

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

WP(C).No. 17249 of 2015 (E)

PETITIONER(S):

**T.K SURESH BABU, AGED 52 YEARS
S/O.LATE BALA KURUP, THEEKKUNNUMEL HOUSE,
A7, DEVASWOM STAFF QUARTERS, NENMENI
GURUVAYOOR - 680 104.**

**BY ADVS.SRI.M.A.ABDUL HAKHIM
SRI.C.A.ANAS**

RESPONDENT(S)/RESPONDENTS:-:

- 1. GURUVAYOOR DEVASWOM
GURUVAYOOR - 680 101
REPRESENTED BY ITS ADMINISTRATOR.**
- 2. GURUVAYOOR DEVASWOM MANAGING COMMITTEE
GURUVAYOOR DEVASWOM, GURUVAYOOR - 680 101
REPRESENTED BY ITS CHAIRMAN.**
- 3. THE ADMINISTRATOR
GURUVAYOOR DEVASWOM, GURUVAYOOR - 680 101.**
- 4. GURUVAYOOR DEVASWOM COMMISSIONER
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
PIN - 695 001.**

**R1-R3 BY ADV. SRI.K.JAJU BABU (SR.)
R1-R3 BY ADV. SRI.P.GOPAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. A PHOTOSTAT COPY OF THE ORDER OF THE 3RD RESPONDENT DATED 03.06.2015 SUSPENDING THE PETITIONER FROM SERVICE.

EXHIBIT P2. A PHOTOSTAT COPY OF THE COUNTER AFFIDAVIT DATED 22.07.2005 FILED BY THE 3RD RESPONDENT IN SLP (CIVIL) NO.15698/2004 BEFORE THE HON'BLE SUPREME COURT.

EXHIBIT P3. A PHOTOSTAT COPY OF THE LETTER DATED 26.11.2010 ISSUED BY THE ADDITIONAL CHIEF SECRETARY OF THE GOVERNMENT OF KERALA TO THE GENERAL SECRETARY OF THE GURUVAYOOR DEVASWOM EMPLOYEES CONGRESS.

EXHIBIT P4. A PHOTOSTAT COPY OF THE REPLY DATED 05.07.2014 ISSUED BY THE SUB INSPECTOR OF POLICE, GURUVAYOOR.

EXHIBIT P5. A PHOTOSTAT COPY OF THE JUDGMENT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD 23.11.2011 IN C.C.1052/2010.

EXHIBIT P6. A PHOTOSTAT COPY OF THE CIRCULAR DATED 13.07.2000 WITH RESPECT TO THE GUIDELINES FOR TRANSFER.

EXHIBIT P7. A PHOTOSTAT COPY OF THE REPORT DATED 31.10.2008 OF A COMMITTEE WHICH WAS SET UP TO FRAME NEW GUIDELINES FOR TRANSFER.

EXHIBIT P8. A PHOTOSTAT COPY OF THE TRANSFER ORDER DATED 28.01.2014 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P9. A PHOTOSTAT COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXHIBIT P10. A PHOTOSTAT COPY OF THE ORDER DATED 12.02.2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P11. A PHOTOSTAT COPY OF THE INTERIM ORDER DATED 24.02.2015 OF THIS HON'BLE COURT IN W.P.(C)NO.5752/2015.

EXHIBIT P12. A PHOTOSTAT COPY OF THE DECISION DATED 27.02.2015 OF THE 2ND RESPONDENT.

EXHIBIT P13. A PHOTOSTAT COPY OF THE ORDER OF THE 3RD RESPONDENT DATED 02.03.2015.

EXHIBIT P14. A PHOTOSTAT COPY OF THE FILE NOTE DATED 26.02.2015 OBTAINED UNDER RIGHT TO INFORMATION ACT.

EXHIBIT P15. A PHOTOSTAT COPY OF THE DECISION DATED 02.03.2015 OF THE 2ND RESPONDENT.

EXHIBIT P16. A PHOTOSTAT COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 25.03.2015 IN CONTEMPT OF COURT CASE NO.351/2015.

EXHIBIT P17. A PHOTOSTAT COPY OF THE ORDER DATED 27.04.2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P18. A PHOTOSTAT COPY OF THE ORDER DATED 27.04.2015 OF THE DEPUTY ADMINISTRATOR OF THE 1ST RESPONDENT.

EXHIBIT P19. A PHOTOSTAT COPY OF THE LETTER DATED 14.07.2014 ISSUED BY THE ASSISTANT COMMISSIONER OF POLICE TO THE 3RD RESPONDENT.

EXHIBIT P20. A PHOTOSTAT COPY OF THE DECISION DATED 08.07.2014 OF THE 2ND RESPONDENT.

EXHIBIT P21: A PHOTOSTAT COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C).NO.34442/2003.

EXHIBIT P22: A PHOTOSTAT COPY OF THE ORDER OF THE HON'BLE SUPREME COURT IN CIVIL APPEAL NO.1493/2006.

EXHIBIT P23: A PHOTOSTAT COPY OF THE ORDER PASSED BY THE HON'BLE SUPREME COURT IN SLP (CC) NO.1799/2012.

EXHIBIT P24: A PHOTOSTAT COPY OF THE FIR IN CRIME NO.415/2014 OF GURUVAROOR POLICE STATION.

EXHIBIT P25: A PHOTOSTAT COPY OF THE DISCHARGE CARD ISSUED BY RAJA CHARITABLE MEDICAL TRUST, CHAVAKKAD.

EXHIBIT P26: A PHOTOSTAT COPY OF THE STATEMENT GIVEN BY SRI.K.R.SUNIL KUMAR TO THE POLICE.

EXHIBIT P27: A PHOTOSTAT COPY OF THE FINAL REPORT SUBMITTED BY THE POLICE IN CRIME NO.415/2014.

EXHIBIT P28: A PHOTOSTAT COPY OF THE LETTER ISSUED BY THE THANTHRI TO THE BOARD CHAIRMAN.

EXHIBIT P29: A PHOTOSTAT COPY OF THE DECISION OF THE MANAGING COMMITTEE.

EXHIBIT P30: A PHOTOSTAT COPY OF THE DECISION OF THE MANAGING COMMITTEE.

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RESPONDENT(S)' EXHIBITS

**EXHIBIT R1(A): COPY OF THE ORDER OF THE GOVERNMENT GO (RT)
NO.6073/2013/RD DATED 15.11.2013.**

**EXHIBIT R1(B): COPY OF THE ORDER OF THE GOVERNMENT GO(RT)
NO.2079/2014/RD DATED 21.05.2014.**

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.17249 OF 2015

Dated this the 23rd day of July, 2015

J U D G M E N T

The petitioner is an Upper Division Clerk working under the 1st respondent Board. In the writ petition, he is aggrieved by Ext.P1 order of suspension dated 3.6.2015, whereby, he was suspended pending disciplinary proceedings. The facts in the writ petition would reveal that no formal charge sheet has been served on the petitioner till date. The suspension order has been passed relying on various incidents that took place, and in respect of which the petitioner approached this Court and the Government, through writ petitions and representations, questioning the competence of certain persons to be included in the Managing Committee of the respondent Board, as also the propriety of not taking action against certain members for the alleged acts of misconduct committed by them.

2. A counter affidavit has been filed by respondents 1 and 3, wherein, it is indicated that the respondents intend to proceed against the petitioner in accordance with Rule 22 of the Kerala Government

Servants' Conduct Rules, 1960 [hereinafter referred to as the 'Conduct Rules, 1960'], which has been made applicable to the employees of the Guruvayur Devaswom Service by virtue of the provisions of the Guruvayur Devaswom Employees Regulations, 1983. It is the stand of the respondents that Rule 72 of the Conduct Rules, 1960, which states that "Seditious propaganda or the expression of disloyal sentiments by a Government servant will be regarded as sufficient ground for dispensing with his services", is also relevant while considering the legality of the proceedings that are contemplated against the petitioner. The petitioner has also filed a reply affidavit traversing the various averments in the counter affidavit filed on behalf of the respondents.

3. I have heard the learned counsel for the petitioner, learned senior counsel for respondents 2 and 3 and the learned Government Pleader for the official respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that, based on the nature of the charges that are contemplated against the petitioner, as

disclosed in the counter affidavit filed on behalf of the respondents, the respondents would have to establish the charges against the petitioner in a formal enquiry to be conducted, before fastening the petitioner with any punishment. On the facts of the instant case, I do not see any reason to keep the petitioner under suspension pending completion of the disciplinary proceedings against him. I take this view, because I do not see the necessity to keep the petitioner out of service since, by letting him continue in service during the pendency of the disciplinary proceedings, respondents cannot be prejudiced in any manner vis-a-vis an establishment of the charges that have been contemplated against the petitioner. Further, it is not in dispute that the petitioner is now stationed at Vengad Gokulam of the respondent Board, and the charges against the petitioner do not, in any manner, impinge upon his services at Vengad Gokulam. On a query put to the learned senior counsel as regards the time limit within which the enquiry against the petitioner can be completed, the learned senior counsel would submit that the enquiry can be completed as expeditiously as possible. Taking note of the said submission, I dispose the writ petition with a direction to the respondent Board to complete the disciplinary proceedings initiated against the petitioner,

expeditiously. Inasmuch as I have found that there is no reason to keep the petitioner under continued suspension, I direct the respondent Board to reinstate the petitioner in service at Vengad Gokulam forthwith and pending completion of the disciplinary proceedings against him.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp