IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947

WP(C) NO. 38049 OF 2017

PETITIONER:

GOVINDANKUTTY
S/O. RAMAN NAIR,KULANTHINGAL PADAM,PULLUNDASSERY,
KADAMPAZHIPURAM,PALAKKAD DISTRICT.

BY ADV SRI.B.KRISHNA MANI

RESPONDENTSS:

1 **THE COMMISSIONER**
MALABAR DEVASWSOM BOARD,KOZHIKODE - 673 020.

2 **THE DEPUTY COMMISSIONER**
MALABAR DEVASWOM BOARD,KOZHIKODE-673 020.

3 **THE PRESIDENT**
SREE PALATHARA BHAGAVATHY TEMPLE,KADAMPAZHIPURAM,
PALAKKAD-678633.

4 **THE ZAMORIN RAJA**
THALI, CHALAPPURAM,KOZHIKODE-673002.

5 **THE SECRETARY**
MALABAR DEVASWOM BOARD, OFFICE OF THE MALABAR DEVASWOM BOARD,KOZHIKODE-673020.

6 **THE ASSISTANT COMMISSIONER**
MALABAR DEVASWOM BOARD, PALAKKAD-678001.

7 KRISHNAKUMAR
AGED 43 YEARS
S/O KRISHNANKUTTY, RESIDING AT MACHINGAL PRAMBIL,
AZHIYANNUR PO, KADAMBAZHIPURAM, PALAKKAD DISTRICT.

BY ADVS.
SRI.R.LAKSHMI NARAYAN, SC, MALABAR DEVASWOM BOARD
SRI.ANIL KUMAR M.SIVARAMAN
SRI.C.CHANDRASEKHARAN

THIS WRIT PETITION (CIVIL) WAS FINALLY HEARD ON 19.03.2025, THE COURT ON 3.4.2025 PASSED THE FOLLOWING:

JUDGMENT

Muralee Krishna, J.

This writ petition is filed by the petitioner under Article 226 of the Constitution of India, seeking a writ of mandamus commanding the respondents to implement Ext.P18 decision dated 02.03.2016 of the Assistant Commissioner, Malabar Devaswom Board and a writ of mandamus commanding the respondents to reinstate the petitioner as Velichapad in Sree Palathara Bhagavathy Temple, Kadampazhipuram, Palakkad District, in terms of Ext.P18 decision.

2. The case of the petitioner is that he was appointed in the year 2005 as Velichapad of Sree Palathara Bhagavathy Temple, Kadampazhipuram, which is a controlled institution under the Malabar Devaswom Board, following all the procedures. Alleging that the petitioner prevented the 'Kalasam', some committee members demanded the petitioner to contribute a sum of Rs.50,000/-, threatening that his service would be otherwise terminated. Finally, the petitioner had to pay a sum of Rs.50,000/- to which he was issued with Ext.P2 acknowledgement dated

17.03.2010 in the letter pad of the committee. On 28.03.2010 the President of the temple committee issued Ext.P3 charge memo raising some allegations against the petitioner, to which he submitted Ext.P4 reply dated 06.04.2010. The petitioner was not even allowed to enter the temple to offer the prayer. Hence the petitioner filed W.P.(C)No.22173 of 2010 before this Court in which an interim order dated 29.07.2010 was passed permitting the petitioner to enter the temple for worship. On 15.09.2010 the Division Bench of this Court passed an order directing the Malabar Devaswom Board to consider the question relating to taking over the temple. Later, orders have been passed by this Court allowing the parties to participate in the proceedings before the 2nd respondent Deputy Commissioner. On 23.12.2011, the 2nd respondent passed Ext.P10 order declaring the temple as a public temple. In that order, certain findings were made against the committee and the President and found that there was total mismanagement of the temple by the committee. In view of Ext.P10 order, this Court passed Ext.P11 judgment dated 13.06.2012 in the writ petition filed by the petitioner.

Challenging Ext.P10, the President of the committee filed an appeal before the 1st respondent Commissioner as A.P. No.3 of 2012. On 13.03.2013 the 1st respondent passed Ext.P12 order remanding back the matter to the 2nd respondent. The petitioner again approached this Court by filing W.P.(C)No.11322 of 2013 wherein Ext.P14 judgment dated 01.07.2015 was passed holding that the petitioner shall be readmitted on duty as a Velichapad in the temple in question in obedience to the order of the Commissioner dated 13.03.2013. Since the direction in Ext.P14 judgment was not complied, the petitioner filed Cont. Case No.107 of 2016 against the 3rd respondent President of the Temple. Thereafter, on 11.12.2015, the 2nd respondent Deputy Commissioner issued Ext.P15 communication to the 3rd respondent to reinstate the petitioner as a Velichapad. The President of the temple filed R.P. No.106 of 2016 in W.P.(C)No. 11322 of 2013 and the said R.P. was disposed of by Ext.P16 order dated 24.05.2017 directing the parties to appear in the temple premises at 10.00 a.m. on 29.05.2017 and fix a date for beginning the rituals. In obedience to that direction, the petitioner went to

the temple premises at 9.00 a.m. on 29.05.2017 accompanied by certain other persons. However, the President of the temple committee and the concerned persons required for commencing the rituals that are to be performed for reinstating the petitioner as a Velichapad did not come to the temple. Mentioning all these aspects, the petitioner submitted Ext.P17 application dated 05.06.2017 in the R.P. On 02.03.2016, the Assistant Commissioner, Malabar Devaswom Board issued Ext.P18 order directing to reinstate the petitioner in service. But so far he has not been reinstated and hence he filed the above writ petition.

3. The 3rd respondent filed a counter affidavit dated 21.02.2018 denying the averments in the writ petition and producing therewith Exts.R3(a) to R3(h) documents.

4. On 07.02.2018 when this matter came up for consideration, this Court passed a detailed order directing the petitioner and the 3rd respondent to be present at the temple premises at 10.00 a.m. on 08.02.2018 for commencing the rituals. It was further ordered that it is open for the Thantri to give opinion whether the petitioner could be permitted to discharge the duties

as a Velichapad during the festival commencing from 14.02.2018 to 22.02.2018. Paragraphs 6 to 9 of that order read thus:

> "6. It is evident from Ext.P18 dated 02.03.2016 passed by the Assistant Commissioner, that in view of the laxity on the part of the 3rd respondent and also to maintain proper accounts and to protect and preserve the administration of the temple, an Executive Officer by name Sri.P.Ravisankaran was appointed, who was given directions to implement the directions given by this Court for reinstatement of the petitioner forthwith. What transpired thereafter; particularly as to the actions if at all any taken by the Executive Officer, are not known.
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> 7. The learned counsel for the 3rd respondent submits that, on the date fixed by this Court in Ext.P16, the Treasurer of the Committee was present and that the President of the Committee was no more, having bid farewell to this world in the year 2016. If this be the position, why the same was not brought to the notice of the Court when the review petition was finalised is a matter to be enquired into. Admittedly, no proceeding was filed before this Court as to the demise of the President and so also, no proceeding has been filed as to the alleged non co-operation from the part of the 3rd respondent in complying with the rituals. As mentioned already, no counter affidavit is filed to the present proceeding, despite the completion of service of notice. The petitioner has now come up with I.A.No.1944

of 2018 as to the steps proposed by the 3rd respondent for appointment of a temporary 'Velichapadu' in connection with the festival of the temple scheduled to commence from 14.02.2018 to 22.02.2018.

8. After hearing both the sides, this Court prima facie finds that there is a contumacious act on the part of the 3rd respondent, which is liable to be proceeded against by way of appropriate proceedings. It is open for the petitioner to file appropriate proceedings which would be considered and dealt with in the due course. However, before proceeding with the matter, we find it appropriate to grant one more chance to the respondents to complete the pleadings, in respect of the sequence of events noted by this Court as above and as to the other relevant facts and figures, if any. In view of the course and events, we find it appropriate to pass an interim order in I.A.No.1944/2018. Accordingly, there will be a direction to the 3rd respondent not to appoint any temporary Velichapad to perform the rituals in the festival scheduled to be held from 14.02.2018 to 22.02.2018 or for any such other function, without getting orders from this Court. It is made clear that the festival can continue.

9. If the 3rd respondent really wants to implement the directions already given, and even if there was some omission and if they want to prove their bonafides, the rituals if any, for reinstating the petitioner as Velichapad could be commenced and conducted from tomorrow. The



learned counsel for the petitioner submits the petitioner is ready to be present in the temple premises at any time tomorrow onwards. In the said circumstances, the petitioner and the 3rd respondent are directed to be present at the temple premises at 10.a.m tomorrow for commencing the rituals in this regard. It is open for the Thanthri to give opinion whether the petitioner could be permitted to discharge the duties as a 'Velichapad' during the festival commencing from 14.02.2018 to 22.02.2018".

5. On 24.02.2018 the petitioner filed I.A. No.3745 of 2018 to direct the respondents to induct him forthwith as Velichapad in the temple and I.A.No.3746 of 2018 to accept Exts.P19 to P23 documents. The 3rd respondent filed an additional counter affidavit dated 02.03.2018 producing therewith Exts.R3(i) to R3(l) documents.

6. On 26.03.2018 as per order in I.A. No.3826 of 2018, additional 7th respondent was impleaded in the writ petition.

7. Heard the learned counsel for the petitioner, the learned Standing Counsel for the Malabar Devaswom Board and the learned counsel for the 3rd respondent.

8. The learned counsel for the petitioner submitted that the

petitioner had even paid a sum of 50,000/- as a penalty to safeguard his employment as directed by the 3rd respondent and his henchmen. Even after the repeated orders of this Court, the petitioner was not permitted to rejoin duty as a Velichapad. By Ext.R3(i) communication dated 22.02.2017 the petitioner was directed to come to the temple on 26.02.2018 at 7.30 a.m. to begin the rituals. To this communication, the petitioner sent Ext.R3(j) reply stating that he could not attend the ritual for 41 days from 26.02.2018. There is non-compliance of the orders of this Court by the 3rd respondent and in fact, there was no direction to undergo 41-day rituals by the petitioner before re-entering service.

9. The learned Standing Counsel submitted that though the Assistant Commissioner passed Ext.P18 order dated 02.03.2016 to reinstate the petitioner, he was not ready to join duty by observing the 41-day rituals.

10. The learned counsel for the 3rd respondent submitted that the petitioner filed a civil suit before the Munsiff Court, Ottapalam as O.S No.127 of 2011 and the same was dismissed.

By Ext.R3(f) communication the petitioner was requested to come to the temple on 08.02.2018 to begin the rituals. On that date, a decision was taken in the joint committee meeting as proposed by the Thantri to observe the 41-day rituals from 26.02.2018 onwards and the petitioner agreed to the same. In pursuance of that decision, Ext.R3(i) communication was sent to the petitioner asking him to come to the temple on 26.02.2018 to begin the 41-day rituals. However, instead of complying with the same, the petitioner sent Ext.R3(j) reply stating that he cannot observe 41-day rituals.

11. After the interim order dated 07.02.2018 passed by this Court in this writ petition directing the petitioner and the 3rd respondent to be present at the temple premises at 10.00 a.m. on 08.02.2018 for commencing the rituals, the petitioner filed I.A. No.3745 of 2018 for a direction against the respondents to induct him forthwith as a Velichapad in the temple. Along with that interlocutory application the petitioner produced Exts.P19 to P23 documents. In the affidavit filed along with I.A. No.3745 of 2018, the petitioner states that he went to the temple on 08.02.2018

and a meeting with the committee was held. But the committee took a decision that the petitioner should perform 41-day rituals from 26.02.2018 onwards. The petitioner was forced to sign in Ext.P19 minutes prepared on that day. He took a stand in that affidavit that he had already undergone the 41-day rituals when he was initially appointed by the committee and hence there is no necessity for him to again undergo the said rituals. From the aforesaid averments in the affidavit filed by the petitioner, it is clear that the petitioner is not ready to stay at the temple to observe the 41-day rituals. He states that he had already completed the 41-day rituals when he was initially appointed by the committee in the temple in question.

12. But, in Ext.P19, the decision to observe 41-day rituals by the petitioner was taken as opined by the Thantri. Agreeing the same, the petitioner also signed in Ext.P19 minutes. It was thereafter the petitioner withdrew from the said decision and contended that he need not once again observe the 41-day rituals before entering the service of Velichapad. Though the petitioner says that his signature was obtained in Ext.P19 minutes by

compulsion, the said document would prima facie show that it was voluntarily signed by all the persons who attended the meeting. On going through Exts.R3(f), R3(i), and R3(j) and also the stand taken by the petitioner regarding the 41-day rituals to be observed before reinstating him as Velichapad in the temple, we are of the considered opinion that though initially there was failure on the part of the temple authorities to reinstate the petitioner in service, now the failure is on the petitioner to observe the mandatory rituals that has to be observed prior to joining as a Velichapad of the temple. In such circumstances, the petitioner is not entitled for the reliefs sought in the writ petition.

In the result, the writ petition stands dismissed.

Sd/-

ANIL K.NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

sks

APPENDIX OF WP(C) 38049/2017

PETITIONER EXHIBITS

EXHIBIT-P1	**TRUE COPY OF THE BROCHURE ISSUED BY THE TEMPLE COMMITTEE WITH REGARD TO THE RENOVATION OF THE TEMPLE**
EXHIBIT-P2	**TRUE COPY OF THE LETTER PAD OF THE COMMITTEE DATED 17/03/2010**
EXHIBIT-P3	**TRUE COPY OF THE MEMO OF CHARGES DATED 28/03/2010 ISSUED BY THE PRESIDENT OF THE COMMITTEE**
EXHIBIT-P4	**TRUE COPY OF THE DEETAILED REPLY DATED 06/04/2010**
EXHIBIT-P5	**TRUE COPY OF THE CAVEAT LODGED BY THE PRESIDENT OF THE COMMITTEE BEFORE THE DISTRICT COURT, PALAKKAD**
EXHIBIT-P6	**TRUE COPY OF THE NOTICE PUBLISHED BY THE LOCAL PEOPLE**
EXHIBIT-P7	**TRUE COPY OF THE REPRESENTATION DATED NIL FILED BY THE LOCAL PEOPLE BEFORE THE MALABAR DEVASWOM BOARD**
EXHIBIT-P8	**TRUE COPY OF THE REPRESENTATION BEFORE THE SUB INSPECTOR OF POLICE, CHERPULASSERY DATED NIL**
EXHIBIT-P9	**TRUE COPY OF THE RECEI9PT DATED 19/04/2010**
EXHIBIT-P10	**TRUE COPY OF THE ORDER DATED 23/12/2011 PASSED BY THE 2ND RESPONDENT IN A.P. 3/2012**
EXHIBIT-P11	**TRUE COPY OF THE JUDGMENT DATED 13/06/2012 IN W.P(C) 22173/2010**
EXHIBIT-P12	**TRUE COPY OF THE ORDER DATED 13/03/2013 PASSED BY THE IST RESPONDENT**

EXHIBIT-P13	**TRUE COPY OF THE RELEVANT PORITION OF THHE MASS PETITION DATED NIIL FILED BY THE LOCAL PEOPLE**
EXHIBIT-P14	**TRUE COPY OF THE JUDGMENT DATED 01/07/2015 IN W.P(C) 11322/2013**
EXHIBIT-P15	**TRUE COPY OF THE COMMUNICATION DATED 11/12/2015 ISSUED BY THE DEPUTY COMMISSIONER MALABAR DEAVASWOM TO THE PRESIDENT OF THE TEMPLE**
EXHIBIT-P16	**TRUE COPY OF THE ORDER DATED 24/05/2017 IN R.P. 106/2016 IN W.P(C) 11322/2013**
EXHIBIT-P17	**TRUE COPY OF THE APPLICATION DATED 05/06/2017**
EXHIBIT-P18	**TRUE COPY OF THE ORDER DATED 02/03/2016 ISSUED BY THE ASSISTANT COMMISSIONER, MALABAR DEVASWOM BOARD, PALAKKAD.**

RESPONDENTS' EXHIBITS

R3(a) – True copy of news published in Malayala Manorama dated 29.1.2013 participating function at Kunnupully temple.

R3(b)- Photocopy of the interim order dated 15.9.2010 in W.P. (C)22173/2010

Exhibit-R3(c) - Photocopy of the letter dated 29/11/2015 issued by then President to the petitioner

Exhibit-R3(d) photocopy of the minutes dated 27/5/2017 and 11/6/2017.

Exhibit-R3(e) photocopy of minutes of the Committee dated 7/2/2018.

Exhibit-R3(f) photocopy of the Communication dated 8/2/2018 issued by the 3rd respondent reinstating the Velichappadu.

Exhibit-R3(g) - photocopy of the decision of Joint meeting held on 8/2/2018.

Exhibit-R3(h) - True copy of the Report of the Board reported before the 3rd respondent

Exhibit R3(i)- Photocopy of letter issued by the Committee dated 22/2/2018 and served

to the petitioner

Exhibit R3(j)- Photocopy of the photocopy of the letter served upon the President of the temple

Exhibit R3(k)- Photocopy of the Notice issued by the Pana Committee explaining the procedure customary rites and ceremonies of the Desappana

Exhibit R3(l) - photocopy of the letter issued by the "Pana Committee explaining the procedure, customary rites and ceremonies of the Desappana