

**Devadas P.G vs the Cochin Devaswom Board**

**Devadas P.G vs the Cochin Devaswom Board**

**SooperKanoon Citation :** [sooperkanoon.com/1338595](https://sooperkanoon.com/1338595)

**Court :** Kerala

**Decided On :** Feb-13-2023

**Judge :** Honourable Mr. Justice Anil K.Narendran,Honourable Mr.Justice P.G. Ajithkumar

**Appeal No. :** WP(C)/4899/2023

**Appellant :** Devadas P.G

**Respondent :** The Cochin Devaswom Board

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ANIL K. NARENDRAN & THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR MONDAY, THE 13TH DAY OF FEBRUARY 2023 / 24TH MAGHA, 1944 PETITIONERS: 1 DEVADAS P.G., AGED 61 YEARS, S/O.GOVINDA KURUP, PADINJAREDATH (THAPASYA), CHERANALLOOR P.O., COCHIN, PIN - 682034 2 ASOKAN V.N., AGED 62 YEARS, S/O. LATE V.R.NARAYANAN, ALATHERI PARAMBIL HOUSE, HOUSE NO.16/125, CHERANALLOOR P.O., COCHIN, PIN - 682034 BY ADVS. DINESH R.SHENOY P.ROHIT PREMANANDAN SHENOY SILESH S. PRABHU SAMBHU NARAYANAN S. JOMOL PIUS RESPONDENTS: 1 THE

COCHIN DEVASWOM BOARD, REP. BY ITS SECRETARY, O/O. COCHIN DEVASWOM BOARD, G6H7+2VW, SWARAJ ROUND N, ROUND NORTH, THRISSUR, KERALA, PIN - 680001 2 THE CHERANALLOOR SREE KARTHYAYANI BHAGAVATHI TEMPLE CHERANALLOOR, EDAPPALLY, COCHIN - 682 034, REP. BY THE DEVASWOM OFFICER, C.K.SWAMI DEVASWOM, SOUTH CHITTOOR, COCHIN, PIN - 682027

3 THE DEVASWOM COMMISSIONER, O/O. COCHIN DEVASWOM BOARD, SWARAJ ROUND (NORTH), THRISSUR, PIN - 680001 BY ADV K.P.SUDHEER, SC, COCHIN DEVASWOM BOARD OTHER PRESENT: SRI K.P.SUDHEER- STANDING COUNSEL -COCHIN DEVASWOM BOARD THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

**Anil K. Narendran, J.**

The petitioners, who are devotees of Cheranalloor Sree Karthyayani Bhagavathi Temple, have filed this writ petition, under Article 226 of the Constitution of India, seeking a writ of certiorari to quash Ext.P7 proceedings dated 10.02.2023 of the 3rd respondent Devaswom Commissioner, Cochin Devaswom Board, constituting a committee consisting of 10 members for conducting the annual festival of Cheranalloor Sree Karthyayani Bhagavathi Temple for the year 1198 M.E. The petitioners have also sought for a writ of mandamus commanding the respondents to reconstitute the Adhoc Ulsava Akhosha committee, by including persons in Ext.P6 order dated 04.02.2021 and other genuine devotees of Cheranalloor Sree Karthyayani Bhagavathi Temple, thereby excluding all members who have been part of the earlier Temple Advisory Committee, which was under the control of Sri.O.Chandrasekharan, M.R. Chandrasekharan and V. Jayakumar, from 2010 to 2023 and their close relatives.

2. Heard the learned counsel for the petitioner and also the learned Standing Counsel for Cochin Devaswom Board for the respondents.

3. Though the main relief sought for in this writ petition

is writ of certiorari to quash Ext.P7 proceedings dated 10.02.2023 of the 3rd respondent Devaswom Commissioner constituting an Adhoc Ulsava Akhosha Committee for conducting the annual festival of Cheranalloor Sree Karthyayani Bhagavathi Temple, which has to commence on 27.02.2023, none of the members of that Adhoc Committee are made parties to this writ petition. In view of the law laid down by the Apex Court in Dattatreya v. Mahaveer [(2004) 10 SCC 665], in certain circumstances, non impleadment of affected parties in a writ petition filed under Article 226 of the Constitution of India would amount to deliberate suppression of material facts. The conduct of the petitioners herein, in filing this writ petition challenging Ext.P7 order of the 3rd respondent Devaswom Commissioner, without impleading the members of the Adhoc Ulsava Committee in the party array, amounts to willful suppression of material facts.

4. Ext.P7 order is one issued by the 3rd respondent

Devaswom Commissioner, pursuant to the direction contained in Ext.P5 order dated 09.02.2023 in R.P.No.174 of 2023, which was one filed by the Cochin Devaswom Board and another seeking review of the judgment dated 18.01.2023 in W.P.(C)No.29526 of 2022.

5. By the judgment dated 18.01.2023,

W.P.(C)No.29526 of 2022 filed by a devotee by name Sasi K.K. was disposed of taking note of the law laid down by this Court in Sunil Kumar C. and others v. Travancore Devaswom Board and others [2022 (4) KHC 663]. Paragraphs 5 to 7 and also the operative portion of that judgment read thus;

5. Heard the learned counsel for the petitioner, the learned Standing Counsel for Cochin Devaswom Board for respondents 1 and 2, and also the learned counsel for respondents 3 to 5. Insofar as the relief sought

for in this writ petition in respect of the auditing of accounts of the Temple Advisory Committee of Cheranalloor Sree Karthyayani Bhagavathi Temple is concerned, the matter is now pending consideration before the learned Ombudsman in DBP No.14 of 2022. The petitioner can file an application for impleadment in DBP No.14 of 2022. The legal and factual contentions raised by both sides on the above issue are left open to be raised before the appropriate forum.

6. Insofar as the election of a new Temple Advisory

Committee in Cheranalloor Sree Karthyayani Bhagavathi Temple is concerned, the fact that respondents 3 to 5 are continuing as the office bearers of the Temple Advisory Committee from the year 2010 onwards is not in dispute. The said fact is also admitted in paragraph No.3 of the counter affidavit filed by the said respondents.

7. In Sunil Kumar C. and others v. Travancore

Devaswom Board and others [2022 (4) KHC 663] in the context of the provision under Section 31A of the Travancore-Cochin Hindu Religious Institutions Act, 1950, which deals with constitution of Temple Advisory Committees in temples under the management of Travancore Devaswom Board, this Court held as follows: 59. As already noticed, in view of the provisions contained in Clause (2) and Clause (11) of Ext.P1 Rules, the construction or repair or renovation work that has to be undertaken in a temple is not outside the purview of the Temple Advisory Committee constituted under Section 31A of the Act. The term of the Temple Advisory Committee is two years from the date of approval of the election by the Devaswom Commissioner, who has the authority to extend the term by one year in case of development works or unavoidable rituals in the temple. The Board has the power to extend the term by a further period of one year in case of development works or unavoidable rituals in the temple. In view of the prohibition contained in Clause (11) of Ext.P1 Rules, the term of the Temple Advisory Committee

cannot be extended beyond the period of two years. In view of the prohibition contained in clause (18), a person, who is an office bearer or member of the Temple Advisory Committee is not eligible to continue as such, continuously exceeding the term of two Committees. Respondents 6 to 10 were in the Temple Advisory Committee continuously for a period of four years from 13.03.2017 till 12.03.2021. As held by this Court in Chandu K. v. Travancore Devaswom Board [2021

(3) KHC 379] the power of the Devaswom

Commissioner or the Board to extend the term of the Temple Advisory Committee shall not be exercised as a matter of course. The Devaswom Commissioner or the Board, as the case may be, shall call for a report regarding the developmental works going on in the temple concerned or the unavoidable rituals to be carried out in the temple and apply its mind to the materials and take a decision as to whether extension of term has to be given or not. The provision under Section 76A of the Travancore-Cochin Hindu Religious Institutions Act deals with constitution of Temple Advisory Committees in the temples under the management of Cochin Devaswom Board. The composition of the Temple Advisory Committee is governed by the provisions contained in the rules framed by the Cochin Devaswom Board under sub-Section (3) of Section 76A of the Act. Clause 13 of Ext.R3(h) rules (bye law) deals with term of the Temple Advisory Committee. A reading of the said provision would make it clear that the law laid down by this Court in Sunil Kumar C [2022 (4) KHC 663] in the context of Section 31A of the Act will have application with equal force in the matter of constitution of Temple Advisory Committees under Section 76A of the said Act, in temples under the management of Cochin Devaswom Board. In such circumstances, this writ petition is disposed of by directing the Devaswom Officer of the 2nd respondent Cheranalloor Sree Karthyayani Bhagavathi Temple to convene a meeting of the registered mandalam of the devotees for electing members to the Temple Advisory Committee of the said temple, after complying with the

statutory requirements. Necessary steps in this regard shall be initiated, as expeditiously as possible, at any rate, within a period of two weeks from the date of receipt of a certified copy of this judgment and the entire process shall be completed within a further period of two months.

6. R.P.No.174 of 2023 was filed on the ground that, when W.P.(C)No.29526 of 2022 was disposed of by the

**judgment dated 18.01.2023, it could not brought to the notice**

of this Court that the Temple festival has to commence on 27.02.2023.

7. By Ext.P5 order dated 09.02.2023, R.P.No.174 of 2023 was disposed of. Paragraphs 6 to 9 and also the operative portion of that order read thus; 6. The learned Standing Counsel for Cochin Devaswom Board would submit that, since some more time is required to constitute a new Temple Advisory Committee,

**in terms of the directions contained in the judgment**

dated 18.01.2023 in W.P.(C)No.29526 of 2022, the Board shall adopt the very same procedure for the annual festival, which has to commence on 27.02.2023, by constituting a Committee for the limited purpose of conducting the said festival.

7. The learned counsel for the 1st respondent/writ

petitioner would point out the allegations contained in Ext.P4 representation made by the staff of Cheranalloor Sree Karthyayani Bhagavathi Temple, which was addressed to the Secretary of the Board, regarding certain issues in the temple festival of the year 2021, which was conducted in terms of Ext.P2 order.

8. The learned Standing Counsel for Cochin Devaswom Board would submit that the petitioner herein shall take necessary steps to ensure that no such incidents are repeated during the festival of the year 2023.

9. The learned counsel for respondents 2 to 4, who are

arrayed as respondents 3 to 5 in the writ petition, would submit that the said respondents have absolutely no intention to create any issues during the temple festival of the year 2023, they being the devotees of Cheranalloor Sree Karthyayani Bhagavathi Temple. The learned counsel would also submit that proper accounts for the amount collected by the Temple Advisory Committee, in connection with temple festival of the year 2023, shall be submitted before the Devaswom Officer, within two days. In the above circumstances, this review petition is disposed of by directing the 1st petitioner Cochin Devaswom Board to constitute a Committee for conducting annual festival in Cheranalloor Sree Karthyayani Bhagavathi Temple for the current year, which is to commence on 27.02.2023, as expeditiously as possible, at any rate, within a period of two days, by adopting the procedure that was followed in the year 2021, as evidenced by Ext.P2 in the writ petition. Within two days, respondents 2 to 4 shall handover the amount collected by the Temple Advisory Committee in connection with the temple festival of the year 2023 along with statement of accounts, which shall be subjected to proper audit as per the statutory

requirements within the stipulated time limit. Respondents 2 to 4 herein shall not be included in the committee to be constituted by the Board for the purpose of conducting annual festival for the current year. Any

### **issues similar to that pointed out in Ext.P4**

representation made by the staff of Cheranalloor Sree Karthyayani Bhagavathi Temple, for the conduct of annual festival for the current year shall be brought to the notice of this Court by the petitioners herein by submitting a proper application, which shall be numbered as DBA and listed before the Devaswom Bench. Subject to the above modification, all other directions in the judgment dated 18.01.2023 in W.P.(C)No.29526 of 2022 shall continue as such.

8. Now, two other devotees of Cheranalloor Sree

Karthyayani Bhagavathi Temple have filed this writ petition challenging Ext.P7 proceedings of the 3rd respondent Devaswom Commissioner, constituting an Adhoc Ulsava Committee for conducting annual festival in the temple, which is scheduled to commence on 27.02.2023. None of the members of the Adhoc Committee are made parties to this writ petition. In Ext.P5 order, we have noticed the submission of the learned counsel for the

**1st respondent/writ petitioner, placing reliance on Ext.P6 order**

dated 04.02.2021, whereby an Adhoc Committee was constituted for conducting the annual festival of the year 2021. From the submissions made by the learned counsel for the petitioners, we notice that the petitioners want to see that those

**who are in the Adhoc Committee constituted by Ext.P6 order**

dated 04.02.2021 are included in the Adhoc Ulsava Committee for the current year. We find no reason to interfere with Ext.P7 proceedings dated 10.02.2023 of the 3rd respondent Devaswom Commissioner constituting an Adhoc Ulsava Committee for conducting the annual festival of Cheranalloor Sree Karthyayani Bhagavathi Temple for the year 1198 M.E. In the result, this writ petition fails and the same is accordingly dismissed. The Assistant Commissioner, Cochin Devaswom Board shall ensure strict compliance of the directions contained in Ext.P7 order regarding verification and audit of the accounts of the Adhoc Committee. Sd/- ANIL K. NARENDRAN, JUDGE Sd/- P.G. AJITHKUMAR, JUDGE  
MIN APPENDIX OF WP(C) 4899/2023 PETITIONER EXHIBITS Exhibit P1 TRUE PHOTOCOPY OF JUDGMENT DATED COURT OF KERALA. Exhibit P2 TRUE PHOTOCOPY OF NOTICE DATED RESPONDENT. Exhibit P3 TRUE PHOTOCOPY REPORT DATED 24/1/2023 FORWARDED BY ASST. COMMISSIONER, OFFICE OF DEVASWOM COMMITTEE, THRIPPUNITHURA. Exhibit P4 TRUE PHOTOCOPY OF PROCEEDINGS OF THE DEVASWOM COMMISSIONER (IN CHARGE) DATED 31/1/2023, THRIPPUNITHURA. Exhibit P5 TRUE PHOTOCOPY OF ORDER DATED 9/2/2023 IN RP.NO.174/2023 IN WP(C)NO.29526/2022, HIGH COURT OF KERALA. Exhibit P6 TRUE



PHOTOCOPY OF THE PROCEEDINGS OF KOCHI DEVASWOM BOARD DATED 4/2/2021 APPOINTING TEMPORARY ULSAVAAKHOSHA COMMITTEE IN THAT YEAR. Exhibit P7 TRUE PHOTOCOPY OF PROCEEDINGS OF DEVASWOM COMMISSIONER DATED 10/2/2023. Exhibit P8 TRUE PHOTOCOPY OF LETTER DATED THADAVILLIL HOUSE. Exhibit P9 TRUE PHOTOCOPY OF THE LIST OF MEMBERS

OF THE TEMPLE ADVISORY COMMITTEE, ALONG WITH LETTER DATED 4/6/2022 ISSUED BY THE ASSISTANT COMMISSIONER, COCHIN DEVASWOM BOARD.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**