

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN
&
THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR
Friday, the 14th day of July 2023 / 23rd Ashadha, 1945
DBP NO. 35 OF 2023**

IN THE MATTER OF COCHIN DEVASWOM BOARD - REPORT NO.13 OF 2023 IN COMPLAINT NO.136-A OF 2022 - ALLEGATIONS AGAINST THE MANNER IN WHICH WADAKKUMNATHAN TEMPLE COMPOUND IS MAINTAINED - SUO MOTU PROCEEDINGS INITIATED - REG

COMPLAINANT:

**NARAYANANKUTTY K.,
28/575/3, PALIYAM ROAD, THRISSUR-680 001.**

**BY M/S.RAAJESH S.SUBRAHMANIAN and V.R.RAJESH, Advocate for
the complainant**

RESPONDENTS:

- 1. THE SPECIAL DEVASWOM COMMISSIONER,
COCHIN DEVASWOM BOARD, ROUND NORTH, THRISSUR-680 001.**
- 2. THE SECRETARY (CORRECTED)
COCHIN DEVASWOM BOARD, ROUND NORTH,
THRISSUR, PIN-680 001.**

***CORRECTED AS:**

**COCHIN DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY, ROUND NORTH, THRISSUR,
PIN – 680 001.**

***IS SUO MOTU CORRECTED AS PER ORDER DATED 02/06/2023 IN
DBP.NO.35/2023.**

***ADDITIONAL RESPONDENTS 3 TO 8 IMPLEADED:**

- 3. STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT,
REVENUE (DEVASWOM) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.**

4. COMMISSIONER OF POLICE, THRISSUR CITY,
PATTALAM ROAD, SAKTHAN THAMPURAM NAGAR, VELIYANNUR,
THRISSUR DISTRICT-680 001.
5. CIRCLE INSPECTOR OF POLICE,
TOWN EAST POLICE STATION, THRISSUR-680 005.
6. ASSISTANT DEVASWOM COMMISSIONER,
COCHIN DEVASWOM BOARD, THRISSUR GROUP, SWARAJ ROUND NORTH,
THRISSUR, PIN – 680 001.
7. TEMPLE ADVISORY COMMITTEE OF VADAKKUMNATHA TEMPLE,
REPRESENTED BY ITS SECRETARY, SWARAJ ROUND NORTH,
THEKKINKAD MAIDAN, THRISSUR-680 001.
8. THRISSUR MUNICIPAL CORPORATION,
REPRESENTED BY ITS SECRETARY, M.O.ROAD, THEKKINKAD MAIDAN,
THRISSUR-680 001.

*ARE SUO MOTU IMPLEADED AS ADDITIONAL RESPONDENTS 3 TO 8 IN
DBP.NO.35/2023 VIDE ORDER DATED 02/06/2023.

BY SRI.S.RAJMOHAN, SR.GOVERNMENT PLEADER FOR R3 TO R5
BY STANDING COUNSEL FOR COCHIN DEVASWOM BOARD FOR R6
BY SANTHOSH P.PODUVAL, SC, THRISSUR MUNICIPAL CORPORATION
BY SRI.P.RAMACHANDRAN, AMICUS CURIAE FOR OMBUDSMAN
BY M/S.P.B.SUBRAMANYAN, P.B.KRISHNAN, SABU GEORGE,
MANU VYASAN PETER and MEERA P., Advocates for R7

THE DEVASWOM BOARD PETITION ALONG WITH CONNECTED CASES HAVING
COME UP FOR ORDERS AGAIN 14/07/2023, UPON PERUSING THE PETITION, AND
THIS COURT'S ORDER DATED 21/06/2023, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING.

ANIL K. NARENDRAN & P.G. AJITHKUMAR, JJ.

Cont.Case (C)No.1042 of 2023
and
DBP Nos.32 & 35 of 2023

Dated this the 14th day of July, 2023

ORDER

Anil K. Narendran, J.

Cont.Case (C)No.1042 of 2023 has been filed alleging willful disobedience of the directions contained in the judgment of this Court dated 11.04.2023 in W.P.(C)No.4617 of 2022 and connected matter, i.e., W.P.(C)No.26499 of 2018. Paragraphs 46 to 51 and also the last paragraph of that judgment read thus;

“46. In **Satheesh v. Travancore Devaswom Board and others [2022 (1) KLT 940]** this Court held that, once roads are constructed as per the standards and guidelines prescribed by the Indian Roads Congress, it has to be maintained as such without any encroachment on the right of way or on the pedestrian facilities provided as per such standards and guidelines. Footpaths are not intended for stocking articles for trade or for display of goods by traders, in front of their shops or establishments. Similarly, footpaths are not intended for holding campaigns, demonstrations, etc., by political parties and other organisations, by causing obstructions to free movement of pedestrians. No political party or organisation can be permitted to encroach footpath or right of way of public roads, in connection with any such protest, demonstrations, etc., by erecting any temporary structures on the right of

Cont.Case (C)No.1042 of 2023 & DBP Nos.32 & 35 of 2023

way or on the pedestrian facilities, forcing pedestrians including those with disabilities and reduced mobility to walk in unsafe circumstances.

47. In **Satheesh [2022 (1) KLT 940]** this Court noticed that, showing scant regard to the law laid down in the decisions referred to supra, political parties and various organisations are permitted to put up structures on footpaths and even on the right of way on public roads, all over the State. The protesters/agitators having political backing are even permitted to lay carpet and place chairs on the footpath. On account of such encroachments, pedestrians including those with disabilities and reduced mobility are forced to walk through the right of way of public roads, in unsafe circumstances. The prohibition imposed by the Apex Court in the decision in **Union of India v. State of Gujarat** [SLP(Civil) No. 8519 of 2006], whereby the Government of Kerala is restrained, with effect from 18.01.2013, from granting any permission for installation of any statue or construction of any structure in public roads, pavements, sideways and other public utility places, is being flouted by permitting unauthorised hoardings, structures like resting places for headload workers, bus shelters constructed by political and other organisations, etc., on public roads, pavements, footpaths, etc. Such encroachments are even permitted in front of the Office of the Local Self Government Institutions. The law laid down by this Court in **Shali v. State of Kerala [2019 (5) KHC 118]**, **Kottamom (Kottiyar Mangalam) Sri. Darmasastha Temple Advisory Committee v. State of Kerala [2019 (5) KHC SN 27]** and **Sivaprasad v. State of Kerala [2020 (6) KHC 373]** that every Local Authority

Cont.Case (C)No.1042 of 2023 & DBP Nos.32 & 35 of 2023

in the State is bound to provide pedestrian facilities on public roads in conformity with the Guidelines for Pedestrian Facilities [IRC:103-2012] and that, once the National Highways/State Highways are constructed as per the standards and guidelines prescribed by the Indian Roads Congress, it has to be maintained as such without any encroachment on the right of way or on the pedestrian facilities provided as per such standards and guidelines is also being flouted by permitting encroachments on the right of way and on the pedestrian facilities.

48. In view of the statutory provisions referred to hereinbefore and the law laid down in the decision referred to *supra*, the roads constructed as per the standards and guidelines prescribed by the Indian Roads Congress has to be maintained as such, without any encroachment on the right of way or on the pedestrian facilities provided as per such standards and guidelines. No political party, organisation or trader can be permitted to encroach upon footpaths or right of way of public roads, in connection with any protests, demonstrations or trade, by erecting any temporary structures on the right of way or on the pedestrian facilities or by stocking articles for trade forcing pedestrians including those with disabilities and reduced mobility to walk in unsafe circumstances.

49. In view of the law laid down by this Court in **Satheesh [2022 (1) KLT 940]** the roads constructed as per the specifications and standards prescribed by the Indian Roads Congress are for vehicular traffic, which cannot be converted as a parking space for commercial or other establishments, religious institutions, etc., or even for putting up temporary structures in connection with festivals in temples, churches,

Cont.Case (C)No.1042 of 2023 & DBP Nos.32 & 35 of 2023

mosque, etc., or for putting up temporary structures as resting place for headload workers, etc., or for putting up bus shelters by political parties or by any other organisations.

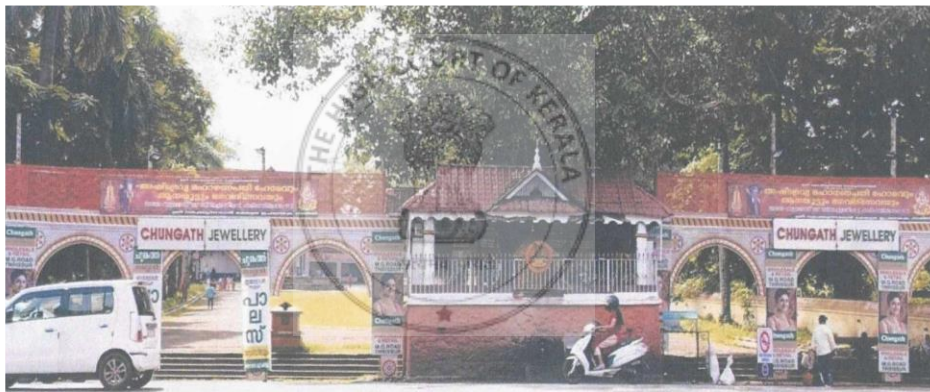
50. Since the State holds public roads as a trustee on behalf of the public, the inaction on the part of the State and the Local Self Government Institutions in preventing such encroachments upon footpaths or right of way of public roads will amount to breach of trust. Any failure on the part of the designated authorities, contractor, consultant or concessionaire in maintaining the safety standards of public roads will attract the penal consequences provided under Section 198A of the Motor Vehicles Act, 1988.

51. The Cochin Devaswom Board and its officials shall ensure strict compliance of the law laid down by this Court in **Satheesh [2022 (1) KLT 940]** in respect of all temples under its management, by ensuring that no hoardings, advertisement boards, etc., or any temporary structures are erected on the right of way or pedestrian facilities of public roads around the premises of the temples under its management, in connection with annual festival and other religious ceremonies. The additional 6th respondent in W.P.(C)No.26499 of 2018, i.e., the Secretary of Thrissur Municipal Corporation shall ensure strict compliance of the law laid down by this Court in **Satheesh [2022 (1) KLT 940]** by ensuring that no hoardings, advertisement boards, etc., or any temporary structures are erected on the right of way or pedestrian facilities of public roads within the area of Thrissur Municipal Corporation, forcing pedestrians including those with disabilities and reduced mobility to walk in unsafe circumstances.

Cont.Case (C)No.1042 of 2023 & DBP Nos.32 & 35 of 2023

In the above circumstances, these writ petitions are disposed of in terms of the directions contained hereinbefore at paragraphs 22, 34, 35 and 51.”

2. Along with I.A.No.3 of 2023 in Cont.Case(C)No.1042 of 2023, the petitioner has placed on record Annexure A9 to A12 photographs showing the hoardings and advertisement boards erected in connection with Ashtadravya Mahaganapathy Homam, Aanayoottu and Bhagavathy Seva in Sree Vadakkumnathan Temple. The said photographs are re-produced hereunder;



Cont.Case (C)No.1042 of 2023 & DBP Nos.32 & 35 of 2023



Cont.Case (C)No.1042 of 2023 & DBP Nos.32 & 35 of 2023

3. The learned counsel for the petitioner would point out that the said hoardings and advertisement boards are erected by the Temple Advisory Committee of Vadakkumnathan Temple, which was arrayed as the additional 9th respondent in W.P.(C)No.4617 of 2022. The said Samithi is arrayed as the 6th respondent in DBP No.32 of 2023 and additional 7th respondent in DBP No.35 of 2023.

4. On a query made by this Court, the learned Standing Counsel for Cochin Devaswom Board would submit that the Board has not granted any permission to the Temple Advisory Committee to erect such hoardings or advertisement boards.

5. Sri.P.B.Subramanyan, the learned counsel for the Temple Advisory Committee would submit that the office bearers of the said Committee have already been instructed to remove the hoardings and advertisement boards seen in Annexures A9 to A12 photographs.

6. Having considered the submissions made at the Bar, we deem it appropriate to direct the Devaswom Officer, Vadakkumnatha Devaswom to ensure strict compliance of the directions contained in the judgment of this Court dated 11.04.2023 in W.P.(C)No.4617 of 2022.

Cont.Case (C)No.1042 of 2023 & DBP Nos.32 & 35 of 2023

List on 19.07.2023.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE

AV/14/7

