

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MRS. JUSTICE SHIRCY V.

TUESDAY, THE 10TH DAY OF OCTOBER 2017/18TH ASWINA, 1939

WP(C).No. 30711 of 2017 (L)

PETITIONER:

MOHANAN PILLAI.A.V,
GAYATHRI HOUSE, MUTHUKULAM
SOUTH P.O., ALAPPUZHA DISTRICT.

BY ADVS.SRI.P.SREEKUMAR
SRI.K.ARJUN VENUGOPAL
SMT.MARY RESHMA GEORGE
SMT.V.A.HARITHA
SMT.SANDHYA R.NAIR
SMT.P.M.MAZNA MANSOOR
SRI.JEEVAN RAJEEV

RESPONDENTS:

1. TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY,
THIRUVANANTHAPURAM-695001.
2. THE DEVASWOM COMMISSIONER,
TRAVANCORE DEVASWOM BOARD,
NANTHANCODE,
THIRUVANANTHAPURAM-695003.
3. ASSISTANT COMMISSIONER,
MAVELIKKARA GROUP,
TRAVANCORE DEVASWOM BOARD,
MAVALIKKARA, PIN - 690101.
4. THE SUB GROUP OFFICER,
PANDAVARKAVU DEVI TEMPLE,
MUTHUKULAM P.O.,
ALAPPUZHA DISTRICT-690506.
5. THE SECRETARY,
TEMPLE ADVISORY COMMITTEE,
PANDAVARKAVU DEVI TEMPLE,

MUTHUKULAM P.O.,
ALAPPUZHA DISTRICT-690506.

6. THE DISTRICT POLICE CHIEF,
ALAPPUZHA DISTRICT,
ALAPPUZHA P.O - 688 001.
7. THE DEPUTY SUPERINTENDENT OF POLICE,
KAYAMKULAM, ALAPPUZHA DISTRICT-690502.

R5 BY ADV. SRI.E.M.MURUGAN
R6 & 7 BY SR. GOVERNMENT PLEADER
SRI. T.K. ANANTHAKRISHNAN
R BY SRI.D.SREEKUMAR, SC, TDB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-10-2017, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 30711 of 2017 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1 TRUE COPY OF THE E-MAIL ADDRESSED TO THE STATE POLICE
CHIEF DT. 21.9.2017

EXHIBIT-P2 TRUE COPY OF THE JUDGMENT IN W.P(C) 3534/2014 DATED
07/02/2014 OF THIS HONOURABLE COURT

RESPONDENT(S)' EXHIBITS

NIL

KS.

TRUE COPY

P.S. TO JUDGE

P. R. RAMACHANDRA MENON & SHIRCY V.,JJ.

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W.P.(C) No. 30711 of 2017

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Dated this the 10th day of October, 2017

JUDGMENT

P.R. Ramachandra Menon, J.

The grievance projected by the petitioner in the writ petition is with regard to the installation of 'horn type' loud speakers by the 5th respondent in connection with the 'Navarathri festival' in the Pandavar Kavu Devi Temple premises and along the Road. It is stated that user of such 'horn type' loud speakers is virtually prohibited because of high decibel sound being generated, causing sound pollution. It is also brought to the notice of this Court that on an earlier instance, in connection with the affairs in the very same Temple, the issue was brought up for

consideration before this Court by the petitioner by filing W.P.(C)No. 3534/2014. The said matter was disposed of as per Ext.P2 judgment dated 07.02.2014 recording the submission made by the learned Standing Counsel for the Board that only 'box type' speakers would be used and under no circumstances would there be any permission to use the 'horn type' speakers. It is without in regard to the above proceedings, that the same course is sought to be pursued and perpetuated by the 5th respondent, which made the petitioner to rush to this Court by filing the above Writ Petition.

2. When the matter came up for consideration before this Court, it was submitted on behalf of the Sub Inspector of Police, Kanakakunnu Police Station that the version of the petitioner was not correct and that only 'box type speakers' have been used by the authorities of the Temple and the 5th respondent. It was also pointed out that there was some estrangement between the petitioner and the 5th

respondent, which might be the reason for approaching this Court, raising an allegation against the 5th respondent. This was controverted by the learned counsel appearing for the petitioner, also by producing a photograph obtained by the learned counsel for the petitioner in his 'Whatsapp' number bearing '9447070877', which was recorded by this Court. The learned Government Pleader was required to verify the position and to cause an affidavit of the officer to be filed. Pursuant to the above direction, the Sub Inspector of Police has filed an affidavit dated 28.09.2017. Paragraphs 4 to 6 of the said affidavit are reproduced below for convenience of reference.

"4. It is submitted that the Pandavar Kavu Temple is every oldest one and devotees believes that the idol of Gods was erected by "Kunthi Devi" the mother of Pancha Pandava during their hiding period of VANAVASAM. All the inhabitants and others nearby places have strong belief in the power of th God. Anciently the administration of the Temple was under the hands of KARAPRAMANIS from that time itself loud speakers were used in the temple during morning and evening prayers.

Subsequently the temple was occupied by the Thiruvithamkur Devaswom Board and now the temple is under its administration even though horn type loud speaker was issued previously. After the order of the Honourable Supreme court regarding the use of loud speaker, only box type loud speakers are used in the temple for worship purpose with admitted decibel. If Police are interfere in this matter it will badly affect the feeling of th devotees and they will react strongly against police which may lead to crucial situation beyond the control of Police power.

5. I had strictly instructed the office bearers of the temple to use low sound at admitted decibel while using box type loud speaker so as not to make any disturbance of sound pollution to the natives. However the direction of the Honourable High Court in this matter will be strictly adhered.

6. When the Writ petition was filed the learned Government Pleader instructed me to visit the temple premises to see as to whether the temple authorities have using any loud speakers of horn type as alleged by the petitioner. Accordingly, I personally visit and found that no horn type loud speakers used in the temple."

3. The learned counsel for the petitioner points out that correctness of the version made by the counsel on

26.09.2017, as to the position which was prevailing on the relevant date with respect to 'horn type loud speaker' (sought to be substantiated with reference to the photograph received on 'Whatsapp') is not rebutted by the Sub Inspector of Police. However, considering the fact that the direction given by this Court as per the order dated 26.09.2017 to cause use only the 'box type loud speakers' and to remove the 'horn type loud speakers' if at all installed, was given effect to by letter and spirit and further since the festival is over, we do not find it necessary to proceed with any further steps. It is declared that, under no circumstance, shall there be user of any 'horn type' loud speakers by the 5th respondent/Temple Advisory Committee or such others in connection with the affairs of the Temple.

4. We find it appropriate, in view of the repeated instances of violation (knowingly or unknowingly) to direct the Commissioner for the Travancore Devaswom/ the 2nd respondent herein, to issue a general Circular as to strict

prohibition of 'horn type' loud speakers in the Temples or in connection with the affairs of the Temples under the Devaswom and to provide only 'box type' loud speakers.

The same shall be issued forthwith, at any rate, within one month from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of as above.

Sd/-

**P.R. RAMACHANDRA MENON
JUDGE**

**Sd/-
SHIRCY V.
JUDGE**

ks.

TRUE COPY

P.S. TO JUDGE