

P. Markandan vs The Commissioner

Author: R. Mahadevan

Bench: R. Mahadevan, J. Sathya Narayana Prasad

W.P.
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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Order reserved on
30.11.2022

Order pronounced on
31.01.2023

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

and

THE HONOURABLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

Writ Petition (MD) Nos. 23410 and 23671 of 2022

WP (MD) No. 23410 of 2022

P. Markandan

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Versus

1. The Commissioner
Hindu Religious and Charitable Endowments Department
Uthamar Gandhi Road
Nungambakkam
Chennai - 600 034
2. The Joint Commissioner
Hindu Religious and Charitable Endowments Department
Thepakula Theru
Behind Kariya Maleeswarar Temple
Thiruvanaikaval
Trichy - 620 005
3. Dharmapuram Adheenkarthar

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<https://www.mhc.tn.gov.in/judis>

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P. Markandan vs The Commissioner

represented by its General Manager
Dharmapuram Adheenam
Dharmapuram, Mayiladuthurai - 609 311

4. Joint Commissioner
Hindu Religious and Charitable Endowments Department
Samantharkulam, Sithatharkadu
Mayiladuthurai - 609 003

(R4 impleaded as per order dated 24.11.2022
passed in WMP (MD) No. 17743 of 2022
in WP (MD) No. 23410 of 2022)

5. T.V. Ramalingam Gurukkal
Son of R. Viswanatha Gurukkal
6/10A, Melamada Vilakam
Thirukadaiyur, Mayiladuthurai

(R5 impleaded as per order dated 24.11.2022
passed in WMP (MD) No. 19814 of 2022 in
WP (MD) No. 23410 of 2022)

.. Responde

WP (MD) No. 23671 of 2022

AR. Subramanian

.. Petition

Versus

1. The Commissioner
Hindu Religious and Charitable Endowments Department
Uthamar Gandhi Road
Nungambakkam
Chennai - 600 034

2. The Assistant Commissioner/Executive Officer (HR&CE)
Arulmighu Meenakshi Sundareswarar Temple

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<https://www.mhc.tn.gov.in/judis>

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Madurai - 625 001

3. The Assistant Commissioner/Executive Officer (HR&CE)
Arulmighu Subramaniya Swamy Temple
Payaniyar Maligai Salai, Tiruchendur
Tuticorin - 628 215

4. The Assistant Commissioner/Executive Officer (HR&CE)
Arulmighu Aranganathaswamy Temple

Srirangam, Tiruchirapalli - 620 006

5. The Joint Commissioner (HR&CE)
315, Secretary Office
North Giri Street
Palani, Dindigul 624 601
6. The Secretary
Ministry of Electronics and information Technology
Government of India
Electronics Niketan
No.6, CGO Complex, Lodhi Road
New Delhi - 110 003
7. The Secretary
Ministry of Home Affairs
North Block
New Delhi - 110 001
8. The Additional Director General of Police
Cyber Crime Branch
No.3, Dr. Natesan Road
Police Training College Campus, 3rd Floor
Cyber Crime Wing, Ashok Nagar
Chennai - 600 083
9. The Additional Chief Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Fort St. George
Chennai - 600 009

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<https://www.mhc.tn.gov.in/judis>

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(Respondents 6 to 9 are suo motu impleaded
as per the order dated 13.10.2022 passed in
WP (MD) No. 23671 of 2022)

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WP (MD) No. 23410 of 2022: Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider the representation dated 14.09.2022 of the petitioner and consequently direct the respondents to take all due and necessary steps and protect the interest of Sri Thirukadaiyur Amirthakadeshwarar temple properties.

WP (MD) No. 23671 of 2022: Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondent to consider the petitioner's representations dated 19.08.2022

30.09.2022 and consequently direct the respondents to take action against bogus illegal websites which have been opened in the name of the temples deities under the control of HR&CE Department and Mutts and take necessary criminal action against the owners/ admins of these websites and take steps to recover the money collected by them from the devotees illegally in the name of the temple.

WP (MD) No. 23410 of 2022

For Petitioner : Mr. R. Venkatesh

For Respondents : Mr. Veerakathiravan
Additional Advocate General
assisted by Mr. P. Subburaj
Additional Government Pleader for RR 1,2&3

Mr. M. Karthikeyan for R3
Mr. K. Rajesh Khanna for R5

WP (MD) No. 23671 of 2022

For Petitioner : Mr. M. Karthikeyan
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<https://www.mhc.tn.gov.in/judis>

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For Respondents : Mr. Veerakathiravan
Additional Advocate General
assisted by Mr. P. Subburaj
Additional Government Pleader for R1, 8

Mr. V.R. Shanmuganathan for R2
Mr. M. Muthugeethaiyan for R3
Mr. M. Saravanan for R4
Mr. K. Govindarajan for R5
Mrs. L. Victoria Gowri for R6 & 7

COMMON ORDER

R. MAHADEVAN, J.

Temples are the abodes of the Almighty. Devotees gather together as a result of their steadfast belief and faith in the highest power and visit these holy grounds, seeking blessings, serenity, guidance and to elevate their spiritual experience. Though the experience that each devotee undergoes or his purpose of visit is distinct, but the common factor called "faith" unites them. Their devotion takes various forms. Some offer daily greetings to the Lord, some sing praises and chant the Holy Scriptures while others offer money in the form of donations, special prayers and rituals.

Unfortunately, where there is go(o)d, there is also evil. Some people take advantage of the religious faith of the devotees', fraudulently monetize it by creating illegal websites in the name of the deities / <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 temple(s). Through such websites, they collect huge amount for special darshans, rituals and other services from the devotees, but pay only a paltry sum to the administration of the temples, thereby deriving unlawful gain. This type of scam, regrettably, is a common occurrence in today's time. The authorities who are bound to take stern action against those perpetrators, so as to prevent innocent devotees from falling prey to such dirty tricks, have failed to act accordingly. Such is the issue involved in the present writ petitions.

2. The petitioners herein have come up with these writ petitions in the nature of public interest litigation, seeking a direction to the respondent authorities to take action against the illegal / bogus websites opened in the name of deities / temples coming under the Hindu Religious and Charitable Endowments Department and recover the proceeds generated thereof. Particularly, WP (MD) No. 23410 of 2022 is filed for a direction to shut down / close the fake websites opened in the name of Arulmighu Amirthakadeswarar Temple, Thirukadaiyur, Mayiladuthurai District and take necessary criminal and disciplinary action against the priests / gurukkals / archakars for diverting and usurping money from the devotees for conduct of various ceremonies in the name of the temple and for distorting history by making the devotees to visit Sri Markandeya Temple.

<https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 3.1. For the sake of convenience, we shall first take the case of the petitioner in WP (MD) No.23671 of 2022. According to the petitioner, the temples are being maintained and administered by the Hindu Religious and Charitable Endowments Department (in short, "the HR&CE Department") along with trustees / Fit persons. For the purpose of performing poojas and various other religious activities, the devotees pay the prescribed fee in the offices established in the temples, for which receipts will be issued and the amount will be accounted for. The temples also get funds by way of donations / offerings made by the devotees in the Hundial kept therein. That apart, there are numerous foreign donors, who are contributing and donating huge sums to the temples. Thus, the devotees give utmost importance and reverence to the donations. The petitioner further stated that for the purpose of accounting the amounts received by the temples in various forms from the devotees, the Installation, Safeguarding and Accounting of Hundials Rules, 1975 was enacted. Similarly, the amounts received for the performance of various religious rites, such as, pooja, abhishegam, annadhanam, etc., are also accounted for and the same are periodically subjected to audit and a report will be submitted to the concerned authorities. Thus, there are procedures under Chapter VIII (Budgets, Accounts and Audits) and Chapter IX (Finance) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (in short, "the HR&CE Act"), for receipt of amounts for various religious activities performed in the temples.

3.2. The grievance of the petitioner is that there are instances where third parties are collecting funds through fake and illegal websites by opening accounts in the name of deities /temples across the State, for providing various services, pooja, etc., to the devotees. The so-called third parties are not authorised to collect the funds for and on behalf of the temples. The amount in any form to the

temples has to be received/collected only by the authorised and appropriate officer, such as Trustee, Fit Person or the Executive Officer of the temples and it cannot be permitted to be received by third parties for any reason. Even though technology has assisted the temple administration to a great extent to offer various services at the click of a button, it has its own grey area as it is misused by third parties for unlawful gain. By using the name of the temples, the third parties created fake and unauthorised websites, which look similar to the one opened by the temples. Such fake websites have mushroomed and proliferated in the cyber space and if it is permitted to continue, it will not only result in huge financial loss to the temples, but also amount to cheating the public under the garb of faith. Apart from the temples coming under the HR&CE Department, some illegal and bogus websites have been opened in the name of <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 the temples under the control of the Mutts. The petitioner in paragraph Nos.18 and 23 of the affidavit filed in support of the writ petition bearing no.23671 of 2022 has also furnished the details of the bogus websites, such as, <https://thirukadaiyurtemple.online/index.html>, <https://thirukadaiyurtemple.in/about/>, <https://www.thirukadaiyurmarriagetemple.com/>, <http://srirangam.com/>, <http://www.srirangam.ramanujartemples.net/>, etc. and the contact numbers of the persons relating to such websites. According to the petitioner, such persons, who had opened fake websites, claim to have link with the officers and archakars of the temples and to have rendered all the services, poojas, etc., to the devotees and they generate huge money illegally, but pay only a paltry sum to the temples.

3.3. Referring to section 23 of the HR&CE Act, under which, the Commissioner of HR&CE Department is empowered to exercise general superintendence and control over all the temples and ensure that the properties of the temples are properly administered and accounted for, the petitioner stated that the illegal websites opened in the name of the temples across the State have to be shut down / closed and/ or controlled by the first respondent, as they are causing great confusion among the devotees, who are being misled by these spurious websites; and that, the first respondent has to take appropriate criminal action against the owners / admins of those illegal websites and recover the <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 monies collected by them from the devotees unauthorisedly. Stating so, the petitioner sent representations dated 19.08.2022 and 30.09.2022 to the respondents. Since no action has been taken on the said representations, he has preferred this writ petition viz., WP (MD) No. 23671 of 2022.

4.1. The case projected by the petitioner in WP (MD) No. 23410 of 2022 is that Arulmighu Amirthakadeswarar Temple, Thirukadaiyur, Mayiladuthurai is one of the well known temples in the State, which is under the control and administration of Dharmapuram Adheenam. It is renowned for performing Shashti Apda Poorthi (on completing 60 years) Beemaradha Shanthi (on completion of 70 years) and Sathabhishekam (upon completing 80 years). For the purpose of performing the said rituals, devotees from all corners of the Country visit the said temple. Even the foreigners are visiting the temple and experiencing various services offered in the temple. The payment for these religious activities is collected by the temple administration, receipts are issued and the amount is properly accounted for. For easy accessibility, such services are also rendered to the devotees on-line. The Temple Administration has created exclusive website in the name of the temple through which the devotees can book and/or reserve for a particular service on any given date. The website has been created mainly keeping in view the convenience of devotees, who come

<https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 from a long distance. The on-line facilities introduced by the temple, provide hassle free service, but the same has been misused and abused by disgruntled elements for personal gain.

4.2. According to the petitioner in WP(MD)No.23410 of 2022, various websites depicting the name of the subject temple and deity, have been opened by unauthorised persons to earn money illegally. Such unauthorised persons collect amount for conducting poojas and ceremonies to be performed in the temple. They also receive donations and contributions in the name of the temple / deity. They make advertisement as if the websites created by them are the official websites of the temple. Such illegal websites are akin to the one created by the temple administration. In such event, the devotees, believing the bogus websites as official, pay whatever charges demanded by them, and fall prey to the fraudsters. In this process, if a devotee intends to make donation or book an on-line ticket for a specific ritual, there is every chance that such a devotee is misled by the bogus website, which claims to provide similar service as that of the temple. Further, the websites host the name of persons who are in actual position of the temple as gurukkals/archakars, without any authority or authorisation from such persons. Thus, the innocent devotees are easily cheated by the gullible website owners. Apart from these websites, the gurukkals / <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 archakars have setup touts inside the temple and they provide details of packages for conduct of sashti aptha purthi, Ukra Radha Shanti, Beema Radha Shanti, Sathabishekam. These packages are not part of the temple donations but rather they have been made by these touts of the gurukkals / archakars to collect money from the devotees. They charge exorbitant amount from the devotees in the name of the temple to carry out these poojas and ceremonies.

4.3. The petitioner also stated that without the approval, cooperation or consent of the temple administration, these illegal / bogus websites cannot exist at all. Moreover, these websites demand payment illegally for providing quick and hassle-free services in the temple. They even offer packages which include catering, accommodation, pooja expenses, etc. and thereby sway the devotees. The devotees are made to believe that the donation reaches the temple administration, but it is swindled by the middlemen and such illegal act is perpetrated wholly with the connivance and cooperation of the Priests/Gurukkals/Archakars in the temple, which is evident from the name and contact number of Priests / Gurukkals / Archakars prominently mentioned in the bogus websites. Though they claim to represent the interest of the temple, in reality, they work for their own narrow and personal interest and enrich themselves at the costs of the temple administration. The performance of poojas, <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 marriage ceremonies, abhishekam etc., is thriving like a coveted business. The petitioner also recounted that on an average, the priests / gurukkals/archakars get close to Rs.2 to 4 lakhs for performing the religious ceremonies, but only a sum of Rs.2,000/- or Rs.3,000/- is offered to the temple administration; and that, they perform nearly 1000 to 2000 marriages every year and hence, the gravity of the amount swindled by these persons cannot be determined. Thus, according to the petitioner, the respondent authorities have to take necessary steps to control such middlemen, unruly priests / gurukkals/archakars, besides taking action against illegal and bogus websites in the name of the subject temple.

4.4. The petitioner also pointed out in the affidavit filed in support of this writ petition viz., WP (MD) No.23410 of 2022 that the priests / gurukkals/ archakars in the subject temple have set up a separate temple on their own called as Sri Markandeya Temple by diluting the history and origin of Arulmighu Amirtha Kadeswarar Temple. It is stated that Sri Markandeya Temple is the place where Markandeyar had meditated, but it is far from truth. There is no single Thevaram hymn nor is there any history of Nayanmar having visited this temple. It is in existence only for 20 years, but the gurukkals / archakars claim this temple as old that of Thirukadaiyur Temple. According to the petitioner, this temple was established by the priests / gurukkals/archakars themselves with a <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 sole intention to misrepresent the history and overshadow the Thirukkadaiyur temple so as to divert the devotees to make them to visit this temple as well. The priests / gurukkals / archakars are also receiving donations from the devotees who visit Sri Markandeya Temple which goes largely unaccounted. Even the details of this temple are promptly mentioned in the fake websites created by third parties. In the home page of the website “trvramalingam.in” it is mentioned that "TRV. Ramalinga Gurukkal" is the Chief Temple Priest of Thirukadaiyur temple, which is utterly false. The photos of the priests / gurukkals/ archakars with various dignitaries, such as, former Governor of Tamil Nadu are also portrayed in the website to sway the devotees.

4.5. The petitioner further stated that in the same website “trvramalingam.in”, it is mentioned that the so-called Sri Markandeya Temple was established and looked after by Dr.T.R. Viswanatha Gurukkal and his son, T.R.V.Ramalinga Gurukkal. It was further claimed that Mr. Ramalinga Gurukkal is the Chief Priest of Thirukadaiyur temple. In the website, it is also mentioned that all the poojas performed in Thirukadaiyur Temple, are being done in Sri Markandeya Temple. Thus, it is sought to be projected that poojas and religious activities performed in Thirukadaiyur Temple can also be performed in Sri <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 Markandeya Temple to get the divine grace of the deity. That apart, it is claimed in the said website that "Those who have come with, wish to get the blessings of Lord Amirthakadeshwarar and Lordess Abhirami for their prosperous life at Thirukadaiyur must also visit this Markandeyar's temple for a full prosperous life and for the welfare of their family". This, according to the petitioner, is a false propaganda unleashed by fake website owners to flock the devotees to Sri Markandeya Temple and to sway them under the guise of performing various religious acts. The intention behind setting up Sri Markandeya Temple by the priests / gurukkals/ archakars of Thirukadaiyur Temple is to distort history, undermine the importance of Thirukadaiyur Temple, divert the devotees to the new temple and get donations from them. Therefore, the petitioner would state that the priests of the Thirukadaiyur Temple need to be restrained from making any false propaganda about Sri Markandeya Temple. Further, the misrepresentation projected in the bogus websites, has to be removed and that, civil and criminal actions have to be taken against the gurukkals / archakars who associate themselves with the promoters of fake websites. The petitioner has brought the same to the notice of the respondent authorities for appropriate action. He has also made representations, lastly on 14.09.2022 to the respondents seeking to shut down/close the bogus websites opened in the name of Sri Thirukadaiyur Amirthakadeshwarar Temple and recover the money collected <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 from the devotees, besides taking action against the priests / gurukkals / archakars of the temple, who illegally demand money for conduct of poojas/ceremonies and illegally spreading false information about Sri

Markandeya Temple. However, all his attempts including the representation dated 14.09.2022 ended in vain. Therefore, this writ petition, viz., WP(MD) No. 23410 of 2022.

5.1. The learned counsel appearing for the petitioner in both these writ petitions, in unison, submitted that the fake websites created in the name of the deities / temples have to be removed / closed and the proceeds generated thereunder have to be recovered by the first respondent, by virtue of the power conferred under section 23 of the HR&CE Act. According to the learned counsel, the purity and sanctity have to be maintained in the temples and that, the poojas, archanaais, abhishekams and other rituals performed in the temples should not be exploited and commercially exposed for private gain by the third parties. It is further submitted that the fake websites have been created to sway the devotees for a long time. However the department did not take any action thereof. Rather, the unauthorised creators of the websites have been allowed to enrich themselves at the costs of the temple administration. Pointing out the <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 same, the petitioners made representations and requested the respondent authorities to take appropriate action, but the same have not been considered till date.

5.2. Adding further, the learned counsel for the petitioner in WP (MD) No.23410 of 2022 submitted that among the several fake websites, primarily, 7 websites are swaying the devotees and engaged in collecting money for all types of pujas, archanaais, abhishegam, homam, prasadam besides collecting donation. For a normal puja of Rs.50/-, they are collecting Rs.1,051/-. For a prasadam offered by the temple at a cost of Rs.225/-, a sum of Rs.1,000/- is charged. Similarly, for performing Pooja in all Navagraha temples, a sum of Rs.1,001/- is being charged for a single pooja. For performing homam, amount ranging from Rs.5,000/- to Rs.12,500/- is being charged. That apart, many special live Archanai, abhishegam and other rituals are performed for a minimum cost of Rs. 3,000/- per pooja. By such acts, the individuals earn not less than Rs.15 lakhs to Rs.3 crores per month. Above all, these websites so far raised funds from private investors/Angel investors/Venture Capitalists to the tune of Rs.100 crores. On the other hand, the temples, where these rituals are being performed, receive only a meagre amount. Thus, according to the learned counsel, such unlawful collection of money from the devotees in the name of the temple cannot be permitted to be sustained and stringent action has to be taken against such <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 perpetrators. The learned counsel further submitted that a new temple called Sri Markandeya Temple, which has no historical reference or archaeological heritage, is being promoted by the priests / gurukkals / archakars of Thirukadaiyur temple. It is also submitted that though the petitioner has enclosed the necessary proof for all these unlawful acts along with his representations to the HR&CE Department, but no action is forthcoming and the bogus websites continue to proliferate unabated. Therefore, the learned counsel prayed this court for issuing appropriate direction to the official respondents.

6.1. Per contra, Mr. Veerakathiravan, learned Additional Advocate General appearing for the respondent authorities submitted that Arulmighu Amirthakadeswarar Temple, Thirukadaiyur, Mayiladuthurai District, is administered by Sri-la-sri Dharmapuram Adheenakarhar in the capacity of Hereditary Trustee under the control of the HR&CE Department. This temple is renowned for performing parihara homams such as Sashtiaptha Poorthi, Bhima Ratha Shanti and

Sathabhishekam. This temple is thronged by people from the length and breadth of the country to perform spiritual activities. Taking advantage of the staunch belief of the worshipers to perform the religious ceremonies in the temple, several spurious websites were created by unknown persons depicting themselves as part of the temple administration and they <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 collected money from the devotees for various services to be rendered, without the knowledge of the temple administration. After coming to know about the same, the Commissioner of HR&CE Department, in his Circular bearing R.C. No.57136/2021 P1 dated 12.04.2022 has instructed all the temples under the control of the Department, to close down such spurious websites and create an authorised and dedicated website for the temple through National Informatics Centre (NIC) to avoid hacking and deception. Such a circular was issued as per section 116(2) (x) of the HR & CE Act and Rule 5(A) of the Collection of Income and Incurring of Expenditure Rules made thereunder. Thus, according to the learned counsel, all necessary steps have been taken for prevention of improper collection and to retrieve the amount collected unauthorisedly by the private individuals using the name of the temples.

6.2. The learned Additional Advocate General appearing for the respondent authorities also submitted that an official website viz., Thirukadaiyurabiramitemple.org is being maintained by the temple administration and wide publicity has been given to the devotees and the general public at large. It is also submitted that on the basis of the complaint given by the petitioner against TRV. Ramalinga Gurukkal / fifth respondent in WP (MD) No. 23410 of 2022, a notice bearing R.C. No.8448/2022 C.1 dated 11.10.2022 <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 came to be issued to the hereditary trustee of the temple calling upon him to submit action taken report. In response, it was submitted that the administration of Arulmighu Amirthakadeswarar Temple has given a complaint to the Superintendent of Police (Cyber Crime) Mayiladuthurai on 16.09.2022 requesting to take appropriate action against those who have unauthorisedly created fake websites and to retrieve the amount so far generated by them, besides lodging a complaint on 22.09.2022 to the Inspector of Police, Poraiyur Police Station, Mayiladuthurai in this regard. Thus, according to the learned Additional Advocate General, appropriate action has already been taken by the official respondents and the allegation of the petitioners that the official respondents remained as a mute spectator is baseless.

6.3. It is further submitted by the learned Additional Advocate General appearing for the respondent authorities that the HR&CE Department has appointed a Fit Person for Sri Markandeya Temple, who is taking care of the administration of the temple. The temple administration is taking all necessary steps to curb illegalities in the matter of performance of poojas and other ceremonies in the temple inter alia to ensure hassle free facilities for the devotees. A specific provision has been made in the official Website where the devotees can book for marriage ceremonies on a particular date and time slot <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 will be fixed. Bookings made by the devotees through physical mode will be gradually stopped. Therefore, the learned Additional Advocate General submitted that the official respondents are taking all steps that are necessary to curb the middlemen from swaying the devotees through bogus websites; and that, they are also periodically monitoring the nature of duties performed by the Priests / Gurukkals / Archakars in the temple.

7. The learned counsel appearing for the fourth respondent in WP(MD)No.23671 of 2022 submitted that the temple administration has already created an official website through HR&CE Department, in the name of the temple viz., <https://srirangamranganathar.hrce.tn.gov.in/> for the convenience of the devotees / public, who offer contributions / donations to the temple; and that, they have displayed the history of the temple, archaeological importance, darshan timings, festival details, etc., through their website “www.srirangam.org”. It is further submitted that based on the representation submitted by the petitioner, the Executive Officer of Arulmighu Aranganathaswamy Temple, Srirangam, made a complaint dated 20.10.2022 to the Assistant Commissioner of Police, Cyber Crime Wing, Tiruchirapalli, requesting to close the unauthorised websites opened in the name of the temple forthwith and to recover the proceeds received thereunder. <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022

8. Mr.Rajesh Kanna, learned counsel for the fifth respondent in WP(MD) No.23410 of 2022 submitted that Sri Amirthakadeshwarar Temple, Thirukadiyur, comes under the control of the Dharmapuram Adheenam headed by His Holiness Sri Masilamani Desiga Gnanasambandha Swamigal; and that, Arulmigu Markandeswaraswamy Temple at T.Manalmedu Village is a private temple managed by the ancestors of the fifth respondent and now, by the fifth respondent and his family as its Hereditary Trustee. The learned counsel further submitted that the petitioner has made out false allegations in the writ petition and that, based on his representation dated 14.09.2022, the fourth respondent has passed an order appointing a Fit Person (Thakkar) to Sri Arulmigu Markandeswaraswamy Temple, vide proceedings in Se.Mu.Na.Ka.No. 8448/2022/E1 dated 18.10.2022. According to the learned counsel, the fifth respondent family is the hereditary trustee of the temple and that, the fifth respondent made an application to the fourth respondent to appoint him as the Hereditary Trustee of the temple as he is the next in line to his deceased father Sri T.R.Viswanatha Gurukkal. Stating so, the learned counsel prayed for a direction to the fourth respondent to dispose of the said representation. <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022

9. We have heard the learned counsel appearing for all the parties and also perused the materials available on record, including the photographs depicting the websites created by third parties in the name (s) of various temple (s) and also services offered therein.

10. Both these writ petitions have been filed complaining that some third parties, who are in no way connected with the administration of the temples, have created spurious websites depicting the same as official websites and are collecting money from the devotees for offering various services / religious activities in the temples without knowledge of the temple administration. The petitioners' grievance is that by doing so, the third parties garner huge money, but what they pay to the temples, is a pittance. Thus, through such unauthorised and fake websites, the impersonator interferes with the administration of the temples indirectly, thereby causing huge loss to the revenue of the temples across the State. In order to buttress the same, the petitioners have furnished the particulars of bogus websites, phone numbers of contact persons relating to such websites, probable income generated by providing services, such as, accommodation, catering, darshan, poojas/ceremonies in the temples, etc. at a hefty price, in the form of typed set of papers. It is also stated by the petitioners that the persons, who create such unauthorised and fake websites would

<https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 definitely have a link with the archakars and officers of the temples, without whose assistance, they cannot render any service to the customers. He also submitted that some of the archakars, who have not been authorized by the administration, are entering the temple to perform poojas. Therefore, the petitioners in unison prayed for appropriate direction to the respondent authorities to close all the unauthorised and fake websites of third parties created in the name of the temple(s) across the State, so that the entire religious activities such as pooja, abhishegam, religious ceremonies etc., must be offered, controlled and administered only by the administration of the temple(s) concerned and to recover the proceeds received thereunder. In WP(MD) No.23410 of 2022, the petitioner specifically pleaded that the Priests / Gurukkals / Archakars of Arulmighu Amirthakadeswarar Temple have swayed the devotees visiting the Amirthakadeswarar temple to also visit Sri Markandeya temple by misrepresenting the history of the same. Though the petitioners made representations to the respondent authorities to take appropriate action against those illegal and fake websites run by the third parties in the name of the temple(s) / deities, nothing moved. Hence, the present public interest litigations.

11. Undoubtedly, creating bogus / fake websites is an offence and the same is punishable under section 66D of the Information Technology Act, 2000. <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 As per Section 23 of the HR&CE Act, the Commissioner of HR&CE Department is empowered to exercise general superintendence and control over the administration of temples and religious endowments. Therefore, in pursuance of the powers to make Rules for proper collection of income by the religious institutions conferred in section 116(2)(x), he can issue instructions to all the temples under the control of the department to create authorised and authenticated websites for temples through National Informatics Centre, which will provide authenticity to the websites run by the temples and help in curbing the bogus ones. But, no effective steps have been taken by the respondent authorities. Taking note of the same and considering the importance of the issue involved herein, this court earlier directed the learned counsel appearing for the respondent authorities to verify the allegations raised by the petitioners and file a detailed report in the next date of hearing.

12. The learned Additional Advocate General appearing for the respondent authorities filed a status report of the third respondent in WP(MD) No.23410 of 2022, wherein, it is inter alia stated that steps are being taken to revamp the existing websites in the name of the temple and adequate publicity is given regarding the existence of official websites of the temple to ensure that the devotees directly contact the temple administration, offer donations, make <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 bookings for various kinds of homams, poojas, abhishegams etc. that the website will be made fully functional within a period of three months. The status report further proceeds to state that illegal websites opened by the third parties will be shut down with the assistance of the Cyber Crime authorities. After closure of the bogus websites, the cyber space will be periodically monitored to ensure the continuance of existence of the website of the temple alone. Referring to the steps taken by the temple administration, it is stated that complaints dated 01.03.2020 and 16.09.2020 have been lodged before the Superintendent of Police, (Cyber Crime), Nagapattinam and Mayiladuthurai with a specific request to take necessary action against the persons running the illegal websites in the name of the temple and to shutdown the same. It is also stated in the status report that the presence of

touts will be stopped in the temple and the Temple administration will install boards with relevant information at all vantage points inside and outside the temple premises so that the devotees can be made aware of the actual fee to be paid. The devotees are also asked to make police complaint, if touts continue to harass them. The devotees are also requested to make their offerings only in the temple hundials and also in the payment gateway provided in the official website. Further, the service of the Archakars will be regularised and the 12 Archakars who are engaged for the services in the temple will be made to submit bio-metric attendance to effectively regularise and <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 monitor their functioning. That apart, a Fit Person has been appointed to Sri Markandeya Temple, Mayiladuthurai and he is looking after the administration of the said temple.

13. Furthermore, it is seen from the circular issued by the Commissioner of HR&CE Department, that instructions have been given to close all the private websites within a period of one week and to furnish all the information relating to the temples to the devotees / public through ITMS portal by NIC, in order to avoid the issue of hacking, failing which, appropriate action will be initiated against the official(s) concerned departmentally. Thus, it is brought to the knowledge of this court that the respondents are taking steps to stop the illegalities and properly account the money and donations collected from the devotees, besides initiate appropriate proceedings against the third parties as well as the officials / archakars of the temples, who are responsible for creation of such illegal websites.

14. The archakars in every temple render a very important service by performing rituals. Even a staunch devotee cannot enter the sanctorum, but only an archakar is permitted to go into the sanctorum, touch and perform the sanctum. A devotee, completely trusts the archakars when special rituals are performed and leave the temple with a sense of satisfaction of having had the <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 spiritual benefit, that his prayer has reached the deity. It is not out of place to mention here that a person cannot become an archakar unless he is qualified in all the agamas and Thirumurais. The Apex Court in *Seshammal v. State of Tamil Nadu* [(1972) 2 SCC 11], has summarised the importance of archakars, and the belief of the devotees. Therefore, the role of archakars or priest cannot be undermined and they occupy a very significant position in worship. The archakars, by their role serve not only the temples, but also the deities by serving the devotees. Every ritual performed by them in the temple is as an employee of the temple alone and not in their independent capacity. Even if it is in their independent capacity, it is only the temple authorities, who would have the right to fix the charges to be paid to such archakars of the temple, if the rituals are to be performed within the temple premises. The Trust imposed by them is immense that a devotee performing a regular or a special ritual, does not ask any questions. Every special functions like marriage, sashti aptha purthi, Ukra Radha Shanti, Beema Radha Shanti, Sathabishekam within the precincts of the temple are based on the belief that the performance of such functions there would bring in the blessings of the deity. Such being the case, the archakars, as employees of the temples, are bound to perform the same at the rates fixed by the temple management. They have no right to capitalize the faith of the devotees by diverting the income of the temple, by creation of websites, as if they are <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 propounded by the temple itself. Apart from that, it is evident that these websites are not the official websites of the temples and the amount collected towards the festivals is not directly remitted to the temples. Rather, it is the touts, who collect the

money and remit paltry sums to the temples or the math. Such practices are feeding the atheists to criticize the rituals and in-turn the deity.

15. It is needless to say that the property of the temples or the mutts not only tangible but also intangible property. The word "endowment" in Section 6(17) includes all the property belonging to the temple and also includes the temple. The very name of the temple and its websites are intangible assets. The devotees visit the website of the temples to know about the various services offered by them, the cost, timings, etc. While so, by impersonation, various websites are created in the name of the temples or by impliedly projecting to be created under the authorization without the permission of the HR&CE department or the mutts' to attract the devotees for performance of different poojas in the temples at the rates and cost fixed by archakars in collusion with the touts. The Courts, in general have been dealing with the menace of fake or illegal websites, by which various conning activities and piracy are committed. The prohibitory orders or in other words, the orders of injunction, in many cases do not resolve the issue as the perpetrators would continue to operate with mirror <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 websites or from different IP address or URLs. Hence, it is necessary to follow a mechanism, not only to prevent the creation and utilization of such illegal websites, but also to permanently and continuously prevent such websites from popping up.

16. At this juncture, it will be relevant to refer to the twin concepts of quia timet and dynamic injunction, which can act as an effective tool to block such websites. Quia timet, in latin means "because he fears". The doctrine is used when there is a real danger of some right being violated and the Courts, considering the right of the other person, who is likely to suffer and equity, grant the relief of injunction or in other words, a preventive order. The doctrine is predominantly used in matters relating to intellectual property rights.

17. The evolving legal jurisprudence in the protection of intellectual property rights has resulted in the evolution of the doctrine of Dynamic Injunction order, by which, the necessity to approach the Court time and again for preventive measures is thwarted by issuance of such an order, which meets all the contingencies in future. The concept of dynamic injunction, with regard to the piracy rights application by the Courts of various countries have been discussed in detail in the judgment in UTV Software Communication Ltd and others v. 1337X.To and others [2019 SCC OnLine Del 8002 : (2019) 78 PTC <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 375]. Applying the same to the present case, this Court is of the view that a dynamic preventive order is necessitated because of the sheer involvement of the number of temples, touts and illegal websites that either provide links to webpages or URLs created by third parties, impersonating as that of the official temple sites.

18. As already stated above, temples are places for worship visited by a host of citizens of varied cultures to get the eternal peace and harmony and it cannot be permitted to be turned as a platform for generating profit. The temples offer certain services to devotees for a nominal fee, which will be utilised for maintenance of the temples, including salary to the staff. Therefore, it is high time that the websites opened in the name of the temples by the third parties unauthorisedly to garner huge money, be closed and thereafter, it must be ensured that other than the official website of the

temples, there shall not be any other website in existence to render any sort of service to the devotees. The services rendered by the administration of the temples to the devotees shall not be permitted to be done by any third party to secure unlawful gain. Though it was stated by the respondent authorities that they have taken all necessary steps to stop such illegalities, the status report was filed only in WP(MD) No.23410 of 2022 relating to Arulmighu Amirthakadeswarar Temple, Thirukadaiyur, <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 Mayiladuthurai District. There is no whisper about the steps taken against the illegal websites created in respect of other temples across the State. In such circumstances, this Court finds it necessary to issue certain directions in order to put an end to such illegalities and to protect the rights of the temples.

19. Accordingly, the following directions are issued to the respondent authorities:

- (i) To shut down / close all the illegal / unauthorised and fake websites opened by the third parties, in the name of the temples / deities across the State forthwith, if not done earlier, with the help of the officials of the Cyber Crime Wing and recover the income received thereunder and file a report before this court to that effect.
- (ii) To provide the Department of Telecommunication and Ministry of Electronics & Information Technology with a list of official website of the temples with domain names and to inform them to give appropriate instructions to the Internet Service Providers to continuously block all other illegal websites with fake domain names, IP addresses, URLs, created by third parties in the names of the temples or in the name of any third party, in whatsoever name and style, impersonating and (or) infringing the rights of the temples or temple <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 authorities.
- (iii) To revamp the existing / create official websites in the name of the temples for rendering on-line services to the devotees, with respect to poojas, rituals, etc. The said website shall contain booking mechanism for all poojas, ceremonies and other religious activities to be performed in the temples, make donations, etc.
- (iv) Adequate publicity regarding the existence of the temple websites needs to be made by the temple administration as per the guidelines of the HR&CE Department. The official/authentic websites should carry a disclaimer in the homepage warning the public about fake websites. Adequate publicity must be given by the temple administration about the menace of fake/bogus websites. A separate dedicated contact phone number of an officer must be given in the websites of the temples so as to enable the devotees to inform about the existence of bogus websites, if any, when they come across or get duped by such websites. If any such complaint (s) is received, the Department shall swiftly act upon the same and take necessary civil and criminal action thereof.

(v) The officials of the Cyber Crime Wing shall take immediate action on <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 the complaints received from the public / devotees / temple administration about the unauthorized and fake websites in the name of the temples. They shall also conduct periodical inspection of websites and report the same to the respondent authorities for taking appropriate action. The Cyber Crime Wing must also communicate to the DoT and MEITY periodically about the existence of any illegal websites, domains, IP addresses and URLs and to block them, so as to effectively implement this order.

(vi) The temple administration across the State must take all efforts to prevent touts from providing any sort of service to the devotees and collecting monies / donations / contributions, in the name of the temple(s). If any complaint is received in this regard, action must be taken swiftly.

(vii) To place adequate boards at all vantage points inside and outside the temple premises, furnishing information about the temples, fees to be paid, etc. and that, touts are banned from offering any service, so that the devotees can directly approach the temple authorities for booking, etc.

(viii) To place hundials throughout the temples so that the devotees can make their offerings. The boards must carry the information that the devotees are required to offer their contributions / donations, if any, only in the hundials or in <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 the payment gateway provided in the official websites.

(ix) For all the services rendered in the temples across the State, such as poojas, marriage ceremonies, abhishegam, etc., amount will be collected only by the administration of the temples and due receipt will be given to the devotees.

In the absence of tickets/receipts issued by temple / Aadheenam authorities, no one should be permitted to perform any religious activities in the temples. The amounts collected shall be properly accounted and audited by the authorities concerned. Only the archakars, photographers and guides authorized by the Aadheenam / officials shall be permitted inside the temple upon registering them with proper identity cards and that, the third parties and touts must be prevented. Necessary civil and criminal action must be initiated against them forthwith for any violation in this regard.

(x) The procedures preceding the religious ceremonies in all the temples across the State have to be streamlined. The Commissioner of HR & CE Department shall monitor the religious activities performed in the temples and take immediate action, if there is any illegality in the temple administration. A systematic, transparent and smooth functioning of the religious activities of the temples, have to be devised similar to that of Thirumala Devasthanam, <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 Sabarimala, etc.

(xi) The Fit Person appointed for Sri Markandeya Temple, shall ensure that all the receipts and expenditures of the said Temple is duly accounted for and that the services of the temple have to be offered only through an authorised website or in any other manner as may be prescribed by the Commissioner of HR & CE Department.

(xii) The status report be filed by the officials of the HR&CE Department and Aadheenam authorities before this court within a period of three months.

20. Both these writ petitions stand disposed of, with the aforesaid directions. It is open to the 5th respondent in W.P(MD) No.23410/2022 to work out his remedy with regard to the claim of hereditary trustee, as per law. No costs.

Post the matters before this Bench after three months “for reporting compliance”.

(R.M.D., J.)

(J.S.N)

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Index : Yes / No
Internet : Yes / No

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W.P. (M
and 2

To

1. The Commissioner

Hindu Religious and Charitable Endowments Department Uthamar Gandhi Road Nungambakkam
Chennai - 600 034

2. The Joint Commissioner Hindu Religious and Charitable Endowments Department Thepakula
Theru Behind Kariya Maleeswarar Temple Thiruvanaikaval Trichy - 620 005

3. Dharmapuram Adheenkarthar represented by its General Manager Dharmapuram Adheenam
Dharmapuram, Mayiladuthurai - 609 311

4. Joint Commissioner Hindu Religious and Charitable Endowments Department Samantharkulam, Sithatharkadu Mayiladuthurai - 609 003
5. The Commissioner Hindu Religious and Charitable Endowments Department Uthamar Gandhi Road Nungambakkam Chennai - 600 034
6. The Assistant Commissioner/Executive Officer (HR&CE) Arulmighu Meenakshi Sundareswarar Temple Madurai - 625 001
7. The Assistant Commissioner/Executive Officer (HR&CE) Arulmighu Subramaniya Swamy Temple <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 Payaniyar Maligai Salai, Tiruchendur Tuticorin - 628 215
8. The Assistant Commissioner/Executive Officer (HR&CE) Arulmighu Aranganathaswamy Temple Srirangam, Tiruchirapalli - 620 006
9. The Joint Commissioner (HR&CE) 315, Secretary Office North Giri Street Palani, Dindigul 624 601
10. The Secretary Ministry of Electronics and information Technology Government of India Electronics Niketan No.6, CGO Complex, Lodhi Road New Delhi - 110 003
11. The Secretary Ministry of Home Affairs North Block New Delhi - 110 001
12. The Additional Director General of Police Cyber Crime Branch No.3, Dr. Natesan Road Police Training College Campus, 3rd Floor Cyber Crime Wing, Ashok Nagar Chennai - 600 083
13. The Additional Chief Secretary to the Government Home, Prohibition and Excise Department Secretariat, Fort St. George Chennai - 600 009 <https://www.mhc.tn.gov.in/judis> W.P.(MD)Nos.23410 and 23671 of 2022 R. MAHADEVAN, J.

and J.SATHYA NARAYANA PRASAD, J.

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