



2024/KER/1097

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE G. GIRISH

MONDAY, THE 8<sup>TH</sup> DAY OF JANUARY 2024 / 18TH POU SHA, 1945

SSCR NO.2 OF 2024

(TRAVANCORE DEVASWOM BOARD- SM REPORT 2/24 REGARDING THE PRESENCE OF UNAUTHORIZED HAWKERS/SELLERS OF ARTICLES INCLUDING PLASTIC TOYS AND SALE OF PLASTIC ARTICLES AND PET WATER BOTTLES AT NILAKKAL.)

PETITIONER:

SUO MOTU

RESPONDENTS:

- 1 STATE OF KERALA  
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,  
REVENUE (DEVASWOM) DEPARTMENT, GOVERNMENT  
SECRETARIAT, THIRUVANANTHAPURAM-69 5001.
- 2 THE DISTRICT COLLECTOR, COLLECTORATE,  
PATHANAMTHITTA, KERALA-689 645.
- 3 THE DISTRICT POLICE CHIEF, PATHANAMTHITTA-689 645.
- 4 DEPUTY DIRECTOR PERIYAR WEST DIVISION, PEERUMEDU,  
IDUKKI-685 531.
- 5 PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WILDLIFE) &  
CHIEF WILDLIFE WARDEN, FOREST HEAD QUARTERS,  
VAZHUTHACAUD, THIRUVANANTHAPURAM-695 014.
- 6 THE TRAVANCORE DEVASWOM BOARD,  
REPRESENTED BY ITS SECRETARY, NANTHANCODE,  
KAWDIAR POST, THIRUVANANTHAPURAM-695 003.
- 7 DEVASWOM COMMISSIONER,  
TRAVANCORE DEVASWOM BOARD, NANTHANCODE,  
KAWDIAR POST, THIRUVANANTHAPURAM-695 003.



- 8 CHIEF VIGILANCE OFFICER,  
TRAVANCORE DEVASWOM BOARD, NANTHANCODE,  
KAWDIAR POST, THIRUVANANTHAPURAM-695 003.
- 9 THE EXECUTIVE OFFICER, SABARIMALA,  
SABARIMALA.P.O., PATHANAMTHITTA-689 662.
- 10 RANNI PERUNAD GRAMA PANCHAYAT,  
REPRESENTED BY ITS SECRETARY, RANNY PERUNAD,  
PERUNAD, PATHANAMTHITTA, PIN-689 711.

BY ADV

SRI S. RAJMOHAN - SENIOR GOVERNMENT PLEADER ;  
SRI G. BIJU - STANDING COUNSEL -TRAVANCORE  
DEVASWOM BOARD ;  
SRI N. RAGHURAJ - AMICUS CURIAE FOR SPLECIAL  
COMMISSIONER , SABARIMALA ;  
SRI D. KISHORE - STANDING COUNSEL FOR R10

THIS SABARIMALA SPECIAL COMMISSIONER REPORT HAVING  
COME UP FOR ADMISSION ON 08.01.2024, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING:



## **JUDGMENT**

### **Anil K. Narendran, J.**

The Special Commissioner, Sabarimala has filed this report regarding the presence of unauthorized hawkers/sellers of articles including plastic toys, plastic articles and drinking water in PET bottles at Nilakkal. In the report, the Special Commissioner, Sabarimala has pointed out the orders of this Court dated 09.12.2015 in DBP No.136 of 2012 and order dated 13.11.2019 in SSCR No.9 of 2018.

2. By order dated 09.12.2015 in DBP No.136 of 2012, this Court ordered that there shall be a complete ban of plastic bottles including PET bottles, packed drinking water bottles in Sannidhanam, Pamba, Chalakkayam, Nilakkal and Erumeli, from 01.02.2016, unless otherwise ordered by this Court. That order was followed by the order dated 23.07.2018 in SSCR No.9 of 2018, whereby this Court ordered complete ban of plastic, in whatever manner and whatever form, be that bottles, sachets, wraps, covers, drinking straw or any other, including for carrying pooja articles in the 'Irumudikkettu'. This Court directed the concerned authorities to ensure that plastic, in whichever form it be, do not find itself in and around Sabarimala at all.

3. By the order dated 04.11.2016 in SSCR No.13 of



2016, this Court directed the Kerala Water Authority and the Travancore Devaswom Board to provide purified and potable water to pilgrims free of cost. Accordingly, the Kerala Water Authority has installed RO water dispensers at Sannidhanam, Pamba and Nilakkal and also in the trekking paths, to provide purified drinking water to the pilgrims. Travancore Devaswom Board also provides RO water at Sannidhanam and medicated boiled water at Sannidhanam, Pamba, Nilakkal and also in the trekking paths. The Food Safety Standards Authority routinely collects the samples of potable drinking water and conducts tests to ascertain its purity. By the order dated 05.08.2015 in SSCR No.2 of 2015, this Court prohibited the sale of toys, plastic utensils and other materials unconnected with Sabarimala pilgrimage. The squads under the Duty Magistrates are being posted at Sannidhanam, Pamba and Nilakkal and it is their duty to enforce the orders of this Court in SSCR No.2 of 2015.

4. In this SSCR, the Special Commissioner, Sabarimala has stated that, during the current pilgrimage season, there was unauthorised sale of articles by hawkers at Nilakkal. The Special Commissioner, Sabarimala has directed the Duty Magistrate at Nilakkal to take action and to remove unauthorised hawkers and it was complied with. However, illegal hawkers including persons



from other states are again present at Nilakkal, who are indulging in illegal sale of articles. Some of the hotels and shops at Nilakkal are also stocking and selling drinking water in PET bottles and plastic bottles. In the report it is pointed out that consequent to the orders of this Court banning plastic in Sabarimala, in the general conditions which forms part of the tender notifications issued for auctioning Kuthaka rights at Sannidhanam, Pamba and Nilakkal, clause No.43 is included which prohibits sale of plastic articles and articles unconnected with the pilgrimage. Moreover, Sabarimala, Pamba and Nilakkal are notified as Special Security Zone under Section 83 of the Kerala Police Act, 2011 and hence unauthorised activities by illegal hawkers should be prevented to maintain security and public order. In this SSCR, the Special Commissioner, Sabarimala is seeking the following reliefs;

- (i) The District Administration, Pathanamthitta, the District Police Chief, Pathanamthitta, the Additional District Magistrate, Sabarimala, the Divisional Forest Officer, Ranni, Deputy Director of Periyar Tiger Reserve (West) and the Duty Magistrates of Nilakkal, Pamba and Sannidhanam shall constitute special squads to prevent sale of plastic articles and packaged drinking water in plastic bottles.
- (ii) The District Police Chief, Pathanamthitta and the District Administration of Pathanamthitta, the Additional



District Magistrate, Sabarimala and the Duty Magistrates, Nilakkal, Pamba and Sannidhanam shall take effective steps to remove all the unauthorized hawkers from Nilakkal Travancore Devaswom Board base camp and if any found at Pamba, Sannidhanam and Nilakkal. (iii) The Executive Officer, Sabarimala and his subordinates may be directed to take steps to close down shops which violate the general condition of clause No.43 in the tender notification and sell plastic articles including drinking water contained in PET bottles and plastic bottles. (iv) The Kerala Forest Department may also be directed to take effective steps to implement the plastic ban and remove illegal hawkers from the forest areas and Wild Life Sanctuary.”

5. Heard the learned Senior Government Pleader for respondents 1 to 5 and 9, the learned Standing Counsel for Travancore Devaswom Board for respondents 6 to 8 and the learned Standing Counsel for the 10<sup>th</sup> respondent Ranni-Perunad Grama Panchayat.

6. Regarding crowd management and other matters at Sabarimala in connection with Mandala-Makaravilakku festival season of 1199 ME (2023-24), the Special Commissioner, Sabarimala has filed SSCR No.29 of 2023, in which this Court has issued various directions. Paragraphs 4 to 6 of the order of this Court dated 05.01.2024 in SSCR Nos.29 of 2023 and 36 of 2023 read thus;



"4. In the order dated 18.12.2023, this Court noticed that certain Kuthaka holders in Nilakkal Devaswom have secured licence from Ranni-Perunad Grama Panchayat, which enables them to conduct business in their respective stalls, even beyond the scope of the respective Kuthaka rights granted by the Travancore Devaswom Board. By the said order, the Secretary of Ranni-Perunad Grama Panchayat and also the Secretary of Erumeli Grama Panchayat were directed to take necessary steps to ensure that the activities undertaken by the Kuthaka holders in the respective shops are confined to their Kuthaka rights shown in the certificate issued by the Executive Officer, Sabarimala.

5. By the order dated 19.12.2023, the additional 28<sup>th</sup> respondent Deputy Controller (Flying Squad), Legal Metrology Department, Pathanamthitta and the additional 29<sup>th</sup> respondent Deputy Controller (Flying Squad), Legal Metrology Department, Kottayam were directed to deploy Inspectors at Sannidhanam and Pamba and also in the traditional trekking path. The Flying Squads at Nilakkal and Erumeli were directed to ensure that all Kuthaka holders at Sannidhanam, Pamba, on the side of the trekking path, Nilakkal and also at Erumeli are not collecting from the pilgrims price in excess of the price fixed in the notifications issued by the District Collectors at Pathanamthitta and Kottayam in the eateries at those places. It was directed that in case any such Kuthaka holder/trader is found collecting excess fee from the pilgrims from the neighbouring States, stringent action shall be taken against such Kuthaka holder/trader. Any such collection by a Kuthaka holder in Sabarimala and Erumeli, was directed to



be brought to the notice of the Executive Magistrates at Sannidhanam, Pamba, Nilakkal and Erumeli, who shall report the same forthwith to the Travancore Devaswom Board and also to the Special Commissioner, Sabarimala. It was also directed that on such reports being received, the Board shall take stringent action against such Kuthaka holder for cancellation of Kuthaka right and even for blacklisting such a person.

6. Additional respondents 28 and 29 - Deputy Controllers (Flying Squad) - and also the Secretaries of Ranni Perunad and Erumeli Grama Panchayats are directed to ensure strict compliance of the aforesaid directions contained in the orders dated 18.12.2023 and 19.12.2023, in letter and spirit, during Makaravilakku festival season. They shall also ensure that there is no sale of drinking water or soft drinks in pet bottles or plastic bottles or use of plastic carry bags by any Kuthaka holder/trader at Sabarimala and Erumeli. The Vigilance Wing of the Travancore Devaswom Board shall also conduct regular inspections at Sabarimala and at Erumeli in order to ensure strict compliance of the directions contained in the orders of this Court."

7. The learned Standing Counsel for Ranni-Perunadu Grama Panchayat has made available for the perusal of this Court, an action taken report of the Secretary of that Grama Panchayat in SSCR No.29 of 2023. In that report, regarding the issues covered by this SSCR, it is stated as follows:

“ബഹു.കേരള ഹൈക്കോടതി സ്വമേധയ എടുത്തിട്ടുള്ള SSCR-2-2024 നം. കേസിൽ തുടർനടപടി സ്വീകരിക്കുന്നതിന്റെ ഭാഗമായി കുപ്പിവെള്ളം, പ്ലാസ്റ്റിക് ബോട്ടിലിലുള്ള പാനീയങ്ങൾ എന്നിവ നിലയ്ക്കൽ, പമ്പ, സന്നിധാനം





എന്നിവിടങ്ങളിൽ കർശനമായി നിരോധിക്കുന്നതിന് പ്രത്യേക സ്കാഡിനെ നിയോഗിച്ചു. മകര വിളക്ക് ഉൽസവം കഴിയുന്ന വരെ സ്ഥിരമായി ജീവനക്കാരെ ഈ ആവശ്യത്തിലേക്ക് നിയമിക്കുന്നതിന് ജില്ലാ തലത്തിൽ വകുപ്പ് നടപടി സ്വീകരിച്ചിട്ടുണ്ട്. നിലയ്ക്ക് ത് ഡ്യൂട്ടി മജിസ്ട്രേറ്റ് പിടിച്ചെടുത്ത ഒരു ലോഡ് കുപ്പിവെള്ളം ഫൈൻ ഈടാക്കി തുടർ നടപടി 'കൈക്കൊള്ളുന്നതിനായി ജീവനക്കാർ 06/01/2024 രാവിലെ ക്യാമ്പിലേക്ക് പുറപ്പെടുന്നതാണ്."

8. The learned Standing Counsel would point out that on 06.01.2024, the Secretary of Ranni-Perunadu Grama Panchayat has seized 256 cases of drinking water in PET bottles brought in a goods carriage and imposed a fine of Rs.10,000/-.

9. The Special Commissioner, Sabarimala has filed a supplementary report dated 05.01.2024, wherein it is stated that due to the presence of the unauthorised hawkers, whose identities are not verified, who remain inside the Nilakkal Base Camp, which is a Special Security Zone, serious security lapses may occur. Recently an unauthorised vendor attacked another unauthorised vendor and stabbed him in his neck with a sharp stick and attempted to murder him due to rivalry in connection with the pricing of their articles. Nilakkal Police has registered Crime No.22/2023, for the offence punishable under Sections 294 B, 506(i), 506(ii), 324 and 307 of the Indian Penal Code, 1860.

10. The learned Senior Government Pleader would submit



that the Inspectors deployed by the Deputy Controller (Flying Squad), Legal Metrology Department, Pathanamthitta and also the Duty Magistrates are conducting regular inspections at Sannidhanam, Pamba and Nilakkal, in terms of the directions issued by this Court in the orders in SSCR No.29 of 2023.

Having considered the reports of the Special Commissioner, Sabarimala and also the submissions made at the Bar, we deem it appropriate to direct the 2<sup>nd</sup> respondent District Collector, Pathanamthitta, the 3<sup>rd</sup> respondent District Police Chief, Pathanamthitta, the 4<sup>th</sup> respondent Deputy Director, Periyar West Division, the 9<sup>th</sup> respondent Executive Officer, Sabarimala and the Secretary of the 10<sup>th</sup> respondent Ranni-Perunad Grama Panchayat to prevent the sale of plastic bottles, packed drinking water in plastic/PET bottles and also the sale of plastic utensils and toys in Sannidhanam, Pamba and Nilakkal and also in the trekking path, by any Kuthaka holder or unauthorised hawkers, through the Duty Magistrates, Inspectors of the Legal Metrology Department, the enforcement squad of Ranni-Perunad Grama Panchayat and also the Vigilance Wing of the Travancore Devaswom Board. The Board shall take stern action against the Kuthaka holders who are selling packed drinking water in plastic/PET bottles and other plastic articles at Sannidhanam,



Pamba and Nilakkal, in violation of clause No.43 of the general conditions which forms part of the tender notifications issued for auctioning the Kuthaka rights. The Board shall close down the shops of the Kuthaka holders who have violated clause No.43 of the general conditions. Police, District Administration and Grama Panchayat shall take immediate steps to remove all unauthorised hawkers from Nilakkal, Pamba and Sannidhanam.

Sd/-

**ANIL K. NARENDRAN, JUDGE**

Sd/-

**G. GIRISH, JUDGE**

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