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Role of the Tamil Nadu Hindu Religious and Charitable Endowments for Protection of Temple and Temple Properties: Issues and Challenges

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ABSTRACT

India is a land of diversities, belief, faith and rich culture. Thousands of Indians daily pray to his respective God regardless of his religion, caste, colour, creed, race, and gender to give them a life with dignity, a life with fulfillment, happiness, and divinity. Temples are such living testament of such faith and belief. Our country India is well known for protecting every asset of the nation. Our Constitution declared in its preamble "WE THE PEOPLE OF INDIA." So, each and every public asset is the asset of each and every citizen of the country. In a way Hindu temple properties were started to be administered by the Government elected by the people, for the people and of the people. Different states started their own religious bodies to protect the interests and properties of Hindu Religious Temples and worship places. Some of the well-known such establishments are the Travancore Devaswom Board, Cochin Devaswom Board, Tirumala Tirupati Devasthanam, Hindu Religious and Charitable Endowments department of Tamil Nadu, etc., In particularly this paper focuses on the Hindu Religious and Charitable Endowments department of Tamil Nadu. Even though set up for supporting temple administration, at present we can see that the role of this department is getting corporatized and is used for acquiring temple properties for purposes other than religious one and remaining inactive doing a minimal conservation to thousands of temples around the state. Even though conservation activities are undertaken but, such activities are being done only at temples which attract huge public and no other temples. This leads us to a serious question whether the department is acting only to protect those religious institutions which have more assets and properties. In order to find the answers, we would like to discuss in detail in this paper regarding the recent allegations arised, cases filed and observation done by us as a team, by virtue of which we would like to discuss on these issues of mis – maintenance by the HR&CE department of Tamil Nadu and critically analyse HR&CE 's role in Hindu Temples and Religious Institutions.

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I. INTRODUCTION

An old song of Raj Kapoor, the greatest showman of Indian Cinema goes as “Honthon pe sachchai rehti hai, Jahan dil mein safai rehti hai, Hum us desh ke wasi hai, hum us desh ke wasi hai, Jis Desh mein Ganga behti hai” (Where Truth is on the lip’s, Where there’s pureness in the heart, We’re citizens of that country, We’re citizens of that country where Mother Ganga flows). “He who denies heritage, has no heritage” is the famous saying of the renowned poet, Khalil Gibran. So, it is the duty of every individual and the State to protect their heritage. Temples are considered as foremost of the elements of such heritage. The great Tamil poet Avvaiyar said, “Don’t live in a place where there is no temple”. In such a divine land of cultural diversity and rich cultural background, temples are considered as the back bone of our heritage, faith, and belief. Temples are the sacred spots where the faiths and beliefs of people from various places, various backgrounds with various prayers gather to worship the God. Even though the Hindu religion and mythological multiverse has thousands of Gods, we pray in faith to these Gods in specific and in group. Temples constructed in both past and present serve as the dwelling place of the Hindu Gods. These temples were maintained by the kings, rulers of land, priests, or lords of the land in ancient and medieval period. In the past three centuries, largely the temples came under the supervision of individual priests due to the lack of interest of British powers in maintenance of places of worship as the Royal Charters of England itself declared non – interference in religious beliefs of Indian people. The definition of temple itself is given by Law Lexicon as “Temple means a place by whatever designation known, used as a place of public religious worship, and dedicated to, or for the benefit of or used as of right by, the Hindu Community or any section thereof as place of public religious worship and includes sub-shrines, utsava mantapas, tanks and other necessary appurtenant structures and land”⁴.

The earliest of such colonial interference in maintenance of temples and temple properties can be seen in the case of the Tirumala Tirupati Devasthanam Act, 1932 by which the Tirumala Tirupati Devasthanam was established in 1932. The Devasthanam was established for the maintenance of temple properties and the temple itself. In a way, the system of maintenance of temples under statutory bodies came into existence. Some of such statutory bodies are the

⁴ N. Dhanasekharan v. Tamil Nadu Government, W.A.(MD)Nos.686 to 698 of 2018, 1016, 1030 to 1051, 1068, 1096, 1097, 1112, 1113, 1119 to 1135, 1160, 1164, 1165, 1166 to 1209, 1212 to 1224, 1269, 1307, 1323 to 1341, 1359 to 1363 of 2018, 1369 to 1400, 1404 to 1420, 1421 1427 to 1442 of 2018 and 1504 and 1505 of 2018 and connected miscellaneous petitions, 2018.

Travancore Devaswom Board and Cochin Devaswom Board in Kerala, Andhra Pradesh Charitable and Hindu Religious Institution and Endowments in Andhra Pradesh etc., In such a way we would like to now focus our arguments on the powers, functions and roles of the Tamil Nadu Religious and Charitable Endowments Department and its actions.

II. FUNCTIONS OF THE DEPARTMENT OF HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS

The Hindu Religious and Charitable Endowments is constituted primarily in 1925 in Tamil Nadu under Madras Religious Endowments Act, 1923. It was further modified in the year 1960 and got re – established in 1960 by the will of the law, Tamil Nadu Hindu Religious and Charitable Endowments Act XXII of 1959. Post 1991, the temple administration was also in a small amount delegated to religious and spiritual leaders. But, still in practice the HR&CE department controls the temples of Tamil Nadu. The Hindu Religious and Charitable Endowments department of Tamil Nadu has been in control of temples since 1960. Their powers and functions are listed in the same act. The act declares that the act is established to administer and govern the Hindu and Jain temples of the state including corporated and incorporated devaswoms. Eventhough the act declares as such where power is awarded to the governmental body, it is to be noted that according to Article 26, every religion has a right to manage religious affairs. The Act's declaration in its phase itself is contradicting the Constitutional Fundamental Right. Eventhough the State can form any such body to regulate religious affairs; it must be fair and reasonable in its proceedings. A conflict of law exists in the law sphere itself as the court in various cases. The honourable Supreme Court of India in a case noted that “The properties of deities, temples and Devaswom Boards, require to be protected and safeguarded by their trustees/archakas/shebaites/employees”⁵.

The Tamil Nadu Hindu Religious and Charitable Endowments Act XXII of 1959 itself provides in nutshell the powers of the body mentioned as “Where the Government have reason to believe that any Hindu or Jain public charitable endowment is being mismanaged, they may direct the Commissioner to inquire, or to cause an inquiry to be made by any officer authorized by him in this behalf, into the affairs of such charitable endowment and to report to them whether, in the interests of the administration of such charitable endowment, it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder”⁶. The term charitable endowments are defined in the act as “all property given or endowed for the benefit of, or used

⁵ A.A. Gopalakrishnan v. Cochin Devaswom Board and others, 7 SCC482, 2007.

⁶ Section 3(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act XXII of 1959.

as of right by, the Hindu or the Jain community or any section thereof, for the support or maintenance of objects of utility to the said community or section, such as rest-houses, choultries, patasalas, schools and colleges, houses for feeding the poor and institutions for the advancement of education, medical relief and public health or other objects of a like nature; and includes the institution concerned”⁷. The Court also in the case of *K.K. Gopalakrishnan v. Cochin Devaswom Board* ⁸noted that “Instances are many where persons entrusted with the duty of managing and safeguarding the properties of temples, deities and Devaswom Boards have usurped and misappropriated such properties by setting up false claims of ownership or tenancy, or adverse possession. This is possible only with the passive or active collusion of the concerned authorities. Such acts of 'fences eating the crops' should be dealt with sternly. The Government, members or trustees of Boards/Trusts, and devotees should be vigilant to prevent any such usurpation or encroachment. It is also the duty of courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation”. This shows that the apex court itself has acknowledged such fact of misappropriations happening in bodies appointed to govern religious institutions. Eventhough the court said this in a case involving a board from Kerala, the honourable court expressed this opinion in view of addressing all such bodies existing in India. Also, the powers and functions of the department as enshrined in the Act of 1959 can be interpreted in a way that it establishes the HR&CE department as a quasi – judicial body to settle disputes if any arising because of mismanaging of the assets and properties of the temple. Another provision under the Act provides the power of the Commissioner of HR&CE as “The Commissioner or the officer authorized by him under sub-section (1) shall, while making an inquiry under that sub-section, have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908) for the purposes of enforcing the attendance of witnesses and compelling the production of books, accounts, documents, securities, cash and other properties belonging to or in the custody of such charitable endowments and shall follow the procedure applicable under the said Code in regard to recording of evidence and hearing of parties”⁹. By, this we can infer that the HR&CE department has been bestowed the powers of a civil court or in a proper sense quasi – judicial body and by the intent of the statute we can interpret that such powers arise only when such a mismanagement is reported or been find out. So, basically the powers of HR&CE are restricted to such financial accounting of temple accounts and to investigate with the powers of a civil court only if any problem arises. The HR&CE power can be hereby viewed as a body who

⁷ Section 6(5) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

⁸ 7 SCC482, 2007.

⁹ Section 3(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

cannot interfere in the administration of the temple or appointment of any special officers for such administration as the department has been undertaking in the State.

III. CONSTITUTIONALITY OF THE HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS DEPARTMENT

Article 26 of the Constitution of India provides that “Subject to public order, morality and health, every religious denomination or any section thereof shall have the right— (a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law”. By literal way of constitutional interpretation one can understand that the body of Hindu Religious and Charitable Endowments Department itself is unconstitutional. Eventhough the Constitution of India provides three exceptions to its namely public order, morality and health, the establishment of HR&CE itself does’nt actually provide any clear clarification. Eventhough the Act itself establishes in Section 107 that the act does’nt ultra – vire the constitution, but its proceedings and further judicial pronouncements held such authorities are unconstitutional. The Kerala High Court declared that “A religious sect or denomination has the undoubted right guaranteed by the Constitution to manage its own affairs in matters of religion and this includes the right to spend the trust property or its income for the religious purposes and objects indicated by the founder of the trust or established by the usage obtaining in a particular institution. To divert the trust properties or funds for purposes which a statutory authority or official or even a court considers expedient or proper, although the original objects of the founder can still be carried out, is an unwarrantable encroachment on the freedom of religious institutions in regard to the management of their religious affairs. A statute cannot therefore empower any secular authority to divert the trust money for purposes other than those for which the trust was created as that would constitute a violation of the right which a religious denomination has under Articles 25 and 26 of the Constitution to practice its religion and to manage its own affairs in matters of religion. The State can step in only when the trust fails or is incapable of being carried out either in whole or in part”¹⁰. In another case the High Court of Bombay held that “A law, which takes away the right of administration altogether from the religious denomination and vests it in any other or secular authority, would amount to violation of the right which is guaranteed by article 26”¹¹. Eventhough state can impose restrictions or can assist in administration of properties it

¹⁰ *T. Krishnan v. GDM Committee*, Petitioner no. 314 of 1973, Para 35 and 36.

¹¹ *Ratilal Panachand Gandhi v. State of Bombay*, 1954 AIR 388.

cannot on a whole taken on its power to govern and administer religious body. As the act says that it does't violate Article 26, the act may not seem to violate but, appointment of executive officers to administer and govern the temple in control and other actions might be sighted unconstitutional restricting fundamental right under Article 26 of the Constitution. Article 14 of Constitution provides that "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India". Article 15 provides that "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them". The Constitution of India further provides that the State shall make only make law for a protective discrimination only in case of backward communities and Schedule Castes and Schedule Tribes. In such a case how the State of Tamil Nadu can pass a law for only the Hindu and Jain religion i.e., the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. This itself ultra vires the constitution there is no such body for any religion. Eventhough there exists a Ministry named Ministry of Minority Affairs, it was constituted to protect the rights of minorities and not for the administration of temple of worship places. So, if such a practice is not happening in other religions, why only in Hinduism ? This is one of the critical questions and the only answer may come from the intent of the law maker.

IV. HR&CE DEPARTMENT AND THEIR RIGHT TO PROTECT THE TEMPLE PROPERTY: A MYTH OR LEGAL TRUTH ?

As observed by the apex court itself, it is to be noted that the assets and properties meant to be utilized for temple are utilized for other purposes. A recent case arised where the collectorate campus of district of Kallakuruchi was built on a temple land which was leased out for 30 years to the government by the HR&CE. The petitioner's contention was mainly that the temple itself was in a dilapidated state and the present rent value per year might get valued up to 12 lakhs per year. Whereas, the government figures mention it lesser. They also contended that under Section 34 of the act, the HR&CE cannot take a suo motto decision to grant such a temple land, without the acceptance of proposal by the trustees of the temple by relying on the case *S. Govinda Menon v. Union of India*, AIR 1967 SC 1274¹². Section 34 further explains that such lease shall be extended only for a period of five years and not more than that. But, it is to be noted that the lease period awarded here is 30 years. The Madras High Court hearing the case, approved the lease of land stating "we also independently find that the G.O.Ms.No.156 is more beneficial and necessary for the Temple and when the Trustees who are duly appointed under

¹² *Rangarajan Narasimhan v. The Additional Chief Secretary to the Government of Tamil Nadu and others*, Writ Petition No. 18838 of 2020.

the Act have no objection for such a course, we cannot accept the contention of the petitioner-in-person or the impleaded parties and interfere with the Government Order. We also do not find any criminality in the exercise of power so as to order investigation”¹³. Similar issue was arisen in another case where *Unknown v. S. Guhan*, W.A. no. 126 of 2022, Arulmighu Kottaimariamman Thirukoil, a 2.57.5 hectare temple in Omalur Village, Salem District, is administered by the Hereditary Trustee and Executive Officer under the HR & CE Department. The vacant land surrounding the temple was used for temple festivals. In 2018, the District Collector transferred 1.15 acres of land to the Transport Department for the construction of a Regional Transport Office, despite the HR & CE Department's consent. Temple Management challenged the claiming land transfer without approval from the Commissioner of Land Administration, following due process of law, and contrary to Rule 13 of Revenue Standing Order No.26. The learned Single Judge quashed the G.O. dated 27.09.1963, and the prayer is to uphold the order. In another case the court held that “The High Court, in its impugned judgment proceeded on the basis that there had been no assignment in favour of the Temple by the State”¹⁴. So, we can conclude by this statement of the court itself that such irregularities was done against the favour of temple and its administration. One can still notice in the areas surrounding different temples, the lands and buildings being leased out still now at a fixed price of estimated value during the commencement of the act in 1960’s. Such notable cases can be seen in and around various temples like that of Sri Nellaiyappa Temple in Tirunelveli. A Case was filed by Sri. Rangarajan Narasimhan in the High Court of Madras in 2021 to prevent the government of Tamil Nadu from claiming temple properties to be properties of HR&CE and thereby prevent the conversion of the lands that are the properties of the deity and the temple. The court held that even though, the commissioner of HR&CE has power to alienate the property of the temple, however, it doesn’t mean that the land belongs to the department itself as the Act of 1959 has not mentioned as such. To quote from the judgement “It is, however, clarified that while the Commissioner has power to alienate the property of the temple, it would not be considered to be the property of the HR & CE Department, but that of temple itself”¹⁵. So, such misappropriations of land and uninformed alienation of land is been done in practice which is actually justified by saying that such thing is done on the basis of benefit to the institution. One should note that property of a temple is the property of a deity. Under Indian Law, the Hindu idol or deity is considered as a legal person with a minor and the trustee or the

¹³ *Rangarajan Narasimhan v. The Additional Chief Secretary to the Government of Tamil Nadu and others*, Writ Petition No. 18838 of 2020.

¹⁴ *Subramanya Swamy Temple, Ratnagiri v. V.Kanna Gounder* (Dead) by LRs, (2009) SCC 306, Para 10.

¹⁵ *Rangarajan Narasimhan v. The Director General of Police* on 11 August, 2022, W.P. No. 16079 of 202.

priest or the shebait is considered as the guardian of such a minor. But, such a tradition existed long back starting from various illustrations. One such case is of Sree Padmanabhaswamy Temple where, on 3rd January, 1750, the ceremony of Thripadidanam was conducted by which then reigning king of Travancore Anizham Tirunal Marthanda Varma donated the whole kingdom to Padmanabha and declared himself “Padmanabhadasa” or the servant of Padmanabha. The king became the shebait of the temple and this was debated in the case of *Sri Marthanda Varma (D) Th. Lr. . v. State Of Kerala* on 13 July, 2020 where the court held that “.....the Managing Committee would be of eight Members comprising of two ex-officio members, namely, Padmanabhadasa and the Senior Thantri; while the other six Members would be nominated by the Hindus among the Council of Ministers; one of them being Member of the Scheduled Castes and Scheduled Tribes while one being a woman, and the other being a representative of the employees of the Temple”¹⁶. The court noted that “The Thrippati Danam” and its significance, and long recognised and accepted fact that the management of the Temple had always been with the Ruler, lead us to conclude that for centuries, the Temple had been under the exclusive management of successive Rulers from the ruling family of Travancore and that the Rulers of Travancore, till the signing of the Covenant, were in the capacity as Managers or Shebait of the Temple”¹⁷. Thus, the apex court held that the religious body has the right to administer the temple and its properties. But, such a step has not been arised still in the periphery of Tamil Nadu Hindu Religious and Charitable Endowments Department. But, through the action of the apex court and the High Court of Madras we can conclude that the administrative and property rights of the temple rests with the trustees and the people belonging to the temple including priests and shebait and HR&CE has a very meager role to play just as a tool to audit or to cross check the accounts and smooth working of the temple.

V. MAINTENANCE OF THE TEMPLE STRUCTURE BY HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS

Recent reports of the department shows that the HR&CE has undertaken various projects to renovate temple structures and has conducted Kumbabisheka of various temples. But, it is to be noted that even though the HR&CE has done all this in good faith using temple funds for the fair benefit of the institution, this has been performed only in temples of prime importance and not in other temples. Still one can see various dilapidated temples in the state which are very

¹⁶ *Sri Marthanda Varma (D) Th. Lr. . v. State Of Kerala* . on 13 July, 2020, Civil Appeal No. 2732 of 2020 (arising out of SLP(C)No.11295 of 2011)

¹⁷ *Sri Marthanda Varma (D) Th. Lr. . v. State Of Kerala*. on 13 July, 2020, Civil Appeal No. 2732 of 2020 (arising out of SLP(C)No.11295 of 2011).

old and in a dangerous critical zone of alert waiting for research and exploration. For example, the Great temple of Gangaikonda Cholapuram situated in Ariyalur District constructed by 12th century Chola King Gangaikonda Cholapuram which is a UNESCO world heritage site has no lights. As per the report published by Times of India authored by Deepak Karthik as on May 8, 2022, it says, that “Gangaikonda Cholapuram a protected monument of Archaeological Survey of India which is classified as a UNESCO World Heritage Site has been languishing in utter neglect and keeping visitors away.....Despite no promotional activities undertaken by ASI and HR&CE and tourism departments, some tourists from various parts of the country take the trouble to visit the monument”. “Due to the inadequate lights, few would know that the ASI managed marvel is a UNESCO heritage site”¹⁸. The Madurai Bench of honourable High Court of Madras in the case *N. Dhanasekharan v. The Tamil Nadu Government* on 1st September, 2018 quoted the recommendations of UNESCO whereby it said “The sheer number of temples being handled by HR & CE is unimaginable and unless a very coherent operational structure along with an army of experts from various fields, skilled sthaphys and crafts persons is available at hand, the task of simultaneously conserving/maintaining/ repairing temples is not feasible. Either HR&CE should limit itself to the simple supervision and administration of immovable properties as per the Tamil Nadu HR&CE Act while the conservation works are assigned to a specialised department such as Archaeology or it should re-organise its structure including Technical experts at various levels and, ensure the empanelment of only qualified Sthapathis and contractors for such specialised works." This shows that HR&CE as an institution is highly incapable of maintain all the temples as it is a coherent task and only decentralization of such authority may help in excellence. The Adhikesava Perumal Temple of Thiruvattar, Kanyakumari district is one of the best case studies for such non – maintenance. A writ petition was filed in the Madurai bench of Madras High Court, stating that the renovation works and maintenance of the temple as a heritage structure is not done leading to the temple exist in a dilapidated state. Eventhough, Government established a Board of Trustees for effective administration of temples, but political intervention in 1969 led to the “pollution of the Board” and encroaching of temple properties. As of the transfer of territory, only five temples are maintained, and due to unqualified trustees, no Poojas or religious activities are performed in the 490 temples, highlighting the need for improved governance and management. Also, the petitioner noted that, Mr. A.K. Perumal, a historian documented 42 stone inscriptions in Thiruvattar Kovil Varalaru, but none have been notified or identified. The HR & CE

¹⁸ Deepak Karthik, Gangaikonda Cholapuram temple an apology for UNESCO heritage, The Times of India, May 8, 2022.

Department needs to create a list of inscriptions and protect them to preserve the temple's rich history. The court appointed two advocate commissioners to check the condition and maintenance of the temple. After going through their report the court noted "On a perusal of the report of the Advocate Commissioners, it can be apparently perceived that Sri Adhikesava Perumal Temple is in a dilapidated condition and various renovation works are halfway through and therefore, utmost care should be taken to restore the Temple to its originality"¹⁹. The court ordered that "Considering the fame, antiquity and the importance of the temple, the temple has to be restored and preserved with utmost care. Restoring the temple to its originality means carrying out necessary works to bring the inscriptions, sculptures and images to its originality and to preserve the same"²⁰. Thus, it can be noted that the maintenance and renovation of the temples are limited only to temples which attract huge public crowds and not others. Also, this can be noted where the Chola temple of Tanjore (Sri Brihadeeswara Temple) is in full bright lights because of public attraction and Gangaikonda Cholapuram because of less public attraction is in darkness. These actions of HR&CE itself actually contradicting the very essence of their act as the act notes "without prejudice" in various provisions including that to power to make rules where it mentions that "The Government may, by notification, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the forgoing power, such rules may provide for"²¹

Such terms are included in provisions such as Sections 14, 32(2), 79 – C, 116 and 118(3). But, the department is prejudiced towards temples which attract crowds and it supports only temples of much public importance. This is further proved by our field observation report which we will cover further in this paper.

VI. UNTOLD STORIES OF ARCHAKAS OF THE TEMPLE AND HR&CE

The Archakas of the temple are considered as one of the most important components is a temple. In the same case of *M. Ayyappan v. Government of Tamil Nadu*, the court noted that Normally, the importance of the temple rests on 10 aspects. It would relate to ancientness, tradition, documents written in a palm leaf, copper plates, inscriptions, relationship between the temple and the place in which it is situated, reference of the temple in the epics, temple history, presence of more number of sculptures, performance of urchava poojas, songs sung by the singers in respect of the temple and the belief of the Government and the Public upon the temple". Almost most of these aspects are fulfilled only because of the presence of trained hereditary priests of

¹⁹ *M. Ayyappan v. Government of Tamil Nadu*, W.P.(MD)No.17759 of 2017 And W.M.P.(MD)No.14306 of 2017.

²⁰ *M. Ayyappan v. Government of Tamil Nadu*, W.P.(MD)No.17759 of 2017 And W.M.P.(MD)No.14306 of 2017.

²¹ Section 116 of The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

the temple. The Government of Tamil Nadu to portray their Secularism declared that people from any caste can become Archakas through the body of HR&CE. This was further fought in the case *Adi Saiva Sivachariargal Nala Sangam v. Government of Tamil Nadu and another* on 16 December, 2015. In this case the validity and constitutionality of the 1970 amendment to the HR&CE Act which abolished hereditary appointment of priests in temples, was analyzed by the apex court and the apex court held the constitutionality of the amendment. But, keep in place the rule that Agamas must be followed for such appointments. In words of the court “appointments of Archakas will have to be made in accordance with the Agamas, subject to their due identification as well as their conformity with the Constitutional mandates...”. But, if such a step is to be taken then what will be the condition of hundreds and thousands of priests working in a hereditary order in various temples around the state ? As mentioned earlier only some temples are having he public attraction and priests of those temples are provided income which is enough for their sustainability. But, what about other temples, where lots of priests don’t even have a meager income by being priest and they just hold the post to serve the Lord. One cannot imagine the amount of pain one has when the priest stands inside the sanctum sanctorium of a temple doing the daily rituals which may take hours together. Such priests are not even been given income and they are in a vicious circle of poverty. Always one thinks about the well to do priests whose count is very small compared. We always think that the priests of the temple are well to do but, the truth is bitter. On May 3, 2021, the Chief Minister of Tamil Nadu declared that the priests will be given cash assistance with 10 kg of rice and 15 varieties of groceries. But, such decision was taken by the Government of Tamil Nadu after various legal battles and one such notable case happened in the same year 2021. In 2019, a writ petition of certiorified mandamus was filed before the Madurai bench of Madras High Court by Periyambadi Narasimha Gopalan praying to quash a Government order (No. 91, 28.09.2023), which ordered revising in pay scales of temple employees and staffs including the Archakas. The petitioner aggrieved by the new pay scale which is very minimal filed the petition to revise his pay scale. The court in its observation said, that even though the temple is a separate entity, it is controlled by the Hindu Religious and Charitable Endowments department of Tamil Nadu through an appointed Executive Director for each temple, including the temple where the petitioner is working as an Archaka called Sri Rajagopalaswamy Kulashekara Aalwar Thirukovil, Mannarkovil. So, when such a step is taken by the Government of Tamil Nadu and HR&CE, then it is the duty of the same department to grant basic income needed to lead atleast a meager life. As per the petitioner’s claims his salary per month as on 2017 was Rs. 750. It was enhanced to Rs. 2984 per month at present. The case was presided over by Hon’ble Justice

G.R. Swaminathan who found that the situation of petitioner and many such Archakas or priests is very “pathetic” as mentioned in the judgement. Justice G.R. Swaminathan through his words expressed “It is impossible to lead a decent family life with what is being provided to the temple staff”²². The court further stated that the government has two alternatives either to free the temples from their control or take up the regulation by them. The court observed that the government has taken the second stance by virtue of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, and because of which they are obligated to provide salary else it will lead to the breach of Constitutional Right under Article 39 which mandates that the state shall direct its policy towards securing that the citizens, men and women equally have the right to an adequate means of livelihood.

Also, such breach also results in the breach of Article 43 of the Constitution where the Justice G.R. Swaminathan mentions that “The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas”²³. The court enforcing the department’s obligation stated “The State has appointed Executive Officers for the petitioner's temple. When the State has assumed regulatory responsibility for all the public temples in Tamil Nadu, it cannot wash away its consequential obligations towards the staff working in each temple”²⁴. Justice G.R. Swaminathan also noted another judgement of a suo motto case taken up by the division bench of Madras High Court by Justice R. Mahadevan and Justice P.R.Audikesavalu in which they declared that “The salary and other service and retirement benefits of all the staff of the temple including that of the archakas and oduvars must be fixed as per the provisions of the Minimum Wages Act and on par with the Government servant. (52) The terminal benefits of the retired staff in the temples under the HR&CE Act must be settled within 30 days from the date of their retirement. A list of cases where terminal benefits have not been settled must be filed before this court within a period of eight (8) weeks.” The court mentioned that by keeping up the customary practices of a temple which is under the control of the HR&CE, the priests must be recognized and government servants and same level of pay must be given regardless of the status or income of the temple and the Religious

²²*Periyannambi Narasimha Gopalan v. Secretary to the Government*, W.P(MD)No.19286 of 2019 And W.M.P.(MD)No.15710 of 2019.

²³ Article 43 of the Constitution of India.

²⁴*Periyannambi Narasimha Gopalan v. Secretary to the Government*, W.P(MD)No.19286 of 2019 And W.M.P.(MD)No.15710 of 2019.

institution. The ruled in favour of the petitioner and ordered the government to present a revised pay scale within eight weeks before the court. Thus, the difficulties of the priests and the Constitutional obligation of the Government, established by virtue of the HR&CE body (which is deemed to be constitutional), the court declared that a priest of a temple similar to a government servant has a right to equal pay for equal work and improvised pay equivalent to modern atleast a decent standard of living. So, the priests of the temple must be given salary along with post retirement benefits if any as they too are a human being and it is a fundamental basic necessity for a citizen to have a financially secure live which in modern interpretations under Article 39 and 43 can be deemed to be a constitutional right.

VII. FIELD VISIT OF VARIOUS TEMPLES IN KANCHIPURAM

With an aim to know some of the real life experiences of the temple administration and the difficulties faced by the priests of the temple, we as a team visited the holy pilgrimage centre of Kanchipuram and visited totally eight temples including: 1. Pachaivannar Perumal Temple. 2. Jurahareeswarar Temple. 3. Pandava Doodar Temple. 4. Kailasanathar Temple. 5. Vaikunta Perumal Temple. 6. Ulagalantha Perumal Temple. 7. Kanchi Kamakshi Amman Temple. 8. Kachabeswarar Temple. We first visited the 15th century built, Pachaivannar Perumal We noticed that the temple in a highly desecrated state with no priests. The temple did't even have a maintained well for water source as the temple well was in an unmaintainable state. The temple has its last Kumbabisheka in 1995. There was no cleaning also in the temple leading to termites and worms hundreds of them crawling in the temple. After this we visited the Jurahareeswarar Temple, which is maintained by the joint control of Archaeological Survey of India and the Hindu Religious and Charitable Endowments Department. The temple was in good condition. But, it is to be noted that such a good maintenance was made only as the temple was attracting people. Next, we visited the Pandava Doodar temple which is under maintenance by the Government. But, we can see that the maintenance work was also not in a fully fledged manner as the temple tank was not in a clean state. After this we visited the Kailasanathar Temple which is a 6th century temple built by Pallavas with exquisite and intricate carvings. We saw that the temple's maintenance was in a good state but, saw that the carvings has been either destroyed or the sculptures have become degraded. This is a clear indication of lack of research in this temple. Even though official records state that the structure is made of granite and sandstone, but the temple priest of the temple in an earlier interview stated that the temple is made of a material that wasn't identifiable. This itself shows about the lack of research that can be found in the Archaeological Survey of India and the lack of funding for such programmes from the temple funds by the Hindu Religious and Charitable Endowments Department. When

we interviewed the temple priest he said that the temple is maintained by the joint efforts of the Archaeological Survey of India and Hindu Religious and Charitable Endowments Department. They said that they just maintain the heritage structure but, they don't give any funding for the temple Poojas and they provide no salary for the priests. Just what the people give donate on the Aarti plate is taken by the priests as salary. Next we visited the Vaikunta Perumal temple, which is again a temple constructed by Pallava Dynasty in 6th to 7th century AD. The temple dedicated Lord Vishnu, is also in a same state of maintenance as noticed and observed in the Kailasanathar Temple. When we enquired the priest there, he repeated the same view and said that only recently the Government made a "meager increase" in the salary of the priests which is again not at all sufficient to lead a decent life as observed by the court in the case *Periyambadi Narasimha Gopalan v. the Secretary to Government and Commissioner, HR&CE*. Next we visited the Ulagalantha Perumal Temple, whose priest again said that the Government does not provide any salary and only the offering made by devotees are their salary. The priest also raised concerns over the Tamil Nadu Government's scheme of people from all castes becoming temple priests. He said that "This is the only job that we know. If the government appoints any other person just after completing 2 years of training, then what will we do who are doing this as an ancestral profession for decades without even having basic amenities in our life. This is our Dravida Model. Whatever happens let it be by the wish of Lord Narayana". The priest further said that even though the temple is currently undergoing renovations, it is done just to maintain the structure and no benefits are reaching neither the Lord nor the person who is taking care of the Lord. Next we visited Kanchi Kamakshi Amman Temple where we met another former priest who has a partial blindness and doesn't even has financial means to treat his eyes. He left the service of God, and now is full time at the temple waiting for his end meditating at Devi Kamakshi. Eventhough, this may be a decision of the person himself individually, he has been forced to take such a decision clearly only because of lack of financial amenities. This leads to a serious question that was answered by the court in the suo motto case taken by high court of Madras mentioned earlier. Further, we visited Kachabeswarar Temple where again we observed the renovation works going on. It is to be noted that the argument raised by the Government in the same case of *Periyambadi Narasimha Gopalan v. Secretary, Government of Tamil Nadu and Commissioner, HR&CE* that the salary of the temple priests is met according to the assets and income of the temple and the same argument was not accepted by the court and declared that the income should be common to every priest of temples throughout the state. To quote Justice G.R. Swaminathan "But the temple administration is regulated by the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. No aspect is left untouched. If the temples

have been left to be managed by the local society and its people, then it is a different matter altogether. That is not the case. The State has appointed Executive Officers for the petitioner's temple. When the State has assumed regulatory responsibility for all the public temples in Tamil Nadu, it cannot wash away its consequential obligations towards the staff working in each temple²⁵. By the observations made by us we understood that even though the Government is maintaining the structure well, such things are made on selection basis as all temples are not given the same amount of concentration. The mere reason from the side of Government of Tamil Nadu is that they have divided temples based on various grading and all such works related to temple is done from the funds that is received as income to the temple. Then what about the grants and budget allocated to renovate such temples. Also such lack of research also lead to erasure of lots of inscriptions which detailed on the properties and assets as because of the structural maintenance of various ancient temples in which the process of sand blasting is done where sand is blasted at a high speed to remove dirt on the sculptures, but, in this process, inscriptions which are done in a tiny manner gets erased. "The ill-effects of sandblasting is that it permanently creates micro-fissures on the granite surface and further proliferates damage and allows water to seep in, allowing vegetation to grow. The rain water and variation in temperature effectively weather them and they slowly loose their inherent strength," says J Chandrasekhar of REACH Foundation, a NGO based in Chennai²⁶. Some temples are in a hopeless state waiting for State attention. In temples where even though the structure is maintained well, there exists lack of research and the non – payment of salaries to the priests which is another fundamental issue.

VIII. CONCLUSION

Spreading awareness is not the only way to raise concerns but, also to do our own help. We pray God to save us and give us a good life. But, the point is God himself is not having a decent life and he is in a very poor state. It is the duty of the Government to maintain the temple without any misappropriations of funds and in the lawful and rightful usage of funds, it must provide welfare activities for the priests of the temple which is not maintained and to the priests to whom the salaries is been refused. It is to be ascertained that the HR&CE eventhough established to protect, conserve and work for the welfare of Hindu temples and its employees, further it had worked only to provide maximum profit to the Government and Department. Our country India, was inspired by the Socialist model of economy and administration as our first Prime Minister

²⁵ Periyambadi Narasimha Gopalan v. Secretary, Government of Tamil Nadu, W.P.(MD)No.19286 of 2019 And W.M.P.(MD)No.15710 of 2019.

²⁶ M.T. Saju, Sandblasting wipes off Inscriptions in some old temples, The Times of India, January, 11, 2022.

Jawaharlal Nehru was inspired by the Soviet Union's model of Socialism and Collectivization. Eventhough Soviet Union fell on its own in 1991 and India was liberalized economically in the same year, we can still visibly observe the fundamental tenets of such a socialistic pattern working in an underway still now in this country. One of such finest example is the Hindu Religious and Charitable Endowments Department which is a centralized body for the administration of every Hindu temples and religious bodies either corporated or incorporated in the whole state of Tamil Nadu. But, it is to be observed that their maintainence itself is conducted based on bias of high income or low income level temple. So many questions arise in our mind that when Hindu and Jain religion has such a body why not others ? Why not an equal standard of pay to all priests and Archakas, Why not better conservation and activism? Why they are taking the whole administration of a temple instead of just supervising the temples as that is the basis for the Act by virtue they have been established? and many more.

(A) Suggestions

Our foremost suggestion is that Tamil Nadu Hindu Religious and Charitable Endowment is not effective in maintaining the temple administration. Therefore, they should proceed with the decentralization or "liberalization" of temples from them to the temple who can really take care of the temple. There are people who are and can actually contribute and preserve the temple and cultural heritage of the state. By doing so, HR&CE can take over a superseding supervisory body as the act intended in real sense and can interfere only in cases of any such misappropriation or non – maintainence that is reported. HR&CE should make sure that it should come up with a uniform scale of pay for priests all over the State and should declare or recognize them also as a government servant. The Government of Tamil Nadu must declare financial assistance to Archakas or priests who are below Poverty Line and by such assessment, they should try to provide them basic necessities in a similar way declared by the Chief Minister of Tamil Nadu in late May, 2021. The state should make sure that adequate amount of renovations must be done and such renovation must funded by both the temple fund allocation by the State Budget and income of the temple. A new scheme named "Karnataka Daiva Nartaka Allowance Scheme 2023" was introduced in Karnataka for the traditional performers who used to perform traditional Daiva Nartaka or Bhoota Kola art forms. According to this scheme an allowance of Rs. 2000 would be provided to all such performers of this art who is of above Age 60. Similar such allowances can be introduced for the priests of temple aged above 60 as most of them are not having basic amenities and are below poverty line. Under Tamil Nadu Government there is a special welfare board named as "Tamil Nadu Folk Artistes Welfare Board" constituted for the welfare of folk artistes. The Board is set up to provide various welfare

activities including maintenance and administration of a welfare fund constituted for welfare of folk artistes and others. It was constituted with a view to safeguard the folk arts and to provide social security and various welfare schemes to economic upliftment of folk artistes. Also, a welfare fund must be constituted for the priests or Archakas or Oduvars or any other such employee who is at the service of God. If the HR&CE department is not able to preserve the structure properly atleast they must handover it to the Archaeological Survey of India for better maintenance of ancient temples and structures. The honourable High Court of Madras in suo motto WP.No.574 of 2015 by order dated 07.06.2021, has extensively dealt with various aspects relating to the temples and its properties, monuments, etc. and given as many as 75 directions to the respondent authorities, including formation of heritage commission, conservation manual, etc. In its judgement the court asked the constitution of a state level and district level committee on heritage and an expert committee. The court held “No structural alteration or repair of any monument, temple or idol or sculpture or murals or paintings which come within the purview and control of the HR&CE Department, shall take place without the sanction of the State Level or District Level Committee and all pending works shall forthwith be proceeded further, only after obtaining sanction from the said Committee.” So, such a preservation or renovation work must not lead to erasure of culture and heritage which as a case and matter of fact happens in lots of temples where we can see incomplete partially destructed inscriptions and even sculptures. The HR&CE department’s overall system of temple governance and administration which they have taken up in some cases has lead to lots of destruction as well. The neglect of various ancient temples which are not yet surveyed by the Tamil Nadu HR&CE has been in desecration. So, also the HR&CE must take up a complete re – survey of list of temples and give special attention and care on the principle of equity in order to preserve them. If they are not having the expertise to do so in such a conservation then it must handover the temple to further reparations and conservation procedures by the Archaeological Survey of India.
