary, history. Its origin is lost in antiquity but the Gazetteer of the Bombay Presidency tells us that the tomb is that of a Muslim saint who came to India as an Arab missionary in the thirteenth century. His fame was still at its height when the English made their appearance at Kalyan, near where the tomb is situated in the year 1780. As they only stayed for two years, their departure in the year 1782 was ascribed to the power of the dead saint."

27. The Hon'ble Supreme Court in **Bala Shankar Maha Shanker Bhattjee v. Charity Commr.**, reported in **1995 Supp (1) SCC 485**, held thus in paragraph 22:

"22. ... It is seen that the Gazette of the Bombay Presidency, Vol. III published in 1879 is admissible under Section 35 read with Section 81 of the Evidence Act, 1872. The Gazette is admissible being official record evidencing public affairs and the court may presume their contents as genuine. The statement contained therein can be taken into account to discover the historical material contained therein and the facts stated therein is evidence under Section 45 and the court may in conjunction with other evidence and circumstance take into consideration in adjudging the dispute in question, though may not be treated as conclusive evidence. The recitals in the Gazette do establish that Kalika Mataji is on the top of the hill, Mahakali Temple and Bachra Mataji on the right and left to the Kalika Mataji. During Mughal rule another Syed Sadar Peer was also installed there, but Kalika Mataji was the chief temple. Hollies and Bills are the main worshippers. On full moon of Chaitra (April) and Dussehra (in the month of October), large number of Hindus of all classes gather there and worship Kalika Mataji, Mahakali, etc." (emphasis supplied)

28. In an earlier Constitution Bench judgment rendered by the Hon'ble Supreme Court in **Srinivas Ramanuj Das v. Surjanarayan Das**, reported in **AIR 1967 SC 256**, the Supreme Court refused to accept the argument that Gazetteer cannot be treated as evidence. It was observed thus in paragraph 25:

"25. It is urged for the appellant that what is stated in the Gazetteer cannot be treated as evidence. These statements in the Gazetteer are not relied on as evidence of title but as providing historical material and the practice followed by the Math and its head. The Gazetteer can be consulted on matters of public history."

29. Similarly in **M. Siddiqui (dead) through Legal representatives (RAM JANMABHOOMI TEMPLE CASE) v. Mahant Suresh Das and others**, reported in



(2020) 1 SCC 1, in para 1331, the abovementioned judgment in **Srinivas Ramanuj Das** was cited in para 1328. Section 57 of the Evidence Act was relied on to hold that in matters of public history, literature etc., the Court may rely upon appropriate books or documents. In para 1333, Section 81 of the Evidence Act was relied upon. In paras 862 and 863 the following judgments were cited with approval:

“862. In *Muttu Ramalinga Setupati v. Perianayagum Pillai* [*Muttu Ramalinga Setupati v. Perianayagum Pillai*, 1874 SCC OnLine PC 8 : (1873-74) 1 IA 209] , the Privy Council dealt with an objection to the judgment of the High Court on the ground that excessive weight had been given to the reports of Collectors. In that context, the Privy Council held : (SCC OnLine PC)

“Their Lordships think it must be conceded that when these reports express opinions on the private rights of parties, such opinions are not to be regarded as having judicial authority or force. But being the reports of public officers made in the course of duty, and under statutable authority, they are entitled to great consideration so far as they supply information of official proceedings and historical facts, and also insofar as they are relevant to explain the conduct and acts of the parties in relation to them, and the proceedings of the Government founded upon them.” (emphasis supplied)

The Privy Council cautioned against the use of the report of the Collector when it opined on matters relating to private rights. But as records of official proceedings or historical facts, and to explain the conduct of parties in relation to them, they would provide useful material.

863. In *Ghulam Rasul Khan v. Secy. of State for India in Council* [*Ghulam Rasul Khan v. Secy. of State for India in Council*, 1925 SCC OnLine PC 12 : (192425) 52 IA 201] , the Privy Council held : (SCC OnLine PC)

“... statements in public documents are receivable to prove the facts stated on the general grounds that they were made by the authorized agents of the public in the course of official duty and respecting facts which were of public interest or required to be recorded for the benefit of the community: Taylor's Law of Evidence, 10th Edn., S. 1591). In many cases, indeed, in nearly all cases, after a lapse of years it would be impossible to give evidence that the statements contained in such documents were in fact true, and it is for this reason that such an exception is made to the rule of hearsay evidence.” (emphasis supplied)

30. In **M. Siddiqui** (supra), the Supreme Court concluded the issue in respect of admissibility of Gazetteer by observing thus in paragraph 1333:

“1333. In view of the above discussions, the law as noted above clearly establishes that the court can take into consideration the gazetteers under the Evidence Act, 1872, even though, the statement in gazetteers will not be treated as conclusive evidence but the presumption of correctness of that statement is attached to it. The admissibility of books and travelogues cannot be denied in view of Section 57. Section 81 of the Evidence Act also contemplates for a presumption of genuineness of every document purporting to be any Official Gazette or the Government Gazette. Section 81 of the Evidence Act is as follows:

“81. Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents.—The Court shall presume the genuineness of every document purporting to be the London Gazette, or any Official Gazette, or the Government Gazette of any colony, dependency of possession of the British Crown, or to be a newspaper or journal, or to be a copy of a private Act of Parliament of the United Kingdom printed by the Queen's Printer, and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.” (emphasis supplied)

31. In the light of the uncontroverted details and the case law this Court has to hold that the books, literature and archeological data does support the case of the

petitioners that the temple and math were founded and administered by the Mathadipathis since times immemorial.

### **Math and Temple:**

32. The crux of the legal submissions made by the learned Advocate General for the State is that Math and Temple are distinct and separate whereas the petitioners argue that both are an integral whole and not separate. The Ld Advocate General has relied upon the definitions of the terms 'Math' and Temple in the 1927 Act, 1951 Act, 1959 Act, 1966 Act and the 1987 Act which are as follows.

	<b>MATH</b>	<b>TEMPLE</b>
1927 Act	Sec.9(7) <p><b>"Math"</b> means an institutions for the promotions of the Hindu Religion presided over by a person whose duty is to engage himself in spiritual service or who exercises or claims to exercise spiritual headship over a body of disciples and succession and whose office devolves in accordance with the directions of the founder of the institution or is regulated by usage, and <b>includes places of religious worship other than temple</b> or places of religious institutions which are appurtenant to such institution.</p>	Sec. (12) :- <p><b>"Temple"</b> means a place, by whatever designation known, <b>used as a place of public religious worship</b> 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 religious worship.</p>
1951 Act	Sec. 6(10):- <p><b>"Math"</b> means a Hindu religious institution with properties attached there to presided over by a person whose duty it is to engage himself in imparting religious institution or rendering spiritual service to a body of disciples or who exercises or claims to exercise spiritual headship over such a body, and <b>includes places of religious worship</b> or instruction with are <b>appurtenant</b> to the institution.</p>	Sec. 6(17):- <p><b>"Temple"</b> means a place, by whatever designation known, <b>used as a place of public religious worship</b> and dedicated to, or for the benefit of, or <b>used as of right by</b>, the Hindu community, or any section thereof, <b>as a place of public religious worship</b>.</p>
1959 Act	Sec.6(13):- <p><b>"Math"</b> means a Hindu religious institution with properties attached there to and presided over by a person, the succession to whose office devolves in accordance with direction of the founder of the institution or is regulated by usage and :-</p> <p>(i) whose duty it is to engage himself in imparting religious instruction or rendering spiritual service, or</p> <p>(ii) whose exercises or claims to exercise spiritual headship over a body of disciples, and <b>include places of religious worship</b> or instruction which are appurtenant to institution.</p>	Sec.6(20):- <p><b>"Temple"</b> means a place, by whatever designation known, <b>use as a place of public religious worship</b> and dedicated to, or for the benefit of, or <b>used as a right by</b>, the Hindu community, or of any section thereof <b>as a place of religious worship</b>.</p>

1966 Act	<p>Sec.2(17):-</p> <p><b>“Math”</b> means a Hindu religious institution presided over by a person, whose principle duty is to engage himself in the teaching and propagation of Hindu religious and philosophy or the teachings and philosophy of the denomination, sect or sampradaya to which the Math belongs and in imparting religious institution and training and rendering spiritual service or who exercises or claims to exercise or claims to exercise spiritual headship over a body of disciples and <b>includes place or places of religious worship, instruction or training which are appurtenant to the institution.</b></p>	<p>Sec.2(26):-</p> <p><b>“Temple”</b> means a place, by whatever designation known, <b>used as a place of public religious worship</b>, and dedicated to, or for the benefit of, or <b>used as of right by</b>, the Hindu community or of any section thereof, <b>as a place of public religious worship</b> and includes sub-shrines utsava Mantapas, tanks and other necessary appurtenant structures and land.</p>
1987 Act	<p>Sec.2(17):- as above</p>	<p>Sec.2(27): ‘Temple’ means place by whatever designation known used as a <b>place of public religious worship</b>, and dedicated to, or for the benefit of, or used as of right by the Hindu community or any section thereof, <b>as place of public religious worship</b>, and dedicated to, or for the benefit of, or used as of right by the Hindu community or any section thereof, as a <b>place of public religious worship</b> and includes sub-shrines, utsava mandapas, tanks and other necessary appurtenant structures and land;</p> <p><b>Explanation :- A place of worship where the public or a section thereof have unrestricted access or declared as a private place of worship by court or other authority but notwithstanding any such declaration, public or a section thereof has unrestricted access to such place and includes a temple which is maintained within the residential premises, offerings or gifts are received by the person managing the temple from the public or section thereof at the time of worship or other religious function shall be deemed to be a temple.</b></p>

33. Learned Advocate General therefore argues that a Temple is a place which is used for “public” religious worship whereas, a ‘Math’ is meant for promotion and propagation of the denomination sect or Sampradaya to which the Math belongs and includes places of religious worship. Therefore, he maintains that there is a distinction between a Math and a Temple right from 1927 till date. He also argues that the Ahobilam Math being headquartered in the State of Madras cannot contend that the Temple in the State of Andhra Pradesh administered by the Math is exempted from the provisions of the Andhra Pradesh Act. He states that the temple at Kurnool has unrestricted access to the public and hence the State was justified in appointing an Executive officer for the temple.

34. In reply to this, both the Learned Senior Counsel for the petitioners argue that if the definition of a Math is taken from 1951 (as applicable after the formation of the State of Andhra Pradesh), it also includes places of religious worship 'appurtenant' to the institution. They argue that the entire scheme of the Act is to be seen and all the provisions are read in conjunction and the mere fact that public access is highlighted in the definition of a Temple it will not take away the applicability of the other provisions of the Act. Both the learned senior counsel argued that appurtenant does not necessarily mean "adjacent" or "right next door". According to the learned counsels, the interpretation should be based upon the context also.

35. The Court notices that at one point of time, both the Ahobilam Math and the Ahobilam Temple were in the composite State of Madras. The historical epigraphical and literary works of the contemporaneous period show that the Temple was started and administered by the Pontiffs. This fact cannot be lost sight of. It is also important to note that the 'Math' which is now situated in Tamil Nadu is also called the Ahobilam Math and is named after the Temple itself which is in Kurnool District of Andhra Pradesh. It administers many temples throughout India under the name of 'Ahobila Math' only.

36. In addition to this, we find sufficient strength in the legal position cited by the learned senior counsel in respect of the definition and import of the word "appurtenant". The definition of the word "appurtenant" from the Concise Oxford English Dictionary is "accessory", "associated with a particular activity".

37. In an earlier decision in ***Budhi Mal v. Bhati***, reported in **AIR 1915 All 459 (1)**, the Allahabad High Court understood the word "appurtenant" as an appendage, or adjunct, or something belonging to another thing which is the principal matter. Quoting from Abbot's Law Dictionary, Ramanatha Iyer in his treatise on The Law Lexicon of British India has extracted the following meaning to the word "appurtenant":

"... belonging to another thing as principal, as hamlet to another village, garden to a home; that which passes as incident to the principal thing, a thing used with and related to or dependent upon another thing more worthy and agreeing in its nature and quality with the thing whereunto it is appendant or appurtenant; that which belongs to something else, an adjunct, an appendage."

38. In ***Maharaj Singh v. State of U.P.***, reported in **(1977) 1 SCC 155**, the Hon'ble Supreme Court observed that "what is integral is not necessarily appurtenant. A position of subordination, something incidental or ancillary or dependent is implied in appurtenance."

39. The judgment in ***Maharaj Singh*** (supra) has been approved by the Hon'ble Supreme Court in its later decision in the matter of ***K. Bhagirathi G. Shenoy and others v. K.P. Ballakuraya and another***, reported in **(1999) 4 SCC 135**.

40. In ***Special Manager, Court of Wards, Balrampur Estate and another v. Shyam Lal***, reported in **AIR 1936 Oudh 324**, a learned single Judge of High Court of Oudh held that the land appurtenant to a residential house need not be an adjoining house.

41. The Gujarat High Court in the case of ***Kamalabehn Naginbhai Patel and others v. Bulchand Narumal and others***, reported in **1993 SCC Online Gujarat 69**, in para 11, held that the word has diverse meanings depending upon the context in which it is used. It is a term of variable import, scope and ambit. Therefore, it is clear that the context in which the places of religious worship are described as 'appurtenant'



to the institution is also important. The mere fact that there is no physical proximity is unimportant if there is spiritual/religious or denominational oneness. Even if the Math and Temple are geographically apart if there is oneness or uniformity in the sampradaya, the practices, rituals etc., the temple must be held to be appurtenant to the Math. Admittedly, the followers of this Math have been propagating Srivaishnavism. Historically recorded data shows that they have been moving around popularizing their concept of Hinduism in the form of Vaishnavism. Data filed in the Court shows that the Jeeyar always moves around spreading his tenets. No material is filed to show that the traditions and sampradaya of the Math and the Temple are different. Establishment of temple is also an integral part of propagation of Hindu religion and rendering spiritual service.

42. In the 1927 Act, a 'Math' has been defined as mentioned earlier and includes places of worship other than a Temple. But in the 1951 Act, these words 'other than Temple' have been deleted and therefore, a 'Math' starting from 1951 Act includes places of religious worship which are "appurtenant to the institution". The definition of a Temple has by and large remained unchanged. Therefore, after examining the historical, epigraphic and other data including the purpose for which this Math has been established, it cannot be said that merely because the Temple is located in the current State of Andhra Pradesh and the Math is located in the current State of Tamil Nadu it does not cease to be a place of religious worship pertaining to the main Math.

43. It is also clear from the record that the State has not stated that the religious practices, Sampradaya etc., being followed in the Math and the Temple are totally different. In the absence of any such material to show that the same Sampradaya or practices are not being followed in the Math and Temple, this Court has to hold that the Temple in the State of Andhra Pradesh is an integral part and parcel of this Math. It is reiterated that no material is placed to show that the activities, traditions, practices, sampradaya of the temple are different from the Math. Hence in the present context this Court has to hold that the word "appurtenant" does not necessarily mean adjacent to/or next door etc and can include an institution that is geographically far but is spiritually identical or close.

44. These conclusions are also supported by the other documents which are relied upon by the learned senior counsel including the fact that by G.O.Ms.No.346 dated 17.10.2014, the State Government has attempted to constitute Non-Hereditary Trust Board for 47 temples including the Ahobilam Temple. The Commissioner of Endowments had by her letter dated 30.10.2014 informed the Government/Commissioner that there is no tradition to constitute a Non-Hereditary Trust Board to the said Temple. This reaction of the Commissioner, Endowments Department was in reply to the representation dated 22.10.2014 by the Principal Secretary to the Jeeyar of the Ahobilam Math. In this representation dated 22.10.2014, it is clearly asserted that Sri Lakshmi Narasimha Swamy Temple, Ahobilam is the principal seat of the Ahobilam Math which is a denominational institution and has been administered by the 'Mathadhipathi' for several centuries. Relying upon the traditions etc., the Mathadhipathi/Jeeyar requested the Government to rectify the error in the G.O. by deleting the Ahobilam Temple from the list. The Commissioner clearly mentioned in this letter that the Executive Officer appointed by the Department is looking after the day to day affairs of the Temple as per the wish of the Mathadhipathi. It is also clarified by the Commissioner that the 'Math' and the Temple are inseparable. The Commissioner therefore requested the Government to delete Ahobilam Temple

from the list of 47 Temples. This was acted upon and the said G.O.Ms.No.386 dated 19.11.2014 was kept in abeyance as far as this Temple is concerned. It is very clearly stated that the Government after careful examination of the matter has decided to withdraw the Government Order. This is a factor which is in favor of the petitioners. Nothing to the contrary has also been pointed out. Therefore, from the available material including the stand taken by the Government earlier, this Court has to conclude that in the particular facts and circumstances of this case, the 'Math' and the Temple are one and the same and are not separate/distinct entities.

**Appointment of Manager/Executive Officer:**

45. The contention of the petitioners is that by a clandestine method, the Manager of a Temple who was appointed by the Mathadhipathi himself was designated as an Executive Officer. Relying upon the provisions of the Act and the case law, learned counsel argued that as a Math is different from a Temple, the State cannot interfere in its activities and that it would be violative of the Constitutional guarantee under Article 26. In the alternative, it is submitted that State interference can only be permissible on certain limited grounds like mismanagement etc., and for a short period of time to rectify the defects. Petitioners rely upon following case law in support of their contention:

(1) **Commissioner., Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt (AIR 1954 SC 282)**

(2) **Sri Sri Sri Lakshamana Yatendrulu v. State of A.P. [(1996) 8 SCC 705]**

(3) **Subramanian Swamy v. State of T.N. [2014 (5) SCC 75]**

46. The respondents on the other hand argue that under the Act, the State can have a right to control the secular activities and that since 1961, the Executive Officer has always been appointed for the Temple only. It is clarified that this Executive Officer was looking after the affairs of the Temple only and not the 'Math'. Therefore, the petitioners cannot raise an issue about the appointment of an Executive Officer.

47. The examination of the applicable Acts starting from 1927 Act shows that the Ahobilam Temple fell within the definition of an excepted Temple under section 7(5) of the Act since it was established before 1801 and since 1863 it continued to be under the management of a Jeeyar whose nomination did not vest in nor was exercised by the Government. Section 37 of the Act also clearly stated that a committee constituted under the provisions of the Act cannot exercise jurisdiction over 'Maths' or excepted Temples. Therefore, admittedly, under the 1927 Act, no control was exercised. A reading of section 62 of Chapter VI of the 1927 Act shows that if the affairs of a Math or an excepted Temple have been mismanaged, the Board was given certain power of interference and to frame a scheme of administration. Admittedly, the Ahobilam Temple is not an 'excepted Temple'.

48. After the State of Andhra Pradesh was formed, the Andhra Pradesh (Andhra Area) Hindu Religious and Charitable Endowments Act, 1951 was passed. Section 2(10) of the Act defines a 'Math'. Section 2(15) defines a religious institution as including a Math. Under this Act, as per Sec 56 if the Commissioner has any reason to believe that the property or funds of a Math are mismanaged etc., and he is satisfied that it is necessary in the interest of administration to take action, then he can request the trustee to appoint a competent person as Manager. In default, the Commissioner may himself appoint a Manager. Under section 58, the Deputy Commissioner can frame a scheme for the institution after consulting the trustees, persons having interest

and also the area committee. If after the satisfaction, he feels it necessary and desirable, he shall frame a scheme. This scheme can provide for appointment of a paid Executive Officer (Section 58(2) (d)). Section 63 also enables the Commissioner to notify an institution, if he believes that such a religious institution is being mismanaged and it is necessary to take certain steps. After the institution is notified, the Commissioner can appoint a salaried Executive Officer (section 66).

49. Similarly, under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966 also, section 2(17) defines a 'Math' and 2(22) defines a 'religious institution', which includes a Math. Section 27 deals with the power of the Government to appoint Executive Officer for religious institutions. However, Chapter V deals with Maths and specified endowments.. Section 43 of Chapter V makes it very clear that the provisions of various sections including section 27 shall not apply to a 'Math'. Equally important is section 102 of this Act. As per section 102(b) nothing in the Act shall authorize any interference with the religious or spiritual functions of the head of the 'Math'.

50. Lastly, we shall consider the provisions of the Act 30 of 1987-Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. Section 2(17) defines a 'Math', 2(23) defines a 'religious institution' including a Math also. Section 6 of the Act talks of preparation and publication of a list of charitable and religious institutions and endowments on the basis of the income. Section 6(a) deals with institutions whose income exceeds 25 lakhs, but excludes 'Maths'. Section 6(b) also deals with institutions whose income exceeds 2 lakhs, but does not exceed 25 lakhs, but it does not include a 'Math'. Section 6(c) deals with a list of religious institutions other than Maths. Section 6(d) talks of Maths, which are listed irrespective of the income.

51. In the case on hand, it is stated that the Ahobilam temple is a 6 (c) institution. However, as per section 29 of the Act, it is clearly stated that it is not necessary to appoint an Executive Officer for an institution included in the 6 (c) list. Chapter V of the Act deals with Maths in specific endowments. It is made very clear that section 48 of the Act states that certain sections under Chapter III will not apply to 'Maths'.

52. As far as removal of Mathadipathis is concerned, it is the Dharmika Parishad that is now given the power to remove the Mathadipathi on certain specific grounds which are mentioned in section 51. The said order can only be passed after a notice is given and after the evidence is considered. However, in case of a 'Math', whose annual income exceeds one lakh, the order of removal of a Mathadipathi cannot take effect unless it is confirmed by the Government. This is clarified in the proviso to section 51(2). This Dharmika Parishad should consist of members who are specified in section 52. These include very high Officers of the Government, Mathadipathies, retired Judge of a High Court, a legal luminary, two prominent philanthropists, one chartered accountant etc. All these provisions are being set out in detail in order to highlight the fact that the affairs of the Math should be sparingly interfered and only on certain grounds which are also considered in the leading judgments of the Hon'ble Supreme Court of India.

53. One of us while sitting singly also had an opportunity to consider a similar issue and the judgment is reported in ***Raghavendra Swamy Math v. State of Andhra Pradesh***, reported in **2021 (6) ALD 576**.

54. It is also noticed in the said case on the basis of the earlier law on the subject that the State cannot claim any power or authority to take over the management of the Math by spreading religious scheme, functions of the 'Math'. It was held that only in cases of mismanagement, misconduct etc., the Court has the power to initiate action under section 51 of the Act. Both the judgment of ***H.H. Arjun Doss Mahant v. The Commissioner of Endowments, Endowments Department***, reported in **2006 (3) ALD 22** and the judgment authored by one of us continue to be good law. No judgment of the Division Bench or of a Supreme Court was brought to our notice overruling these orders.

55. The legal position mentioned above is also supported by the judgments of the Hon'ble Supreme Court in the following cases and the relevant portions of which are reproduced hereunder:

***Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*** (supra).

"12. There is no reason why the word "property", as used in Article 19(1)(f) of the Constitution, should not be given a liberal and wide connotation and should not be extended to those well recognised types of interest which have the insignia or characteristics of proprietary right. As said above, the ingredients of both office and property, of duties and personal interest are blended together in the rights of a Mahant and the Mahant has the right to enjoy this property or beneficial interest so long as he is entitled to hold his office. To take away this beneficial interest and leave him merely to the discharge of his duties would be to destroy his character as a Mahant altogether. It is true that the beneficial interest which he enjoys is appurtenant to his duties and as he is in charge of a public institution, reasonable restrictions can always be placed upon his rights in the interest of the public. But the restrictions would cease to be reasonable if they are calculated to make him unfit to discharge the duties which he is called upon to discharge. A Mahant's duty is not simply to manage the temporalities of a Math. He is the head and superior of spiritual fraternity and the purpose of Math is to encourage and foster spiritual training by maintenance of a competent line of teachers who could impart religious instructions to the disciples and followers of the Math and try to strengthen the doctrines of the particular school or order, of which they profess to be adherents. This purpose cannot be served if the restrictions are such as would bring the Mathadhipati down to the level of a servant under a State department. It is from this standpoint that the reasonableness of the restrictions should be judged."

"23. It is to be noted that both in the American as well as in the Australian Constitution the right to freedom of religion has been declared in unrestricted terms without any limitation whatsoever. Limitations, therefore, have been introduced by courts of law in these countries on grounds of morality, order and social protection. An adjustment of the competing demands of the interests of Government and constitutional liberties is always a delicate and a difficult task and that is why we find difference of judicial opinion to such an extent in cases decided by the American courts where questions of religious freedom were involved. Our Constitution makers, however, have embodied the limitations which have been evolved by judicial pronouncements in America or Australia in the Constitution itself and the language of Articles 25 and 26 is sufficiently clear to enable us to determine without the aid of foreign authorities as to what matters come within the purview of religion and what do not. As we have already indicated, freedom of religion in our Constitution is not confined to religious beliefs only; it extends to religious practices as well subject to the restrictions which the Constitution itself has laid down. Under Article 26(b), therefore, a religious denomination or organization enjoys complete autonomy in the matter of deciding as to what rites and ceremonies are essential according to the tenets of the religion they hold and no outside authority has any jurisdiction to interfere with their decision in such matters. Of course, the scale of expenses to be incurred in connection with these religious observances would be a matter of administration of property



belonging to the religious denomination and can be controlled by secular authorities in accordance with any law laid down by a competent legislature; for it could not be the injunction of any religion to destroy the institution and its endowments by incurring wasteful expenditure on rites and ceremonies. It should be noticed, however, that under Article 26(d), it is the fundamental right of a religious denomination or its representative to administer its properties in accordance with law; and the law, therefore, must leave the right of administration to the religious denomination itself subject to such restrictions and regulations as it might choose to impose. A law which takes away the right of administration from the hands of a religious denomination altogether and vests it in any other authority would amount to a violation of the right guaranteed under clause (d) of Article 26." (emphasis supplied)

"26. Section 20 of the Act describes the powers of the Commissioner in respect to religious endowments and they include power to pass any orders that may be deemed necessary to ensure that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded. Having regard to the fact that the Mathadhipati occupies the position of a trustee with regard to the Math, which is a public institution, some amount of control or supervision over the due administration of the endowments and due appropriation of their funds is certainly necessary in the interest of the public and we do not think that the provision of this section by itself offends any fundamental right of the Mahant. We do not agree with the High Court that the result of this provision would be to reduce the Mahant to the position of a servant. No doubt the Commissioner is invested with powers to pass orders, but orders can be passed only for the purposes specified in the section and not for interference with the rights of the Mahant as are sanctioned by usage or for lowering his position as the spiritual head of the institution. The saving provision contained in Section 91 of the Act makes the position quite clear. An apprehension that the powers conferred by this section may be abused in individual cases does not make the provision itself bad or invalid in law."

***Sri Sri Sri Lakshamana Yatendrulu v. State of A.P.*** (supra),

"33. The power of the Commissioner to frame a scheme under Section 55 of the Act is not absolute but is conditioned upon reasonable belief on the basis of the report submitted by the Deputy Commissioner or the Assistant Commissioner having jurisdiction over the math or suo motu; but in later event he should have material on record for entertaining a reasonable belief that the affairs of the math and its properties are being mismanaged or that funds are misappropriated or that the mathadhipathi grossly neglected in performing his duties. Prior enquiry in that behalf is duly made in accordance with the Rules prescribed thereunder. The enquiry would include an opportunity to the mathadhipathi to satisfy the Commissioner that the report or the material, the foundation for the formation of adverse opinion against the Mahant, is not wellfounded or does not exist. After holding such an enquiry and recording the finding in that behalf as is implied in sub-section (1), the Commissioner is required to frame a scheme to administer and manage the properties attached to the math or specific endowment. In the scheme so framed, he is required (a) to appoint an executive officer for day-to-day administration of the properties; and (b) to constitute a committee consisting of not more than five persons for the purpose of assisting him in the administration of the math as a whole or any part of the administration of all the endowments of such math or specific endowments. Under the proviso to sub-section (2)(b) "the members of such committee so chosen shall be among the persons having interest in such math or endowment". In other words, the members of the committee will be persons who are genuinely interested in the proper management of the math, management of the properties and useful utilisation of the funds for the purpose for which the math or specific endowment is created. The paramount consideration is only proper management of the math and utilisation of the funds for the purpose of the math as per its customs, usage, Sampradayams and philosophy and not the self-benefit of persons intervening in the management of the math.

“34. It would appear that the executive officer appointed should be in charge of day-to-day management of the math or the specific endowment attached to the math and the committee constituted would be of supervisory mechanism as overall incharge of the math. Until the scheme is so framed, by operation of sub-section (3), the Commissioner may appoint a fit person to manage the properties of the math and its endowments. After consulting the mathadhipathi and other persons having interest and after making such enquiry in the prescribed manner, by operation of sub-section (4), the Commissioner may, by order, modify or cancel the scheme framed under sub-section (1). Every order made either under subsection (1) or sub-section (4) shall be published in the prescribed manner. Any person aggrieved by the order of the Commissioner passed under sub-section (1) or (4), may, within 60 days from the date of publication of the order, prefer an appeal to the court. The order of the court by implication would be final.”

“36. The object of Section 55 appears to be to remedy mismanagement of the math or misutilisation of the funds of the math or neglect in its management. The scheme envisages modification or its cancellation thereof, which would indicate that the scheme is of a temporary nature and duration till the evil, which was recorded by the Commissioner after due enquiry, is remedied or a fit person is nominated as mathadhipathi and is recognised by the Commissioner. The scheme is required to be cancelled as soon as the nominated mathadhipathi assumes office and starts administering the math and manages the properties belonging to, endowed or attached to the math or specific endowment.”

***Subramanian Swamy v. State of T.N., (supra)***

“28. As the 1987 Act did not provide the duration for which the scheme would remain in force, the Court held that “the duration of the scheme thus framed may also be specified either in the original scheme or one upheld with modification, if any, in appeal.” The Court held : (Sri Sri Lakshmana Yatendrulu case, SCC p. 731, para 36)

“36. The object of Section 55 appears to be to remedy mismanagement of the math or misutilisation of the funds of the math or neglect in its management. The scheme envisages modification or its cancellation thereof, which would indicate that the scheme is of a temporary nature and duration till the evil, which was recorded by the Commissioner after due enquiry, is remedied or a fit person is nominated as mathadhipathi and is recognised by the Commissioner. The scheme is required to be cancelled as soon as the nominated mathadhipathi assumes office and starts administering the math and manages the properties belonging to, endowed or attached to the math or specific endowment.” (emphasis supplied)

Thus, the Hon'ble Supreme Court clarified that there cannot be supersession of administration in perpetuity. It is a temporary measure till the evil gets remedied.”

“54. The fundamental rights as protected under Article 26 of the Constitution are already indicated for observance in Section 107 of the 1959 Act itself. Such rights cannot be treated to have been waived nor its protection denied. Consequently, the power to supersede the functions of a “religious denomination” is to be read as regulatory for a certain purpose and for a limited duration, and not an authority to virtually abrogate the rights of administration conferred on it.”

“55. In such a fact situation, it was not permissible for the authorities to pass any order divesting the said respondent from administration of the Temple and thus, all orders passed in this regard are liable to be held inconsequential and unenforceable. More so, the judgments relied upon by the respondents are distinguishable on facts.”

“56. Thus, in view of the above, it was not permissible for the High Court to assume that it had jurisdiction to sit in appeal against its earlier judgment of 1951 which had attained finality. Even otherwise, the High Court has committed an error in holding that the said judgment in Marimuthu Dikshithar [Marimuthu Dikshithar v. State of Madras, (1952) 1 MLJ 557 sub nom Sri Lakshmindra Theertha Swamiar of Sri Shirur Mutt v. Commr., Hindu Religious

Endowments Board] would not operate as res judicata. Even if the Temple was neither established, nor owned by the said respondent, nor such a claim has ever been made by the Dikshitars, once the High Court in earlier judgment has recognised that they constituted "religious denomination" or section thereof and had right to administer the Temple since they had been administering it for several centuries, the question of re-examination of any issue in this regard could not arise." (emphasis supplied)

"57. The relevant features of the order passed by the Commissioner are that the Executive Officer shall be in charge of all immovable properties of the institution; the Executive Officer shall be entitled to the custody of all immovables, livestock and grains; the Executive Officer shall be entitled to receive all the income in cash and kind and all offerings; all such income and offerings shall be in his custody; all the office-holders and servants shall work under the immediate control and superintendence of the Executive Officer, though subject to the disciplinary control of the Secretary of Respondent 6, etc."

56. If the submissions of the State are examined against the backdrop of this law on the subject, it is clear that the appointment of an Executive Officer is not actually supported by any material which would justify the same. Neither mismanagement nor any other such ground is borne out by the record. The judgment reported in **Pavani Sridhara Rao v. Government of Andhra Pradesh and others**, reported in **(1996) 8 SCC 298** comes to the aid of the petitioner in this aspect wherein the Hon'ble Supreme Court clearly held that there must be clear material to justify the appointment of an Executive Officer.

57. The records filed by the respondent would show that on 27.11.2008, Sri B.V.Narasiah was directed to take "complete charge" from Sri V.L.N.Ramanujam by, the Commissioner. To a similar effect is the letter dated 12.03.2015 by which M.Thimma Naidu was directed to take charge as E.O. The language in the letter dated 25.04.2022 is even more explicit and directs the incumbent to take complete charge of the institution. The appointment of a Charity Commissioner was struck down by the Hon'ble Supreme Court in the case of **Ratilal Panachand Gandhi v. State of Bombay and others**, reported in **(1996) 8 SCC 298**. The relevant paragraph is reproduced hereunder:

"The Mathadhipati is a trustee according to the provisions of the Act and if the court is competent to appoint the Charity Commissioner as a superior of a math, the result would be disastrous and it would amount to a flagrant violation of the constitutional guarantee which religions institutions' have under the Constitution in regard to the management of its religious affairs. This is not a secular affair at all relating to the administration of the trust property. The very object of a math is to maintain a competent line of religious teachers for propagating and strengthening the religious doctrines of a particular order or sect and as there could be no math without a Mathadhipati as its spiritual head, the substitution of the Charity Commissioner for the superior would mean a destruction of the institution altogether."

58. Thus, it is clear legally the taking over of complete charge is a violation of the constitutional guarantee under Article 26. Factually also if the records filed by the State are examined, it appears that the earliest appointment of a person styled as the Executive Officer was made in 1961. However, a closer examination of the record reveals a contrary position. The same is detailed hereunder:

59. The first document is a letter dated 27.01.1961 by which one Sri V.R.Lakshminarayana was appointed. This Lakshminarayana held office from 1961 to 1989. A reading of this letter would show that he was actually appointed as a Manager and the salary was to be drawn 50-50 from the Temple fund and the Math fund. On 24.05.1989, the Deputy Commissioner addressed a letter to the Private

Secretary of the Jeeyar asking them to retire the Manager and to appoint another eligible person in his place. Only in the letter dated 20.11.1990, addressed to the Accountant General, Lakshminarayana is referred to as a retired Executive Officer. However, in the order dated 14.06.1990, where the pay fixation of the Lakshminarayana was revised, he is again referred to as the Manager. The appendix to the said letter also describes him in clear term as the Manager and as an officiating employee. This is further borne out by the letter dated 13.08.1989 issued by the Deputy Commissioner endowments to the Commissioner of Endowments Department. It is clearly mentioned that Sri R.Lakshminarayana was working as a Manager of the said Temple with effect from 21.05.1961 as a Temple employee under the control of the hereditary trustee. The letter of Sri Lakshminarayana dated 05.02.1986, which is filed by the respondent-State itself also clearly bears testimony to his appointment in 1961 and the payment of his salary. Thereafter since Sri Lakshminarayana retired, proposals were sent to appoint one Sri V.L.N.Ramanujam. The proceedings of the Jeeyar dated 24.06.1989 clearly show that Sri V.L.N.Ramanujam was appointed in the vacancy caused due to the retirement of R.Lakshminarayana. The Jeeyar also recommended Sri Ramanujam as the fittest person to be appointed as the Manager because of certain grounds mentioned therein. Accordingly it appears that Sri Ramanujam was appointed as a Manager. A letter was addressed to the Deputy Commissioner to approve the said appointment. This Ramanujam continued as the Manager till 2008. Thus, it is visible that from 1961 to 2008, for more than four decades, Managers were appointed by the Mathadipathi and approved by the Department. The action of the hereditary trustee in appointing Sri V.L.N.Ramanujam was approved on 11.01.1990 by the Commissioner. Thereafter, his position continued till 2008 when by the letter dated 27.11.2008, Sri Ramanujam was relieved of his additional in-charge and charge was handed over to Sri B.V.Narayana, 'Executive Officer'. A protest was also lodged by the Jeeyar of the Ahobilam Math to this by the letter dated 06.05.2008. It clearly states that the Ahobilam Temple is under the administrative and financial control of the Ahobilam Math and Jeeyars are the hereditary trustees. It is mentioned clearly that the Manager of the Temple is a Temple staff and not a departmental staff. Therefore, the pontiff requested the Commissioner, Endowments to keep the present incumbent till an alternative appointment is made. In reply to this, Sri V.N.L.Ramanujam was kept in-charge of the Manager of the post by the memo dated 12.05.2008. Thereafter, on 12.03.2015, Sri V.L.N.Ramanujam, Executive Officer was directed to handover charge to M.Timma Naidu, Executive Officer of Sri Narasimhaswami Temple. Therefore, it is apparent from these initial series of appointments itself that the person appointed as a Manager was later re-designated as an Executive Officer by the respondents themselves. Neither a statutory provision nor a rule has been brought to the notice of this Court to show how this appointment was done. No material is filed to show that the first two persons Lakshminarayan or Ramanujam are from the state cadre. The definition of an Executive Officer as found in the Act 17 of 1966 or even the later Act clearly states that an Executive Officer is an Officer appointed under any of the provisions of "this" Act. The respondents did not file any material to justify the appointment.

**60.** The provisions of the Act as mentioned earlier provide for interference with the activities of a Math only under certain limited circumstances. A general power of supervision and control is not given to the State. Section 27 of 1961 Act talks of the appointment of an Executive Officer for every charitable or religious institution or endowment based upon the income of the institution. Section 27(5) clearly states that



the Executive Officer appointed under this section shall be an employee of the Government and the conditions of service shall be as determined by the Government. None of these factors are actually present in the current case. The appointment of Sri Ramanujam who was first called by the nomenclature Executive Officer is not traceable to any of the provisions of the Act. Apart from this, this Court also notices Chapter V of the Act which clearly states in section 43 (of Chapter V) that the provisions of section 27 will not apply to a Math or to an endowment attached thereto. This act is referred to since it was applicable at that point of time and till the later Act came into force.

61. The case law on the subject has also been quoted earlier. The Mathadipathi cannot be reduced to the status of a mere employee or his powers cannot be denuded or taken away by the appointment of an Executive Officer, who will exercise all functions or control.

62. In the case on hand, the Court finds that the posting of a Government servant in the Ahobilam Temple is not supported by any statutory provision or a rule. While it is a fact that there is some delay in the challenge of this appointment, the fact remains that this post of an Executive Officer is per se contrary to the provisions of the 1966 Act or the later Act. Therefore, on the ground of mere delay, this Court cannot approve the said decision since in the opinion of this Court it is *void ab initio* and in violation of constitutional right guaranteed under Article 26 of the Constitution of India.

### **CONCLUSION:**

63. The above discussion leads us to an irresistible conclusion that the Ahobilam Temple is an integral and inseparable part of Ahobilam Math, which was established as a part of propagation of Hindu religion and for rendering spiritual service for propagating Sri Vaishnavism. The successive Jeeyars are the trustees of the Ahobilam Devasthanam and since the Government cannot appoint an Executive Officer for the Ahobilam Math, it has no power to appoint an Executive Officer for the Ahobilam Temple by treating it separate from the Math. Appointing an Executive Officer for Temple, which is a part of the Math, is violative of Article 26(d) of the Constitution of India, as the same affects Jeeyars'/Mathadipathis' right of administration.

64. We, accordingly, allow all the writ petitions and declare that the State of Andhra Pradesh has no authority, jurisdiction or entitlement under law to appoint an Executive Officer of Sri Ahobila Mutt Parampara Aadheena Sri Lakshmi Narasimha Swamy Devasthanam (Ahobilam Math Temple). Consequently, it is declared that appointment of 3<sup>rd</sup> respondent as Executive Officer vide proceedings Rc.No.E2/15021/202/2020 dated 30.12.2020, is illegal and the same is, accordingly, set aside. As a corollary, the 3<sup>rd</sup> respondent is restrained from interfering with the affairs of Sri Ahobila Mutt Parampara Aadheena Sri Lakshmi Narasimha Swamy Devasthanam (Ahobilam Math Temple) including operation of its bank accounts and the traditional administration and operation of the bank accounts by the Jeeyar of Ahobilam Math Temple, is restored. No order as to costs. Pending miscellaneous applications, if any, shall stand closed.