

Writ Petition 476 of 2012

Who Filed the case?

Pujya Swami Dayanada Saraswati, Swami Paramatmananda and Swami Visvesharananda and Hindu Dharma Acharya Sabha in the Supreme Court of India in Dec 2012

On request of Swami Dayananda Saraswathi, in 2016, Sri Azhagiya Singhar of Ahobilam & Sri Subramanyan Swami have impleaded in the case

What is the case?

The case is about who manages Hindu Religious Temples. In the States of TN, AP/TS & Pondicherry there are specific Laws (Acts) that are used by the respective Governments to 'take-over' and manage Hindu Religious Temples. The Government in these States run Hindu Temples as if they were just another Government Department, denying the right of ordinary Hindus to manage their own religious affairs.

This has resulted in serious misuse of Temple Funds, extensive loss of Temple properties, damage to Temple structures & inscriptions and severe restrictions on Hindus to 'profess, practice and propagate' their religion.

Such Government control is not exercised on either Churches or Mosques.

What is Challenged?

The case challenges four major powers of the State Government as being against the basic constitutional rights of Hindus.

(a) Provisions that allow the Governments to appoint 'Trustees' to the Temples and Endowments thereby indirectly control the affairs of such Hindu Temples

AP: Sections 15, 17, 18,19 & 22 of the A.P. Act.

TN: Sections 47, 49, 49-B of the T.N. Act

Pondy: Sections 4 & 8 of the Pondicherry Act.

(b) Provisions that allow the Government to appoint Government officials as 'Executive Officers' to the Temples and Endowments thereby directly control such Hindu Institutions and make them extensions of Government Departments:

AP: Sections 29 and 41 of the A.P. Act.
TN: Sections 43-A, 45 and 71-76 of the T.N. Act
Pondy: Section 9 of the Pondicherry Act.

(c) Provisions that allow the Government to interfere in the religious and internal affairs of the Hindu Temples. The Executive Officer appointed by the Government and the Department in the respective states, control all aspects of the religious affairs of temples including conduct of Pujas, Rituals & Rites

AP: Sections 8,12,13, 25,49 & 87 of the A.P. Act
TN: Sections 23, 24 and 108 of the T.N. Act
Pondy: Section 3A of the Pondicherry Act

(d) Provisions that allow the Government to restrict the usage of Temple funds for religious purposes, transfer funds to Government for 'secular purposes' and appropriate funds from such institutions as Administrative Fees and Audit Fees:

AP: Sections 66 & 70 of the A.P. Act
TN: Sections 35, 36, 36A, 36B & 92 of the T.N. Act
Pondy: Sections 11,12, 13 & 14 of the Pondicherry Act.

On What Basis are the Powers of the States challenged?

The above laws are against several provisions of our Constitution.

- **Equality before Law** (Art 14): Other religions are allowed to manage their Churches & Mosques without any Government interference.
- **State shall not discriminate** against any citizen on grounds only of religion,(Art 15.1)
- **Freedom of religion** to citizens to profess, practice and propagate (Art 25)
- Taking over of the management of any property by the State (should be) for a limited period (Art 31.A.1.b)
- Practice any profession, or to carry on any occupation, trade or business (Art 19.g)
- Art 26 Freedom to establish & administer religious institutions & their properties & decide on all religious matters

What is the 'Prayer' before the Supreme Court?

The petition asks the SC to strike down the powers of the States to:

- Appoint trustees (usually ruling party politicians) for Hindu Temples
- Appoint Executive Officers to control and manage Hindu Temples
- Take away temple funds for non-religious 'secular' purposes, levy 'Admin & Audit Fees' of upto 20% of Temple Income, misuse Temple Funds & properties for 'secular purposes'

- Intefere and control in conduct of pujas, worship, ritual & rites

What is the Interim Application?

Since the case is dragging for more than eight years, an Interim Application is bieng made to request the SC to order an 'Independent Audit' of Temple Properties, Accounts and related aspects of temple management, to bring out and document the extensive loot of Temple properties and funds under Government control.

Advocates

Sri C S Vaidyanathan, Sr. Advocate
Sri Sri R Venkataramani, Sr. Advocate

Additional Advocates

Sri Mohan Parasaran Sr. Advocate(for Ahobila Matham)
Shri J Sai Deepak

Discussion points

Case is posted on Monday Oct 26. Govts of TN & AP (&Telengana) were directed to file thier esponse – no further time will be allowed.

Procedural

1. Pujya Swamiji is the first apellant. Should some other person take his place? Legal position?
2. Inclusion of Telengana, post bifurcation of AP
3. Advocate on record.

Strategy

The WP covers three araes.

1. Government control & management of temples thru appointmnet of trustees, fit persons & Executive Officers.
2. Collection and utilzation of temple funds & assets for non temple related purposes.
3. Interference in rites , rituals and practices.

All three above hit rights under Articles 25 (propagate & practice); 14, 15.1 (discrimination, equality), 31.A.1.b (take over on grounds of mismanagement) & 19.g (right to profession)

Several actions by the Govts. have come to light that have a direct bearing on the three points.

Management.

1. Around 30 important temples in TN are managed by EOs for more than 50 years plus – under provisions of law that have been rescinded or superceded. These EOs are occupying positions and exercising control illegally, without sanction of law.

2. The EOs assume defacto control over all aspects of the temple including religious affairs while neglecting their primary responsibility towards 'administration of properties of the religious institutions'
3. Several cases where temple assets, specifically lands have been alienated without considering the 'interest of the institution'. Government unwilling or unable to safeguard templelands
4. In case of AP Act (Sec 39) the EOs are appointed in a manner as if they are Government officials
5. Trustees or board of trustees do not exist in majority of temples, their role being usurped by EOs, Fitpersons etc. in contrvention of several provisions of the TN, Pondy & AP acts

Utilization of temple funds & assets

1. The Acts have failed to protect temple funds and properties. Rampant illegal alienation of properties.
2. Administrative charges levied by Government far exceeds the revenue realized for temples, an absurd situation – temples would benefit if the Government were to withdraw (and not charge managing fee) and NO INCOME realized from properties.
3. Temple funds usurped in arbitrary manner without any accountability on their utilization – in most cases temple funds are utilized for Government purposes without any bearing on the religious or temple purposes.

Religious Rites & Rituals

1. Government officials decide on all aspects of religious rituals, including Kumbabishekam /Samprokshanam denying any role to worshippers of Acharyas.
2. Government has even created posts for specific religious function / rituals like 'balalayam' and kumbabishekam
3. Policy Announcement was made in TN Assembly on August 12 2014 covering 14 items. Of these points, 2 (annadanam), 3 (thirupani), 6 (annadanam), 7 (rites & rituals), 11 (mahamaham festival in Kumbakonam) 12 (annadanam), 13, 14 (appointment of temple workers) are all purely religious in nature and are functions of respective temple

trustees. Government has over time created a situation as if the temples are Government properties and all aspects of temple functioning are being conducted as if they are Government departments.

Options

EOs to have powers only over immovable properties of temples and have no role in religious functioning of temple. Symbolically they must vacate premises occupied by them within temples.

Present alternate temple management structure and transition plan

Suspend all alienation of temple properties. Independent body to assess and document temple properties. Special courts to fast-track temple property related cases.

Appoint trustees for all temples for specific period in consultation with Acharya Sabha, governed by religious audit.