

Sh.Dayananda Saraswati Swamiji (Dead) vs The State Of Tamil Nadu on 1 April, 2025

NON-REPORTABLE

2025 INSC 465

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO.476/2012

SH.DAYANANDA SARASWATI SWAMIJI (DEAD) & ORS.

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU & ORS.

Respondent(s)

WITH

WRIT PETITION (C) NO.1432/2019

WRIT PETITION (C) NO.1147/2021

WRIT PETITION (C) NO.148/2024

O R D E R

The petitioners in each of these writ petitions which were filed under Article 32 of the Constitution of India have sought the following reliefs:

“WRIT PETITION (C) NO.476/2012

(i) declare that the Section 3(1), 3(4), 23, 24, 26, 32, 35, 36, 36-A, 36-B, 43-A, 45, 47, 49, 49-B, 50, 54 (1), 63, Sections 71-76, 92,97, 108 and 111 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 Act as being ultra vires Articles 14, 19 (1)(g), 25, 26 and 31 (1)(a)(b) of the Constitution of India.

(ii) declare that the Sections 8, 12, 13, 15, 17-19 & 22, 25, 29, 41, 49, 51-55, 66, 70 and 87 of the Andhra Pradesh Charitable and Hindu Religious Date: 2025.04.08 16:48:03
IST Reason:

Institutions and Endowments Act, 1987 [(Act 30 of 1987) as being ultra vires Articles 14, 19(1)(g), 25, 26 and 31 (1)(a)(b) of the Constitution of India.

(iii) declare that the Sections 3A, 4, 8, 9, 11, 12, 13 and 14 of the Pondicherry Act, 1972 as being ultra vires Articles 14, 19(1)(g), 25, 26 and 31 (1)(a)(b) of the Constitution of India.

(iv) that pending the hearing and final disposal of the Writ Petition, the Respondents by themselves, their servants and agents be restrained from acting in furtherance of the impugned Section 3(1), 3(4), 23, 24, 26, 32, 35, 36, 36-A, 36-B, 43-A, 45, 47, 49, 49-B, 50, 54(1), 63, Sections 71-76, 92, 97, 108 and 111 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 Act.

(v) that pending the hearing and final disposal of the Writ Petition, the Respondents by themselves, their servants and agents be restrained from acting in furtherance of the impugned Section 8, 12, 13, 15, 17-19 & 22, 25, 29, 41, 49, 51-55, 66, 70 and 87 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 [(Act 30 of 1987).

(vi) that pending the hearing and final disposal of the Writ Petition, the Respondents by themselves, their servants and agents be restrained from acting in furtherance of the impugned Sections 3A, 4, 8, 9, 11, 12, 13 and 14 of the Pondicherry Act, 1972

(vii) that this Hon'ble Court may be pleased to pass such other as may be deemed fit in the facts and circumstances of the case.

WRIT PETITION (C) NO.1432/2019 i. Issue a writ in the nature of certiorari in quashing Sections 1(3), 3, 23, 24, 25-A, 26, 27, 34, 34A, 34B, 34C, 34D, 35, 36, 45, 47, 48, 49, 49- B, 50, 52, 53, 54, 56(2), 57, 58, 59, 61, 63, 64, 65, 66, 67, 69, 70, 71-76 (including 75A, 75B and 75C), 92, 97, 108 and 111 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 be declared ultra vires Articles 14, 19, 25, 26, 29, and 31A of the Constitution of India; and ii. Issue a writ in the nature of certiorari and quash the Utilization of Surplus Funds Rules (G.O. Ms. No. 4524, Revenue, dated the 5th November, 1960) framed under Section 36 of the Act as being unconstitutional; and iii. Issue a writ in the nature of certiorari and quash the Conditions for Appointment of Executive Officers Rules, 2015 (G.O. Ms. No. 260, Tourism, Culture and Religious Endowments (RE4-2), dated 6th November 2015) framed under Sections 43A and 45 of the Act as being unconstitutional; and iv. Issue a writ in the nature of certiorari and quash the Appointment of Auditors Rules (G.O. Ms. No. 3029, Revenue, dated the 20th July 1961) framed under Section 87 of the Act as being ultra vires the Act; and v. Issue a writ in the nature of certiorari and quash the appointment of Executive Officers made under Section 45 for the Tiruchendur Temple and the other major Temples such as Sri Kantimatisameta Sri Nellaiappar Temple, Tirunelveli, Sri Arthanareeswarar Temple, Tiruchengode, Sri Kallazhagar Temple, Azhagarkoil and Sri Kothandaramaswamy Temple, Vaduvur to which such appointments were made with effect from July 16, 1966 under Sections 75-A and 75-B of the Act; and vi. Issue a writ in the nature of mandamus and direct an investigation by a Special Investigation Team headed by an officer of high integrity such as Shri A.G.PonManickavel IPS, IG (Idol Theft Wing) of Tamil Nadu, into the conduct of the Officers of the Hindu Religious and Charitable Endowments Department insofar as the Sri Subrahmanya Swami Temple is concerned as well as

other public servants, including elected representatives, of the Respondent; and vii. Issue a writ in the nature of mandamus Direct external audit of the Temple for the past five years through a reputed audit firm; and/or viii. Issue any such other writ or pass any such other or further order (s) ix. and direction (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

WRIT PETITION (C) NO.1147/2021

a) Issue an appropriate writ, order or direction, striking down Sections 21, 23, 27, 28, 47, 49, 49B, 53, 55, 56, and 114 of the HRCE Act and all Rules, orders, notifications issued under these sections as unconstitutional and ultra-vires Articles 14, 25 and 26 of the Constitution.

b) Pass appropriate writ, direction or order under Article 142 the Constitution of India and mold the appropriate reliefs that will be in public interest while upholding the Constitution of India.

c) Pass any other directions or orders as may be deemed appropriate in the interest of justice.

WRIT PETITION (C) NO.148/2024

a) Issue an appropriate writ, order or direction, striking down Telangana Hindu Religious and Charitable Endowments Act, 1987, and all Rules, orders, notifications issued under these sections as unconstitutional and ultra-vires Articles 14, 25, 26 and 31A of the Constitution.

b) Issue an appropriate writ, order or direction Setting aside the Order dated 29th December 2023 passed in Rc No. A2/13170/2023, and the Order dated 25th January 2024, in Rc No. D/1075/2019-3, passed by the Commissioner, Endowments Department, Telangana.

c) Pass any other directions or orders as may be deemed appropriate in the interest of justice.”

2. For ease of reference, the headings of the provisions assailed under the three respective Acts are extracted as under:

“Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 CHAPTER – I
PRELIMINARY.

1. Short title, extent, application and commencement.

xxx xxx xxx

3. Power to extend Act to Charitable Endowments xxx xxx xxx CHAPTER – III
RELIGIOUS INSTITUTIONS. GENERAL PROVISIONS.

23. Power and duties of Commissioner in respect of temples and religious
endowments

24. Power to enter religious institutions 25-A. Qualifications of trustees

26. Disqualifications of trustees

27. Trustee bound to obey orders issued under Act xxx xxx xxx

32. Trustee to furnish accounts, returns, etc. xxx xxx xxx

34. Alienation of immovable trust property 34A. Fixation of lease rent 34B. Termination of lease of immovable property 34C. Payment of amount 34D. Bar of jurisdiction of Civil Court

35. Authority of trustee to incur expenditure for securing health, etc., of pilgrims and worshippers and for training of archakas, etc.,

36. Utilisation of surplus funds 36-A. Utilisation of surplus funds for Hindu marriages 36-B. Utilisation of surplus funds for making contribution towards any funds for the purposes of feeding the poor etc. xxx xxx xxx 43-A. Appointment and duties of Executive Officer in temples under Maths.

Religious institutions other than Maths or Specific Endowments attached thereto.

44. Sections 45 to 58 not to apply to maths or specific endowments attached to maths.—The provisions of sections 45 to 58 shall not apply to maths or specific endowments attached to maths.

45. Appointment and duties of Executive Officers xxx xxx xxx

47. Trustees and their number and term of offices

48. Chairman

49. Power of Assistant Commissioner to appoint trustees and fit persons 49-B. Power of executive officer and Chairman of Board of Trustees not to implement order or resolution of the trustee or Board of Trustees in certain cases

50. Power under sections 47, 49 and 49-A to be exercisable notwithstanding provisions in scheme xxx xxx xxx

52. Non-hereditary trustees holding office on the date of the commencement of the Act

53. Power to suspend, remove or dismiss trustees

54. Filling up of vacancies in the offices of hereditary trustee 54(1).When a permanent vacancy occurs in the office of the hereditary trustee of a religious institution, the next in the line of

succession shall be entitled to succeed to the office.

xxx xxx xxx 56(2. When a temporary vacancy occurs in such an office by reason of suspension of the hereditary trustee under sub-section (2) of section 53, the next in the line of succession shall be entitled to succeed and perform the functions of the trustee until his disability ceases.

57. Power to fix fees for services etc., and to determine their appointment

58. Fixing of standard scales of expenditure CHAPTER IV MATHS.

59. Suit for removal of trustee of math or specific endowment attached thereto xxx xxx xxx

61. Fixing of standard scales of expenditure xxx xxx xxx CHAPTER V INQUIRIES

63. Joint Commissioner or Deputy Commissioner to decide certain disputes and matters

64. Power of Joint Commissioner or Deputy Commissioner to settle schemes

65. Power of Commissioner to settle schemes

66. Appropriation of endowments

67. Determination and application of properties and funds of defunct religious institutions xxx xxx
xxx

69. Appeal to the Commissioner

70. Suits and appeals CHAPTER VI NOTIFIED RELIGIOUS INSTITUTIONS.

71. Issue of notice to show cause why institution should not be notified

72. Consideration of objections, if any, and notification of institution

73. Scheme to lapse on notification

74. Appointment of salaried executive officer

75. Section 64 not to apply to notified institutions 75-A. Notification under Chapter VI-A of Tamil Nadu Act II of 1927 to continue in force 75-B. Further continuance of notification under Chapter VI-A of Tamil Nadu Act II of 1927.

75-C. Right to suit.

76. Saving xxx xxx xxx CHAPTER IX FINANCE

92. Religious institution to pay an annual contribution to the Government xxx xxx xxx CHAPTER – X ENDOWMENTS ADMINISTRATION FUND

97. Creation of Hindu Religious and Charitable Endowments Common Good Fund xxx xxx xxx CHAPTER – XI MISCELLANEOUS.

108. Bar of suits in respect of administration or management of religious institutions, etc. xxx xxx xxx

111. Notifications, orders, etc., under Act not to be questioned in Court of Law Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 CHAPTER-II COMMISSIONER, ADDITIONAL COMMISSIONER, REGIONAL JOINT COMMISSIONER ETC., AND THEIR POWERS AND FUNCTIONS xxx xxx xxx

8. Powers and functions of Commissioner and Additional Commissioner xxx xxx xxx

12. Powers of Commissioner etc., to enter and inspect institutions and endowments

13. Commissioner etc., to observe appropriate forms, usages and practices xxx xxx xxx CHAPTER-III ADMINISTRATION AND MANAGEMENT OF CHARITABLE AND HINDU RELIGIOUS INSTITUTIONS AND ENDOWMENTS

15. Appointment of Board of Trustees xxx xxx xxx

17. Procedure for making appointments of trustees and their term

18. Qualifications for Trusteeship

19. Disqualifications for Trusteeship xxx xxx xxx

22. Vacancy in the office of trustee and filling of such vacancy xxx xxx xxx

25. Fixation of dittam xxx xxx xxx

29. Appointment and duties of Executive Officer xxx xxx xxx

41. Power of Executive Officer not to implement resolution of the trustee or the Board of Trustees in certain cases xxx xxx xxx CHAPTER – V MATHS AND SPECIFIC ENDOWMENTS ATTACHED THERETO

49. Fixation of dittam xxx xxx xxx

51. Removal of Mathadhipathi

52. Filling of temporary vacancies in the office of the mathadhipathi

53. Filling of permanent vacancies in the office of mathadhipathi

54. Nomination of mathadhipathi

55. Power of Commissioner to frame schemes xxx xxx xxx CHAPTER - VIII FINANCE

66. Assessment of contribution on the trustee xxx xxx xxx

70. Common Good Fund xxx xxx xxx CHAPTER -XII ENQUIRIES

87. Power of Deputy Commissioner to decide certain disputes and matters Pondicherry Hindu Religious Institutions Act, 1972 xxx xxx xxx 3A. Powers and functions of Commissioner.

4. Board of Trustees.

xxx xxx xxx

8. Duties of trustees.

9. Appointment, powers and duties of Executive officers.

xxx xxx xxx

11. Payment of contributions.

12. Recovery of contributions, costs, charges and expenses.

13. Budget of religious Institutions.

14. Accounts and audit.”

3. We have heard learned senior counsel for the petitioner(s), Dr. Subramanian Swamy, who has appeared as petitioner-in-person, learned A.S.G. Sri K.M. Nataraj appearing for the Union of India and Union Territory of Puducherry and learned senior counsel and learned counsel appearing for the States of Andhra Pradesh, Tamil Nadu and Telangana as well as the learned senior counsel and learned counsel who have filed application(s) for intervention/impleadment at length.

4. Having regard to the challenge made to various provisions of the Hindu Religious and Charitable Endowments Act of the respective States, we find that the petitioners could be permitted to approach the respective State High Courts to assail the said provisions since the scheme of the respective Scheme Acts may be distinct.

5. It is noted that in these petitions, the provisions which are under challenge are not only pertaining to the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 but also the Puducherry Act of 1972 as well as the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. We find that a more effective manner of ventilating the grievances by the petitioners herein is to assail the provisions of the respective Acts before the respective jurisdictional High Courts so as to enable the High Courts to better appreciate the dimensions of challenge of the provisions of the respective Acts.

6. In the circumstances, we dispose of these writ petitions by reserving liberty to the petitioners herein to file their writ petitions before the respective High Courts.

7. It is needless to observe that if such writ petitions are filed by the petitioners herein before the respective High Courts, the same could be considered having regard to the various dimensions of the provisions in light of the socio-economic, cultural and religious aspects of the matter which are all in essence historical aspects of the matter including the judicial verdicts of the Courts.

8. The High Courts are also free to constitute an Expert Committee so as to have assistance of the recommendations said Committee for the purpose of deciding the cases, if they so think fit.

9. These Writ petitions are disposed of in the aforesaid terms.

All pending application(s) including the application(s) for intervention/impleadment shall stand disposed of.

.....J. [B.V. NAGARATHNA]J.
[SATISH CHANDRA SHARMA] NEW DELHI APRIL 01, 2025