

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MR. JUSTICE K.HARIPAL

FRIDAY, THE 18TH DAY OF DECEMBER 2020 / 27TH AGRAHAYANA,
1942

WP(C).No.23183 OF 2020(W)

PETITIONER:

SUNIL K.P., AGED 62 YEARS
S/O. K. VENUGOPALAN (LATE), R/O. 23/1,
THANGAM COLONY, 2ND STREET, ANNANAGAR (WEST),
CHENNAI-600040.

BY ADVS.SHRI.SUVIDUTT M.S
SMT.B.ANU

RESPONDENTS:

- 1 TRAVANCORE DEVASWOM BOARD
REPRESENTED THROUGH ITS SECRETARY, NANTHANCOD, KAWDIAR POST, THIRUVANANTHAPURAM, KERALA-695 003
- 2 THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT , THIRUVANANTHAPURAM, KERALA-695 001
- 3 SPECIAL COMMISSIONER,SABARIMALA, ADDL. DISTRICT & SESSIONS JUDGE-VI, COLLECTORATE DISTRICT COURT, KOLLAM, KERALA-691 013

R1 & R3 BY SRI.G.BIJU, S.C., T.D.B.
R2 BY SR.G.P.SRI.T.K.ANANDAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18.12.2020, ALONG WITH WP(C).23869/2020(G), WP(C).23885/2020(I), WP(C).24357/2020(T), WP(C).26907/2020(K) & WP(C).28092/2020(J), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MR. JUSTICE K.HARIPAL

FRIDAY, THE 18TH DAY OF DECEMBER 2020 / 27TH AGRAHAYANA,
1942

WP(C).No.23869 OF 2020(G)

PETITIONER:

TRAVANCORE DEVASWOM BOARD EMPLOYEES FRONT,
HEAD OFFICE, NANTHANCODE, THIRUVANANTHAPURAM -
695003, REPRESENTED BY ITS GENERAL SECRETARY
N.PREMKUMAR, S/O. K.N. NARAYANAN NAIR.

BY ADV. SRI.K.R.SUNIL

RESPONDENT/S:

- 1 THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM.
- 2 THE SECRETARY, DEVASWOM DEPARTMENT,
GOVERNMENT SECRETARIAT ANNEXE,
THIRUVANANTHAPURAM.
- 3 THE TRAVANCORE DEVASWOM BOARD
HEAD OFFICE, NANTHANCODE, THIRUVANANTHAPURAM.
- 4 THE COMMISSIONER
TRAVANCORE DEVASWOM BOARD, NANTHANCODE,
THIRUVANANTHAPURAM.

- 5 THE SECRETARY, TRAVANCORE DEVASWOM BOARD,
NANTHANCODE, THIRUVANANTHAPURAM.
- 6 SPECIAL COMMISSIONER, SABARIMALA,
ADDL.DISTRICT & SESSIONS JUDGE -VI, COLLECTORATE
DISTRICT COURT, KOLLAM, KERALA - 691013.
- 7 THE PRINCIPAL SECRETARY
HEALTH DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001.
- 8 THE REGIONAL MANAGER
SOUTHERN RAILWAYS, KERALA.

R1, R2 & R7 BY SR.G.P.SRI.T.K.ANANDAKRISHNAN
R3 TO R6 BY SRI.G.BIJU, SC, TDB
R8 BY SRI.A.DINESH RAO, SC, RAILWAYS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18.12.2020, ALONG WITH WP(C).23183/2020(W),
WP(C).23885/2020(I), WP(C).24357/2020(T), WP(C).26907/2020(K)
& WP(C).28092/2020(J), THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MR. JUSTICE K.HARIPAL

FRIDAY, THE 18TH DAY OF DECEMBER 2020 / 27TH AGRAHAYANA,
1942

WP(C).No.23885 OF 2020(I)

PETITIONER:

AJAY THARAYIL, AGED 61 YEARS
S/O.KUMARAN, THARAYIL HOUSE,
AYYAPPANKAVU, KOCHI-18.

BY ADVS.SRI.T.K.AJITHKUMAR (VALATH)
SMT.T.MANASY

RESPONDENTS:

- 1 THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695001.
- 2 THE TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY, DEVASWOM BOARD
OFFICE, NANDANCODE, THIRUVANANTHAPURAM, PIN-
695002.
- 3 THE COMMISSIONER,
TRAVANCORE DEVASWOM BOARD, DEVASWOM BOARD
OFFICE, NANDANCODE, THIRUVANANTHAPURAM, PIN-
695002.

W.P.(C)Nos.23183, 23869, 26907,
23885, 24357 and 28092 of 2020

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R1 BY SR.G.P.SRI.T.K.ANANDAKRISHNAN
R2 & R3 BY SRI.G.BIJU, SC, TDB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18.12.2020, ALONG WITH WP(C).23183/2020(W),
WP(C).23869/2020(G), WP(C).24357/2020(T), WP(C).26907/2020(K)
& WP(C).28092/2020(J), THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MR. JUSTICE K.HARIPAL

FRIDAY, THE 18TH DAY OF DECEMBER 2020 / 27TH AGRAHAYANA,
1942

WP (C) .No.24357 OF 2020 (T)

PETITIONER :

SABARIMALA AYYAPPA SEVA SAMAJAM (SASS)
REGISTRATION NO.226/2008, ADMINISTRATIVE OFFICE
AYYAPPA VIHAR, SHIVA TEMPLE ROAD, VIYYUR,
THRISSUR - 680 010, REPRESENTED BY ITS GENERAL
SECRETARY ERODE N.RAJAN.

BY ADVS.SRI.SANTHEEP ANKARATH
SRI.J.RAMKUMAR

RESPONDENTS :

- 1 THE STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
- 2 SECRETARY, DEPARTMENT OF HEALTH AND FAMILY
WELFARE
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM - 695001.
- 3 SECRETARY, DEPARTMENT OF DEVASWOM
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

W.P.(C)Nos.23183, 23869, 26907,
23885, 24357 and 28092 of 2020

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4 TRAVANCORE DEVASWOM BOARD
 REPRESENTED BY ITS SECRETARY, NANTHANCODE,
 THIRUVANANTHAPURAM - 695 004.

R1 TO R3 BY SR.G.P.SRI.T.K.ANANDAKRISHNAN
R4 BY SHRI.G.BIJU,SC,TRAVANCORE DEVASWOM BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18.12.2020, ALONG WITH WP(C).23183/2020(W),
WP(C).23869/2020(G),WP(C).23885/2020(I), WP(C).26907/2020(K)
& WP(C).28092/2020(J), THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MR. JUSTICE K.HARIPAL

FRIDAY, THE 18TH DAY OF DECEMBER 2020 / 27TH AGRAHAYANA,
1942

WP(C).No.26907 OF 2020(K)

PETITIONER:

BAIJU K., AGED 43 YEARS
S/O. PADMANABHAN, KOOMULLY HOUSE, MODAKKALLUR
P.O, KOZHIKODE, KERALA - 673315.

BY ADVS.SRI.T.D.SUSMITH KUMAR
SRI.C.SIVADAS

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM - 695001.
- 2 TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY, NANTHANCODE,
KAWADIAR P.O, THIRUVANANTHAPURAM - 695003.
- 3 THE COMMISSIONER, TRAVANCORE DEVASWOM
BOARD, NANTHANCODE, KAWADIAR P.O,
THIRUVANANTHAPURAM - 695003.
- 4 THE EXECUTIVE OFFICER, SABARIMALA DEVASWOM,
TRAVANCORE DEVASWOM BOARD, NANTHANCODE,
KAWADIAR P.O, THIRUVANANTHAPURAM - 695003.

W.P.(C)Nos.23183, 23869, 26907,
23885, 24357 and 28092 of 2020

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5 THE DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM - 695001.

R1 & R5 BY SR.G.P.SRI.T.K.ANANDAKRISHNAN
R2 TO R4 BY SRI.G.BIJU, SC, TDB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18.12.2020, ALONG WITH WP(C).23183/2020(W),
WP(C).23869/2020(G), WP(C).23885/2020(I), WP(C).24357/2020(T),
WP(C).28092/2020(J), THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MR. JUSTICE K.HARIPAL

FRIDAY, THE 18TH DAY OF DECEMBER 2020 / 27TH AGRAHAYANA,
1942

WP(C).No.28092 OF 2020(J)

PETITIONER:

S.JAYA RAJ KUMAR, AGED 64 YEARS
S/O. LATE.K.SRIDHARAN PILLAI, RESIDING AT PARK
VILLAI, K.V 62, PANAMPILLY NAGAR, COCHIN-682 036

BY ADVS.SRI.SAJITH KUMAR V.
SRI.A.V.VIVEK
SHRI.GODWIN JOSEPH
SMT.APARNA CHANDRAN

RESPONDENTS:

- 1 THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY TO THE
GOVERNMENT, DEPARTMENT FOR HOME, SECRETARIAT,
THIRUVANANTHAPURAM-695 001
- 2 DEPARTMENT OF HEALTH AND FAMILY WELFARE,
REPRESENTED BY SECRETARY TO GOVERNMENT,
GOVERNMENT FOR HEALTH AND FAMILY WELFARE,
SECRETARIAT, THIRUVANANTHAPURAM-695 001

- 3 DEPARTMENT OF REVENUE (DEVASWOM) ,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT ,
DEPARTMENT OF REVENUE (DEVASWOM) , SECRETARIAT ,
THIRUVANANTHAPURAM-695 001
- 4 TRAVANCORE DEVASWOM BOARD ,
REPRESENTED BY ITS SECRETARY , NANTHANCODE ,
THIRUVANANTHAPURAM-695 003
- 5 THE COMMISSIONER ,
TRAVANCORE DEVASWOM BOARD , NANTHANCODE P.O. ,
THIRUVANANTHAPURAM-695 003
- 6 THE STATE POLICE CHIEF ,
O/O. THE STATE POLICE CHIEF , POLICE
HEADQUARTERS , THIRUVANANTHAPURAM P.O. ,
THIRUVANANTHAPURAM DISTRICT-695 001

R1, R2, R3 & R6 BY SR.G.P.SRI.T.K.ANANDAKRISHNAN
R4 & R5 BY SRI.G.BIJU, SC, TDB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18.12.2020, ALONG WITH WP(C) .23183/2020 (W) ,
WP(C) .23869/2020 (G) ,WP(C) .23885/2020 (I) ,WP(C) .24357/2020 (T) ,
WP(C) .26907/2020 (K) , THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

Ravikumar, J.

The petitioners in the captioned writ petitions except in W.P. (C)No.24357 of 2020 assail various restrictions imposed as part of Covid-19 protocol on Sabarimala pilgrimage for the year 2020-2021 (1196 M.E.). In W.P.(C)Nos.23183, 23869, 23885 and 28092 of 2020 the petitioners seek direction to enhance the permissible number of pilgrims and in fact, in W.P.(C)No.23885 of 2020 the petitioner therein made an extreme prayer to direct the Travancore Devaswom Board (TDB) and its Commissioner to allow all the devotees who hold the Covid-19 negative certificates to undertake Sabarimala pilgrimage. The further prayer therein is to direct the respondents not to insist for production of any other certificate for the sacred journey. In W.P. (C)No.26907 of 2020 the prayer is to direct the respondents including TDB to take steps to avert extinction of the burning fire lit up near to the banyan tree as part of customary ceremony (*Aazhi*) and to intensify it besides to permit pilgrims to offer the coconut filled with ghee called '*Ney Thenga*'. W.P.(C)No.28092 of 2020 has been filed mainly seeking the following prayers:-

- I. To issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents to not to permit pilgrimage to Sabarimala in violation of customary practices and violating Covid-19 protocols notified by the Central Government.
- II. To issue a writ of mandamus or any other appropriate writ, order or direction commanding the Respondents, to take up the issues in the report of special commissioner affecting religious practices with religious scholars and other stake holders, to make an effective action plan to meet the contingencies out of covid pandemic affecting the daily poojas at the temple."

2. In W.P.(C)No.24357 of 2020 the petitioner - Sabarimala Ayyappa Seva Samajam which is a public charitable trust formed with the avowed purpose of protecting and safeguarding the interests and welfare of devotees of Lord Ayyappa seeks the following prayers:-

- (i) issue a writ of mandamus or other appropriate writ, order or direction directing the respondents to refrain from opening Sabarimala Ayyappa temple to public until the lockdown is completely withdrawn or it is declared as safe for the pilgrimage without restrictions;
- (ii) issue a writ of mandamus or other appropriate writ, order or direction directing the respondents to consult the religious heads like renowned Thanthry of major temples in Kerala and heads of major religious organisations before taking a decision of opening of Sabarimala Ayyappa temple;
- (iii) issue such other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

Taking note of the fact that all the writ petitions are filed in connection with Sabarimala pilgrimage they were heard jointly and are being disposed of by this common judgment.

3. Heard the learned counsel for the petitioners, the learned State Attorney as also the learned Standing Counsel for TDB.

4. Taking note of the nature of the prayers made in W.P. (C)No.24537 of 2020, extracted hereinbefore, we will deal firstly with the said writ petition. Evidently, the grievance of the petitioner is against the decision to open Sabarimala shrine for pilgrimage. The petitioner therein seeks direction to the respondents to refrain from opening the shrine for pilgrimage till the lockdown is completely withdrawn. He also seeks issuance of a writ of mandamus commanding the respondents to consult the religious heads like renowned Thanthry of major temples in Kerala and heads of major religious organisations before taking a decision on opening of Sabarimala Ayyappa Temple. Admittedly, for the Mandala-Makaravilakku season for the year 2020-2021 (1196 M.E.) the shrine was opened on 16.11.2020 and by now, half of the season is almost over. In such circumstances, whatever be the reason that persuaded the petitioner to approach this Court with the aforementioned prayers, by passage of time virtually, the writ

petition has become infructuous.

5. Now, we will deal with the three writ petitions filed for relaxing the restrictions on the permissible number of pilgrims and to increase it. In the contextual situation, it is relevant to note that much earlier to the commencement of Mandala-Makaravilakku season a decision was taken by the Government to permit pilgrimage in a restrictive manner taking into account the Covid-19 pandemic situation. Subsequently, a meeting was held on 10.8.2020, which is virtually a review meeting of the meeting conducted earlier. Still, later, the Hon'ble the Chief Minister of Kerala convened a meeting on 28.9.2020 through video conferencing. The Hon'ble Ministers for Devaswom Department, for Health Department, for Transport Department, for Electricity Department, for Irrigation Department, MLAs of certain Constituencies, Devaswom Board President, Principal Secretary, Devaswom Department, Principal Secretary, Forest Department, District Collector, Pathanamthitta, District Police Chief, Pathanamthitta and certain other officers of various departments had participated in the meeting. Pursuant to the decision taken in the said meeting a High Level Committee was constituted under the Chairmanship of the Chief Secretary, Kerala for formulating measures for crowd management in Sabarimala and other locations in the State in connection with the

Sabarimala pilgrimage. The said committee consists of the following persons:-

- 1) Sri.Dr. Viswas Mehta - Chief Secretary - Chairman
- 2) Sri.T.K.Jose - Additional Chief Secretary, Home Department - Member
- 3) Sri.Dr.Rajan N Khobragade - Principal Secretary, Health & FW Department - Member
- 4) Sri.K.R.Jyothy Lal - Principal Secretary, Revenue (Devaswom) Department - Member
- 5) Sri.Lok Nath Behra - State Police Chief- Member.

6. We have taken note of the decisions taken in the Chief Minister's meeting and also the decisions taken by the High Level Committee in SSCR.No.9 of 2020 registered based on S.M.Report No.9 of 2020 of the Sabarimala Special Commissioner. In the said proceedings two statements were filed on behalf of the State of Kerala. The judgment passed on 15.11.2020 in S.S.C.R.No.9 of 2020 is produced in W.P.(C)No.23183 of 2020 as Ext.P3. Obviously, in the meeting held on 28.9.2020 presided over by the Hon'ble the Chief Minister it was decided, inter alia, to leave the question to decide whether use of mask should be made mandatory during the trekking to the Health Department. It was also decided to collect ghee either at Pamba or at Sannidhanam and do inunction (*Abhishekam*) and to distribute *Prasadam* thereafter. Most importantly, a decision was also then taken to limit the number of pilgrims during this season as also to

implement virtual queue system after communicating the date and time to each devotee. That apart, a decision was taken not to permit children aged below 10 and devotees aged above 65 to undertake pilgrimage this season. In the context of the contentions raised in the aforesaid writ petitions it is also relevant to refer to decision Nos.2, 10 and 12 taken in the said meeting dated 28.9.2020. They read thus:-

2. Chief Secretary, State Police Chief, Principal Secretary of Devaswom Department and Principal Secretary of Forest Department were entrusted with the task of deciding the number of pilgrims from each State to participate in the festival.
10. During Mandala-Makara vilakku season, the number of devotees will be restricted and also virtual queue system will be implemented, after intimating the date and time of each devotee.
12. It is decided to assure that anybody infected with COVID-19 will not be permitted to visit Sabarimala. For the above purpose Antigen test will be conducted by the Health Department at different places.

Thus, obviously the task of deciding the number of pilgrims to be permitted per day in the year 2020-2021 (1196 M.E.) was entrusted with them.

7. G.O.(Rt)No.2964/20/RD dated 29.9.2020 would reveal that besides the aforementioned officers of the State the Principal Secretary of Health and Family Welfare Department was also included in the High Level Committee constituted based on the decision taken on

28.9.2020 for the aforesaid purpose. In the second statement filed in SSCR.No.9 of 2020 decisions taken by the aforesaid committee in the meeting dated 5.10.2020 were extracted. In Ext.P3 judgment in SSCR No.9 of 2020 we have referred to the decisions taken by the said committee. It is only profitable to refer to them and they run as follows:-

- “5. The above high level Committee meeting held on 05.10.2020, and the following decisions were taken.
 - a) The number of devotees permitted to visit may be fixed as 1000 on weekdays and 2000 on weekends. Maximum devotees can be allowed on Mandalapooja and Makaravilakku days may be fixed as 5000.
 - b) For effectively carrying out pilgrim's digital queue virtual queue management system will be implemented by the Police department.
 - c) All devotees should provide Covid negative certificate from an authorized lab.
 - d) The devotees or others will not be permitted to bath at Pamba River. Instead of bathing at Pamba river, showers will be provided to the devotees for their bathing.
 - e) Devotees will not be permitted to stay at Sannidhanam and Pampa Ganapathi Kovil during night.
 - f) For Ghee abhishekam, the ghee given by the devotees will be collected at a point prescribed by the Devaswom and after performing Abhishek, Prasadam will be distributed to the devotees. The

devotees should not be permitted to be present during the Ghee Abhisheka.

- g) The Health department will establish Corona testing points at entry points and will collect the cost of testing from the Devotees.
 - h) The devotees with Ayushman bharath card will be encouraged to carry them.
 - i) The pilgrimage route is to be restricted as two routes. i.e., Erumely and Vadasserikkara routes. The use of other traditional and forest routes are to be prohibited.
 - j) The pilgrims below the age limit of 10 years and above the age limit of 65 years may not be permitted. But those within the age bracket of 60-65 years must carry a medical certificate stating that they do not have co-morbidity.
6. The health department may fix the locations for setting up convenient testing centres on route of Sabarimala. Principal Secretary (Health and F & W Department) may convene a separate meeting regarding the human resources.
7. During the season the State Police Chief may work out a detailed Police arrangements required during the season.
8. There will be no darshan during pooja times to safe guard the priests from Covid pandemic.
9. The recommendations and suggestions of Thanthri with respect to arrangement of crowd etc., have been fully approved."

8. Taking note of the decisions in the Chief Minister's meeting, in the meeting of the High Level Committee, the suggestions/measures made by the TDB to streamline the pilgrimage as revealed from the statement filed by the Standing Counsel for TDB and after hearing the learned counsel on both sides the SSCR was disposed of as per Ext.P3. Thus, it is obvious that even after taking into account the pandemic situation Government took the decision to permit Sabarimala pilgrimage this season and left only a few matters connected with the pilgrimage for the decision of the High Level Committee. When that be so, the committee was bound to take decisions on such matters after taking into account all the relevant facts and factors. Evidently, while hearing SSCR.No.9 of 2020 a pointed question was put to the learned Government Pleader as also to the learned Standing Counsel for TDB, as can be seen from Ext.P3, as to whether view of TDB was called for and considered before the High Level Committee took the aforementioned decisions in the meeting held on 5.10.2020. We put such a question specifically taking note of the fact that no one from the TDB was included in the committee. It would also reveal that we have put another question as to whether the committee had taken into consideration the number of darshan hours available. It is to be noted that negative answers were given to the

aforesaid questions. In this context, it is also relevant to note that though the decisions taken in the said meeting were incorporated in the statement it was unaccompanied by the materials relied on by the said committee for taking such decisions. In the said circumstances, in Ext.P3 it was observed thus:-

“So also, nothing is on record as to whether the Committee had actually taken into account the 'darsan hours' available before noon and also in the evening before taking decision in limiting the number of pilgrims during weekdays, holidays as also on Mandalapooja and Makaravilakku days, as per decision No.5(a) of the decisions of the said Committee.”

Evidently, after taking into account the pandemic situation then prevailed we observed that in view of the surge of Covid-19 positive cases number of pilgrims was rightly decided to be limited. Nonetheless, we have further observed that the permissible number of pilgrims should not have been taken without giving due attention to all the relevant aspects. It is after making such observations that we gave liberty to TDB to place appropriate proposal in the matter with all required details to enable it to revisit its decision after giving due weight to all aspects. We further observed in Ext.P3 thus:-

“Needless to say that the Committee will be free to increase the number of pilgrims appropriately, taking into account all such aspects, without compromising COVID-19 pandemic protocol and the disease containment measures.”

9. It is to be noted that Ext.P3 judgment, (in fact, order) was rendered in SSCR.No.9 of 2020, a month prior to the opening of the shrine for Sabarimala pilgrimage for the year 2020-2021 (1196 M.E.), to be precise, on 15.10.2020. Despite such observations regarding the requirement to take into account such aspects the High Level Committee did not convene a meeting before the opening of the shrine for pilgrimage. Only on 26.11.2020 the High Level Committee convened a meeting to address on such issues. W.P.(C)Nos.23183 as also 23885 of 2020 were filed before 26.10.2020. On 30.10.2020 when W.P.(C)No.23183 of 2020 came up for consideration it was adjourned to 3.11.2020 to enable the learned Government Pleader to get instructions as to whether any decision was taken pursuant to Ext.P3 judgment in SSCR.No.9 of 2020.

10. In W.P.(C)No.23869 of 2020 a statement has been filed on behalf of the first respondent therein viz., State of Kerala wherewithal Annexure-R1(a) viz., copy of the minutes of the meeting convened by the Chief Secretary on 26.11.2020 and the letter dated 20.11.2020 of the President of TDB submitted to the Principal Secretary, Devaswom Department are produced. It would reveal that as per Annexure-R1(b) the President of TDB brought to the notice of

the Principal Secretary, Devaswom Department, who is one of the members of the High Level Committee that earlier, during Makaravilakku season more than 1,00,000 devotees would turn up for darshan, on certain days. He would further suggest thereunder that this season 10,000 devotees could be allowed to undertake pilgrimage on each day, strictly adhering to the Covid-19 protocol formulated including social distancing, taking into account the fact that about 15 hours are available for darshan as also the distance to be covered by the pilgrims from KSRTC bus stand at Pamba to Sannidhanam. Annexure R1(a) minutes of the meeting would reveal that in the meeting the President of TDB requested for enhancing the permissible number of pilgrims considering the infrastructure available at Sannidhanam. Thereafter, as per decision No.8 in Annexure-R1(a) it was decided to enhance number of pilgrims by 1000 on week days as also on weedends and to retain number of pilgrims allowed on special pooja days at 5,000.

11. At the very outset we express our displeasure with the delay caused in revisiting the earlier decision taken on 05.10.2020, by the High Level Committee despite its necessity highlighted by this Court, with reasons, as per Ext.P3 dated 15.10.2020. Decision No.8 in Annexure-R1(a) itself would reveal that a decision to enhance the

number of pilgrims by 1000 on weekdays and also on weekends, was taken thereunder and consequently, the number of pilgrims on weekdays and on weekends are enhanced respectively as to 2000 and 3000 with the knowledge that it would bring that much number of pilgrims, as enhanced on weekdays and weekends, to Sannidhanam. It reads thus:-

- "8. Based on inflow of the registered pilgrims at Sabarimala during the initial 10 days of the pilgrimage, the request of the TDB, current situation of the pandemic, and the fact that about 40% of pilgrims who register may not undertake the pilgrimage, the committee recommends the following:
- a. Enhance number of pilgrims allowed on weekdays to 2,000 (from 1,000 now)
 - b. Enhance number of pilgrims allowed on weekends to 3,000 (from 2,000 now)
 - c. Retain number of pilgrims allowed on special pooja days at 5,000."

A conjoint reading of the underlined portion of the above-extracted condition No.8 and originally fixed number of pilgrims and enhanced number, on weekdays and weekends, mentioned therein would reveal the raison d'etre of the aforesaid observation. When the fact that about 40% of pilgrims who register may not undertake the pilgrimage is one of the reasons for making an enhancement by 1000, as can be seen from Decision No.8 in Annexure R1(a), the decision taken thereunder relating enhancement of number of pilgrims can only be viewed as

aforesaid. This is because even after enhancement of the number as 2000 on weekdays only 1200 or slightly more can be expected to undertake pilgrimage taking into account the accepted rate of drop out. Likewise, even after enhancing the number of pilgrims as 3000 only 1800 or slightly more than that can be expected to turn up.

12. When we are about to dispose of the matter taking note of all such aspects on 11.12.2020, the learned State Attorney submitted that the High Level Committee would again re-visit the decision and infact, in that regard a meeting is decided to be scheduled. It is submitted that the decision would be intimated to this Court in the afternoon of 14.12.2020 and accordingly, it was adjourned. When the matter was taken up the learned State Attorney submitted that, in fact, the meeting is scheduled to be held on 14.12.2020 at 3.30 P.M and hence, the matters were again adjourned to 15.12.2020. Even when the matter was taken up for consideration on 15.12.2020, the decision of the high level committee was not made available. As a matter of fact, a copy of the Revised Health Advisory on Sabarimala Pilgrimage in the context of Covid-19 dated 14.12.2020 submitted by the Principal Secretary of Health & Family Welfare Department alone was handed over for our perusal. Today, it is submitted by the learned Government Pleader that the said revised advisory was fully endorsed by the

Committee and thereafter a copy of the minutes of the meeting of the High Level Committee held on 14.12.2020 was handed over. It is submitted that he was instructed to submit the same for perusal of this Court. We have gone through the Revised Health Advisory on Sabarimala Pilgrimage submitted by the Principal Secretary of Health & Family Welfare Department and it would reveal that as on 14.12.2020, besides 51 pilgrims, 248 including 245 staff were tested positive. Fact is that pursuant to the decision taken by the Government and the committee in the context of covid-19 pilgrimage is not permissible through the traditional trekking paths and all the pilgrims could reach Pampa to proceed to Sannidhanam only through Nilakkal. The testing center is set up at Nilakkal. Admittedly, pilgrims would be permitted to proceed further to conduct the pilgrimage from Nilakkal only if they reached there with a Covid-19 negative certificate obtained after Antigen test conducted within 24 hours of reaching Nilakkal. It is submitted by the learned Government Pleader that in case a registrant under the virtual queue management system turns up at Nilakkal with a certificate issued not within 24 hours of his reaching there, he would be tested again and only if he is tested negative, he would be permitted to proceed further. In case anyone shows signs of Covid-19, he will also be sent back from Nilakkal. It is stated in the Revised Health Advisory on

Sabarimala Pilgrimage dated 14.12.2020 that it is issued for compliance. A further scanning of the said advisory would reveal that, the Health Department advised the committee to stick on to the decision taken earlier in regard to the number of pilgrims on weekdays and weekends.

13. The copy of the minutes of the meeting convened by the Chief Secretary dated 14.12.2020 handed over by the learned Government Pleader would reveal that the possibility to increase the number of pilgrims was addressed in the meeting and the Committee has accepted the revised advisory submitted by the Health Department. Evidently, in the said meeting the President of the TDB requested permission to allow a few more pilgrims to visit Sabarimala temple daily in the light of the dropping out of about 40% of the registrants in the queue management system. Obviously, he had also revealed that more numbers of pilgrims could be allowed without violating social distancing and such other Covid-19 protocol. More importantly he specifically stated that till 13.12.2020 only 48 devotees were tested positive and all of them were sent to hospital from Nilakkal itself. Even after such submissions, the Committee took the decision to maintain the numbers fixed earlier, in respect of the pilgrims and further to consider the possibility to increase the numbers only after 26.12.2020. The

Committee has also resolved that after 26.12.2020 only those pilgrims who reach Nilakkal with a certificate obtained from any NABL accredited ICMR approved Laboratories after conducting RT-PCR test done within 48 hours of their reaching Nilakkal need be permitted to conduct pilgrimage, evidently, taking note of the inconclusiveness of the Antigen test results.

14. From the circumstances obtained as above, the question is whether any interference is required in regard to the decisions limiting the number of pilgrims, at this stage. Normally, this Court will refrain from interfering with the matter. In this context, certain aspects have to be looked into. After 26.12.2020, the shrine would be opened for Makaravilakku only on 30.12.2020. Makaravilakku is on 14.01.2020. Evidently, no date is fixed for next meeting of the High Level Committee. It is to be noted that the season would conclude within three weeks or thereabouts from 30.12.2020. Despite our specific observations in the judgment dated 15.10.2020 in SCCR. No. 9/2020 as to why a re-visitation of the decisions taken on 05.10.2020 is necessary a meeting in that regard was convened only on 26.11.2020 id est, after 41 days. We have already dealt with the decisions taken on 26.11.2020. Evidently, a further meeting was convened on 14.12.2020 in which, the Committee accepted in full the Revised Health Advisory on

Sabarimala Pilgrimage submitted by the Health & Family Welfare Department. In the Revised Health Advisory on Sabarimala Pilgrimage in the context of covid 19 given on 14.12.2020, what is stated is the covid 19 transmission is closely related to three Cs. They read thus:-

1. **CLOSED SPACES** with poor airflow
2. **CROWDED PLACES.**
3. **CLOSE CONTACT** settings with face to face contact

Thus there would be dynamic transmission in closed places with poor air flow, crowded places and places where there is possibility of close face to face contact, according to the revised advisory. The Sannidhanam cannot be said to be a closed place with poor air flow. When there is restriction in regard to the number of pilgrims there is no room for crowding in Sannidhanam. The only thing is that the number should be fixed taking into all the relevant aspects to avert such a situation. It is taking into account the nature of the Sannidhanam and the surroundings, the space available in Sannidhanam and the surrounding places and also the fact that from KSRTC Stand to Pampa there is a distance of about 6 kms that the President of the TDB recommended for fixing the number of pilgrims as 10,000 as can be seen from Annexure-R1(b), marked as such in the statement filed in W.P.(C.)No.23869/2020 on behalf of the first respondent. That apart,

when pilgrimage is possible only for persons who got registered in the virtual queue management system it would be possible to fix the time for registrants in such a manner to avoid crowding in Sannidhanam. Going by decision No.5(e) the meeting held on 05.10.2020 devotees would not be permitted to stay at Sannidhanam and Pampa Ganapathi Kovil during night. Therefore, it is obvious that after the darshan the pilgrims will go down the hill within a reasonable time. Then, the situation of close face to face contact can be avoided if the police personnel employed thereunder takes care in that regard. Taking into account the fact that every day there is a dropping of registration and on all day there would be decrease by about 40%, we are of the view that the number can be increased a little. Considering the time taken to revisit the first order by the Committee, the fact that no date is fixed for the next meeting in the meeting held on 14.12.2020 and more than half of the season is already over we think that a decision on that, taking into account all relevant aspects, has to be taken now as the decision of the Government is to permit pilgrimage. All the relevant facts and factors were referred to hereinbefore. According to TDB with strict adherence to Covid-19 protocol it would be possible to permit 10000 pilgrims to undertake pilgrimage. Seeing the permissible number of pilgrims fixed in the meeting held on 26.11.2020 and proposal

regarding its enhancement revealed from the meeting held on 14.11.2020, we are of the view that number of pilgrims to be permitted to undertake pilgrimage has to be fixed taking note of the factum of dropping out about 40% of pilgrims on every day. When we are about to part with the judgment, by giving directions in tune with such conclusions the learned counsel for the petitioner in W.P. (C.)No.23183/2020 submitted that the second prayer to direct the respondents 1 and 2 to consider the proposed comprehensive plan at Ext.P5 submitted by the petitioner may also be directed to be considered. We have carefully gone through the same. Since the authorities have already formulated Covid-19 Health Protocol in relation as to how pilgrimage season for 1196 M.E. and the pilgrimage is being streamlined accordingly and taking into account the fact that it will continue to be followed subject to the directions issued hereinbefore we do not find any reason or justification to issue such a direction. In the said circumstances the prayer stands declined.

15. Taking note of the fact that W.P.(C)No.28092/2020 was filed on 15.12.2020 though the shrine was opened for Mandala Makaravilakku season for 1196 M.E. on 16.11.2020 we are not inclined to go into the contentions raised to support the prayers.

16. As noticed hereinbefore, the petitioners in some of the petitions have grievance with regard to the denial of injunction with ghee (Neyyabishekkam). Taking note of the Covid-19 pandemic situation and also the stand of the Thantri of Sabarimala accepted by the High Level Committee we do not think that any interference is required or possible with respect to the decision already taken in the matter of Neyyabishekkam.

17. As regards the grievance regarding the extinction of burning fire near to the sannidhanam called 'Aazhi', it is submitted by learned Standing Counsel for the TDB that steps were already taken to avert such a situation and to maintain 'Aazhi'. In the said circumstances, we do not think that it is necessary to make further direction in W.P.(C)No.26097/2020, on the said issue.

18. Taking into account all the aforesaid circumstances and also the pandemic situation we are of the view that the number of permissible pilgrims can be safely fixed as 5000. It is so fixed and such number of pilgrims shall be allowed to undertake pilgrimage from 20.12.2020. We have noticed that taking into account the pandemic situation the High Level Committee resolved to insist that Covid-19 Negative certificate should be one obtained after conducting RTPCR test within 48 hours of reaching Nilakkal, from NABL accredited ICMR

approved laboratories. We are of the view that it should also be insisted from 30.12.2020, when the shrine opens for Makaravilakku season, taking into account the fact that the antigen test cannot be considered as a conclusive test, regarding the covid positivity. We make it clear that this judgment will not stand in the way of the high level committee to consider the question of further increase in the pilgrims during the Mandala- Makaravilakku season of 1196 ME.

19. We have already found that W.P.(C.)No.243547 of 2020 has become infructuous. In the said circumstances, W.P.(C.)No. 24357/2020 is dismissed as infructuous.

20. With the aforesaid directions in regard to the number of permissible pilgrims as also the condition regarding the requirement of Covid-19 negativity certificate, referred hereinbefore in paragraph 18, W.P.(C)Nos.23183, 23869, 23885, 26907 & 28092 of 2020 are disposed of.

Sd/-
C.T.RAVIKUMAR
Judge

Sd/-
K.HARIPAL
Judge

APPENDIX OF WP(C) 23183/2020

PETITIONER'S EXHIBITS:

- EXHIBIT P1 A TRUE COPY OF THE SOP GUIDELINES OF MHA DATED 04.06.2020.
- EXHIBIT P2 A TRUE COPY OF THE REPORT SUBMITTED BY SPECIAL COMMISSIONER, SABARIMALA IN S.M. NO. 9/2020 BEFORE THE HON'BLE HIGHCOURT OF KERALA, DATED 11.09.2020.
- EXHIBIT P3 A TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT OF KERALA, IN SSCR NO. 9/2020 DATED 15.10.2020.
- EXHIBIT P4 A TRUE COPY OF THE SCREENSHOT OF THE TIRUMALA TIRUPATHI DEVASTHANAM (TTD) WEBSITE DATED 16.10.2020.
- EXHIBIT P5 A TRUE COPY OF THE COMPREHENSIVE PLAN FOR SAFE AND HELATHY SABARIMALA PILGRIMAGE 2020-21 PROPOSED BY THE ECOHEALTH PRODUCTS PVT.LTD. DATED 16.10.2020.
- EXHIBIT P6 A TRUE COPY OF THE RECEIPT OF THE APPLICATION SUBMITTED BEFORE THE AYUSH MINISTRY FOR GRANT OF LICENCE TO MANUFACTURE OF PRODUCTS OF ECOHEALTH PRODUCTS PVT. LTD. DATED 22.09.2020.
- EXHIBIT P7 A TRUE COPY OF THE PRODUCT DESCRIPTION AND TEST REPORTS.
- EXHIBIT P8 A TRUE COPY OF THE EMAIL SENT TO THE 1ST RESPONDENT AND 3RD RESPONDENT.

APPENDIX OF WP(C) 23869/2020

PETITIONER'S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE ORDER DATED 11.04.2016 OF THE
5TH RESPONDENT.
- EXHIBIT P2 A TRUE COPY OF THE SAID SOP GUIDELINES OF MHA
DATED 04.06.2020
- EXHIBIT P3 A TRUE COPY OF THE REPORT OF SPECIAL
COMMISSIONER, SABARIMALA DATED 11.09.2020.
- EXHIBIT P4 THE TRUE COPY OF THE ORDER OF THIS HON'BLE
COURT DATED 15.10.2020 IN SSCR NO.9 OF 2020.

RESPONDENTS' EXHIBITS:

ANNEXURE-R1(a) : TRUE COPY OF THE MINUTES OF THE MEETING
CONVENED BY THE CHIEF SECRETARY DATED 26.11.2020.

ANNEXURE-R1(b) : TRUE COPY OF THE LETTER ISSUED BY THE
PRESIDENT TRAVANCORE DEVASWOM BOARD DATED 20.11.2020.

TKS

APPENDIX OF WP(C) 23885/2020

PETITIONER'S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE NEWS ITEM PUBLISHED IN
MALAYALA MANORAMA DAILY DATED 31.10.2020.
- EXHIBIT P2 TRUE COPY OF THE NEWS ITEM PUBLISHED IN
MATHRUBHOOMI DAILY DATED 1.11.2020.
- EXHIBIT P3 TRUE COPY OF THE NEWS ITEM PUBLISHED IN
MALAYALA MANORAMA DAILY DATED 23.10.2020.

APPENDIX OF WP(C) 24357/2020

PETITIONER'S EXHIBITS:

**EXHIBIT P1 TRUE COPY OF ORDER DATED 15/10/2020 IN SSCR
9/2020 PASSED BY THIS HON'BLE COURT.**

**EXHIBIT P2 TRUE COPY OF REPRESENTATION DATED 22/9/2020
SUBMITTED BY THE PETITIONER BEFORE THE HON'BLE
CHIEF MINISTER OF KERALA.**

APPENDIX OF WP (C) 26907/2020

PETITIONER'S EXHIBITS:

EXHIBIT P1 THE COPY OF THE JUDGMENT DATED 27.11.2018 IN
WPC NO.38247 OF 2020 ON THE FILE OF THIS
HONOURABLE HIGH COURT OF KERALA, DOWNLOADED
FROM THE OFFICIAL WEBSITE.

APPENDIX OF WP (C) 28092/2020

PETITIONER'S EXHIBITS:

- EXHIBIT P1 A TRUE COPY OF THE ORDER NO.40-3/2020-DM I(A) DATED 24.03.2020 IMPOSING NATIONWIDE LOCKDOWN ISSUED BY THE MINISTRY OF HOME AFFAIRS
- EXHIBIT P2 A TRUE COPY OF THE UNLOCK GUIDELINES 5 ISSUED AS PER LETTER NO.DO. 40-3/2020-DM I(A) DATED 30.09.2020 ISSUED BY THE MINISTRY OF HOME AFFAIRS
- EXHIBIT P3 A TRUE COPY OF THE RELEVANT PAGES OF LETTER DATED 10.06.2020 SUBMITTED BY THE THANTHRI OF THE TEMPLE TO THE DEVASWOM COMMISSIONER
- EXHIBIT P4 A TRUE COPY OF THE PRESS RELEASE DATED 28.09.2020 OBTAINED FROM THE WEBSITE OF THE HON'BLE CHIEF MINISTER OF KERALA
- EXHIBIT P5 A TRUE COPY OF THE ORDER DATED 11.09.2020 OF THE SPECIAL COMMISSIONER SABARIMALA
- EXHIBIT P6 A TRUE COPY OF THE ORDER DATED 15.10.2020 IN SSCR NO.9/2020 OF THIS HON'BLE COURT
- EXHIBIT P7 A TRUE COPY OF THE REPORT DATED 17.10.2020 IN THE HINDUSTAN TIMES ONLINE
- EXHIBIT P8 A TRUE COPY OF THE REPORT DATED 27.11.2020 IN MANORAMA ONLINE
- EXHIBIT P9 A TRUE COPY OF THE REPORT DATED 28.11.2020 IN EXPRESS NEWS ONLINE
- EXHIBIT P10 A TRUE COPY OF THE PETITION DATED 09.10.2020 SUBMITTED BY THE PETITIONER TO THE HON'BLE CHIEF MINISTER OF KERALA

**EXHIBIT P11 A TRUE COPY OF THE PETITION DATED 19.11.2020
SUBMITTED BY THE PETITIONER TO THE CHIEF
MINISTER AND OTHER COMPETENT AUTHORITIES**

**EXHIBIT P12 A TRUE COPY OF THE NEWS REPORT IN JANMABHOOMI
DAILY DATED 08.12.2020**

**EXHIBIT P13 A TRUE COPY OF THE NEWS REPORT DATED 11.12.2020
IN JANAM**

**EXHIBIT P14 A TRUE COPY OF THE NEWS REPORT DATED 12.12.2020
IN TIMES OF INDIA ONLINE**

TKS