

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2020

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P. No.19420 of 2020
and WMP No.24007 of 2020

S.P.S.Nathan Alies Amurdeswaranathan President Parambarai
Sthanigar Sangam (Hereditary Sthanigar Society for Shree
Darbaneeswarar WSwamy Devasthanam and
Sri Saneeswara Bagavan ...Petitioner

Vs

- 1 The Secretary,
Hindu Religious and Charitable Endowment
Department , Government of Puducherry,
Puducherry.
- 2 The District Collector and Special Officer (Temple),
Karaikal District,
Karaikal Puducherry State.
- 3 The Exeutive Officer,
Sri Dharbaranyeshwara Swami Devasthanam,
Thirunallar 609 607, Karaikal Dsitric ,
Puducherry State.
4. The Administrator,
Union Territory of Puducherry. ...Respondents

(R4 suo motu impleaded by order dt. 23.12.2020)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus forbearing the Respondents 2 and 3 from allowing the devotees / general public during the Sani Peyarchi festival in the 3rd respondent Temple from 27.12.2020 to 12.02.2021 by considering the petitioners representation dated 27.11.2020.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Ms.R.Mala,
Special Government Pleader (P)
Assisted by J.Kumaran, AGP(P)
For R1 to R3
Mr.V.Chandrasekaran,
Senior Panel Counsel – R4

ORDER

The petitioner claims to be the president of the Parambarai Sthanigar Sangam and a hereditary trustee/karavzahi for the Sri Darbaranyeswaraswamy Devasthanam, Tirunallar which houses the idol/shrine of Saneeshwara Bhagwan (in short 'Temple') renowned world-wide. Sanipeyarchi, as per the Vakkiya Pan-changam, falls on 27.12.2020 and is expected to attract several lakhs of devotees.

The period of 40 days following the day of Sani Peyarchi are considered to be auspicious, also attracting a large number of devotees.

2. The official respondents, i.e., the Secretary, Hindu Religious and Charitable Endowments Department, Government of Puducherry and the District Collector and the Special Officer (Temple) Puducherry/ R1 and R2 respectively and the Executive Officer of the Devasthanam/R3 have announced that the Sani Peyarchi Festival (Festival) will be conducted on 27.12.2020, triggering the present Writ Petition where a mandamus is sought forbearing R2 and R3 from allowing the public inside the temple premises during the conduct of the festival.

3. When the matter came up for hearing on 21.12.2020, notice had been accepted on behalf of the respondents by Mr.J.Kumaran, learned Additional Government Pleader, who orally expressed that the respondents will ensure that the festival, proposed between 27.12.2020 and 12.02.2021 would be conducted strictly in accordance with applicable rules, regulations and restrictions imposed on account of the on-going pandemic. The Court had directed him to file an affidavit explaining the restrictions to be put in place and the modus operandi in permitting darshan and

regulation of the public. The matter was listed today in view of the urgency expressed.

4. Today, Mr.V.Chandrasekaran, learned counsel, intervenes, stating that the Administrator of the Union Territory of Puducherry is a necessary party to the writ petition insofar as a cohesive view has to be taken in all matters concerning the safety of the general public in the present unusual and uncertain circumstances. No memo of appearance /vakalat has been filed by him. However, none of the counsel on record would dispute the position that the views of the Administrator should also be taken heed of in deciding this matter and thus, the Administrator, Union Territory of Puducherry is impleaded as a proper and necessary party to this writ petition/R4.

5. Heard learned counsel.

6. A decision whether or not to open the Festival to the public would have to be taken very prudently and cautiously bearing mind the seriousness of the public health situation that we face today. The Supreme Court in *Suo Moto Writ Petition (Civil) No.7 of 2020* took cognizance of the lamentable fire accident in Rajkot, Gujarat on 26.11.2020, and issued a series of directions to be followed in the context of fire safety measures and fire audits. While reiterating the proper implementation

of existing SOPs and guidelines, a series of General instructions have also been issued as follows:

.....

11. We have already issued various directions with regard to measures to be taken to contain the Covid-19. We once again reiterate the State to issue necessary directions with regard to following measures so as to effectively monitor and supervise the implementation of various SOPs and guidelines.

- 1. i) More and more police personnel shall be deployed at the places where there is likelihood of gathering by the people, such as, Food Courts, Eateries, Vegetable Markets (Wholesale or Retail), sabzi Mandies, bus stations, railway stations, street vendors, etc.*
- 2. ii) As far as possible, unless must, no permission shall be granted by the local administration or the Collector/DSP for celebration/gathering even during the day hours and wherever the permissions are granted, the local administration/DSP/Collector/Police In-charge of the local police station shall ensure the strict compliance of the Guidelines/SOPs. There should be a mechanism to check the number of people attending such function/gathering, such as, the particulars with respect to how many persons are going to attend the celebration/gathering, timings during which the celebration/gathering is to take place etc.*
- 3. iii) There shall be more and more testing and to declare the correct facts and figures. One must be transparent in number of testing and declaring the facts and figures of the persons who are Corona Positive. Otherwise, the people will be misled and they will be under impression that everything is all right and they will become negligent.*
- 4. iv) Whenever directions are issued under the Disaster Management Act directing the corporate hospitals/private hospitals to keep 50% or any other percentage free municipal beds, it must be strictly complied with and there shall be constant vigilance and supervision.*
- 5. v) There shall be free helpline numbers to redress the grievances of common man, when there is non-compliance of the directions by the private hospitals/corporate hospitals.*
- 6. vi) Curfew on weekends/night be considered by States where it is not in place.*
- 7. vii) In a micro containment zone or in an area where number of cases are on higher side, to cut the chain, they should be sealed and there should be complete lockdown so far as such areas are concerned. Such containment areas need to be sealed for few days except essential services. The same is required to break the chain of virus spread.*

8. viii) Any decision to impose curfew and/or lockdown must be announced long in advance so that the people may know and make provisions for their livelihood, like ration etc.
9. ix) Another issue is a fatigue of front row health care officers, such as, Doctors, Nurses as well as workers. They are already exhausted physically and mentally due to tireless work for eight months. Some mechanism may be required to give them intermittent rest.
7. R2 has filed an affidavit dated 22.12.2020 explaining the proposed safety

measures as follows:

AFFIDAVIT OF THE 2nd RESPONDENT

I ARJUN SHARMA, I.A.S., son of OM PRAKASH SHARMA Hindu aged about 32 Years holding the post of the District Collector-CUM-Special Officer, Sri Dharbaranyeswara Swamy Devasthanam, Thirunallaru do hereby solemnly and sincerely states as follows,

2. I am the second respondent herein and I am deposing this affidavit based on official records. I have read the affidavit filed by the Petitioner and I deny the claims made by the Petitioner therein except where specifically admitted in this affidavit.

3. I submit that Sri Dharbaranyeswara Swamy Devasthanam (SDSD) is a premier religious institution in Karaikal District, UT of Puducherry which administers a group of Sub Temples in and around Thirunallaru. The holy shrine of Lord Dharbaranyeswara is world renowned and attracts lakhs of devotees throughout the year.

4. I submit that Thirunallaru temples is very special on all the three aspects related to any Hindu temple viz Murthy (Deity), Theertham (Holy tanks) and Sthalam (land). The temple's Suyambu Moolavar Sri Dharbaranyeswarar with Dharbai scars, un-chiseled Maragatha Lingam, Somaskathndhar worshipped by Lord Maha Vishnu & Lord Indira, Anugraha Murthy Saneeswara Bhagavan are special attractions of this T ple. The During the Sanipeyarchi time ie. between 04.00 AM to 06.00 AM on 27.12.2020 only limited number of dignitaries will be present and public dharshan will be allowed only after 06.00 AM. Live visuals of the proceedings will be telecast in major television media and live screens installed in and around Thirunallaru.

(I) NalaTheertham Closed: One of the main activities during Sanipeyarchi Festival is that the pilgrims congregate in large numbers at the Holy NalaTheertham to take holy dip during the time of transit. Keeping in view of the fact that

congregations and temporary stagnation of pilgrims at Nala Theertham, Brahma Theertham and other Theerthams could aggravate COVID transmission, Sacred Ponds including Nalan Kulam (NalaTheertham) have been closed in order to avoid close people to people contact. Bathing / holy dips or conduct of religious rituals at NalaTheertham, Brahma Theertham and other Theerthams is not allowed during this sanipeyarchi Festival and orders have been issued to this effect by the 2nd Respondent.

(II) 48-day staggered Mandala Dharshan: After transit day, devotees may worship Lord Saneeswara Bhagavan at Thirunallaru for a period of one Mandalam i.e 48 days from the date of Transit and not iust on the day of Transit. In order to avoid huge rush on 27.12.2020 and 28.12.2020, the devotees have been requested to plan their pilgrimage, worship and offer pooja to Lord Saneeswara Bhagavan at Thirunallaru during this Mandalam (48 days), after sanipeyarchi on 27.12.2020. All advertisement material indicate that devotees can benefit by visiting over a period of 48 days, not just on Sanipeyarchi Day. The 2nd and 3rd Respondents have given numerous press briefings highlighting that the Blessings of the Lord can be obtained spread over a period of 48 days and not just on Sanipeyarchi Day. This was done with a view to ensure that crowding is reduced on Sanipeyarchi Day.

(IV) Press releases / News Briefing: The 2nd Respondent has conducted numerous (tv) review meetings / inspections and issued number of advisories / SOPs for the Wide publicity has been given that All pilgrims (including Free Darshan, Ticketed entry) will have to register online in the portal <https://thirunallarutemple.org/sanipavarchi>. Only people who have registered online and possess valid e-ticket will be allowed to enter the temple premises for dharshan. In order to strictly enforce the same, Mandatory Online Registration Booths have been set-up at various locations including district borders. The entire pilgrimage would be through the online registration system this time, so the usual heavy rush can be regulated and the flow of devotees is strictly controlled.

(Affidavit forwarded by e-mail is incomplete)

(c) The Queue system has been expanded with a view to enforce social distancing. A total of 3.5 Kms of Queue lines have been set up. The number of queues at entry points into the Temple have been increased to 5, and the number of Exit points have been doubled. Through these measures, efforts have been taken to ensure a free flow of devotees inside the Temple premises.

(d) Entrances will have mandatory hand hygiene and thermal screening provisions only those staff and visitors who are free of symptoms will be allowed inside the venue. Anyone found symptomatic during thermal screening will be refused entry and provisions for Rapid Antigen Testing of all symptomatic persons have been made.

(e) The number of visitors inside the event venue will be restricted and will be permitted only in a staggered manner.

(f) Arrangements to deploy Health professionals, Volunteers to ensure thermal scanning, physical distancing and wearing of masks have been made Medical professionals from the Health Department, Karaikal, Vinayaka Mission's Medical college Hospital & Research Institute Karaikal, NSS Volunteers, Public Volunteers have been mobilised. Arrangements have been made by the Health department to carry out rapid antigen tests in various locations in Thirunallaru.

(g) Pre-identification of space/Site for isolation of suspect cases has been completed and necessary provisions have been made for isolating any person found symptomatic, till such time that medical help is available.

(h) Medical care arrangements made with linkages to nearest hospitals at CHC' Thirunallaru (.1 km) and Govt. General Hospital, Karaikal (5 kms) to attend to health emergencies.

(i) It is submitted that the appropriate arrangements for personal protection gears like face covers/masks, and other necessities like hand sanitizers, sodium hypo chloride solution' sanitiser dispensers for sanitizing frequently touched surfaces etc. have been procured. Posters/standees/AV media on preventive measures from COVID-19 are displayed prominently' Awareness banners informing the public of Do's and Don't's have been put up.

(j) More than 140 CCTV cameras been installed in and around the Temple premises to monitor the flow of Devotees and to ensure social distancing is enforced.

(k) Further submit that Annadhanam has been regulated and Annadhanam inside the Temple premises has been banned. Annadhanam is to be disbursed....

(Affidavit forwarded by e-mail is incomplete)

. . . . have been given wide circulation. At this late stage, it is humbly submitted that closing the Temple to devotees for a period of 48 days'from 27.12.2020, as prayed by the Petitioner, would deprive numerous believers of their Right to Worship and would hurt religious sentiments.

7 In view of the elaborate arrangements and various preventive measures undertaken by Sri Dharbaranyeswara Swamy Devasthanam and the District Administration, the conduct of Sanipeyarchi Festival scheduled on 27 .12.2020 at Sri Saneeswara Bhagavan shrine at Sri Dharbaranyeswara Swamy Temple, Thirunallaru may please be allowed.

8. The authorities state that the ritual dip in the NalaTheertham (temple pond) will not be permitted. The remaining arrangements are all couched in general terms and there is no detail provided. Clause 3(e), referring to the restrictions to be imposed on the number of visitors and entry of the devotees in a staggered manner, does not state what the specific measures are and how it is proposed to be enforced. No ceiling has been imposed on the number of visitors and according to Ms.Mala, more than 16,000 e-tickets have been issued as on date for entry of devotees during the Festival. Even Annadhanam, which will normally see large crowds gather, has been permitted outside the Temple premises.

9. The decision as to whether the Festival should at all, be conducted, and if yes, the scale of the Festival and specifics of the arrangements down to the most minute detail, should be worked out by a special team to comprise of representatives

of R1, R2, R3, R4/authorised personnel, the petitioner and any others person/authority thought necessary. In any event, the wearing of mask at all times inside the temple, in a proper manner (so as to cover the nose and mouth) be made compulsory with a mandatory fine imposed for non-compliance. This must be enforced strictly.

10. All learned counsel agree that a meeting will be convened as above, to arrive at the details/procedure/modalities at 12.00 Noon on 24.12.2020 at a venue to be decided based on mutual convenience. It is only if all the aforesaid parties are in concurrence with the adequacy of the measures decided upon that the festival should be conducted.

11. With the aforesaid direction this writ petition is closed. No costs. Connected Miscellaneous Petition is also closed.

सत्यमेव जयते

23.12.2020

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Index: Yes/No

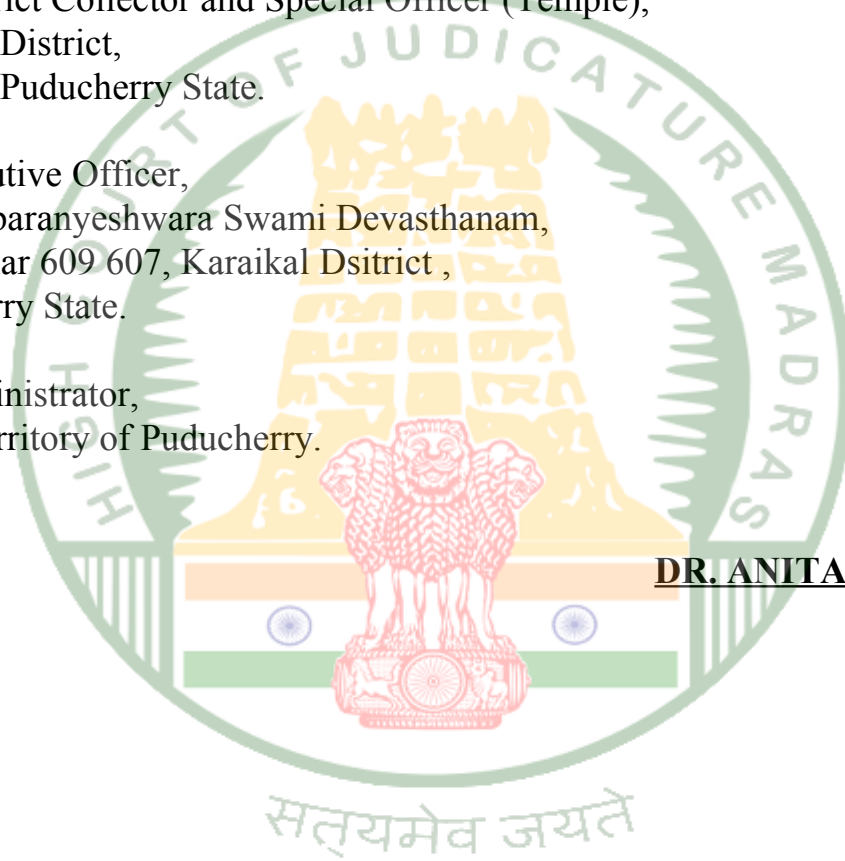
Speaking/Non speaking order

Note: (i) Registry is directed to upload this order today.

(ii) Registry is directed to carry out necessary amendment in the cause title.

To

- 1 The Secretary,
Hindu Religious and Charitable Endowment
Department , Government of Puducherry,
Puducherry.
- 2 The District Collector and Special Officer (Temple),
Karaikal District,
Karaikal Puducherry State.
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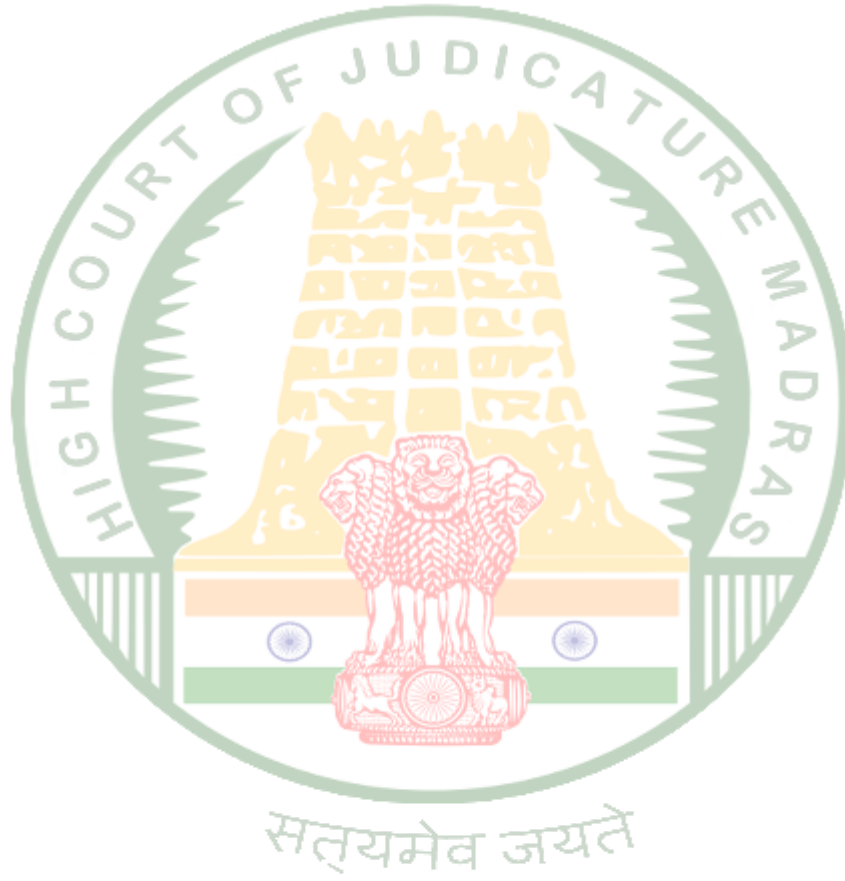


DR. ANITA SUMANTH, J.

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