
(2005) 02 KL CK 0088
In the High Court Of Kerala
Case No : W.A. No. 323 of 2001

Sukumaran N.

APPELLANT

Vs

Guruvayoor Devaswom Board

RESPONDENT

Date of Decision : 16-02-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 106 FLR 113 : (2005) 2 ILR (Ker) 299 : (2005) 3 LLJ 430

Hon'ble Judges : M.N. Krishnan, J;K.S. Radhakrishnan, J

Bench : Division Bench

Advocate : T.A. Unnikrishnan, for the Appellant; P.N. Raveendran, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Radhakrishnan, J.—Managing Committee of the Guruvayoor Devaswom by Resolution No. 8, dated August 12, 1993 resolved to revert the writ petitioners to the lower post of Sweepers and further to withhold their promotion for a period of three years. The Committee also ordered that the writ petitioners should deposit Rs. 101 to the Hundi taking a pledge that such misconduct would not be repeated. Decision was later confirmed by the Committee as per Resolution No. 41 dated March 19, 1996. Punishment imposed was communicated to the writ petitioners by Exhibit P-4 order. Aggrieved by the said order, petitioners have approached this Court. Learned single Judge found no reason to exercise jurisdiction of this Court under Article 226 of the Constitution and dismissed the writ petition. Aggrieved by the same this writ appeal has been preferred.

Counsel appearing for the appellants advanced a legal contention that the Managing Committee had committed an error in placing reliance on the second enquiry report rejecting the first enquiry report. Placing reliance on the decision of this Court in *Kesavan Namboodiri v. State of Kerala* 1982 II LLJ 219 (Ker) and *Baby v. State of Kerala* 1999 (1) KLT 676. Counsel submitted that when an enquiry officer had already submitted his report that cannot be rejected by the

disciplinary authority without stating reasons. Counsel submitted that the disciplinary authority could disagree with findings of the enquiry officer, only on valid grounds. The action of the Managing Committee in rejecting the first enquiry report without assigning any reasons and placing reliance on the second enquiry report is illegal and arbitrary.

2. Charges levelled against the writ petitioners were that suit No. 6 of Sreevalsam Guest House of the Guruvayoor temple was used by them for immoral traffic. Assistant Manager in charge of the Guest House on April 22, 1993 reported that suit No. 6 in the Sreevalsam Guest House was allotted to a woman with ulterior motives on the early morning of 1993 and the writ petitioners went to that suit and attempted to have illicit relationship with the said woman. It is alleged in the report that the fourth petitioner was on duty as Room Boy in the Sreevalsam Guest House from 10.00 p.m. on April 19, 1993 till 6. 00 a.m. on April 20, 1993. It was with his knowledge and connivance that other writ petitioners got an opportunity to bring the woman for illegal occupation of suit No. 6. They were on duty elsewhere and had no necessity to come over to Sreevalsam Guest House. The Committee appointed Assistant Manager as the enquiry officer to conduct enquiry. Writ petitioners were kept under suspension and the Assistant Manager who was appointed as the enquiry officer submitted report on June 25, 1993. The disciplinary authority was not satisfied with the report and appointed the Devaswom Finance Officer to conduct a fresh enquiry. After scrutinising the evidence of the witnesses and the circumstances of the case, the enquiry officer submitted a detailed report on August 26, 1993 holding the petitioners guilty of the charges levelled against them. The Committee found that the incident lowered the reputation of the Devaswom among the public and therefore decided to revert the petitioners to the lower post of Sweeper and to withhold their promotion for a period of three years.

3. The enquiry files with the reports were placed before us. We have gone through the reports of the enquiry officers and other relevant records. Petitioners attacked the action of the Committee in rejecting the first enquiry report and appointing another enquiry officer whose report was accepted. Learned Judge found no infirmity in the said action of the Managing Committee.

4. We are dealing with an issue relating to one of the most reputed temples of South India. Managing Committee bearing in mind the best interest of the temple and its devotees felt that the second enquiry report has to be accepted which is found to be more reliable. No ill motive or mala fide has been alleged or proved against the Committee. While dealing with the issue of a religious institution of this nature, the approach of the Court will be entirely different compared to the case, of an industrial establishment or Government organisations.

5. The Apex Court in *State of Maharashtra and Others Vs. Prabhu*, held that there is no scope for interference under Article 226 of the Constitution in matters

involving social interests. The Apex Court while dealing with Section 15(2) of the Maharashtra State Board of Secondary and Higher Secondary Education Act, 1965 held as follows at p. 624 of LLJ:

4. ...The distinction between writs, issued as a matter of right such as habeas corpus and those issued in exercise of discretion such as certiorari and mandamus are well-known and explained in countless decisions given by this Court and English Courts. It is not necessary to recount them. The High Courts exercise control over Government functioning and ensure obedience of rules and law by enforcing proper, fair and just performance of duty. Where the Government or any authority passes an order which is contrary to rules or law it becomes amenable to correction by the Courts in exercise of writ jurisdiction. But one of the principles inherent in it is that the exercise of power should be for the sake of justice. One of the yardsticks for it is if the quashing of the order results in greater harm to the society then the Court may restrain from exercising the power.

6. We are of the view, since the Managing Committee as well as the Administrator of the Guruvayoor Devaswom has found on the basis of the second enquiry report that the writ petitioners are guilty of the charges levelled against, the action of the Managing Committee and the legality of the findings of the second report, in our view, cannot be gone into in exercise of powers under Article 226 of the Constitution of India. We are not inclined to interfere with the discretion exercised under the learned single Judge. The writ appeal therefore lacks merits and it is accordingly dismissed.