

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 6634 of 2015 (D)

PETITIONER(S):

1. T.P.NARAYANAN NAMBOODIRI,
S/O.T.P.NANDI NAMBOODIRI, THIDIL PULIYAPPAMBU ILLOM,
MAZHOOR, PANNIYUR P.O., TALIPARAMBA.
2. N.K.E. CHANDRASEKHARAN NAMBOODIRIPAD,
S/O.N.K.E. KUBERAN NAMBOODIRI, OM NIVAS,
(NARIKKODE MANA), P.O.C. POYIL, PARIYARAM.
3. P.K.VASUDEVAN NAMBOODIRI,
S/O.P.KYETNAM NAMBOODIRI,
PERUNTHATA KOKOUNNOM ILLAM, VELLAV, KUTTIYERI P.O.
4. T.M.VASUDEVAN NAMBOODIRI,
S/O.T.M.VASUDEVAN NAMBOODIRI, THERTHALA ILLAM,
THERTHALA, KOYYAM P.O., TALIPARAMBA.
5. K.K. MAHESWARAN NAMBOODIRI,
S/O.GHUNI NAMBOODIRI, KOTTOL, KIZHAKKE ILLAM,
VAYADU, THIRUVATTUR P.O., TALLIPARAMBA.

BY ADVS.SMT.SREEDEVI KYLASANATH,
SRI.V.L.MONY,
SRI.M.JAYAKRISHNAN,
SRI.ACHUTH KYLAS.

RESPONDENT(S):

1. COMMISSIONER,
MALABAR DEVASWOM BOARD,
KOZHIKODE, PIN- 673 001.
2. THE DEPUTY COMMISSIONER,
MALABAR DEVASWOM BOARD,
KOZHIKODE, PIN- 673 001.

BY ADV. SRI.K.R.SUNIL, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT-P1: TRUE COPY OF SCHEME GOVERNING T.T.K.DEVASWOM.
- EXHIBIT-P2: TRUE COPY OF THE SHOW CAUSE NOTICE DATED 29.09.2012 ISSUED BY 2ND RESPONDENT.
- EXHIBIT-P3: TRUE COPY OF EXPLANATION DATED 13.10.2012 SUBMITTED BEFORE THE 2ND RESPONDENT.
- EXHIBIT-P4: TRUE COPY OF THE JUDGMENT DATED 21.11.2012 IN WP(C).NO.26891/2012.
- EXHIBIT-P5: TRUE COPY OF THE SUSPENSION ORDER DATED 26.12.2012 ALONG WITH CHARGES AND MEMO OF CHARGES OF THE 2ND RESPONDENT.
- EXHIBIT-P6: TRUE COPY OF THE ORDER OF THE HONOURABLE SUPREME COURT.
- EXHIBIT-P6(A): TRUE COPY OF THE JUDGMENT DATED 03.07.2013 IN WP(C).NO.8955/2013.
- EXHIBIT-P7: TRUE COPY OF THE JUDGMENT DATED 20.08.2014 IN WP(C).NO.20720/2014.
- EXHIBIT-P7(A): TRUE COPY OF THE ORDER DATED 16.10.2014 OF 1ST RESPONDENT.
- EXHIBIT-P8: A TRUE COPY OF THE FINAL ORDER DATED 18.11.2014 OF 2ND RESPONDENT SUSPENDING PETITIONERS FOR 3 YEARS.
- EXHIBIT-P9: A TRUE COPY OF THE JUDGMENT IN WP(C).NO.355/2009.
- EXHIBIT-P9(A): A TRUE COPY OF THE FIRST PAGE OF WP(C).NO.16880/2011 FOR PROVING THAT THE WRIT IS NOT FILED BY PETITIONERS.
- EXHIBIT-P9(B): A TRUE COPY OF THE FIRST PAGE OF WP(C).NO. 20721/2011 FOR PROVING THAT THE WRIT IS NOT FILED BY PETITIONERS.
- EXHIBIT-P9(C): A TRUE COPY OF FIRST PAGE OF WP(C).NO. 6095/2009 FOR PROVING THAT THE WRIT IS NOT FILED BY PETITIONERS.
- EXHIBIT-P9(D): TRUE COPY OF THE JUDGMENT IN RP. NO.14/2011.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.6634 OF 2015
.....

Dated this the 3rd March, 2015

J U D G M E N T

The petitioners have approached this Court with the following prayers:

"i. to issue a writ of certiorari calling for the records relating to Exhibit P8 and quash the same to the extent it orders that the 3rd and 4th charges as proved and the suspension of petitioners for 3 years.

ii) to declare that Exhibit P8 is issued in violations of the provisions of Sec.45 of HR 7 CE Act and is void;

iii) to issue a writ of mandamus or any other writ or order directing 1st respondent to set aside Exhibit issued by 2nd respondent;

iv) to pass any other writ or order as if deemed fit and proper by this Honourable Court in the interest of justice."

2. The learned Counsel for the petitioners submits that the petitioner are constrained to move this Court repeatedly because of the ongoing arbitrary and illegal exercise being pursued by the concerned authorities at different points of time. It is stated that the petitioners were served with Ext.P2 show cause notice dated 29.09.2012, in response to which Ext.P3 explanation was

submitted. Thereafter, the petitioners were suspended as per Ext.P5 proceedings dated 26.12.2012.

3. Pursuant to the intervention made by this Court, the proceedings were directed to be finalised with regard to the continued suspension and also with regard to the enquiry, within three months as per Ext.P7 judgment dated 20.08.2014. It was thereafter that Ext.P8 order dated 18.11.2014 came to be passed by the second respondent/ Deputy Commissioner, whereby the suspension has been affirmed for a period of three years, which made the petitioners to approach this Court by filing the present writ petition.

4. Heard the learned Standing Counsel for the respondent/Devaswom Board as well, who points out that Ext.P8 order has been passed by the second respondent/Deputy Commissioner and that the petitioners are at liberty to file an appeal before the first respondent/Commissioner in terms of Section 18 of Hindu Religious and Charitable Endowments Act, 1951. In the said circumstance, the petitioners are set at liberty to invoke the statutory remedy. If any such appeal is filed before the first respondent, within two weeks , the same shall be

considered and appropriate orders shall be passed in accordance with law, after hearing, at the earliest, at any rate within three months thereafter. The petitioners are at liberty to file I.A. for interim relief if any, before the first respondent/Commissioner, if it is felt necessary. If any such petition is filed, the same shall be considered and appropriate orders shall be passed within two weeks thereafter.

The writ petition is disposed of. The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the first respondent/Commissioner for further steps.

P.R.RAMACHANDRA MENON
JUDGE

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