

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN**

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

DBP.No. 15 of 2010 ()

PARTIES:

- 1. THE SECRETARY,
TRAVANCORE DEVASWOM BOARD,
THIRUVANANTHAPURAM.**
- 2. THE DEPUTY DIRECTOR,
LOCAL FUND AUDIT,
TDB AUDIT, THIRUVANANTHAPURAM.**

**R1 BY ADV. SRI.D.SREEKUMAR, SC, TDB
R2 BY SR. GOVERNMENT PLEADER SRI.A.RANJITH.**

**THIS DEVASWOM BOARD PETITION HAVING BEEN FINALLY HEARD ON
02-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

vpv

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

D.B.P.No.15 of 2010

Dated this the 2nd day of March, 2015

ORDER

P.N.Ravindran, J.

This petition was registered upon receipt of an anonymous petition from a devotee of Kumaramkodu Ganapathy Temple and Keraladichapuram Devaswom (Pazhayikkal Bhagavathy Temple). The complaint was forwarded to the Honourable Ombudsman, who after visiting the two temples submitted T.D.B.Report No.79 of 2010 dated 10.6.2010. The Honourable Ombudsman has in his report stated that the compound wall on the eastern side of the temple tank of Kumaramkodu Ganapathy Temple has collapsed and that it requires to be reconstructed. As regards the Pazhayikkal Bhagavathy Temple, the Honourable Ombudsman has reported that the Sreekovil itself is not properly located and that it has to be reconstructed. The Honourable Ombudsman has also referred to the need to renovate the auditorium and to erect a Kanikkavanchi in front of the Sree Krishna Temple. The Honourable Ombudsman has in his report requested that this Court may direct the Executive Engineer, Travancore Devaswom Board, Kottayam to prepare an

estimate for the restoration of the compound wall of Kumaramkodu Ganapathy Temple; direct the Board to take a decision with regard to the relocation of the Sreekovil of the Devi Temple; repair the Kallyanamandapam inside the Devi Temple and also implement the proposals for minor repair works as well as the construction of toilets and rest rooms for the Thanthri and the temple priests/devotees.

2. When this petition came up for hearing before a Division Bench of this Court on 15.12.2010, the Division Bench directed that all works shall be completed after preparing estimates and getting approval from the Honourable Ombudsman. The order passed by this Court on 15.1.2010 reads as follows:-

"Following a complaint to the Hon'ble the Chief Justice, the learned Ombudsman was requested to look into the matter. After a thorough consideration of the entire complaint and even after making personal visit to the temple in question, the learned Ombudsman has placed TDB Report No.79/2010. We have perused the report and we are satisfied that all works mentioned of therein have to be necessarily carried out, though among them, the rectification of the Kallyanamandapam could be treated as last item. Yet, there is no reason why all other works shall not be completed at the earliest after preparing the estimates and getting the approval for the same from the learned Ombudsman. As regards the Kallyanamandapam, that will also be got rectified without delay. The learned Ombudsman will be issuing appropriate directions, including as to time limits and the

officers of the TDB will ensure that the works are carried out in terms of those directions treating them as if they are directions issued by this Court. We authorise the learned Ombudsman to issue such directions. The DBP ordered accordingly."

3. The Honourable Ombudsman has in T.D.B.Report No.113 of 2014 dated 31.7.2014 stated that though four years have passed after the aforesaid order was passed, nothing material has taken place and that lack of seriousness in implementing the directions is the main reason for delay. The Honourable Ombudsman has in paragraph 3 of T.D.B. Report No.113 of 2014 stated as follows:-

"3. Most important of the items to be considered is the construction of Devi Temple just opposite to the Sreekrishna Temple, on the other side of the PWD road. The existing temple is not constructed according to "Vasthu" rules and there is no santhi or Thidappally. Various meetings were convened in my Office and the Temple Advisory Committee promised to co-operate and see that new temple is constructed and deity reinstalled. The latest information from the Maramath wing is that when tenders were invited there was nobody to take up the work and it is now fixed for retender. The Assistant Engineer Sri. Uppili Appan promised to me to see that at least one contractor will be participating in the tender and even if it is only a single tender it can be considered for approval. Even after reconstruction of the Devi Temple, for reinstalling the Deity, various rituals will have to be performed and usually it is the Temple Advisory Committee who are taking up the responsibility and in their case also though they have offered to do it, it seems better that they give an undertaking to

the Honourable High Court to do it without any delay. All the other works necessary to be carried out as per Report No.79/2010 and the order in DBP 15/2010 can be considered after this work as it requires immediate and effective attention of the all concerned. If the Temple Advisory Committee is not willing to take up the responsibility, alternate arrangements may be directed to be considered. Arrangements will have to be made for shifting the Deity of Devi Temple to Balalayam and after constructing the Sreekovil and Thidappally, reinstallation of the Deity is required. Anunja for the same is to be taken by the representatives of the Temple Advisory Committee."

4. The learned standing counsel appearing for the Travancore Devaswom Board has filed a memo dated 9.2.2015 and produced along with it as Annexure D1, a statement furnished by the Executive Engineer, Kottayam with regard to the various works. The contents of Annexure D1 are extracted below in full:-

"1) **Kumaramkodu Ganapathy Temple - Vaikom group-reconstructing the fallen down retaining wall**

a. Reconstruction of fallen down retaining wall at east side of temple pond. An estimate amounting of Rs 138000/- prepared based on S.O.R.2010 was sanctioned by Chief Engineer(CE) on 01-06-2011 and same was awarded to Shri C. Venugopalan Nair (Nominee of the temple advisory committee) at sanctioned estimate rate on 17-04-2012. The entrusted nominee did not started the work till date and submitted a request to exempt him from his contractual obligation changing the flimsy reason of delay in issuing work sanction orders.

b. *Constructing Chuttambalam.*

An estimate amounting to Rs 2828000/- prepared based on S.O.R. 2012 was sanctioned the Hon. Board. The work was tendered on 14-07-2014 and recommended for contract sanction in favour of Shri.S.Ananda Pai at 49% excess to board by the Chief Engineer(G) on 20-08-2014 and same is pending for final approval.

2) **Keraladichapuram Devaswom**
(Pazhayikkal Bhagavathy Temple)-
Vaikom group constructing Sreekovil
and Nadapandal.

a) *An estimate amounting Rs 991000/- prepared based on S.O.R. 2012 sanctioned by the board. Since the concerned temple advisory committee was not willing to take up the work, the work was tendered on 14-07-2014. Nobody responded in the tender call. The work will be retendered at the earliest.*

b) *Constructing Thanthrimadam.*

An estimate amounting Rs 690000/- prepared based on S.O.R. 2012 was sanctioned by the board. The work was tendered on 23-12-2014. But nobody responded in the tender call. The concerned Assistant Engineer Vaikom was directed to invite quotation on 23-12-2014.

c) *Constructing toilet block.*

An estimate amounting of Rs 282000/- was prepared based on S.O.R 2012 was sanctioned by Chief Engineer (G) of the Board. The work was awarded to Shri.D.Satheesh Chandran (Nominee of the temple advisory committee) at 10% below the sanctioned estimate on 08-08-2014.

d) Constructing Kanikkamandapam.

An estimate amounting of Rs 148000/- prepared based on S.O.R 2012 was sanctioned by Chief Engineer (G).

The work was tendered on 23-12-2014. Nobody responded in the tender call.

The Assistant Engineer, Vaikom authorized and invite competitive question on 21-01-2015.

e) Repairs and maintenance of the sadhyalayam and semi-permanent shed for kitchen.

An estimate of Rs 437000/- prepared based on revised S.O.R 2010 was sanctioned by Chief Engineer (CE). The work was sanctioned awarded to Shri. C.Venugopalan Nair (Nominee of the temple advisory committee) at sanctioned estimate rate on 24-08-2012."

5. The details furnished by the Executive Engineer show that though the Board has taken necessary steps pursuant to the report submitted by the Honourable Ombudsman and the direction issued by this Court on 15.12.2010, the Board has not been able to achieve any result. It is evident from the details furnished by the Executive Engineer that the contractor to whom one work was awarded backed out and that in respect of yet another work, there were no bidders. The report also discloses that the Temple Advisory Committee is not in a position to undertake the various works. The complainant has chosen to remain anonymous. The notice issued from this Court to the Temple Advisory Committee of the Ganapathi Temple was served but they have not entered appearance. The

notice issued to the Secretary of the Temple Advisory Committee of the Bhagavathi Temple has been returned with the endorsement 'not claimed'.

6. In such circumstances, as the Board has done whatever is possible in the matter and this Court is not in a position to secure the assistance of the Temple Advisory Committee and the complainant has chosen to remain anonymous, we are of the opinion that the Board should be given the freedom to proceed with and complete the work as and when persons responded to the tender notification issued by it. If no one is willing to come forward, this Court cannot direct the Board to carry out the work departmentally for the reason that such an arrangement does not presently exist in the Board and the Board does not have the required number of Engineers/Overseers to carry out the work directly.

D.B.P.No.15 of 2010 is accordingly closed.

Sd/-

**P.N.RAVINDRAN
JUDGE**

Sd/-

**ANIL K.NARENDRA
JUDGE**