

Pervasive State Control On Temples: An Administrative Furore?

virendra Ashiya Chiku^{1*}, Nandini Ravishankar²

¹National Law School of India University, Bangalore, Karnataka, India.

²Dr. Vishwanath Karad MIT World Peace University, Pune, Maharashtra, India

ARTICLE INFO

*Correspondence:

virendra Ashiya Chiku
virendra.ashiya@nls.
ac.in

National Law School
of India University,
Bangalore, Karnataka,
India.

Dates:

Received: 20-07-2023

Accepted: 27-08-2023

Published: 25-12-2023

Keywords:

Covenant,
Administrative
Authority, Essential
Religious Practices,
Pervasive Control,
Sovereignty.

How to Cite:

Chiku, v.A., Ravishankar,
N. (2023) Pervasive State
Control On Temples: An
Administrative Furore?.
DME Journal of Law,
4(2), 48-58.
doi: 10.53361/dmejl.
v4i02.06

Abstract

It all started with the eviction proceedings of a practicing advocate who was a tenant on the premises of the temple owned by the royal family of Travancore. The action of the executive officer who tried to oust the practicing advocate from the land on which he was a tenant was challenged. The predisposition of the tenant was that the executive officer himself lacked the authority to exercise powers by holding his office. In addition to that, the person vide whom he was appointed under hand and seal lacked the authority to do so since his authority in office was questioned. This spiked the fire of the famous Padmanabhaswamy Temple dispute which not only underscores pervasive state control but also speaks volumes of the pseudo-secularism in the exercise of administrative privileges present in the country. The action of a religious community to agree to the state control over its religious institutions on the condition prevailing that, the state shall hold the authority to take care of funds and management of transactions but not the religious activities of the Institution is a drowning Armada sure to sink. This is because the community is oblivious to the fact that investment in secularism starts with transactions undertaken and monetary power conferred. That the religious institution be governed by a secular body in addition to which the latter be vested with the power to make appointments of significant position holders to the religious institution goes against the very spirit of the provisions of the constitution. The right of a religious community to administer its religious institution which is not secular, perhaps essentially religious is an Essential Religious Practice or at least significant for carrying out its Essential Religious Practices. The Padmanabhaswamy Temple Verdict of the Apex Court, by taking into consideration the intricacies of the Covenant and interpretation of its clauses has accurately differentiated between the right of the state to supervise and the unwritten privilege enjoyed by it to control and administer. This paper focuses on:

- Evolution of essential religious practice and its applicability to the Padmanabhaswamy Temple issue;
- In-depth analysis of the Padmanabhaswamy Temple vis-a-vis the Kerala High Court judgment;
- Shedding light on inspiring factors of the verdict: The Shirur Math Judgment and Chidambaram Temple Verdict that propelled as clarion calls for self-governance of religious institutions;
- Highlighting how rampant and essential the judgment is for the community in the light of the Hindu Religious Endowment Board Act, 1951 and the reignited hope in the Judiciary along with constitutional provisions reinstated by it.

INTRODUCTION

The paper focuses on the stand taken by the apex court in recognizing the special relationship shared between the royal family and the benevolent, vide the language enunciated in the covenant signed by the then ruler, Maharaja Chittira Thirunal Balarama Verma, and the Government in 1949, leading to the creation of the then state of Travancore-Cochin. It can imperatively be said that this judgment paves the way for the freedom of temples and stands to be an extended scope of research due to the fate of other temples still kept in abeyance. The model suggested by the Apex court can be considered for several other examples of Temple governance as will be extrapolated.¹ The Tirumala Tirupati Devasthanam under Sec 96 of HRC Act of Andhra Pradesh 1987, functions by directions of a body populated by members appointed by the state. Uttarakhand witnessed more than 51 temples being taken over by the state under the powers vested in it by the Chardham Act that came to be recently challenged. Currently, Shri Jagannath Temple Administration Committee, under Sec 5 of the Shri Jagannath Temple Act of 1955 is a government-appointed board, which portrays a deep entrenchment of state power in major temples.² Whether the model suggested via the verdict is equally applicable for all other temples gives an ambit for circumspection. However, as will be mentioned hereinafter, the stand of the court is a welcome sign due to its inclination to recognize the relation rooted in tradition and a religious relationship. This implies the court's willingness to accept the sanctity of the nature of the religious relationship of entities of Hindu Temples. Slightly digressing from the convention, the court has shown agility in asserting that power to administer may reside in royal families based on the relationship nexus enjoyed vide the Covenant. This paper considers freedom of temples as an integral element of Art 25 of the Indian Constitution

¹ R Krishnakumar, Supreme Court upholds management rights of the former royal family, F Home (2020)

² Understanding the Sri Padmanabhaswamy Temple Judgment - Clear-cut with J. Sai Deepak <https://youtu.be/g2B30mZmgwM?si=qmW0lrSfekAGbB1q> (last visited on September 15, 2023).

which is a starting point of discussion for this huge leap. Art 25 of the Constitution provides the freedom of conscience and free practice, profession, and propagation of religion.³ Over 70% of Hindu Temples are Sampradayaic Temples hence right of autonomy must be vested in them under Art 26 which confers the freedom to manage religious affairs and the right to form and maintain institutions for religious and charitable intents.⁴ There is thus, sufficient justification for the community to voice for populating the administrative body with its denomination, and demand for complete ouster of state officials and initiate proceedings in contravention of the same. The denomination status incentivizes the same, which is a fairly powerful tool to prevent encroachment of the religious autonomy of the state. Before proceeding further, it is very important to know that to be the beneficiary of the above-mentioned provisions of Art 25 & 26 one needs to prove oneself to be a religious denomination. Assuming the failure of that, Art 25 still confers power on the state to supervise alone and not to administer or take over the autonomy. Clarity is explicit at the level of law and remedy but unfortunately has failed to percolate in the awareness of the general public. Whether an institution is denomination Temple or otherwise is ancillary to the fact that the state should not budge from the limits enshrined in the constitution

Evolution Of Essential Religious Practices

The concept of secularism introduced in India is ingenious. It was introduced with a suggestion that the practice and spread of religious belief would be beyond the purview of the state. Secularism in comparison to Western countries differed greatly in India and was introduced to encompass the social religious cultural identity of the people and to mutually respect the distinctions inherent in various religious communities. Secularism in India has a three-dimensional approach which includes the fact that religion shall never play a role in relations between the state under the individual. However, in the Padmanabhaswamy Temple dispute, the

³The Constitution of India. art 25

⁴The Constitution of India . art 26



entire question of law revolved around religion, the religious beliefs of the royal family, and their relationship with the benevolent that the court subsequently upheld. In addition to this, the moot question turned out to be bringing the temples out of the clutches of pervasive state control and bestowing sovereignty to denominations to govern their religious institutions. Hence the first principle of secularism falls flat since application of secular principles is not prima facie possible to an institution that is religious. The second principle that is governed by secularism is the non-interventionist stature of the state. This suggests granting equitable freedom of religion and non-interference in the religious beliefs intertwined with the individual and the benevolent. The Kerala High Court judgment⁵, given in 2011 completely goes in transgression of this principle. The government intervention is to limit itself to reinterpreting the scope of religion and the characteristics of the state, while dealing with religious institutions which should essentially be non-interventionist in stature, only in the satisfaction of which religious establishments will get freedom of governance. The essential religious practice is a procedure adopted by the Supreme Court of India to determine the relationship between the constitution and religion.⁶ If a practice is crucial to a specific religion, it cannot be curtailed by the government, the root point that morphed into a test of essential religious practice. A two-pronged approach was adopted. Religions were given the authority to decide what constituted an essential practice post interpretation of their inscriptions and sacred books, after which the court played the role of a rational critic of segregating religion from the temporal aspect of a denomination. Thus, came to picture the Shirur Math Judgment⁷ that played a pivotal role in stating that freedom of religion as enshrined in the constitution extends to religious practices and is not limited to religious beliefs alone. Since it forms a

⁵ *Sree Padmanabha Swami Temple v State Of Kerala* WP (C). No. 16481 of 2010 (I)

⁶ Valentina Rita Scotti, "Essential Practice of Religion" *Doctrine in India and its application in Pakistan and Malaysia, Statochiese* (2016), <http://203/6783-Articolo-20292-1-10-20160208.pdf> (last visited September 3, 2023).

baseline of for other rulings in discussion, it would be relevant to discuss the takeaways of the judgment.

The petitioner in this case was a superior of Mathadipati of Shirur Mutt which was one of the 8 Mutts located in Udipi in the South Kannada district and is said to have been founded with the help of Shri Madhavacharya who was a well-known advocate of dualism.⁸ He challenged the Madras Hindu Religious and Charitable Endowment Act 1951 since it provided for unwarranted interference of the state in the religious affairs of the Institution. That the institution was a denomination in itself was proved by these points:

- The Mutt was established by Madhavacharya⁹ who was a revered saint and via perpetual succession the administrative power of the supervising the Mutt will devolve to a Sanyasi or Swami leading over the Mutt. Hence the authority conferred by perpetual succession states that exclusive administrative power vests with the sannyasi.
- A unique practice in the name of celebration called Pranayam is followed as a legacy to honor the election of a new President. Akin to a festival, the Brahmins who witness the ceremony are fed.
- A sizable argument was racked up due to Madras Commissioner of Hindu Religious Endowment being appointed under the 1952 Act who subsequently started controlling the daily management of the account and transactional affairs of the Mutt.

The issue flared up since the Commissioner forgot that he was given the position of administration only considering the sole purpose of reparation of financial crises but not to avail an opportunity to take over the entire administration including actions affecting the religious affairs and beliefs.¹⁰ The power started becoming arbitrary so much so that the administrative control of the Commissioner started interfering with Swami's authority which was incorrectly taken away. On the ground that

⁸ *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shri Shirur Mutt*, (1954) SCR 1005 (India)

⁹ *Ibid*

¹⁰ Del Henige, *Oral, but oral what? The nomenclatures of orality and their implications, Oral Tradition*, 34 -47 (1988).

there was a threat to public order and morality, the government vindicated that it was justified on its part in taking action and considering itself accountable for regulating the financial activities of the religious denomination. Moreover, in this dispute, administrative authority to govern one's religious institution was initially to be a Non-Essential Aspect of Religion. The argument that the non-essential aspect of religion is submissive to government control was an argument posed like a loop stuck in a crammed gramophone.¹¹This gives a scope for analysis. The state control over Shirur Mutt had every possibility of interfering with its religious affairs. This is because, for conducting various religious ceremonies, religious representation of the Mutt, crucial appointments, and liability of the Institution to divest funds and pay taxes the propelling force was monetary power. The very source was in the hands of the state, which means subject to its discretion all the above mentioned subjects would be taken forward. There was no authority to question the validity of the decision nor was it under an obligation to take down the reasons in writing. Hence, practices essential for following the core objectives of religion could be disturbed. Being a Sampradayik Institution it was a norm that all the rituals must be performed in a manner defined by the sect. This becomes a religious belief of a denomination that has unique practices and dogmas. Thus, the religious group should be seen in the length of Art 26(b)¹² of the Constitution but not for profit or secular organization.

The Court established the test of Fundamental Religious Practice in the 1954 case and held that to check what is fundamental to a religion, the root of its constitution needs to be traced. Art 25(2) (a)¹³ prohibits state intervention and religious practices subject to public morality, health, and order. The court emphatically held that lawful identity types of interest and proprietary rights of the religion need to be looked into. Proper management of religious trust and institutions is poignant. Although feeble, it did imply the first autonomy to belong

to denomination, which was a good beginning.¹⁴It cannot be denied that, in the dualism adopted to decide the essentiality of religious practice, there is every propensity of likelihood for religious groups to unjustifiably interpret every action as essential. Divisive populism and disorganized factions bolstered by religious narratives can be a result. However, the fact cannot be denied that the Court may not be fit to decide on social changes that happen in religious circles, either. The balance of broader constitutional freedom of practicing religion with reparative secular values remains unachieved. The constitution provides for freedom of conscience and the freedom to freely practice, profess, and propagate religion subject to morality. Given the countless beliefs in every religion, legions of legislative disputes would arise had there not been a reasonable restriction. Hence protection under Art 25-28 was decided to be afforded only to those practices of religions that come under essential religious practice. The Supreme Court has declared that it is the authority of the court to certain whether a practice is an essential part of religion or otherwise.

Tests Of Essentiality Of Practice

- Whether a practice is essential or not can be decided based on the test of scriptures. They are the holy sacred texts that are definitive of the literature of religion. A few literatures set out primary beliefs to guide followers of a religion. Interpretation of these tenets becomes a gauging factor for determining the essentiality of a practice. In the Triple Talaq case, Hon'ble Justice Kurian Joseph said that exclusive reliance on knowledge of keepers of religion was insufficient.¹⁵ It requires enough scrutiny than mere claims of the community. Practices that are explicitly or implicitly mentioned in the scripture become an important factor that determines essential religious practice.
- A set of beliefs and doctrines which are regarded by those who profess the religion as being conducive to their spiritual well-being surrounds

¹¹ David Wilson, A study on Oral Tradition as a Communication Tool, 5 Int'l J. of res. In Economics and Soc.Sci.,118-124 (2014).

¹² Ibid.

¹³ Ibid.

¹⁴ Sayan Mukherjee, *Why the Supreme Court must be cautious?* EPW (2023) <https://www.epw.in/journal/2023/30/special-articles/discarding-or-limiting-essential-religious.html> (last visited on October 5, 2023).

¹⁵ Shayara Bano vs Union of India & Ors (2017) 9 SCC 1



every religion. A few doctrines were considered to be indispensable from the viewpoint of a religion. The effect of each of these practices on the religion has to be considered. If depriving religion of such practices takes away the nature of religion it is considered as an essential religious practice.

- Testing the genuineness of beliefs is one of the most integral assessments of essential religious practice. Justice Mukherjee held that 'the main question does not lie in examining whether a particular religious belief or practice appeals to our reason or sentiment but whether the claimed belief is genuinely and conscientiously held to be a part of profession or practice of a particular religion.'¹⁶ There is no room for subjective assessments but for a practice to qualify as essential, it has to be verified if the belief can be asserted to have been preached consciously and genuinely by the followers of religion.
- The test of nature of practice tries to categorize certain practices of religion into obligatory or optional. It is worth noting that reliance is occasionally placed on the prestige and eminence of the place of worship. As will be discussed further for the Padmanabhaswamy Temple issue the test of nature of practice states that the place of worship has to be treated at a higher pedestal and differently, and more reverentially.

This information aids an analysis that in the broad sphere of religion, deciding on essential and non-essential practices has not been simple. In this paper, this becomes much more relevance since the court has added the sacred relationship between the royal family and the benevolent to be a sacrosanct element to be left untouched which implies its essentiality.¹⁷ It is crucial to imbibe, that a few beliefs are the core of the community which symbolize the part and parcel of practices followed for generations. Instead of an assiduous action, it is an arduous task since the identification of such beliefs brought at a very different period paralleled with the needs of the society today which have to be equally weighed. At the time of application of the principles laid down by the court, the elementary features of the religion

¹⁶ Ibid

¹⁷ Civil Appeal No. 2732 (2020) arising out of SLP(C) No. 11295 of 2011

should be taken into consideration. There may be a few principles that need not be in implied form but are in existence especially having a deep connection with historical consciousness and human culture. A handful of the population also considered essential religious practice tests to be a threat to their religious conscience. In the Shirur math case, active reliance was placed on Canadian judgment concerning which the petitioner posed an argument stating ' *it was not for the court to embark upon an inquiry into the asserted belief and judge its validity by merely some objective standard such as a source material upon which the claimant find this belief or the orthodox teaching of the religion in question*'. Due to its subjectivity, what is religion to some is a pure dogma to others, and what is religion to others is mere superstition which was acknowledged in the case of *SP Mittal vs. Union of India*.¹⁸ Validating a few features and invalidating the others would hamper the functioning of a religion especially when it is deeply rooted in its conscience. The need of the hour is to have a balance between law and religion which has to be redeemed from the conventional setting of considering religious aspects as mere mythological belief but also the scientific aspect of these entities for ensuring harmony among the people of a religious denomination.

The Chidambaram Temple Case

This case stands to be a landmark judgment of the Hon'ble Supreme Court of India because the interventionist strategy of the state was dilapidated by its verdict. The appointment of an executive officer by the Tamil Nadu government for Sri Sabhanayagar Nataraja Temple, Chidambaram was quashed and set aside. Chidambaram Temple from the date of its inception has been a denomination temple since it is administered by a specific community of Brahmins known as Podu Dikshithars. They form a separate religious denomination because Dikshithar brahmins are only found in Chidambaram which is the ancient town of the Chola Kingdom in which they have been aborigines having their domicile for more than 20 centuries. Shri Nataraja Temple of Chidambaram is the property of the community of Podu Dikshidars and the same

¹⁸ 1983 AIR, 11983 SCR (1) 729

words were reiterated in the manual of South Arcot District published in 1878 CE. The erstwhile Madras Government in 1951 planned to take over the temple through a notification which was held infructuous and quashed by the Madras High Court vide its judgment dated 13th December 1951. It was held inter alia by the High Court that the notification was issued without any foundation and was a procedure in the light of total misconception of facts.¹⁹ Being as sluggish as it can be, it took 8 months for the Tamil Nadu government after the pronouncement of the judgment of *Dr. Subramanian Swamy & Ors. vs State of Tamil Nadu & Ors.* to remove the hundies illegally installed by it in the temple and paving way for an illegally installed snacks stand impersonated as a Prasad counter.²⁰ The Tamil Nadu government forgot that even if management is taken over to find a remedy for the evil of mismanagement, post the panacea it needs to be immediately handed over to the religious denomination. This can be compared with the functioning of the central bank. If the board of directors of the bank is suspended and replaced by the board constituted by it, it will be a provisional appointment for say, 6 months to a year till the evils of mismanagement are rectified and violators of law are weeded out. Today the Tamil Nadu government retains about 38,000 Hindu temples for more than 6 decades despite the Tamilnadu Government it specifically stating that management by state can only be for a limited period.

The sufferings of the Temple under state control would be immense. The Hindu institution would be quickly converted into extensions of the government department of Hindu religious endowments and permanently remain under the control of the government.²¹ The priests of the temple would play second fiddle to the deity and would have to wait for the ignoramus political goons for every approval. 1/6th of the income of the temple would

19 A Srivasthasan, *Century-old temple conflict ends*, The Hindu < <https://www.thehindu.com/news/national/tamil-nadu/centuryold-temple-conflict-ends/article5545264.ece> > (last visited on July 8, 2023).

20 *Dr. Subramanian Swamy & Ors. vs State of Tamil Nadu & Ors.* (1948)

21 *The truth behind Chidambaram Dikshithar issue*, THE COMMUNE <https://thecommunemag.com/truth-behind-chidambaram-dikshithars-issue/> (last visited on October 7, 2023).

be appropriated by the government in the name of administrative fees. The 2/5th of the gross income would be divested on staff salaries and priests would be paid in peanuts. With more than 60% of the temple revenue getting standard as administrative expenses, a paltry 2% would be utilized for essential religious practices of the Institutions like poojas and rituals that form the core objective of the temple. This violates Art 25 of the Constitution of India. Instead of investing in temple activities in the name of public order funds would be diverted to the Commissioner's Common Good Fund, Chief Minister Annadhanam Scheme, and Chief Minister Free Wedding Schemes which will be farthest to the tenets and scriptures of the denomination but will be reduced to ashes for mere vote bank politics. Veda pathshalas and aagama pathshalas attached to the temple will be closed funds of the endowments of which would be diverted elsewhere.²² The temple would be fully controlled by the population of members appointed by the state who have little to no knowledge of the scriptures of Podu Dikshidars. No audit record for expenses would be preserved. As evidence, from the year 1982 to 2010 for more than 56000 temples under the pervasive state control audit objections against government officials were pending with few of them even dead, but the amassed money in doldrums.²³ Tamil Nadu Hindu temples have lost 47000 acres of land to the state encroachment. This is an impetus to the understanding that due to systematic interventions and takeovers by the government of the Hindu temples, the Hindu worshipers have been denied their fundamental right to profess practice, and propagate their religion.²⁴ On the pretext of governing the secular aspects of the temple

22 K Balakumar, *Why Is the Chidambaram Temple Regularly In the News? It's Hard Not to Guess*, Swarajya (2023)

23 Supreme Court Judgment in Chidambaram Temple Case: What Next? Supreme Court Judgment in Chidambaram Temple Case: What Next? - Temple Worshipers Society (2020)

24 Case booked against 11 Dikshithars in Chidambaram: The Hindu (2023) <https://www.thehindu.com/news/national/tamil-nadu/case-booked-against-11-dikshithars-in-chidambaram/article67014073.ece#:~:text=The%20Chidambaram%20Town%20Police%20have,her%20duty%20among%20other%20sections> (last visited on 15 October, 2023).



administration, the government has completely dilapidated the religious ethos of the temple. The objective of Hindu Institutions to provide values, health, and education to Hindu children has been given a backseat, and every effort has been made by State authorities to pulverize Hindu charities aimed at strategically converting them. True devotees and volunteers have been kept away from the temple and what could have been dedicated to adhering to temple tenets and propagation of its principles has been squandered ducks and drakes on futile exercises. The Stand of the Hon'ble Supreme Court is very clear when it states that there can be no takeover of Hindu temples without substantial proven mismanagement. When there is proven mismanagement, the temple can be taken over only to cure the mismanagement for a limited purpose and limited period of operation. Hence this subject is not limited to only illegal takeover of the Hindu temples but also damages done by the state. Administrative authority should be held accountable and directed to present their professional standards accounting of audit, and the narrative should be mandated that only men and women who are steamed in religious devotion and the rectitude of the temple about the conscientiousness followed by the temple in spirit should be deemed fit to become Temple Trustees.

The Protagonist Shri Padmanabhaswamy Temple Verdict

Out of the eight holy temples or Divya Desams dedicated to Vaishnava in India, Shri Padmanabhaswamy temple is one of the wealthiest temples situated in Thiruvananthapuram Kerala. It was the brainchild of Travancore Maharaja Marthanda Varma who is held to be the chief architect of the temple. The temple witnesses the idol of Lord Vishnu in Ananthashayana pose on Adi Shesha. With abundant wealth in its vaults estimated to be more than 1 lakh crore, the state has been avaricious in yearning to manage and control the financial administration of the temple.

Before the year 1947 temples under the control of the princely states of Travancore were to be ideally controlled by the Travancore and Cochin Devaswom Board. 2 years later the instrument of

accession was signed between the Government of India and the princely states vide which the power of Administrative control was held totally to be the privilege of the ruler of Travancore. The royal family had complete authority over the management of the temple even after the formation of the state of Kerala. The main red flag in this dispute was 26 amendment of the Constitution was introduced in the year 1971 which inserted article 363A²⁵ due to which the concept of privy purses was abolished.

It was a practice of a sum given to the Royals for personal expenses by the British as a token of gratitude. Hence all the entitlements enjoyed by them were also withdrawn. After the last ruler of Travancore died in 1991 the concern to continue exercising control over the temple was given by the state government to uthradam Thirunal Marthanda Varma. Until the Kerala High Court decisions stripping all the Shebait rights the royal family continue to control and regulate the matters of the temple.

The year 2007 evidenced advocate Anand Padmanabhan filing a lawsuit claiming mismanagement of funds of the temple. Emphasized the fact that new trustees should be appointed to manage the wealth of the deity. Unfortunately, the vertices of the Lower court turned out to be in favor of the government directing it to take complete control over the Assets of the temple and its affairs. An appeal was subsequently filed in the High Court holding an argument that according to the signed document the management of the temple had been conferred on the legal heirs of the king who was the signatory to the covenant which Grand them the right to preside over the affairs of the temple. The poignant point that was raised was whether the right to manage the financial affairs of the deity of the temple continued to exist with the family even after the death of the ruler who was the secretary to the Covenant. In addition to this, whether Uttaradam Thirunaal Marthanda Varma the younger brother and accessor to Chitira Thirunaal Balarama Varma could claim to be the ruler of Travancore or otherwise. When the matter reached the Kerala High Court in the case of Uttaradam Thirunal Marthanda Varma²⁶

²⁵ The Constitution of Indian. art 323

²⁶ Uthradam Thirunal marthanda v. union of India WP(C). No. 4256 of 2010 (0)

and *Padmanabhaswamy Temple vs Union of India* and others they defenestrated the right of the family and held that a successor cannot claim himself to be a ruler and the state government was directed to established a committee to govern the Assets of the temple and management of its religious affairs. In the Quest to find a befitting remedy, The Honorable Supreme Court on receiving a special leave petition stated the verdict of the high court of Kerala thereby directing to open the vaults of the temple to assess the wealth with an exception to Vault B which could not be opened because of claims of the extraordinary treasure of mystical energy present therein. The elevation of the legal representative as the ruler as per the Travancore Cochin Hindu Religious Act 1950 along with the authority of the royal family of Shri Martanda Varma to claim the ownership control and management of the temple and assets was questioned. The history of the temple was taken into account. Despite the presence of certain ambiguities, the court assessed a volume of historical evidence given by the petitioner the court accepted the role of the ruler of the Travancore in the administration of the affairs of the temple. The court found an interrupted chain of shebaites who were vested with the authority to take control over the affairs of the temple even before signing the instrument of accession in 1949. Post the signing of the instrument of accession the only change was the one, that paved the way for the formation of the United States of Travancore and Cochin. The supreme court Up held the provisions of the Covenant which were true reflection of conferring the management of the temple and the funds of the temple in the hands of the royal family of Travancore. Sec 62(2)²⁷ of the Travancore Cochin Hindu Religious Act 1950 read with the provision of Sub Article d of Art 8 speaks volumes that albeit administrative powers going to the hands of the Cochin Dewaswom board, the right to regulate and perform the rituals and ceremonies will still be vested with the ruler of Travancore due to which power of the ruler remained unaltered.

After the enforcement of the 26th constitutional amendment of 1971 the privy purse was eradicated and the British government was under no obligation

to pay any nominal fees to the royal family. However, the status of the ruler cannot be and will not be abolished because it was a designation that was conferred by signing The Covenant and inherent in the family due to their sacred relationship with the benevolent and was not a British entrusted title. Hence the title of a ruler cannot be abolished unless disposed of in particular since the family experience is a perpetual succession and the titular recognition according to the Covenant does not best with the ruler alone but his success as well. That the title and status of Shebaitship should devolve and be inheritable by the successor was one of the provisions of the Covenant. Hence the death of the signatory Chithira Thirunaal Balarama Varma does not affect the rights of the successors in any way.

The judgment of the court is intriguing and a huge leap for the denomination Temple. On 13th July 2020, the court placed reliance on *Mahaveer Prabir Chandrabhanj Dev Kakatiya vs. the state of Madhya Pradesh*²⁸ in which it was held that irrespective of the status of the ruler of Travancore Shebaitship always exists. The title of ruler for Art 363 and 366(2) cannot be abolished since it was not conferred by the British but was inherited by legacy due to which the younger brother can very well claim the title of ruler. Considering the case of *Angurbala Mullick vs. Debabrata Mullick*²⁹ the court held that even if there is no trace of Gratuity or emolument linked with Shebaitship, it has to be considered as a proprietary right. The status of Shebaitship passes on consecutively from one ruler to another on the grounds of which the divergent view taken by the Kerala High Court was set aside. Court predisposed strongly to the fact that the authority to manage the religious affairs and economy of a religious institution should be passed to the family of the ruler as they are the custodians who have been taking care of the temples in time immemorial. This verdict truncates between a title inherited by custom of succession against one conferred by the British government. The supreme court in *Madhavrao Jeevaaji Rao Sindhiya versus Union of India*³⁰ had stated that 26

28 *Maharaja Pravir Chandra Bhanj Deo v. The State Of Madhya Pradesh* 1961 AIR 775

29 *Angurbala Mullick vs Debabrata Mullick* AIR 1951 SC 293

30 *H. H. Maharajadhiraja Madhav Rao v. Union Of India* 1971 AIR 530

27 Travancore Cochin Hindu Religious Act 1950, sec. 62

Amendment 1971 wooden no way affect the Assets of the royal family and the authority to govern them. By the principle of escheat or holding a title for a long period, uninterrupted the right of the royal family for entitlement of titular and administrative status was rightly held to be unquestioned.

In this way, the two-judge bench of Justice U U Lalit and Justice Indu Malhotra gave a verdict favorable to the administrative powers of the royal family and overruled the judgment of the Kerala High Court. In comparison to the conventional standpoint, it was a veering paradigm shift for the court to consider customary law the conferred exclusive powers on the royal family to manage the property of the deity. The suggestion of the royal family to constitute a two tier Administrative structure was taken into consideration for ensuring timely convention of rituals, and customary practices of the temple. The administrative committee that shall take care of the administration of the temple was directed to comprise the district judge of Thiruvananthapuram as the chairman, a nominee of the Kerala government, a nominee of Maharaja of the royal family, tantra or chief priest of the temple along with one member of Union Ministry of Culture Government of India. They were called the first Advisory Committee in the judgment. Going one step ahead to reduce the government representation and its rampant control second advisory committee was formed which was intended to include a person of eminence nominated by Maharaja, a Chartered Accountant nominated by the chairperson in consultation with a Royal trustee, and a retired judge of the high court nominated by Chief Justice of the Kerala High court as the chairman of the second Advisory Committee.

The analysis can culminate to the point that it is too soon to consider the verdict as a hunky dory. There are a few challenges that arise as a consequence of this judgment. The security challenges that the temple is exposed to post the discovery of wealth in the temple vaults pose a grave concern. The pandemic is like a bitter Cherry on a clumsy cake due to the temple earning a negligible amount of offerings during lockdown. Approaching the State Government for financial assistance would be uprooting the very objective of the judgment. Financial regularities can be prevented with the

supervision of qualified Chartered Accountants. A burden will have to be borne by the temple to face the findings of the chartered accountants given the exorbitant amount of money in its treasure chest. This gains more prominence in the light of the order of the Supreme Court the direct 25-year-long audits to be professionally conducted as suggested by the amicus curiae. With the constitution of the Administrative committee presence of the Judiciary and state has increased. The objective of the Constitution does give hope that one will be a Watchdog for the functioning of another and will herald the autonomy enjoyed by the royal family. The civilization approach against the conventional spirit of secularism is a promising omen for Sovereignty awaited to be enjoyed by religious denominations.

The Historical Background Of The Hindu Religious And Charitable Endowment Act

British started waiving the authority over temples in 1840. The maths in Tamil Nadu started becoming the face of renowned shrines. After a return assurance or a Muchalika, complete control over the affairs of the temple and its administration was in the hands of the mutt. To enhance the administration and management the Madras Hindu Religious Endowment Boards Act 1923³¹ was introduced. The government did not like the authority conferred on the board to autonomously run its religious institution due to which started populating the board with the members under its control exclusive to only one community. The notification process which is a sign of establishment of control started with the Chidambaram Sabha Nayagar Temple which was strictly against the order of the Hon'ble Madras High Court. The board assiduously went on to wish you notifications to Guruvayurappan temple, Udupi temple, and Mulkipetta's Sri Venkataramana. Amidst this move being challenged, the Hindu Religious Endowment Boards Act was passed in the year 1951. The question arises whether, on one hand, the government can participate in religious organizations and simultaneously uphold the constitutional privilege conferred on individuals to have the freedom of practicing the religion of their

31 Madras Hindu Religious Endowment Boards Act, 1923.

choice. The answer cannot be in the affirmative since the Vedic texts do not talk about Temple specifically. But the place where the fire was ignited and Holy sacrifices were offered to Agni, voice decided to be the place where the temple was to be consecrated, funded, and preserved for the benefit of the larger Hindu population. The current scenario completely defeats this objective since it restricts the religious freedom of the people to observe their religious ceremonies.

CONCLUSION

When a temple is liberated the worshippers find the chance to unleash the full potential of the temple. A Temple can run on many different modules like a Gurudwara providing free meals to the community in the form of Langars. So here, the community is not aligned with religion but with the satisfaction of feeding the hungry. When a specific budget and plot of land is designated for the temple to dedicate its sources to certain activities it promotes their conscientiousness of religion. The activities will be better targeted and channeled since the source of funds would be emanating from the religious representatives, than the state. Temples should not be seen merely as a place of worship but as evidence of art and culture. In Tamil Nadu as seen before, temple towns represent state communities that are significant administrative centers, but as state emblem and pervasive government control. Seizing control of hundreds of temples the Tamil Nadu Religious and Charitable Endowment Act 1959 represented a river of Madras Hindu religious and charitable endowments in 1951 which the apex quote had declared illegal and with the appointment of Executive officers to the temple. Protecting them becomes important since they are common tributing factors to the social fabric of society. Temple Centre the jurisdiction of the state is controlled by the state endowment organisation. The relinquishment of government control over temples asked the debate that Hindu Institutions should enjoy the same freedom and control over the administration of the religious Institutions as Muslim and religious trusts do. While state governments in India old control over temples over 4 lakh number there is no such control over wakf boards. The Hindu

Religious and Charitable Endowments Act 1951 by the authority of which the states take control over temples has been called for amendment. Purely overseeing Hindu religious Institutions alone is a great violation of secularism. The argument of revered advocate J Sai Deepak has resulted in the Supreme Court mandating at least three Landmark rules directing the government to hand up the control of religious organizations to the people. In the Padmanabhaswamy Temple case offerings of gold to the lord are cherished holy items which does not give the authority to anyone to fiddle with it has gold monetization which is a hoax and violative of Art 25 and 26 of the constitution. To give the right meaning to the constitutional provision which conferred the right to practice one's religion, a balance has to be achieved between the interest of the worshippers of the religious community and the administrative authority given to them and any action and contravention to the constitution should be declared as unconstitutional and set aside. The Hindu Religious and Charitable Endowments Act should stick to its purpose of doing away with Immoral and corrupt practices in Hindu religious Institutions and not take over the administration which is ultra vires leading to interference with the right to practice one religion guaranteed by none other than the supreme law of land.

BIBLIOGRAPHY

BOOKS

Krishnakumar R., *Supreme Court upholds management rights of the former royal family*, F Home (2020)

STATUTES

The Constitution of India.

Travancore Cochin Hindu Religious Act 1950, sec. 62

Madras Hindu Religious Endowment Boards Act, 1923

CASES

Sree Padmanabha Swami Temple v State Of Kerala WP (C). No. 16481 of 2010 (I)

The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shri Shirur Mutt, (1954) SCR 1005 (India)

Shayara Bano vs Union of India & Ors (2017) 9 SCC 1

Civil Appeal No. 2732 (2020) arising out of SLP(C) No. 11295 of 2011

1983 AIR, 1 1983 SCR (1) 729

Dr. Subramanian Swamy & Ors. vs State of Tamil Nadu & Ors.(1948)

Uthradam Thirunal marthanda v. union of India WP(C). No.



4256 of 2010 (0)

Maharaja Pravir Chandra Bhanj Deo v. The State Of Madhya Pradesh 1961 AIR 775

Angurbala Mullick vs Debabrata Mullick AIR 1951 SC 293

H. H. Maharajadhiraja Madhav Rao v. Union Of India 1971 AIR 530

ARTICLES

Rita V., "Essential Practice of Religion" Doctrine in India and its application in Pakistan and Malaysia, *Statochiese* (2016), <http://203/6783-Articolo-20292-1-10-20160208.pdf> (last visited September 3, 2023).

Henige D., *Oral, but oral what? The nomenclatures of orality and their implications*, *Oral Tradition*, 34 -47 (1988).

Wilson D., *A study on Oral Tradition as a Communication Tool*, 5 *Int'l J. of res. In Economics and Soc.Sci.* 118-124 (2014).

Mukherjee S., *Why the Supreme Court must be cautious?* *EPW* (2023) <https://www.epw.in/journal/2023/30/special-articles/discarding-or-limiting-essential-religious.html> (last visited on October 5, 2023).

Srivasthsan A., *Century-old temple conflict ends*, *The Hindu* < <https://www.thehindu.com/news/national/tamil-nadu/centuryold-temple-conflict-ends/article5545264.ece>>

(last visited on July 8, 2023).

The truth behind Chidambaram Dikshithar issue, *THE COMMUNE* <https://thecommunemag.com/truth-behind-chidambaram-dikshithars-issue/> (last visited on October 7, 2023). K Balakumar, *Why Is the Chidambaram Temple Regularly In the News? It's Hard Not to Guess*, *Swarajya* (2023)

Supreme Court Judgment in Chidambaram Temple Case: What Next? Supreme Court Judgment in Chidambaram Temple Case: What Next? - Temple Worshipers Society (2020)

Case booked against 11 Dikshithars in Chidambaram: The Hindu (2023) <https://www.thehindu.com/news/national/tamil-nadu/case-booked-against-11-dikshithars-in-chidambaram/article67014073.ece#:~:text=The%20Chidambaram%20Town%20Police%20have,her%20duty%20among%20other%20sections>> (last visited on 15 October, 2023).

Video

Understanding the Sri Padmanabhaswamy Temple Judgment - Clear-cut with J. Sai Deepak <https://youtu.be/g2B30mZmgwM?si=qmW0lrSfekAGbB1q> (last visited on September 15, 2023).