

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE P.G. AJITHKUMAR

FRIDAY, 22ND DAY OF APRIL 2022 / 2ND VAISAKHA, 1944

DBP NO.10 OF 2022

IN THE MATTER OF TRAVANCORE DEVASWOM BOARD - VAIKOM SREE MAHADEVA TEMPLE - MATTER PERTAINING TO IRREGULARITIES IN THE SALE OF VAZHIPADU ITEMS, ESPECIALLY KOOVALAMALA - SUO MOTU PROCEEDINGS INITIATED BASED ON A NEWS ITEM APPEARED IN MANORAMA NEWS ONLINE ON 18.03.2022 - REG.

PETITIONER:

SUO MOTU

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY TO
GOVERNMENT, REVENUE (DEVASWOM) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -
695001.
- 2 TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY, NANTHANCODU,
KOWDIAR POST, THIRUVANANTHAPURAM - 695 003.
- 3 DEPUTY DEVASWOM COMMISSIONER,
TRAVANCORE DEVASWOM BOARD, VAIKOM,
KOTTAYAM - 686 141.
- 4 THE ADMINISTRATIVE OFFICER,
VAIKOM SREE MAHADEVA TEMPLE, VAZHAMANA ROAD,
VAIKOM, KERALA - 686 141.
- 5 DEPUTY EXAMINER OF LOCAL FUND AUDIT,
THIRUVANANTHAPURAM - 695 003
- *ADDL.R6 THE ASSISTANT DEVASWOM COMMISSIONER,
TRAVANCORE DEVASWOM BOARD, VAIKOM,
KOTTAYAM - 686 141
- *ADDL.R7 THE TEMPLE ADVISORY COMMITTEE,

VAIKOM SREE MAHADEVA TEMPLE,
VAZHAMANA ROAD, VAIKOM, KOTTAYAM - 686 141,
REPRESENTED BY ITS SECRETARY.

*ADDL.R8 SRI.C.G. RADHAKRISHNAN,
S/O.GOPALAKRISHNAN NAIR, REMYA NIVAS,
KIZHAKENADA, VAIKOM P.O., KOTTAYAM - 686141.

*ARE SUO MOTU IMPLEADED AS ADDL.RESPONDENTS
R6 TO R8 VIDE ORDER DATED 21/03/2022 IN DBP
10/2022

**ADDL.R9 MANU K.M. ,
S/O.MANOCHARAN, KOCHUVEETIL HOUSE,
KADUTHURUTHY P.O., PALAKARA, KOTTAYAM-
686604.

**IS IMPLEADED AS ADDL.9TH RESPONDENT VIDE
ORDER DATED 30/03/2022 IN IA.NO.1/2022 IN
DBP 10/2022

***ADDL.R10 UNNIKRISHNAN P.I. ,
AGED 35 YEARS, S/O.VASUDEVAN NAMBOOTHIRI,
PAROLI ILLOM, ORKKATTERI, VADAKARA,
KOZHIKODE - 673101.

***ADDL.R11 ARJUN K.
AGED 22 YEARS, S/O.NARAYANAN NAMPOOTHIRI
KOLYILLAM, SOUTH GATE, VAIKKOM P.O., PIN-
686141.

***ADDL.RESPONDENTS 10 & 11 ARE IMPLEADED AS
PER ORDER DATED 08/04/2022 IN IA.3/2022 IN
DBP 10/2022

R1 & R5 BY SRI.S.RAJMOHAN, SR.GOV'T.PLEADER
R2, R3 & R6 BY SRI.G.BIJU,SC,TRAVANCORE
DEVASWOM BOARD

R7 BY ADV.SRI.SHABU SREEDHARAN
R8 ADV.SRI.K.REGHU KOTTAPPURAM
R8 ADV.SRI.R.MAHESH (KOTTAPPURAM)
ADDL R9 SRI.MANU K.M (Party-In-Person)
ADDL.R10 & 11 BY ADVS.SRI.R.KRISHNA RAJ
R.PRATHEESH (ARANMULA)
E.S.SONI
KUMARI SANGEETHA S.NAIR
RESMI A.

ADV.SRI.MURUKESH REGHU FOR R8
ADV.SMT.DHANUJA M.S FOR R8
ADV.SRI.JINSON OUSEPH
ADV.SMT.CHITRA VIJAYAN
ADV.SRI.JOLLY GEORGE
ADV.SRI.ABDUL HAMEED
ADV.SMT.A.SREEKALA (VAIKOM)

THIS DEVASWOM BOARD PETITION HAVING BEEN FINALLY
HEARD ON 08.04.2022, THE COURT ON 22.04.2022 DELIVERED THE
FOLLOWING:

"CR"

ORDER

Anil K. Narendran, J.

By the proceedings dated 19.03.2022, Registry was directed to initiate *suo motu* proceedings based on a news item that appeared in Manorama News Online regarding irregularities in the sale of Vazhipadu items in Vaikom Sree Mahadeva Temple, especially, in the sale of 'Koovalamala'. A CD containing the news item that appeared in the online media is annexed to this DBP. A copy of the DBP along with CD has already been served on the learned Senior Government Pleader and also the learned Standing Counsel for Travancore Devaswom Board. On 21.03.2022, the Assistant Devaswom Commissioner, Travancore Devaswom Board, Vaikom; the Temple Advisory Committee, Vaikom Sree Mahadeva Temple, represented by its Secretary; and Sri.C.G. Radhakrishnan, the successful bidder, were *suo motu* impleaded as additional respondents 6 to 8.

2. The news item that appeared in Manorama News Online pointed out serious irregularities in the sale of Vazhipadu items in Vaikom Sree Mahadeva Temple, especially in the sale of 'Koovalamala'. The additional 8th respondent is the successful

bidder supplying Vazhipadu items and garlands in Vaikom Sree Mahadeva Temple.

3. In the order dated 21.03.2022 this Court noticed that, if as a matter of fact, Vazhipadu items and 'Koovalamala' supplied from the stall conducted by the additional 8th respondent are sub-standard, which is omitted to be noticed by the 4th respondent Administrative Officer, it is a serious lapse on his part. Similarly, the Devaswom employees connected with religious rites are duty bound to inform such irregularities in the supply of Vazhipadu items to the 4th respondent Administrative Officer, at the appropriate time, so as to enable him to take necessary action against the person responsible for such irregularities. When the duty of the Travancore Devaswom Board, as per Section 15A of the Travancore-Cochin Hindu Religious Institutions Act, 1950, includes the duty to see that the regular traditional rites and ceremonies according to the practice prevalent in the religious institutions are performed promptly, the 4th respondent Administrative Officer and other administrative officials and employees of Vaikom Sree Mahadeva Temple, including those connected with religious rites, have a

statutory duty to ensure that no sub-standard Vazhipadu items are supplied to the devotees by the successful bidder. The additional 7th respondent Temple Advisory Committee of Vaikom Sree Mahadeva Temple, constituted under Section 31A of the Act, consisting of 'persons interested' in the said temple, as defined under clause (d) of Section 2 of the Act, has also got a statutory duty to ensure that no sub-standard Vazhipadu items are supplied to the devotees by successful bidders.

4. On 21.03.2022, the learned Standing Counsel for Travancore Devaswom Board submitted that the additional 6th respondent Assistant Devaswom Commissioner has already issued a notice dated 17.03.2022 to the additional 8th respondent-successful bidder, based on the news item that appeared in Manorama News Online, regarding irregularities in the sale of Vazhipadu items in Vaikom Sree Mahadeva Temple. The additional 8th respondent has submitted a reply dated 19.03.2022, which has already been forwarded to the 3rd respondent Deputy Devaswom Commissioner, along with the report of the 4th respondent Administrative Officer. The additional 6th respondent has also submitted a report to the 3rd

respondent Deputy Devaswom Commissioner, as directed by the said respondent in the letter dated 18.03.2022.

5. On 21.03.2022, having considered the submissions made by the learned Senior Government Pleader for respondents 1 and 5 and also the learned Standing Counsel for Travancore Devaswom Board, for respondents 2 to 4 and 6, this Court issued notice to additional respondents 7 and 8 through the additional 6th respondent Assistant Devaswom Commissioner, returnable by 23.03.2022. Registrar (Judicial) was directed to mail a scanned copy of this DBP along with the notice to the e-mail ID of the additional 6th respondent Assistant Devaswom Commissioner, who was directed to serve notice in this DBP on additional respondents 7 and 8, on that day itself, along with a copy of the order dated 21.03.2022. It was ordered that additional respondents 7 and 8 shall be provided with a copy of the CD, once they enter appearance before this Court, either in-person or through counsel. The additional 6th respondent Assistant Devaswom Commissioner was directed to keep in safe custody the CCTV footage near the stall conducted by the additional 8th respondent and also near the Sreekovil of

Vaikom Sree Mahadeva Temple. A copy of the CCTV footage was ordered to be produced before this Court, through the learned Standing Counsel for Travancore Devaswom Board. The 4th respondent Administrative Officer was directed to take necessary steps to ensure that only Devaswom employees are deployed in Nalambalam, in connection with daily worship and ceremonies, in Vaikom Sree Mahadeva Temple.

6. On 23.03.2022, when this DBP came up for consideration, the additional 7th respondent Temple Advisory Committee and the 8th respondent successful bidder entered appearance through counsel. The learned counsel for the additional 7th respondent sought time to file an affidavit of the said respondent, explaining the facts and circumstances, taking note of the observations contained in the order of this Court dated 21.03.2022. The learned counsel for the additional 8th respondent submitted that a counter affidavit of the said respondent was being filed. The learned Standing Counsel for Travancore Devaswom Board submitted that the 6th respondent Assistant Devaswom Commissioner has already issued instructions, vide proceedings dated 21.03.2022, to prevent any

irregularities in the sale of Vazhipadu items at Sree Vaikom Mahadeva Temple. The 4th respondent Administrative Officer and the additional 6th respondent Assistant Devaswom Commissioner were directed to place on record their individual affidavits by 28.03.2022. The learned Standing Counsel for Travancore Devaswom Board was directed to make available for the perusal of this Court the files relating to the auction of the stall in question for the year 2021-22.

7. On 30.03.2022, when this DBP came up for consideration, this Court allowed I.A.No.1 of 2022 filed by a third party seeking an order to get himself impleaded as additional 9th respondent. On 06.04.2022, the learned Senior Government Pleader and also the learned Standing Counsel for Travancore Devaswom Board pointed out Clause No.8 of Annexure R6(d) report dated 22.03.2022 of the 6th respondent Assistant Devaswom Commissioner, which reads thus;

"ശ്രീകോവിലിനുള്ളിലെ ജോലിയ്ക്ക് മേൽശാന്തിമാർ, കീഴ്ശാന്തിമാർ, തൃക്കോവിൽ പ്രവൃത്തി ജീവനക്കാരെല്ലാ തെ മറ്റാരും ഏർപ്പെടുത്തില്ലായെന്ന് ഉറപ്പ് വരുത്തിയിട്ടുള്ളതാണ്. ടിയാന്മാർക്ക് ഒഴിച്ചുകൂടാനാവാതെ ജോലിയ്ക്ക് ഹാജരാകുവാൻ പറ്റാതെ വരുമ്പോൾ ഈ ആഫീസ് അനുവാദത്തോടെ മാത്രം ശ്രീകോവിലിൽ സൂക്ഷിച്ചിരിയ്ക്കുന്ന രജിസ്റ്ററിൽ വിവരങ്ങൾ രേഖപ്പെടുത്തി കാരണമു കൂടുംബത്തിലെ പകരം ശാന്തിക്കാരെ ജോലി ചെയ്യണമെന്ന സുവിധാനം

ഏർപ്പെടുത്തിയിട്ടുള്ളതാണ്.”

8. On 08.04.2022, this Court allowed I.A.No.3 of 2022 filed by third parties seeking an order to get themselves impleaded as additional respondents 10 and 11.

9. The additional 8th respondent has filed a counter affidavit dated 22.03.2022, wherein it is stated that the online news item circulated on 18.03.2022 in Manorama Online News alleging irregularities in the sale of Koovalamala is the creation of certain persons having rival business interest in securing Kuthaka right for sale of Vazhipadu items in Sree Mahadeva Temple, Vaikom, on a lesser amount, in the auction for the year 2022-23, which is scheduled on 23.03.2022. The additional 8th respondent has been granted Kuthaka right for certain Vazhipadu items in the temple for the past several years since he quoted the highest rate. Koovala leaves required for Koovalamala are rarely available during summer season. He is procuring the leaves from distant places like Aluva, Chalakkudy and Angamaly. The leaves are being transported in autorickshaws to the temple, in gunny bags, which are being used for making Koovalamala on the next day. The Devaswom officials have not provided the additional 8th respondent proper

place to preserve the leaves in a cool atmosphere, without the leaves getting dried. The place allotted for keeping Koovala leaves and other Vazhipadu items is a small shed of 10 feet in height with tin roofing sheets. In order to preserve the leaves, he is spraying water frequently and taking much caution and care. The garland made of Koovala leaves seen in the video taken by the complainant, i.e., the additional 9th respondent is only a piece of the garland made by the additional 8th respondent. There is no practice of reuse of Vazhipadu items. Used garlands are kept in a compound beyond East Gopuram. There was no occasion for the Devaswom Officials to raise a complaint against the additional 8th respondent, in the past. Due to the closure of the temple on account of Covid-19 pandemic, he sustained huge loss in the supply of Koovalamala and other Vazhipadu items. He had auctioned the right to sell Koovalamala for the year 2021-22 for a sum of Rs.21,33,333/-.

10. The 4th respondent Administrative Officer, Vaikom Devaswom, has filed an affidavit dated 29.03.2022, wherein it is stated that on 17.03.2022, one of the devotees complained that Kesadipadam Koovalamala bought by him from the pooja stall in

Sree Mahadeva Temple, Vaikom was stale and short in size and a video on that complaint was widely circulated in the social media. The said devotee, the additional 9th respondent herein, submitted Annexure R4(a) complaint dated 17.03.2022. At the time of the incident, the 4th respondent was on duty in Kalakkal Devaswom, in connection with 'Thali Procession'. Immediately on knowing about the incident, he sought for an explanation from the additional 8th respondent Kuthaka holder, vide Annexure R4(b) show cause notice dated 17.03.2022 and the matter was reported to the additional 6th respondent Assistant Devaswom Commissioner. He has given strict instructions to the Kuthaka holder to give garlands in plantain leaves without tying them so that the devotees can see the item purchased. Since there was an allegation in the complaint against Santhikkars, explanation was sought from Santhikkars. Strict instructions were given to adorn the deity, all the garlands offered by the devotees. During heavy rush, the garlands should be taken to the Sreekovil and kept in the vessel, which should also be used to adorn the deity. Strict instructions have been given to see that only permanent employees of the temple are deployed

inside the Nalambalam and that pooja articles received in excess quantity are stored properly and securely, which are used according to the requirement. On receipt of Annexure R4(b) show cause notice, the Kuthaka holder gave Annexure R4(c) reply dated 19.03.2022, wherein he has stated that the Koovalamala seen in the video is only a piece of the garland sold by him. Due to hot and sunny weather, the Koovalamala became stale in spite of sprinkling water on it. On receipt of Annexure R4(c) reply, the 4th respondent forwarded the same to the additional 6th respondent Assistant Devaswom Commissioner. The Devaswom Commissioner issued an order dated 23.03.2022 (Order No.ROC5611/22/NS-2) to terminate the Kuthaka right of the additional 8th respondent forthwith and the 4th respondent was directed to make arrangements to provide garlands to the devotees directly by the Department. Based on the said order, from 24.04.2022 the above system is being followed in the temple and the additional 8th respondent is not permitted to take part in the auction for the year 2022-23. In the affidavit, the 4th respondent stated that, there is no CCTV camera inside the Nalambalam or near the pooja stall in Sree Mahadeva

Temple, Vaikom. The request for providing CCTV cameras was given to the Maramath Wing of the Travancore Devaswom Board. Now, another request is given in this regard. According to the 4th respondent, he used to keenly watch all the activities in the temple regularly and proper instructions are being given in the performance of the rituals in the temple and also to see that the devotees are provided with all the facilities for their worship. Though strict instructions were given to the additional 8th respondent to conduct his stall in accordance with the tender conditions, he used to violate it, whenever he gets a chance to trick the Devaswom staff. No complaint was received from the Santhikkars regarding the quality of the Koovalamala sold from the pooja stall. The 4th respondent is holding charge as Administrative Officer of five temples including Sree Mahadeva Temple, Vaikom. The incident in question had happened at a time when he was on duty at another temple.

11. The additional 6th respondent Assistant Devaswom Commissioner, Vaikom has filed an affidavit dated 29.03.2022, wherein it is stated that based on a telephonic instruction from the office of the Devaswom Commissioner on 17.03.2022

regarding the sale of Koovalamala in Sree Mahadeva Temple, Vaikom, he conducted a preliminary enquiry on 18.03.2022. He had contacted the complainant, i.e., the additional 9th respondent, who requested action on his complaint. The additional 6th respondent called for a report from the 4th respondent Administrative Officer, who has reported that, on 17.03.2022, a stale and short sized Koovalamala was sold from the pooja stall of the additional 8th respondent. When the Kuthaka holder was asked about the sale, he had replied that due to hot and sunny weather the garland faded and that, he is selling quality pooja articles in his stall. The 4th respondent had given strict directions to the Kuthaka holder to conduct the sale strictly in accordance with the tender conditions, who has also been issued with a show cause notice. At 7.00 p.m. on 17.03.2022, the additional 9th respondent submitted a written complaint before the 4th respondent Administrative Officer. After a preliminary enquiry, the additional 6th respondent forwarded Annexure R6(a) report dated 18.03.2022 to the Devaswom Commissioner. Since the explanation offered by the Kuthaka holder to the show cause notice issued by the Administrative

Officer was not satisfactory, the additional 6th respondent issued Annexure R6(b) order dated 21.03.2022 whereby the Administrative Officer was directed to ensure that; (i) The price of garlands is exhibited in the stall; (ii) The quality of the garlands shall be ensured and sale of stale or decayed garlands shall not be permitted; (iii) Kesadipadam garland should have at least 9 feet length; (iv) The garlands offered shall be used to adorn the deity and the same should be ensured through the Devaswom employees, who are on duty in front of Seekovil. If the Santhikkars fail to use the garland to adorn the deity, it shall be reported; (v) It shall be reported whether the garlands received as offerings are returned to the pooja stall, which shall be ascertained by the Devaswom employees, who are on duty in front of the Sreekovil; (vi) If any person other than the Devaswom employees or contract staff are staying inside the temple, it shall be reported for taking appropriate action; (vii) Since the complaint made against the Kuthaka holder is *prima facie* found to have some substance, he should be avoided from the Kuthaka auction for this year and a Vigilance enquiry is recommended in the matter. On receipt of Annexure R6(b)

order, the Administrative Officer submitted Annexure R6(c) report stating that the directions contained in Annexure R6(b) order have already been brought into effect. The additional 6th respondent submitted Annexure R6(d) report before the Devaswom Commissioner, a copy of which was also forwarded to the Secretary of the Travancore Devaswom Board along with Annexure R6(e) letter dated 22.03.2022. Clause No.8 of Annexure R6(d) report, which is extracted hereinbefore at paragraph 7, deals with alternative arrangements when the Melsanthi or Keezh Santhies are not able to enter the temple premises on account of any restrictions as per the customary practices. The document marked as Annexure R6(f), along with the affidavit filed by the additional 6th respondent, is a copy of the order dated 22.03.2022 issued from the office of the Devaswom Commissioner, whereby the Assistant Devaswom Commissioner was informed that a decision has already been taken to terminate the Kuthaka right of the additional 8th respondent. In paragraph 7 of the said affidavit, Kuthaka amount for the year 2019-20, 2020-21 and 2021-22 are provided. For the year 2021-22, though the auction was

conducted on various dates, there were no takers. On 05.04.2021, the additional 8th respondent submitted a quotation for Rs.21,33,333/- and accordingly, he was awarded the Kuthaka right. Though auction was conducted on several dates, for the year 2022-23, there were no takers for the right to sell garlands in Sree Mahadeva Temple, Vaikom.

12. The additional 8th respondent has filed an additional affidavit dated 26.03.2022, wherein it is stated that there were no takers in the auction conducted on 23.03.2022 for the right to sell Koovalamala and pooja articles (Oil, Ghee, Camphor Bathi, Agar Bathi, Plantain, etc.) in Sree Mahadeva Temple, Vaikom for the year 2022-23. For the year 2021-22, he secured Kuthaka right by submitting a quotation for the sale of Koovalamala as there were no takers in the auction conducted for that year. He was granted the Kuthaka right for sale of Koovalamala for Rs.21,33,333/- and Kuthaka right for sale of pooja articles (Oil, Ghee, Camphor Bathi, Agar Bathi, Plantain, etc.) for Rs.32,36,200/-. In paragraph 2 of the affidavit the additional 8th respondent has furnished the sale price of Koovalamala and other pooja articles in the stall in Sree

Mahadeva Temple, Vaikom, which is as follows;

- A. Koovala Mala
- | | | |
|------------------|---------|----------|
| a) Thirumudimala | 1 ½ Adi | Rs. 50/- |
| b). Charthumala | 3 ½ Adi | Rs.100/- |
| c). Sheromala | 12 Adi | Rs.200/- |
- (Cost of 1 Kg. Koovala leaves Rs. 300)
- B. Oil - 100 ML. Bottle Rs. 30/-
200 MI. Bottle Rs. 60/-
Tin Oil 15 Kg. Rs. 2,400/
(present price)
- C. Ghee 50 Grams Rs.30/-
100 grams Rs. 60/
200 grams Rs. 130/
½ Kg. Rs. 300/
- D. Camphor Bathi in packets Rs. 10/-, Rs. 15/
E. Agar Bathi (packets) Rs. 10, Rs. 20/
F. Plantain (Kadhali & Poovan) - Price according to size

In the additional affidavit dated 26.03.2022, the Kuthaka holder has stated that he did not create any hurdle in granting Kuthaka right to others. If the Travancore Devaswom Board is not reducing the Kuthaka amount, he may not be in a position to take Kuthaka right for the year 2022-23, since he had already suffered loss on account of uncertainty in the number of devotees having Darshan in Sree Mahadeva Temple, Vaikom.

13. The additional 8th respondent has filed a reply

affidavit dated 02.04.2022 to the affidavit filed by the 6th respondent Assistant Devaswom Commissioner, wherein it is stated that the 6th respondent is misled by the allegations made by the additional 9th respondent in his complaint and also the report of the 4th respondent Administrative Officer, which was not based on any enquiry or inspection conducted to find out whether the allegations in the said complaint are true. In the reply affidavit, the Kuthaka holder has stated that the reason for the Koovalamala becoming stale and dry is well known to the Administrative Officer, who is having office nearby. The Koovala leaves collected from distant places are used for making garlands on the next day, and those garlands are kept for sale after wrapping in plantain leaves, in order to ensure that it is not touched by anyone before it is offered by the devotee in front of Sreekovil. Garlands brought from outside are not being used to adorn the deity. The 4th respondent Administrative Officer had no occasion to see the Koovalamala brought by the complainant. He blindly accepted the allegation in the complaint and submitted a report before the additional 6th respondent. The Kuthaka right granted for the year 2021-22 was cancelled

behind the back of the additional 8th respondent without any notice, for which he is entitled to seek compensation for the loss sustained. In the reply affidavit, the additional 8th respondent has alleged that the complainant collected the Koovalamala and walked away by saying that he would pay the money after Darshan. Twenty minutes later he came back holding a short sized staled Koovalamala in his hands. According to the Kuthaka holder, the entire events staged and videographed were preplanned as part of a conspiracy to tarnish his reputation and oust him from the Kuthaka right.

14. The additional 9th respondent has filed a counter affidavit dated 04.04.2022, wherein it is stated that on 17.03.2022, he purchased Kesadipadam Koovalamala paying a sum of Rs.200/-. When he found the garland wrapped tightly in an abnormal manner, he examined the same and found that it is an old faded and staled garland, which did not have sufficient length. Therefore, he recorded the same using his mobile phone and submitted a complaint before the Devaswom Manager. On 18.03.2022 the Assistant Devaswom Commissioner contacted him over the phone and enquired about the incident. Thereafter,

the Devaswom Manager contacted him over the phone and informed him that the complaint has already been forwarded to the higher officials. In the counter affidavit filed by the additional 9th respondent, it is alleged that the offerings like Koovalamala made by devotees are not even taken to Sanctum Sanctorum. They are kept aside and even resold through the counter. Moreover, the quality of oil being sold through the counter to the devotees are also very low and it is also not being taken to Sanctum Sanctorum. The additional 9th respondent would point out Ext.R9(a) circular dated 22.01.2021 issued by the Devaswom Commissioner in order to ensure the quality of oil and pooja articles sold to devotees in the temples under the management of Travancore Devaswom Board. It is one issued reiterating the guidelines in the Board order dated 01.02.2020. As per Ext.R9(a) circular, in case of any violation of the said guidelines, stringent action has to be taken against the Kuthaka holder, including cancellation of Kuthaka right, and disciplinary action has to be taken against the erring officers of the Devaswom Board. In the case on hand, no proper inspection or verification has been done by the Devaswom Authorities to

ensure the quality of pooja items, till this *suo motu* case has been registered by this Court. There is dereliction of duty on the part of the concerned officials of the Devaswom Board. Though a complaint was submitted on 17.03.2022, the Kuthaka holder was allowed to sell pooja articles even after the interim order of this Court dated 21.03.2022. He conducted sales uninterruptedly till 28.03.2022. The statement made in the affidavit filed by the 4th respondent Administrative Officer, that from 24.03.2022 garlands are provided in Sree Mahadeva Temple, Vaikom directly by the Department is absolutely incorrect. Though it is stated in the said affidavit that strict instructions have been given to take the pooja items and garlands to Sanctum Sanctorum to adorn the deity, it is not being followed. The irresponsible attitude of the Devaswom Authorities and those who are holding Kuthaka right to make undue financial gain is hurting the sentiments of the devotees.

15. The additional 7th respondent Temple Advisory Committee of Vaikom Sree Mahadeva Temple has filed an affidavit dated 08.04.2022, wherein it is stated that the present Advisory Committee took charge on 24.03.2021, which has

maintained a cordial relationship with the devotees as well as the Devaswom Officials and the temple employees. The officials and members of the Temple Advisory Committee, who are nearby residents, are ardent devotees of Lord Mahadeva. Most of the members of the Committee are frequently visiting the temple. The Committee is having an office in the temple premises, where the monthly meetings are being held. All the temple festivals were conducted peacefully and no complaints were raised after the present Committee took charge. The office bearers and members of the Committee are fully dedicated and they take care of all the day to day functioning of the temple. Insofar as the incident referred to in the complaint made by the additional 9th respondent is concerned, the Committee received no complaints regarding the inferior quality of pooja items, either from the devotees or from the temple priests. The Koovalamala intended for adorning the deity has to be made with fresh Koovala leaves. The Kuthaka holder, who is supplying Koovalamala to the devotees, wrapped the garland with plantain leaves and therefore, the devotees may not be knowing whether it is made of fresh leaves or dry leaves. The Committee knew

about the issue only through social media. The available members of the Committee immediately contacted the 4th respondent Administrative Officer, who was requested to conduct an enquiry urgently. Thereafter, the members of the Committee inspected the stall of the Kuthaka holder. Though the complainant never approached the Committee, the Committee took the issue very seriously and suggested to the Administrative Officer to ensure the quality of all pooja items stored and supplied from the stall of the Kuthaka holder. The Committee suggested repair of the CCTV system in the temple and extension of CCTV surveillance to the entire temple premises, including the surroundings of the stall conducted by the Kuthaka holder. The Committee has also requested the Devaswom Authorities to take appropriate departmental as well as legal action against the Kuthaka holder, so as to avoid such incidents in future. In the affidavit dated 08.04.2022, it is stated that the Committee will be more vigilant and assured that such incidents will not happen in future.

16. The additional 10th and 11th respondents, who got themselves impleaded by the order dated 08.04.2022 in

D.B.P.No.10 of 2022

I.A.No.3 of 2022, are the Santhies in Vaikom Mahadeva Temple, who are holding karanma right. They have filed I.A.No.4 of 2022 to clarify the order of this Court dated 21.03.2022 and permit the Santhies of Vaikom Mahadeva Temple to make alternative arrangements, as permitted in Chapter-XIX of Volume I of Travancore Devaswom Manual. They have also filed I.A.No.5 of 2022 seeking an order to accept Annexures R10(a) to R10(d) as documents on their side. In paragraphs 1 to 4 of the affidavit filed in support of I.A.Nos.4 and 5 of 2022, it is stated that additional respondents 10 and 11 are members of families having karanma right of Santhi in Sree Mahadeva Temple, Vaikom. The additional 10th respondent was appointed as Keezh Santhi vide Annexure R10(a) order dated 01.07.2014 of the Devaswom Commissioner and the additional 11th respondent was appointed as Keezh Santhi vide Annexure R10(b) order dated 04.02.2020 of the Devaswom Commissioner. There are two other Keezh Santhies in the temple. In the complaint made by the additional 9th respondent, it is alleged that, the Santhies in Sree Mahadeva Temple, Vaikom are unauthorisedly engaging persons inside the Nalambalam for returning the Vazhipadu

items to the Kuthaka holder. Based on those allegations, the 4th respondent Administrative Officer issued Annexure R10(c) notice dated 23.03.2022 to which the Keezh Santhies of the temple submitted Ext.R10(d) explanation dated 05.04.2022, wherein they have categorically stated that they are bound to strictly comply with the directions contained in the order of this Court dated 21.03.2022. As stated in Ext.R10(d) explanation, the Keezh Santhies have absolutely no connection with Vazhipadu items offered by devotees, which are being handled by Thrikkovil Pravarthikkar, which is a karanma right given to Moozath family, and the members of that family are doing the same. The 4th respondent Administrative Officer has pointed out paragraph 10 of the order of this Court dated 21.03.2022 and informed the Santhies that they will not be able to make alternative arrangements, in their absence, by engaging another member of their family. It is pointed out in the affidavit that such an alternative arrangement is provided in Chapter-XIX of Travancore Devaswom Manual Volume-I, whereby the Santhies are entitled to such arrangements when they are not able to enter the temple premises because of Asoolams and other

reasons. Therefore, the order of this Court dated 21.03.2022 requires clarification by permitting the Santhies of Sree Mahadeva Temple, Vaikom to make alternative arrangements as permitted in Chapter-XIX of Travancore Devaswom Manual Volume-I.

17. Heard the arguments of the learned Senior Government Pleader for respondents 1 and 5; the learned Standing Counsel for the Travancore Devaswom Board for respondents 2 to 4 and additional respondent No.6; the learned counsel for the additional 7th respondent Temple Advisory Committee; the learned counsel for the 8th respondent successful bidder; the additional 9th respondent who appeared in person; and also the learned counsel for additional respondents 10 and 11, at length.

18. The learned Standing Counsel for Travancore Devaswom Board submitted that, as stated in the affidavit filed by the 4th respondent Administrative Officer and that filed by the 6th respondent Assistant Devaswom Commissioner, steps have already been taken to ensure that Vazhipadu items and Koovalamala supplied to the devotees are not substandard. The

Assistant Devaswom Commissioner has already issued necessary instructions in this regard, vide Annexure R6(b) order dated 21.03.2022, and the Administrative Officer has already taken necessary steps to ensure strict compliance of the directions contained therein, by all concerned.

19. The additional 9th respondent, who appeared in person, reiterated the stand taken in the counter affidavit dated 04.04.2022, and pointed out Ext.R9(a) circular dated 22.01.2021 issued by the Devaswom Commissioner in order to ensure the quality of pooja articles sold to devotees and to initiate stern action against the holders of Kuthaka right, including cancellation of Kuthaka right, and also initiation of appropriate proceedings against the erring officers of the Travancore Devaswom Board.

20. The learned counsel for the additional 7th respondent Temple Advisory Committee submitted that, though the additional 9th respondent never approached the Committee complaining about the quality of Koovalamala sold by the additional 8th respondent, the Committee took the issue very seriously and requested the 4th respondent Administrative

Officer to ensure the quality of all pooja items and garlands stored and supplied from the pooja stall. The Committee has also suggested that CCTV surveillance should be extended to the entire temple premises. The Committee requested the Devaswom authorities to take action against the additional 8th respondent and to take necessary steps to ensure that no such incidents are repeated.

21. The learned counsel for additional respondents 10 and 11 submitted that, based on the complaint made by the additional 9th respondent, a show cause notice has been issued by the 4th respondent Administrative Officer, calling for explanations from Keezh Santhies of Sree Mahadeva Temple, Vaikom. On receipt of that show cause notice, additional respondents 10 and 11 and other Keezh Santhies have submitted their reply stating that Vazhipadu items are handled by Thrikkovil Pravarthikkaar, which is a karanma right held by Moozath family. In view of the provisions under Chapter-XIX of Travancore Devaswom Manual Volume-I, the Santhies are entitled to make alternative arrangements, when they are not able to enter the temple premises because of Asoolams and

other reasons. The learned counsel would submit that in Clause No.8 of Annexure R6(d) report dated 22.03.2022 of the Assistant Commissioner provision has been made for alternative arrangements, as permitted in Chapter-XIX of Travancore Devaswom Manual Volume-I.

22. The learned counsel for the additional 8th respondent reiterated the stand taken by the said respondent in the counter affidavit dated 22.03.2022, an additional affidavit dated 26.03.2022 and the reply affidavit dated 02.04.2022. The learned counsel pointed out that the additional 8th respondent is the grantee of Kuthaka right for sale of Vazhipadu items in Sree Mahadeva Temple, Vaikom, for the past several years. He is procuring leaves for Koovalamala from distant places, which are being transported to the temple in gunny bags in autorickshaws. The Devaswom officials have not provided proper accommodation to preserve the leaves without getting them dried. The additional 8th respondent used to spray water on the leaves and the Koovalamala seen in the video clip is only a piece of the garland made by him. There is no practice of reuse of Vazhipadu items. The additional 8th respondent has already

sustained loss on account of reduction in the flow of devotees. The baseless allegations made by the additional 9th respondent, at the fag end of the period of auction, are only to see that the additional 8th respondent is not permitted to participate in the auction for the year 2022-23. The 4th respondent Administrative Officer and also the additional 6th respondent Assistant Devaswom Commissioner blindly acted upon the complaint made by the additional 9th respondent and terminated the Kuthaka right of the additional 8th respondent without proper notice, which is arbitrary and illegal. Though auction was conducted on 23.03.2022 and 30.03.2022 for grant of Kuthaka right for the year 2022-23, there were no takers. On account of the termination of Kuthaka right, the additional 8th respondent is entitled to seek compensation for the loss suffered by him.

23. Travancore-Cochin Hindu Religious Institutions Act, 1950 enacted by the State Legislature makes provision for the administration, supervision and control of incorporated and unincorporated Devaswoms and of other Hindu Religious Endowments and Funds. As per Section 15A of the Act, which deals with duties of the Board, it shall be the duty of the Board

to perform the functions enumerated in clauses (i) to (iv) of Section 15A, which includes duty to see that regular traditional rites and ceremonies according to the practice prevalent in the religious institutions are performed promptly; to monitor whether the administrative officials and employees and also the employees connected with religious rites are functioning properly; and to establish and maintain proper facilities in the temples for the devotees. As per Section 31 of the Act, which deals with management of Devaswoms, subject to the provisions of Part-I of the Act and the rules made thereunder, the Board shall manage the properties and affairs of the Devaswoms, both incorporated and unincorporated as heretofore and arrange for the conduct of the daily worship and ceremonies and of festivals in every temple according to its usage.

24. The provisions under the Travancore-Cochin Hindu Religious Institutions Act make it explicitly clear that the role assigned to the Travancore Devaswom Board in the administration, supervision and control of incorporated and unincorporated Devaswoms is that of a trustee in the

management of the properties vested in the Deity, which is bound to administer, supervise and control incorporated and unincorporated Devaswoms in accordance with the provisions under the said Act. The Board and its officials are duty bound to function within the framework of the statute, by scrupulously following the stipulations contained therein and acting strictly in accordance with the settled legal principles relating to the administration of Hindu religious trust. The Board, being a trustee in the management of Devaswom properties, is legally bound to perform its duties with utmost care and caution.

25. In **M.V. Ramasubbiar v. Manicka Narasimachara [(1979) 2 SCC 65]**, in the context of Sections 49, 51 and 52 of the Trusts Act, 1882, the Apex Court explained the nature of the fiduciary position of the trustee and his duties and obligations. It is the duty of the trustees of the property to be faithful to the Trust and execute any document with reasonable diligence in the manner of an ordinary prudent man of business would conduct his own affairs. A trustee could not therefore occasion any loss to the Trust and it is his duty to sell the property, if at all that was necessary, to best advantage. Paragraph 4 of that

decision reads thus;

"4. There is some controversy on the question whether Defendant 1 made an outright purchase of the suit property for and on behalf of the trust for Rs.21,500 on April 19, 1959, or whether he intended to purchase it for himself and then decided to pass it on to the trust, for defendants have led their evidence to show that the property was allowed to be sold for Rs. 21,500, which was less than its market value, as it was meant for use by the trust and that Defendant 1 was not acting honestly when he palmed off the property to his son soon after by the aforesaid sale deed Ext.B13 dated July 14, 1960. The fact, however, remains that Defendant 1 was the trustee of the property, and it was his duty to be faithful to the trust and to execute it with reasonable diligence in the manner an ordinary prudent man of business would conduct his own affairs. He could not therefore occasion any loss to the trust and it was his duty to sell the property, if at all that was necessary, to best advantage. It has in fact been well recognised as an inflexible rule that a person in a fiduciary position like a trustee is not entitled to make a profit for himself or a member of his family. It can also not be gainsaid that he is not allowed to put himself in any such position in which a conflict may arise between his duty and personal interest, and so the control of the trustee's discretionary power prescribed by Section 49 of the Act and the prohibition contained in Section 51 that the trustee may not use or deal with the trust property for

his own profit or for any other purpose unconnected with the trust, and the equally important prohibition in Section 52 that the trustee may not, directly or indirectly, buy the trust property on his own account or as an agent for a third person, cast a heavy responsibility upon him in the matter of discharge of his duties as the trustee. It does not require much argument to proceed to the inevitable further conclusion that the Rule prescribed by the aforesaid sections of the Act cannot be evaded by making a sale in the name of the trustee's partner or son, for that would, in fact and substance, indirectly benefit the trustee. Where therefore a trustee makes the sale of a property belonging to the trust, without any compelling reason, in favour of his son, without obtaining the permission of the court concerned, it is the duty of the court, in which the sale is challenged, to examine whether the trustee has acted reasonably and in good faith or whether he has committed a breach of the trust by benefitting himself from the transaction in an indirect manner. The sale in question has therefore to be viewed with suspicion and the High Court committed an error of law in ignoring this important aspect of the law although it had a direct bearing on the controversy before it."

(underline supplied)

26. Section 31A of the Travancore-Cochin Hindu Religious Institutions Act deals with the formation of the Temple Advisory Committees. In **Chandu K. and others v. Travancore**

Devaswom Board and others [2021 (3) KHC 379] a Division Bench of this Court held that, with the insertion of Section 31A to the Travancore-Cochin Hindu Religious Institutions Act, the formation of Temple Advisory Committees in temples has become statutory.

27. The additional 7th respondent Temple Advisory Committee of Vaikom Sree Mahadeva Temple, constituted under Section 31A of the Act, consisting of 'persons interested' in the said temple, as defined under clause (d) of Section 2 of the Act, is duty bound to function within the framework of the statute by scrupulously following the stipulations contained therein and acting strictly in accordance with the settled legal principles relating to the administration of Hindu religious trust. The Committee is legally bound to perform its duties with utmost care and caution.

28. The additional 7th respondent Temple Advisory Committee is duty bound to render necessary assistance to the Travancore Devaswom Board to perform its functions enumerated in clauses (i) to (iv) of Section 15A, in relation to Vaikom Sree Mahadeva Temple, which includes duty to see that

regular traditional rites and ceremonies according to the practice prevalent in the temple are performed promptly; to monitor whether the administrative officials and employees and also the employees connected with religious rites are functioning properly; and to establish and maintain proper facilities in the temple for the devotees. The Committee is also required to maintain a constant vigil over the sale of Vazhipadu/pooja items in Vaikom Sree Mahadeva Temple, in order to ensure that no substandard Vazhipadu/pooja items are sold by the Kuthaka holder to the devotees, from the pooja stall situated within the temple premises.

29. Koovalam (Bael Tree) is considered to be very auspicious and sacred, as the offering of Koovala leaves (Bael leaves) is a compulsory ritual while worshipping Lord Shiva. Its trifoliate leaf is believed to symbolise the three functions of the Lord - creation, preservation and destruction. Trifoliate shape of Bael leaves signifies the third eye of Lord Shiva.

30. A CD containing the news item that appeared in Manorama News Online regarding the irregularities in the sale of Vazhipadu items in Vaikom Sree Mahadeva Temple especially,

the sale of Koovalamala, is annexed to this DBP, a copy of which has already been served on the parties to this proceedings. As evident from the video clipping and also the screenshots, the Koovalamalass sold to the devotees by the additional 8th respondent Kuthaka holder, from the pooja stall situated within the temple premises, were having dry leaves. Two screenshots of the video clippings are reproduced hereunder;



31. As evident from the video clipping, the Koovalamalas kept for sale in the pooja stall of the additional 8th respondent Kuthaka holder were wrapped with fresh plantain leaves and as such, the devotees purchasing the Koovalamalas were not able to know the condition of the Koovala leaves used in such garlands. In paragraph 2 of the counter affidavit dated 22.03.2022 of the additional 8th respondent Kuthaka holder, it is stated that, the Koovalamala seen in the video taken by the additional 9th respondent is only a piece of the Koovalamala made by him. In paragraph 1 of the reply affidavit dated 02.04.2022, the Kuthaka holder has stated that the reason for the Koovalamalas becoming stale and dry is very well known to the 4th respondent Administrative Officer. The Koovalamala purchased by the additional 9th respondent, which is seen in the video clipping and also in the first screenshot, is having stale Koovala leaves.

32. In paragraph 2 of the additional affidavit filed by the 8th respondent Kuthaka holder dated 26.03.2022, it is stated that, in addition to Koovalamala he is selling oil, ghee, camphor bathi, agarbathi, plantain, etc. For Koovalamala having a length

of 1½ feet (thirumudimala) he is collecting Rs.50/-. For Koovalamala having a length of 3½ feet (charthumala) he is collecting Rs.100/-. For Koovalamala having a length of 12 feet (sheromala) he is collecting Rs.200/-. For oil, ghee, camphor bathi, agarbathi, etc. he is collecting amounts at the rate stated in paragraph 2 of the additional affidavit, which have already been extracted hereinbefore at paragraph 12.

33. The Koovalamalas purchased by the devotees of Vaikom Sree Mahadeva Temple, spending Rs.50/- (thirumudimala) or Rs.100/- (charthumala) or Rs.200/- (sheromala), are meant for adorning Lord Mahadeva (Lord Shiva), which is considered to be a very auspicious and sacred ritual while worshipping Lord Shiva. A ritual or pooja in the temple has to be performed by using pure Vazhipadu/pooja items. A Koovalamala made of stale or dry or decayed Koovala leaves cannot be used for adorning the Deity. A Kuthaka holder selling Koovalamala made of stale or dry or decayed Koovala leaves or selling substandard Vazhipadu/pooja items to the devotees should be dealt with iron hands by the competent authority in the Travancore Devaswom Board. The Temple

Advisory Committee constituted under Section 31A of the Travancore-Cochin Hindu Religious Institutions Act should keep constant vigil over the sale of Vazhipadu/pooja items in the pooja stall situated within the temple premises, in order to ensure that the Kuthaka holder is not selling any substandard Vazhipadu/pooja items to the devotees.

34. The additional 8th respondent Kuthaka holder has admitted in paragraph 2 of the counter affidavit dated 22.03.2022 the Koovalamala seen in the video taken by the additional 9th respondent is a piece of the Koovalamala made by him. The said fact is admitted in Ext.R4(c) reply dated 19.03.2022 of the Kuthaka holder to Ext.R4(b) show cause notice dated 17.03.2022 of the 4th respondent Administrative Officer. As evident from the video clipping and the screenshots, the Koovalamalas sold to the devotees by the Kuthaka holder were made of stale or dry Koovala leaves. For stale or dry Koovala leaves seen in the Koovalamalas, the explanation offered by the Kuthaka holder is that, due to hot and sunny weather the Koovalamala became stale in spite of sprinkling water on it. The Devaswom officials have not provided him a

proper place to preserve the leaves in a cool atmosphere without the leaves getting dried. Since Koovalamalas purchased by the devotees of Vaikom Sree Mahadeva Temple are meant for adorning Lord Mahadeva (Lord Shiva), which is considered to be a very auspicious and sacred ritual while worshipping Lord Shiva, none of the reasons stated in the affidavits filed by the 8th respondent or the explanations offered to the show cause notice would be a justification for selling garlands with dry or stale Koovala leaves to the devotees. Such a person deserves no leniency, who should be proceeded against, in accordance with the relevant provisions.

35. In the affidavit filed by the 4th respondent Administrative Officer it is stated that, vide order dated 23.03.2022, the Devaswom Commissioner ordered termination of the Kuthaka right of the additional 8th respondent and the Administrative Officer was directed to make arrangements to provide garlands to the devotees directly by the Department. Accordingly, from 24.03.2022 the above system is followed in the temple and the additional 8th respondent is not permitted to take part in the auction for the year 2022-23.

36. The Kuthaka right granted to the 8th respondent for the year 2021-22 was till 31.03.2022. The date on which the additional 8th respondent was prevented from selling garlands and Vazhipadu items in the stall in Sree Mahadeva Temple, Vaikom, based on the order dated 23.03.2022 of the Devaswom Commissioner, is not disclosed in any of the affidavits filed by the said respondent. In the counter affidavit filed by the additional 9th respondent, it is alleged that, the additional 8th respondent was permitted to conduct sale till 28.03.2022 and therefore, the statement made in the affidavit filed by the 4th respondent Administrative Officer that, with effect from 24.03.2022, garlands were provided to the devotees directly by the Department is absolutely incorrect.

37. It is stated in paragraph 9 of the affidavit dated 29.03.2022 filed by the 4th respondent Administrative Officer that, though strict instructions were given to the additional 8th respondent Kuthaka holder to conduct the sale in accordance with the tender conditions, he used to violate it, whenever he gets a chance to trick the Devaswom staff. No complaints were received from the Santhikkars regarding the quality of the

garlands received as offerings, which are sold from the stall conducted by the additional 8th respondent.

38. In the counter affidavit filed by the additional 9th respondent it is alleged that the offerings made by the devotees like Koovalamala are not taken to Sanctum Sanctorum. They are kept aside and even resold through the counter. Moreover, the quality of the oil sold through the counter is also very low, which is also not being taken to Sanctum Sanctorum.

39. It is stated in the affidavit filed by the 4th respondent Administrative Officer that, strict instructions are given to adorn the Deity all the garlands offered by the devotees. During heavy rush, the garlands offered should be taken inside the Sreekovil, in a vessel, which should be adorned on the Deity as per necessity. When excess quantity of pooja items is received, it shall be stored properly and securely and used according to the requirement. Strict instructions have been given to see that only permanent employees are deployed for duty inside the Nalambalam. Sopanam Duty Guard and Watcher are instructed to ensure strict compliance with the aforesaid directions. It is stated in the affidavit filed by additional 10th and 11th

respondents, in support of I.A.Nos.4 and 5 of 2022, that Vazhipadu articles offered by the devotees are handled by Thrikkovil Pravarthikkaars, which is a karanma right given to Moozath Family, and the members of that family are doing the same.

40. Other than Koovalamala, the offerings by the devotees are oil, ghee, camphor bathi, agarbathi and plantain. The Vazhipadu/pooja items offered by the devotees, which are placed in front of Sreekovil, have to be properly accounted, stored and used according to the requirement. The 4th respondent Administrative Officer shall maintain a proper account of surplus Vazhipadu/pooja items like oil, ghee, camphor bathi, agarbathi, which should be used for various rituals, as per the customary practice, to the extent possible.

41. In **Rajani P. Kuttan and another v. State of Kerala and others [2021 (6) KHC 513]** a Division Bench of this Court noticed that among the 1250 Temples managed by the Travancore Devaswom Board, only 60 major Temples are self-sufficient and the rest are being managed utilising the surplus income from Sabarimala Devaswom. The total number

of sanctioned posts in various categories in the Travancore Devaswom Board is 5692 and the total number of pensioners is 5749. The major source of revenue of the Travancore Devaswom Board is the income received by way of offering by the devotees, the amount received from Vazhipadu and the revenue generated through the auction of temple premises for various activities in connection with rituals and festivals in the Temples. Paragraph 59 of the said decision reads thus;

"59. The Financial position of the Devaswom Board:- The competent officer of the Devaswom Board filed an affidavit dated 14.06.2021 stating its financial position. It is submitted that there are 1250 temples under the Administrative Control of the Devaswom Board. The total number of sanctioned posts in various categories in the Devaswom Board is 5692, and the total number of pensioners is 5749. It is further submitted that the major sources of revenue of the Devaswom Board are the income received by way of offerings from devotees, the amount received from Vazhipadu, and the revenue generated through the auction of the temple premises for various activities in connection with rituals and festivals in the temples. Besides this, the Devaswom Board gets an approximate sum of 14 crores per annum by way of the rent of the buildings owned by it. The annual contribution from the State Government under Article 290A of the Constitution of India is Rs.80 lakhs. It is further submitted

that among the 1250 temples managed by the Devaswom Board, only 60 major temples are self-sufficient, and the rest are being managed utilising the surplus income from Sabarimala Devaswom. Now, due to the spread of the Covid-19 pandemic, the temples remain closed, and the major source of income has come down. The Devaswom Board is finding it difficult even to pay the salary of the existing employees. The pleadings regarding the financial position of the Devaswom Board in the affidavit dated 14.06.2021 have not been controverted by the petitioners.” (underline supplied)

42. Any surplus quantity of oil, ghee, camphor bathi, agarbathi, etc. offered by the devotees in Vaikom Sree Mahadeva Temple, in excess of the requirements, can be auctioned at regular intervals or it can even be used for lighting Chuttuvilakku and also for performing daily rituals, as per the customary practice, in other temples under the Travancore Devaswom Board which are not self-sufficient, with limited revenue generated by way of offerings from the devotees, auctioning of Kuthaka rights, etc. The 1st respondent Travancore Devaswom Board shall take a decision in this regard, as expeditiously as possible, at any rate, within two months from the date of receipt of a certified copy of this order. The decision so taken shall be made applicable in the case of other temples

under the management of the Travancore Devaswom Board.

43. It is stated in paragraph 8 of the affidavit filed by the 4th respondent that, there is no CCTV camera inside the Nalambalam of Vaikom Sree Mahadeva Temple or near the pooja stall of the Kuthaka holder. The request for providing CCTV cameras was made before the Maramath Wing earlier. Now, after the incident on 17.03.2022, another request has also been made. The 3rd respondent Deputy Devaswom Commissioner and the additional 6th respondent Assistant Devaswom Commissioner shall take necessary action for the installation of a proper CCTV camera surveillance system in Vaikom Sree Mahadeva Temple. A decision in this regard shall be taken, as expeditiously as possible, at any rate, within two months from the date of receipt of a certified copy of this order.

44. The additional 6th respondent Assistant Devaswom Commissioner has issued Annexure R6(b) order dated 21.03.2022, whereby the 4th respondent Administrative Officer is directed to take various measures in the matter of sale and use of Vazhipadu/pooja items in Vaikom Sree Mahadeva Temple and also deployment of Devaswom employees in the

Nalambalam. On receipt of Annexure R6(b) order, the 4th respondent submitted Annexure R6(c) report stating that the directions contained in Annexure R6(b) order have already been brought into effect. The additional 6th respondent submitted Annexure R6(d) report before the Devaswom Commissioner, a copy of which was also forwarded to the Secretary of the Travancore Devaswom Board along with Annexure R6(e) letter dated 22.03.2022. Clause No.8 of Annexure R6(d) report, which is extracted hereinbefore at paragraph 7, deals with alternative arrangements when the Melsanthi or Keezh Santhies are not able to enter the temple premises on account of any restrictions as per the customary practices. The 4th respondent Administrative Officer shall ensure strict compliance of the aforesaid directions by all concerned.

45. Regarding the incident that occurred on 17.03.2022, the explanation of the additional 8th respondent Kuthaka holder was called for vide Ext.R4(b) show cause notice dated 17.03.2022 issued by the 4th respondent Administrative Officer. The 4th respondent reported the matter to the 6th respondent Assistant Devaswom Commissioner. The 6th respondent reported

the matter to the 1st respondent Board and also to the Devaswom Commissioner, as evidenced by Annexure R6(d) and Annexure R6(e).

46. As already noticed hereinbefore, the provisions under the Travancore-Cochin Hindu Religious Institutions Act make it explicitly clear that the role assigned to the Travancore Devaswom Board in the administration, supervision and control of incorporated and unincorporated Devaswoms is that of a trustee in the management of the properties vested in the Deity. The Board and its officials are duty bound to function within the framework of the statute, by scrupulously following the stipulations contained therein and acting strictly in accordance with the settled legal principles relating to the administration of Hindu religious trust. The Board, being a trustee in the management of Devaswom properties, is legally bound to perform its duties with utmost care and caution. The Vazhipadu/pooja items offered by the devotees, which are placed in front of Sreekovil, have to be properly accounted, stored and used according to the requirement. The Administrative Officer of the temple shall maintain a proper account of surplus

Vazhipadu/pooja items like oil, ghee, camphor bathi, agarbathi, which should be used for various rituals, as per the customary practice, to the extent possible.

47. The Temple Advisory Committee, constituted under Section 31A of the Act, consisting of 'persons interested' in the said temple, as defined under clause (d) of Section 2 of the Act, is duty bound to function within the framework of the statute, which is bound to render necessary assistance to the Travancore Devaswom Board to perform its functions enumerated in clauses (i) to (iv) of Section 15A, in relation to the temple. A ritual or pooja in the temple has to be performed by using pure Vazhipadu/pooja items. The Temple Advisory Committee constituted under Section 31A of the Travancore-Cochin Hindu Religious Institutions Act should keep constant vigil over the sale of Vazhipadu/pooja items in the pooja stall situated within the temple premises, in order to ensure that the Kuthaka holder is not selling any substandard Vazhipadu/pooja items to the devotees. A Kuthaka holder selling garlands made of stale or dry or decayed leaves or flowers or substandard Vazhipadu/pooja items to the devotees should be dealt with iron hands by the

competent authority in the Travancore Devaswom Board. Such a person deserves no leniency, who should be proceeded against in accordance with the relevant provisions.

48. The Devaswom Commissioner, in Ext.R9(a) circular dated 22.01.2021, reiterated the guidelines in the Board order dated 01.02.2020, to ensure the quality of oil and pooja items sold to devotees in the temples under the management of Travancore Devaswom Board. As per Ext.R9(a) circular, in case of any violation of the said guidelines, stringent action has to be taken against the Kuthaka holder, including cancellation of Kuthaka right, and disciplinary action has to be taken against the erring officers of the Devaswom Board.

49. The Devaswom Commissioner or the competent authority in the 1st respondent Travancore Devaswom Board shall consider the explanation offered by the additional 8th respondent Kuthaka holder and that offered by Keezh Santhies of Vaikom Sree Mahadeva Temple and take an appropriate decision on the action that has to be taken against the additional 8th respondent Kuthaka holder and any erring employees or officers of the Travancore Devaswom Board,

taking note of the relevant statutory provisions, the tender conditions, the guidelines referred to in Ext.R9(a) circular and also the observations contained hereinbefore.

50. Before taking such a decision, the Devaswom Commissioner or the competent authority in the 1st respondent Travancore Devaswom Board shall afford the additional 8th respondent Kuthaka holder, additional respondents 10 and 11 and other Keezh Santhies, the additional 7th respondent Temple Advisory Committee, the additional 9th respondent complainant and any other affected parties a reasonable opportunity of being heard. A decision in this regard shall be taken, strictly in accordance with law, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a certified copy of this order.

51. It is stated in the affidavit dated 29.03.2022 filed by the 4th respondent Administrative Officer that, as directed by the Devaswom Commissioner in the order dated 23.03.2022, necessary arrangements have been made for sale of garlands in Vaikom Sree Mahadeva Temple, directly by the Department. The said arrangement shall continue, in case Kuthaka right for the

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year 2022-23 has not already been auctioned, till it is auctioned in accordance with the tender conditions.

This DBP is disposed of with the above directions.

sd/-

ANIL K. NARENDRAN, JUDGE

sd/-

P.G. AJITHKUMAR, JUDGE

AV

APPENDIX

RESPONDENTS' EXHIBITS:

ANNEXURE-R4(a): TRUE COPY OF THE COMPLAINT RECEIVED FROM SRI.K.M.MANU DATED 17.03.2022.

ANNEXURE-R4(b): TRUE COPY OF THE SHOW CAUSE NOTICE NO.688 DATED 17.03.2022 ISSUED TO THE ADDL. 8TH RESPONDENT.

ANNEXURE-R4(c): TRUE COPY OF THE REPLY DATED 19.03.2022 RECEIVED FROM THE ADDL.8TH RESPONDENT.

ANNEXURE-R6(A): TRUE COPY OF THE REPORT NO.956 DATED 18.3.2022 FORWARDED TO THE DEVASWOM COMMISSIONER BY THE ADDL. 6TH RESPONDENT

ANNEXURE-R6(B): TRUE COPY OF THE ORDER NO.988 DATED 21.03.2022 ISSUED TO THE TO ADMINISTRATIVE OFFICER.

ANNEXURE-R6(C): TRUE COPY OF THE COMMUNICATION NO: 695 DATED 22.03.2022 RECEIVED FROM THE ADMINISTRATIVE OFFICER IN THIS REGARD.

ANNEXURE-R6(D): TRUE COPY OF THE REPORT NO.992 DATED 22.3.2022

ANNEXURE-R6(E): TRUE COPY OF THE REPORT NO. 999 DATED 22.3.2022.

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- ANNEXURE-R6(F): TRUE COPY OF THE ORDER, ROC 5611/22/N52
DATED 22.3.2022 ISSUED FROM DEVASWOM
COMMISSIONER'S OFFICE.
- EXHIBIT R9(a): TRUE COPY OF THE CIRCULAR WITH NO.ROC
4643/20/PR DATED 22.01.2021.
- ANNEXURE.R-10(A): TRUE COPY OF THE APPOINTMENT ORDER OF THE
1ST PETITIONER DATED 01.07.2014
- ANNEXURE.R-10(B): TRUE COPY OF THE APPOINTMENT ORDER OF THE
2ND PETITIONER DATED 04.02.2020
- ANNEXURE.R-10(C): TRUE COPY OF THE NOTICE ISSUED BY THE 4TH
RESPONDENT DATED 23.03.2022.
- ANNEXURE.R-10(D): TRUE COPY OF THE REPLY GIVEN BY THE
ADDL.RESPONDENTS TO THE 4" RESPONDENT
DATED 05.04.2022