
(2000) 11 KL CK 0063
In the High Court Of Kerala
Case No : O.P. No. 28670 of 2000

Mohandas Embranthiri

APPELLANT

Vs

Travancore Devaswom Board

RESPONDENT

Date of Decision : 10-11-2000

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2000) 2 KLJ 963

Hon'ble Judges : S. Sankarasubban, J;A. Lekshmikutty, J

Bench : Division Bench

Advocate : S. Krishnamoortny, for the Appellant; S.V. Balakrishna Iyer and K. Radhakrishnan, for the Respondent

Judgement

Sankarasubban, J.—Sree Ayyappa Temple at Sabarimala is a great pilgrim centre and lakhs and lakhs of devotees trek the mountains to have Dharsan of the Lord. The Priests of the Temple including Melsanthi are given great respect by the devotees. In their pursuit for religious attainments, devotees give a high position to the Priests. The Priests or the Santhies are expected to be persons of high integrity learned in poojas and above all, persons with great tolerance and compassion. This Original Petition reflects the competing claims for being selected as Melsanthi of the Temple. The defeated claimants rush to this court challenging the selection. Sabarimala Temple comes under the Travancore Devaswom Board. By reason of the custom and tradition of the Temple, the Melsanthi of the Temple is selected every year. The tenure of the Melsanthi is for one year for the first of Vrischikam to the 31st of Thulam next year. The Santhi is known as "Purappada Santhi" and till the entire period of one year is over, he cannot return to his house.

2. The Travancore Devaswom Board being a State under Art. 12 of the Constitution of India, it cannot choose any person as Melsanthi without any guidelines. The choosing of Melsanthi for every year is to be done only after proper selection. Who are the persons, who should be the selectors and what

should be the guidelines on the basis of which the Melsanthi should be selected were the subject matter of arguments throughout the hearing of the case. For the one year starting from 31st Thulam 1176, the Travancore Devaswom Board published a notification copy of which is produced as Ext.PI, inviting applications for selection of Melsanthi of the Sabarimala Temple. The notification mentions the basic qualifications necessary for being selected. The notification states- that those who have got basic qualifications will be interviewed by the Committee, which will include the Thanthri. On the basis of the interview, a short list will be prepared. The selection will be made from the candidate included in the shortlist on the basis of a lot in front of the sanctum sanctorum. The qualifications required are the following:

3. Petitioner in the Original Petition, K.P.Mohandas Embrahthiri, was one of the applicants. Since he had the basic qualifications, he was called for the interview, which was fixed on 29-9-2000 at 10 A.M. at the office of the Travancore Devaswom Board at Nanthancode, Thiruvananthapuram. The petitioner attended the interview. According to him, the interview "board consisted of five members, viz., Chairman of the Travancore Devaswom Board, two members, Devaswom Commissioner and the Thanthri. The petitioner stated that the Thanthri asked more questions. Respondents 4 to 6 also put some questions. According t(r) the petitioner, hp answered all the questions perfectly well and he was expecting that he will be panelled for the lot. The grievance of the petitioner is that the Interview Board consists of persons, who did not have any knowledge in pooja Vidhi. Further, it was stated that in the last year nine persons were included in the final selection list, while this year, one five persons are included. He submits that at least a minimum number of 18 persons should be included in the final list for being considered for the lot.

4. The petitioner filed an additional affidavit dated 13th October, 2000. According to this affidavit all the Members of the Interview Board were not present. In para.3, the petitioner has given the details of the questions put to him. According to him, the Thanthri put the following questions, viz., Dyanam of Sivan, Dwarapalakar of Ayyappa and Avahanam of Ganapathi. He further stated that he answered all questions very well. Then the Commissioner asked the Manthra "Prithingari". He also answered the same. But he was, not included in the selected panel. The petitioner wanted the files regarding the answers to be produced in court.

5. The Travancore Devaswom Board filed a counter affidavit dated 19th October, 2000. According to this counter affidavit the Melsanthis for the Sabarimala Sree Dharmasastha Temple and Malikappuram Temple are now being selected by a Selection Board comprising of five members, trie details of which are given in para.4. There were 52 applicants for the post of Melsanthi in Sabarimala Temple. Two applicants were found to be ineligible and hence, there were 50 candidates to be interviewed, put of the 50 candidates only 48 appeared for the interview. The interview was conducted on 29-9-2000 at the Board"s Office at

Thiruvananthapuram. The interview started at 10 A.M. on 29-9-2000 and was concluded at 5 P.M. The procedure adopted was by asking questions on three topics. The format of the questions is appended at page 46 of the file. Question on item (a) carried a maximum marks of 15, on item (b) 10 marks and that on item (c) 15 marks. For personality, a maximum of 10 marks was to be allotted under item (d). Thus the total works out to 50 marks. A minimum of 5 marks is to be obtained in each item at the hands of every one of the Interview Board members. Then alone the candidates get qualified for selection by drawing lots. The average of the marks given by all the members was separately tabulated. According to the Devaswom, this method was adopted in the previous year and this was approved by this court in O.P. No. 25I95 of 1999. It is further stated that the questions put were objective types within the purview of the items indicated in the format. The Thanthri being an authority on all religious rites often led the interview. No favouritism or any bias was shown by any of them. The allegations against the Selection Board are all untrue. All the five members attended the interview. The draw of lots was made at the Sopanam of the Sabarimala Temple.

6. Subsequently, the Board filed two more affidavits; one affidavit is dated 29-10-2000 and the other is dated 27-10-2000. In para.3 of the affidavit dated 27-10-2000, it is stated that questions were asked to all the candidates from the general topic by the Thanthri. Agama on Siva was also one among the topics. The marks obtained at the interview by the petitioner are given. It is further stated that often the Thanthri led the questions. The President, the Members and the Commissioner are asked questions wherever it was found necessary, particularly when the candidate concerned was unable to answer even simple questions asked by the Thanthri. The method of assessment was rational. The marks were awarded on each of the three topics by the members of the Interview Board. In the affidavit filed on 30th October* 2000, the affidavit of the Thanthri is also included. In para. 3 of the affidavit filed by the Thanthri, it is stated that he was aware of the Rule that candidates will qualify for the lot only if all the Interview Board Members give at least a minimum of 5 marks in each of the 4 topics. This was duly notified by the President of the Board to all the Members of the Interview Board. He further stated that he has asked questions to all the candidates out of the format of topics. These topics deal with Thanthra Samuchayam of 7 Devi-Devas. The questions asked on the topics were general and basic in nature. He further stated that the Devaswom Commissioner also asked questions to some candidates. In the case of few candidates, the members of the Board also asked questions. According to the Thanthri, the marks given to the petitioner are correct.

7. An impleading petition has been filed by R.R. Varma. He is the member of Pandalam Royal Family. The impleading petition is allowed. According to him, the present method of selection is not correct. A panel should be constituted by giving proper participation of Thanthrik Pandits from Travancore, Cochin, Malabar and the eldest member of Thazhman family along with the eldest member from

Pandalam Royal Family and the said panel may be bestowed with the duty to conduct interview. Another impleading petition has been filed by one A. Sasikumar Namboodiri. He was ranked as number 4 in the interview. But he lost the selection at the lot. This impleading petition is also allowed. C.M.P. No. 51772 of 2000 was filed by R.R. Varma for accepting certain documents.

8. The files relating to the selection were also brought before us for our perusal. The files show that separate marks were awarded by all the members. Person who got less than 5 marks for one question has been eliminated from being included in the lot. Hence, it has to be assumed that all the members were present. The contention of the petitioner is that the requirement under the guideline that at least 5 marks should be obtained from all the Members for each question is not a proper criterion and further mis was not known to all the members. Of course, the Thanthri has filed a counter affidavit stating that the President told him that the candidate to be included in the list should have secured at least 5 marks each in all the questions from all the members. In file No. R.O.C.6251/2000/SAB at page 46, the topics from which the questions had to be put and the maximum marks for each item are stated. It shows a total marks of 50. There is a note below it, which is as follows: "A minimum of 5 marks should be attained in each item for getting qualified. Majority decision will prevail in deciding the eligibility." It is also seen from the counter affidavit filed by the Thanthri that the President and the two members have not put questions to all the candidates, who were interviewed. The Commissioner had asked questions to some persons. It appears that for questions which were put by the Thanthri marks were awarded by all the Members also. For Topic No. 1, the President has given 2 1/2 marks, first member has given 5 1/2 marks, second member has given 5 marks, Thanthri has given 2 marks and the Commissioner has given 5 marks to the petitioner.

9. Thus, it is not clear from the affidavit filed by the first respondent whether each of the Members put different questions and marks were awarded on the basis of the answers to the questions put by them. It appears that for the same answer varying marks have been given by the members. The petitioner contended that there is no stipulation that the candidate should obtain minimum of 5 marks for each question from every member of the Board. The Travancore Devaswom Board stated that that was the practice. The Thanthri has filed affidavit stating that the President had informed him that only those persons, who were obtained a minimum of 5 marks from each of the members will be eligible. We have already referred to page 46 of file No. ROC.6251/2000/SAB, which prescribes the marks for interview for the post of Melsanthi, Sabarimala/ Malikkappuram. It is stated that a minimum 5 marks should be obtained in order to become qualified. The index shows only four items, a, b, c and d. It does not show that from each of the members, the candidates should obtain a minimum of 5 marks. Column (a) of the Index says as follows:

The total marks is 50. As already stated, it does not appear that all the members

put different questions on this aspect to all the persons, who were interviewed. In most of the cases, the questions were put only by Thanthri and the Commissioner. If every one of the Interview Board Member had put questions on the topics, then it could be understood that the candidate should obtain at least 5 marks for each question. That has not happened here. Hence, according to us, there is some substance in what the petitioner contends. Awarding of varying marks for the same answer by different persons itself show that there is something wrong in the selection. Learned counsel for the petitioner further submitted that except the Thanthri, all the members have no knowledge in the topics meant for the interview. According to him, they may be persons with high integrity and quality. But it may not be possible for them to assess the candidates because of their lack of knowledge in the particular subject.

10. It is true that the Interview Board should consist of persons, who have knowledge of the subject on which questions are put. The purpose of the interview is to get best persons, for appointment of Melsanthi at Sabarimala Temple. The knowledge of the candidate in the three topics mentioned should be assessed. According to us, this can be done only with the experts in the field. All the members of the Interview Board may be aware of the poojas and other connected matters. Even if we are in the Interview Board, it will not be possible to say that proper persons have been included in the selection panel. It is only those who are in the field, who will be able to assess the candidate properly. Hence, according to us, the constitution of the committee was not proper. The Selection Committee should have consisted of only persons, who are experts in the field concerned. Further in spite of the affidavit filed in this case, neither the Members nor the Commissioner has filed counter affidavits to show that they are experts in the field. Hence, we agree with the counsel for the petitioner that the panel of selection is not proper.

11. Learned counsel for the Travancore Devaswom Board then submitted that no bias or favouritism is proved in this case. Even though the Committee members other than the Thanthri could not be said to be experts, they had awarded marks at their discretion on the basis of their knowledge. He further noted in this case that the Thanthri has awarded lowest marks and the other members have given high marks. He submitted that the selection shows that those persons, who have obtained highest marks, have been included in the panel and fortunately in the lot also, the person who was awarded highest marks has been selected. Hence, counsel contended that this years selection should not be interfered with.

12. After going through the entire matter, we are of the view that the person, Sambhu Vadyar Namboodiri, who is now selected has consistently obtained high marks from all the Members of the Interview Board and has been successful in the lot. Further, the person who was given more marks by the Thanthri also finds a place in the panel. Thus, according to us, even though there are certain defects in the selection, considering the fact that season in the Temple is perilously close, we are of the view that the selection of Melsanthi for the next year is not to be

interfered with. But as already expressed, we are not satisfied with the mode of selection and the constitution of the Selection Committee. We are of the view that before the selection of Melsanthi for the year 1177-78, the Board should form fresh guidelines for the selection of Melsanthi. According to us, the Committee for the selection of Melsanthi should only consist of experts in the field. It may consist of Thanthris of different Temples or persons, who have got erudition and expertise in the field. Further, we have referred to the impleading petition filed by R.R. Varma, a member of Pandalam Royal Family. The representation filed by R.R. Varma should also be taken into consideration. It will be better, if the Board issues questionnaire inviting opinions from various source's as to how the selection is to be made. Such questionnaire shall be sent to the Thanthris of important Temples, persons, who have higher qualifications in the field and also to the religious heads of various Muths in Kerala. Their opinions can be obtained and then a guideline should be formed.

Original Petition is disposed of as above.