
(2025) 10 SC CK 1067

In the Supreme Court Of India

Case No : Civil Appeal No.11902 Of 2025 (@ Special Leave Petition (Civil)
No.23740 Of 2023)

P. Radhakrishnan & Anr

APPELLANT

Vs

Cochin Devaswom Board & Ors

RESPONDENT

Date of Decision : 06-10-2025

Acts Referred:

Code of Criminal Procedure 1898 — Section 561

Citation : (2025) 10 SC CK 1067

Hon'ble Judges : Dipankar Datta, J;K. V. Viswanathan, J

Advocate : Gaurav Agrawal, N.K. Unnikrishnan, Anu K Joy, Alim Anvar, Santhosh K, Devika A.I., Smita Amratlal Vora, P.V. Dinesh, P.S. Sudheer, Anna Oommen, Rishi Maheshwari, Anne Mathew, Bharat Sood, Jai Govind M J, Jashan Vir Singh, Harshad V. Hameed, Dileep Poolakkot, Ashly Harshad, Mahabir Singh, Anshul Saharan

Final Decision : Partly Allowed

Judgement

K.V. Viswanathan, J

1. Leave was granted in this matter on 09.09.2025.
2. The present appeal calls in question the judgment and order dated 09.08.2023 passed by the High Court of Kerala at Ernakulam in Writ Petition (C) No. 29089/2020. At the commencement of the hearing, Mr. Gaurav Agrawal, learned Senior Counsel, submitted that the appellants in terms of the Ext.P3-Proceedings dated 16.09.2014 and Ext.P9-Notice dated 27.11.2020, shall pay the licence fee, at the rate of Rs.1,50,000/- per annum along with arrears to the first respondent-Cochin Devaswom Board (hereinafter referred to as the "Board").
3. However, the grievance of the appellants is that the further directions of the High Court have rendered them worse off in their own writ petition. The further directions in Para 53 of the judgment, which according to the appellant, are beyond the scope of the writ petition and with which they are seriously aggrieved are in the following terms:

"The 1st respondent Board shall take necessary steps to fix the licence fee in respect of the land covered by Exts.P13 to P16 orders, taking note of the law laid down by this Court in T. Krishnakumar [2022 (4) KLT 798: 2022 (5) KHC SN 8] and also the law laid down in this judgment, with notice to the 2nd petitioner Chinmaya Mission Educational and Cultural Trust, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a certified copy of this judgment."

"In view of the facts noticed by this Court in paragraphs 36 and 37 of this judgment and also the stand taken by the 1st respondent Board before this Court that other than the copy of Exts.P13 to P16 orders, no other documents are seen in the relevant files, we deem it appropriate to direct the 1st respondent Board to conduct an enquiry by the Chief Vigilance Officer (Superintendent of Police), Cochin Devaswom Board in the matter relating to leasing out the land of Vadakkumnathan Devaswom to the 2nd petitioner Trust and take necessary action, if found necessary, based on the report of the Chief Vigilance Officer"

4. The appellants filed a writ petition on 21.12.2020 before the High Court of Kerala praying for the following reliefs:

"a) call for the records of the case leading upto Exts. P3, P7 and P9 and quash the same by the issuance of writ of certiorari or any other appropriate writ order or direction.

b) issue a writ of mandamus or any other appropriate writ, order or direction staying all further proceedings pursuant to Exhibits P3, P7 and P9 proceedings.

and

c) Pass any other appropriate writ, order or direction which this Hon'ble Court may deem fit to issue and the petitioner may pray from time to time."

5. Ext.P3 under challenge was the order of the first respondent-Board dated 16.09.2014, enhancing the annual license fee of the premises let out to the second appellant from Rs.227.25/- per annum to Rs.1,50,000/- per annum. Ext.P7 is the proceeding dated 02.05.2015 rejecting any review of the order dated 16.09.2014 and further directing the measurement of the property. Ext.P9 is the communication dated 27.11.2020 demanding arrears totaling to Rs.20,46,788/- within 14 days of the receipt of the communication.

6. To understand the grievance of the appellants before the High Court, a brief reference to the facts of the case is essential. The second appellant-Chinmaya Mission Educational and Cultural Trust was established as a society under the Indian Trusts Act, 1882. It functions under the Central Chinmaya Mission Trust, Bombay, and is involved in social, religious and cultural activities in Kerala for more than half a century. By a Royal Order (Thittooram), the Maharaja of Cochin, on the request of Swami Chinmayananda, transferred the Rama Varma Bhajanamadam, a part of the Bhuvaneswari temple and situated on the northern side of the Swaraj Round, Thrissur, to the second appellant.

7. When matters stood thus, on 16.02.1974, the Board allotted six cents of land adjacent to the Rama Varma Bhajanamadam for constructing a hall subject to the following conditions:

"1. The hall constructed by the Mission should be used only for marriage and religious and cultural activities.

2. Accommodation to the tourist pilgrims coming to the Wadakunathan temple should be provided in the hall as per request of the Assistant Commissioner, Trichur free of rent.

3. For religious and cultural activities of the Devaswom Department the hall should be spared free of rent as per the request of the Assistant commissioner, Trichur.

4. The Mission will pay in the Wadakunnathan Devaswom an annual contribution of Rs. 101/- for the use of this site.

5. The Assistant Commissioner, Trichur should be an ex-officio member, in the committee for the proper utilization and maintenance of the hall.

6. Space should be left at the northern end for providing a pathway of 12 ft wide for entrance from the Devaswom road to the remaining portion of the vacant space on the eastern side of the proposed site.

7. The Mission will provide compound wall on the northern and eastern sides of the site granted to them.

8. The Mission will execute proper agreement on stamp paper as advised by the Devasom Advocate."

8. It will be noticed that for the site, an annual contribution of Rs.101/- was fixed as use charges. On the site a hall was to be constructed by the second appellant and was to be used only for marriage, religious and cultural activities. As part of the consideration, in the hall, tourist pilgrims coming to the Wadakunnathan temple should be provided accommodation as per the request of the Assistant Commissioner free of rent. Further, for religious and cultural activities of the Devaswom Department, the hall should be spared free of rent as per the request of the Assistant Commissioner. The Assistant Commissioner was also to be an ex-officio member in the committee for the proper utilisation and maintenance of the hall. A twelve feet wide pathway was to be left at the northern end for entrance from the Devaswom Road to the remaining portion of the vacant site. Pursuant to the proceedings dated 16.02.1974, an agreement of license dated 19.07.1974 was executed incorporating the conditions set out in the proceeding dated 16.02.1974.

9. By the proceeding dated 13.12.1974, on the request of the second appellant for additional space, and on being satisfied that the purpose for which the site was originally allotted can be achieved only if some additional space is allowed, a further extent of 2½ cents of land lying vacant on the eastern side of the site

already allotted, was allotted to the second appellant. Consequently, fresh agreement of license was executed on 25.03.1975. It is averred that the license fee was revised from Rs.101/- per annum to Rs.142/-per annum with the very same stipulations as contained in the license agreement dated 19.07.1974. By proceeding dated 09.12.1976, further four cents of land were allotted, and by the proceeding dated 21.02.1977 a small bit of land lying vacant on the eastern side was also sanctioned for the second appellant and it was ordered that the license fee be fixed on pro-rata basis.

10. The second appellant is in occupation of 13.5 cents of land and is using the hall constructed by it for religious and cultural purposes and for conducting marriages. According to the appellants only few takers are available for the marriage hall since there is no parking space and further that the hall is not air-conditioned. Though the rent levied is Rs.50,000/- per day for the marriages, very few marriages numbering ten or fifteen per year are held and the second appellant-Trust is running at a loss with its income being compensated from the money generated from other units. It is also averred that even now the hall is given free for the programmes of the Board as and when requested.

11. The license fee was finally revised in the year 1977 to Rs. 227.25/- per annum. According to the appellants, no period for license having been fixed, the license continued uninterruptedly.

12. At this stage, by proceeding dated 16.09.2014, unilaterally and without affording any opportunity the license fee was refixed at Rs.1,50,000/- with a direction that the license fee shall be renewed every three years. The appellants, by a letter dated 29.10.2014, sent a reply to the proceedings dated 16.09.2014. In the reply, the appellants set out that the order of 16.09.2014 was unauthorized, illegal and against the terms of entrustment. It denied that the second appellant was a profit-making institution. It conceded that a reasonable hike was justified but questioned the exorbitant hike to Rs.1,50,000/- per annum. It highlighted the fact that after taking possession they had developed the same and constructed a two-storey building with accessories and provided furniture at their expense. They stated that the hike was unilateral, and no notice was given to them and prayed that the enhancement be dropped.

13. By its order of 07.02.2015, the Board declared that there was no need for review of the orders hiking the license fee charges to Rs.1,50,000/-. The Board further issued orders of 02.05.2015 and 27.11.2020, the details of which have been set out hereinabove.

14. The first appellant filed Writ Petition (Civil) No.29089 of 2020 for the reliefs stated in the earlier portion of the order. The second appellant was later impleaded as a party. It is in the said writ petition that the order as extracted in para 3 above has come to be passed after the High Court found that there was nothing illegal in the enhancement of the license fee and the High Court upheld the proceedings dated 26.09.2014, the order dated 02.05.2015 and the notice

dated 27.11.2020.

15. The High Court, in the impugned order, was called upon to decide on the validity of Ext.P3, P7 and P9. In the process of adjudicating the validity, the High Court noticed that the license fee issue was flagged by the local fund audit and the local fund audit raised objection against the quantum of license fee as originally fixed. The High Court observed that there was no validity period fixed for the license and there was no clause for periodic hike prior to the issuance of Ext.P3 order. The High Court saw the photographs of the property in question. The High Court also made a detailed analysis of the provisions of the Travancore Cochin Hindu Religious Institutions Act, 1950 and dealt with the powers and duties of a trustee.

16. The High Court, after perusal of the files in question and the correspondence observed that the appellants themselves had requested the Board to increase the fee to a reasonable extent. After observing that the land was situated in a prime locality, the High Court dealt with the judgment of T. Krishnakumar v. Cochin Devaswom Board 2022 (5) KHC SN 8 and in the end analysis upheld the levy of Rs. 1,50,000/- per annum by observing as follows: -

"52. In the above circumstances, we find no reason to interfere with Ext.P3 proceedings dated 26.09.2014 of the 1st respondent Board whereby the rate of licence fee of the property covered by Exts.P13 to P16 was enhanced from Rs.227.25 per annum to Rs.1.50 lakhs per annum; Ext.P7 proceedings dated 02.05.2015 of the Board whereby the stand taken in Ext.P5 letter dated 07.02.2015 not to review or reconsider the decision in Ext.P3 proceedings dated 26.09.2014 was intimated to the 2nd petitioner Trust; and Ext.P9 notice dated 27.11.2020 issued by the 2nd respondent Secretary of the Board, whereby the Trust was directed to remit a sum of Rs.20,46,788/- towards arrears of licence fee at the rate of Rs.1.50 lakhs per annum, penal interest and GST, within a period of 14 days.

53. In the result, this writ petition fails and the same is accordingly dismissed. It is for the 1st respondent Cochin Devaswom Board to recover the arrears of licence fee in terms of Ext.P3 proceedings dated 26.09.2014 and Ext.P9 notice dated 27.11.2020 by initiating appropriate proceedings, if found necessary, by initiating proceedings under the Revenue Recovery Act in terms of the G.O. (P)No.22/2021/RD dated 09.02.2021 published in Kerala Gazette Extra Ordinary No.668 dated 11.02.2021...."

17. In view of the statement of the learned Senior Counsel for the appellants there is no need to discuss the correctness of the reasons why the High Court upheld the enhancement of license fee. The learned Senior Counsel has fairly submitted that the appellants are ready to deposit the license fee as enhanced along with arrears as claimed inter alia in the notice of 27.11.2020.

18. However, the appellants have been completely taken by surprise with the High Court proceeding further and directing fixation of the license fee in respect

of the land in question by applying the law laid down in T. Krishnakumar (supra). Further, the High Court directed the first respondent Board to conduct an inquiry through the Chief Vigilance Officer with regard to the transaction between the Board and the appellants and take necessary action based on the report.

19. When the matter came up for admission, this Court on 30.10.2023 granted stay of operation of the order on condition that the appellants deposit a sum of Rs.10,00,000/-with the first respondent.

20. We are of the opinion that the High Court was not justified in passing the directions extracted at Para 3 hereinabove. The directions were far beyond the scope of the writ petition. The appellants could not have been rendered worse off in their own writ petition. What is more, the directions have been made without putting the appellants on notice.

21. A party invokes the jurisdiction of courts being aggrieved by a certain course of action taken against him/it by the respondent. In this case, the appellants were aggrieved by the unilateral hike of the annual charges to Rs.1,50,000/- per annum from Rs.227.25/- which they were paying. The High Court was justified in examining the correctness or otherwise of the said decision. In this case, the High Court found that the respondents were justified in enhancing the annual license fee to Rs.1,50,000/-. Having done so, it should have disposed of the writ petition by simply dismissing it.

22. It is well settled that if in an exceptional case the Court feels the need to travel beyond the scope of the writ petition and make observations, the least a party is entitled to, is an opportunity to explain and defend themselves.

23. Disapproving the practice of catching parties by surprise by the writ courts travelling beyond the scope of the issues in question, this Court in V.K. Majotra vs. Union of India and Others (2003) 8 SCC 40, made the following telling observations:-

"8. The writ courts would be well advised to decide the petitions on the points raised in the petition and if in a rare case keeping in view the facts and circumstances of the case any additional points are to be raised then the concerned and affected parties should be put to notice on the additional points to satisfy the principles of natural justice. The parties cannot be taken by surprise. We leave the discussion here."

24. Though said in the context of expunging adverse comments in an order or judgment, the following paragraphs from State of U.P. Vs. Mohammad Naim 1964 2 SCR 363,repays study: -

"11. The last question is, is the present case a case of an exceptional nature in which the learned Judge should have exercised his inherent jurisdiction under Section 561-A CrPC in respect of the observations complained of by the State Government? If there is one principle of cardinal importance in the administration of justice, it is this: the proper freedom and independence of Judges and

Magistrates must be maintained and they must be allowed to perform their functions freely and fearlessly and without undue interference by any body, even by this Court. At the same time it is equally necessary that in expressing their opinions Judges and Magistrates must be guided by considerations of justice, fair-play and restraint. It is not infrequent that sweeping generalisations defeat the very purpose for which they are made. It has been judicially recognised that in the matter of making disparaging remarks against persons or authorities whose conduct comes into consideration before courts of law in cases to be decided by them, it is relevant to consider

(a) whether the party whose conduct is in question is before the court or has an opportunity of explaining or defending himself;

(b) whether there is evidence on record bearing on that conduct, justifying the remarks; and

(c) whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct.

It has also been recognised that judicial pronouncements must be judicial in nature, and should not normally depart from sobriety, moderation and reserve."

25. No doubt, what the High Court has done in the present matter is to direct the fixing of the license fee, keeping in mind, the judgment of the Court in T. Krishnakumar (supra). The appellant had no opportunity to explain whether T. Krishnakumar (supra) had application to the transaction in question or not. Further, to direct the Chief Vigilance Officer to hold an inquiry in the "matter relating to leasing out the land to the appellant" was not warranted on the facts and circumstances of the case. Directions of this nature for a fishing and roving enquiry can seriously impinge upon reputation and character of the parties. Even in a given case if the High Court was constrained to pass such directions it ought to have put the appellants on notice.

26. The directions extracted in Para 3 above have rendered the appellants worse off in their own writ petition. In *Ashok Kumar Nigam v. State of U.P.* (2016) 12 SCC 797, this Court held as under:-

"2. Appearing for the appellant, Mr. D.K. Singh, strenuously argued that the High Court had misdirected itself in issuing a notice of enhancement of the punishment awarded to the appellant. He submitted that by doing so, the High Court had placed the appellant in a worse-off position, simply because he had challenged the punishment awarded to him. That was, according to Mr. Singh, legally impermissible. In support of his submissions, Mr. Singh placed reliance upon two decisions of this Court in *Pradeep Kumar v. Union of India and Others* - (2005) 12 SCC 219 and *Ramesh Chander Singh v. High Court of Allahabad and Another* - (2007) 4 SCC 247.

4. The legal position, as to the powers of the High Court to direct enhancement of punishment in a writ petition arising out of disciplinary action taken against an

employee, stands concluded by the decisions of this Court, referred to above. In Pradeep Kumar's case (*supra*), in a somewhat similar circumstances, a similar question had arisen for consideration before this Court. In that case too the High Court had found the punishment of reduction in pay and denial of increments awarded to the appellant to be inadequate, for the gravity of the misconduct. The High Court had accordingly remanded the matter back to the disciplinary authority to award the maximum punishment of dismissal from service which direction was then assailed before this Court on the ground that the High Court had no such power to direct enhancement of punishment either by itself or by remanding the matter to the disciplinary authority. An employee complaining against the punishment awarded to him could not, observed this Court, be placed in a worse-off position for coming to the Court.

7. We have, in the light of the above decisions, no hesitation in holding that the High Court had fallen in a palpable error in directing issuance of a show cause notice to the appellant. The appellant could not, as observed earlier, be placed in a worse-off situation because of his having sought redress against the punishment awarded to him by the disciplinary authority which in the instant case is the High Court itself."

(Emphasis supplied)

27. In *Pradeep Kumar v. Union of India* (2005) 12 SCC 219, the Court held: -

"4. Irrespective of the crime/offence with which the appellant may have been charged, it was not open to the High Court to have issued such a direction. The scope of judicial review did not allow the High Court to have interfered with the punishment imposed by the disciplinary authorities on the appellant. Besides, a writ petitioner cannot be put in a worse position by coming to court. The directions of the High Court are not sustainable and must be set aside. We are told by the learned counsel for the appellant that the respondent authority pursuant to the directions issued by the High Court initiated proceedings against the appellant for the purpose of imposing the penalty of dismissal from service. We have held that the direction of the High Court was wholly outside its jurisdiction. The appeals are thus allowed and the High Courts directions are set aside. The disciplinary enquiry initiated on the basis of the High Court's order is consequently also quashed. However, the writ petitions will stand dismissed. There is no order as to costs."

(Emphasis supplied)

28. Litigants go to court for vindicating their rights when they perceive that there is an infringement. The court may, after hearing both parties, grant or deny them relief depending on the facts and circumstances of the case. As pointed out in *V.K. Majotra* (*supra*) and *Mohammad Naim* (*supra*), if without putting parties on notice (even in the rare and exceptional case where facts warrant) the court travels beyond the scope of the petition, takes parties by surprise and makes any strong observations and directions, it will create a chilling effect on other

prospective litigants too. They will be left to wonder whether by going to court in matters where they perceive injustice has resulted, they will be rendered worse off than what they were, before initiating the proceedings. This could seriously impact access to justice and consequently the very rule of law. Hence, in such matters, courts must exercise great caution and circumspection.

29. We are of the opinion that in the facts and circumstances of the case, the observations extracted hereinabove at para 3 are absolutely unjustified apart from the fact that they were made in violation of principles of natural justice.

30. In view of what has been stated hereinabove, we partly allow the appeal by expunging and setting aside the following portion of the impugned order:-

"The 1st respondent Board shall take necessary steps to fix the licence fee in respect of the land covered by Exts.P13 to P16 orders, taking note of the law laid down by this Court in T. Krishnakumar [2022 (4) KLT 798: 2022 (5) KHC SN 8] and also the law laid down in this judgment, with notice to the 2nd petitioner Chinmaya Mission Educational and Cultural Trust, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a certified copy of this judgment."

"In view of the facts noticed by this Court in paragraphs 36 and 37 of this judgment and also the stand taken by the 1st respondent Board before this Court that other than the copy of Exts.P13 to P16 orders, no other documents are seen in the relevant files, we deem it appropriate to direct the 1st respondent Board to conduct an enquiry by the Chief Vigilance Officer (Superintendent of Police), Cochin Devaswom Board in the matter relating to leasing out the land of Vadakkumnathan Devaswom to the 2nd petitioner Trust and take necessary action, if found necessary, based on the report of the Chief Vigilance Officer"

31. However, notwithstanding the expunction of the above paragraphs, if the respondent-Board has legitimate rights to enhance the licence fee, they may do so independently and in accordance with law.

32. By our interim order of 30.10.2023, we directed the appellants to deposit a sum of Rs.10 Lakhs with the first respondent. The amount has since been deposited. In view of the judgment passed today, we direct that the balance amount be paid by the appellants to the first respondent, as undertaken before us within three months from today.

33. No order as to costs.