



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JANUARY, 2024

PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 634 OF 2024 (GM-RES)

BETWEEN:

SRI. GURURAJ JEEVAN RAO,

...PETITIONER

(BY SRI. SATISH K, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
DEPARTMENT OF REVENUE,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
M S BUILDING, BANGALORE-560 001.
2. THE COMMISSIONER,
DEPARTMENT OF HINDU RELIGIOUS INSTITUTIONS
AND CHARITABLE ENDOWMENT,
VENKATRAO ROAD, CHAMARAJPETH,
BANGALORE-560 016.
3. HIS HIGHNESS SRI VIDYASAGARA THEERTHARU
PEETHADHIPATI, KRISHNAPURA MUTT,
CAR STREET, UDUPI-576 101.





4. HIS HIGHNESS SRI SUGUNENDRA THEERTHARU
PEETHADHIPATI, PUTHIGE MUTT,
CAR STREET, UDUPI-576101.

...RESPONDENTS

(BY SMT.NILOUFER AKBAR., AGA FOR R1 & R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) DIRECT THE 1ST RESPONDENT TO CONSTITUTE A COMMITTEE AND FRAME BYELAW/GUIDELINES FOR CONDUCTING PARYAYA IN ASHTA MUTT AT UDUPI AND B) PASS ANY OTHER ORDER, INCLUDING THE COST OF THIS WRIT PETITION.

THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:

ORDER

Petitioner, hailing from a remote village Kulai in Dakshina Kannada District claiming to be a public spirited person is knocking at the doors of Writ Court in PIL jurisdiction with the only prayer - *“Direct the 1st Respondent to constitute a committee and frame by-law/guidelines for conducting ‘paryaya’ in Ashta Mutt at Udupi, in the interest of justice and equity” (sic).*

(II) Learned counsel appearing for the Petitioner vehemently argues that the fourth Respondent – pontiff namely, His Holiness Sri Sugunendra Theertharu of Puttige Mutt, Udupi, having traveled abroad had crossed



seas/oceans and therefore, as per the traditions of subject Mutts, he is not entitled to touch the idol of Lord Krishna and disqualified from worshiping the deity. He points out that the said pontiff had traveled to United States of America during the year 1997. He draws our attention to para 6.3 of the Petition wherein *inter alia* averred as under:

"Further, the 4th Respondent is not a Peethadhipati who is appointed by Dwandwa Mutt. The 4th Respondent was appointed as Junior Peethadhipati by Puthige Mutt itself. On these two counts the 4th Respondent is ineligible to take the charge of Peethadhipati and participate in 'Paryaya'."

(III) Having heard the learned counsel for the Petitioner and having perused the Petition papers, we decline indulgence in the matter for the following facts & reasons:

A) A Five Judge Bench of the Apex Court in HIS HOLINESS **SRI VISHWOTHAMA THIRTHA SWAMIYAR OF SODE MUTT vs. STATE OF MYSORE, AIR 1966 SC 1882**, at paras 5 & 6 has observed as under:



"5. The way in which the image of Shri Krishna was installed in the Mutt is described thus :

"That the `Shri Madva Vijaya', the life history of the great teacher has it, that the Shri Krishna's image was acquired from a heap of Gopi Chandan from Dwarka brought by the sailors of a native craft which got stranded near Malpe where the teacher used to go every morning for his ablutions and tapas. Tradition has it that the image is the same that had been worshipped by Rukmini at Dwaraka in pre-historic days. The image was consecrated and installed by the great teacher in his mutt at Udipi and he began to worship it. This according to history and tradition is the origin of what came to be called popularly the Shri Krishna Mutt at Udipi."

Shri Madvacharya, who installed the consecrated idol in a shrine of his Mutt, worshipped it during his life-time and ordained that the worship be continued by one or other of his eight disciples. In order to regularise the worship of Shri Krishna and to give equal opportunities to the eight disciples it was arranged that the worship be conducted by each of the disciples by rotation (pariyayam). Worship has continued according to this system for the several centuries that the Shrine has been in existence. The head of each of the eight mutts conducts the worship for a period of two years. During this period he occupies the Gadi or the seat of Shri Madvacharya and is called the Pariyayam Swami.

6. The other seven heads of the mutts, when free from the duty of worshipping the image of Sri Krishna, began to take their abode in the vicinity of the Mutt and thus came into existence the eight independent mutts, though the main Mutt started by Shri Madvacharya, who consecrated and installed the Shri Krishna image, continued as the Shri Krishna Mutt of Udipi."



B) The vehement submission of learned counsel for the Petitioner that there has been a long standing tradition in the Mutt in question that any pontiff who travels overseas is disqualified from touching the idol of Lord Krishna and therefore, cannot become "The Pariyayam Swamy" is not substantiated before us by placing on record cogent & authentic material, to say the least. Right to travel abroad being a facet of Fundamental Right guaranteed under Articles 19 & 21 of the Constitution of India vide **MANEKA GANDHI vs. UNION OF INDIA, AIR 1978 SC 597**, and the Pontiff admittedly being a citizen can avail this right. Therefore, State cannot be asked to frame the guidelines for regulating the Paryaya in such a way as to disentitle a Pontiff from becoming Pariyaya Swami on the sole ground that he had traveled overseas.

C) The great son of the soil Swamy Vivekananda had sailed to United States of America and participated in the Parliament of the World Religions held in Chicago on 11.09.1893. Of course, his travel was by voyage, is true.



However, after the invention of aeroplanes, the globe has become smaller and people from all walks of life travel abroad by flight, which they were doing earlier by ships. Pontiffs and Religious Heads, whichever be their faith are not an exception to this. The devotees of mutts/shrines do reside on foreign soils and the pontiffs & priests go there for preaching is a matter of common knowledge. A mere fact that a pontiff had traveled overseas, can hardly be a sufficient ground for denying to him what is otherwise due in religion, in law or in reason, more particularly in the modern times like this.

D) It hardly needs to be stated that *paryaaya system* as has been obtaining in the Ashta Mutts of Udupi since centuries, has religious elements in abundance that enjoy constitutional protection under Articles 25 & 26 which guarantee the right to practise & propagate not only matters of faith or belief, but also all those rituals and observances which are regarded as integral parts of a religion vide **COMMISSIONER HRE vs. LAKSHMINDRA**



THEERTHA SWAMIAR, AIR 1954 SC 282. We are told at the Bar that the paryaaya ceremony has already begun and people from across the borders throng there. That being the position, the State as a constitutional entity cannot be called upon to promulgate the guidelines for regulating paryaaya and its associated ceremonies. They are all matters of religion and therefore are liable to be left to the Mutt itself and that, courts cannot readily interfere.

In the above circumstances, the petition being devoid of merits is liable to be and accordingly dismissed, costs having been reluctantly made easy.

Registry to send a copy of this order by Speed Post to Respondent Nos. 3 & 4 immediately.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Snb,bsv
List No.: 1 SI No.: 4