

# Cochin Devaswom Board vs Union Of India on 13 September, 2024

**Author: Anil K. Narendran**

**Bench: Anil K.Narendran**

WP(C) No.32852/2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN  
&  
THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR  
Friday, the 13th day of September 2024 / 22nd Bhadra, 1946  
WP(C) NO. 32852 OF 2024(F)

**PETITIONERS:**

1. COCHIN DEVASWOM BOARD, REPRESENTED BY ITS SECRETARY, COCHIN DEVSAWOM BOARD OFFICE, SWARAJ ROUND NORTH, THRISSUR, PIN - 680001
2. MANAGER, CHOTTANIKKARA DEVASWOM, CHOTTANIKKARA P.O., ERNAKULAM DISTRICT, PIN - 682312

**RESPONDENTS:**

1. UNION OF INDIA REPRESENTED BY ITS SECRETARY, MINISTRY OF HEALTH & FAMILY WELFARE, ROOM NO. 348, 'A' WING, NIRMAL BHAVAN, NEW DELHI, PIN - 110011
2. FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA, FDA BHAWAN, KOTLA ROAD, NEW DELHI - REPRESENTED BY ITS EXECUTIVE DIRECTOR, PIN - 110002
3. STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
4. SECRETARY TO GOVERNMENT REVENUE (DEVASWOM) DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
5. THE COMMISSIONER OF FOOD SAFETY COMMISSIONERATE OF FOOD SAFETY, DEPARTMENT OF HEALTH SERVICES, THIRUVANANTHAPURAM, PIN - 695504
6. ASSISTANT COMMISSIONER OF FOOD SAFETY OFFICE OF THE ASSISTANT COMMISSIONER OF FOOD SAFETY, EROOR SOUTH P.O., THIRUPUNITHURA, ERNAKULAM DISTRICT, PIN - 682306
7. FOOD SAFETY OFFICER OFFICE OF THE FOOD SAFETY OFFICER, PIRAVOM CIRCLE, ROOM NO. 18, MINI CIVIL STATION, PIRAVOM, ERNAKULAM DISTRICT, PIN - 686664
8. INSPECTOR OF LEGAL METROLOGY OFFICE OF THE INSPECTOR OF LEGAL METROLOGY, CIRCLE II, KAKKANAD, ERNAKULAM DISTRICT, PIN - 682030

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay all further proceedings pursuant to Exhibits P1, P3, P4

and P6 pending disposal of the above Writ Petition(Civil).

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI.K.P.SUDHEER, STANDING COUNSEL for respondent 1, DEPUTY SOLICITOR GENERAL OF INDIA for respondent 1, SMT.CHITRA P.GEORGE, STANDING COUNSEL for respondent 2 and of SENIOR GOVERNMENT PLEADER for respondents 3 to 8, the court passed the following:

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ANIL K. NARENDRAN & P.G. AJITHKUMAR, JJ.

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W.P.(C)No.32852 of 2024  
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Dated this the 13th day of September, 2024

ORDER

Anil K. Narendran, J.

The Cochin Devaswom Board has filed this writ petition seeking a writ of certiorari to quash Exts.P1, P3, P4 and P6 and for a declaration that the provisions contained in the Legal Metrology Act, 2009, and the Food and Safety Standards Act, 2006 do not apply to the prasadam/offering in a temple/religious institutions and to direct respondents 7 and 8 to close the proceedings initiated pursuant to Exts.P1, P3, P4 and P6.

2. The issue raised in this writ petition is in respect of 'Neypayasam', in Chottanikkara Bhagavathy Temple, which is a temple under the management of Cochin Devaswom Board. In the writ petition, it is stated that one among the 'nivedya vazhipadu' in Chottanikkara Bhagavathy Temple is 'Neypayasam'.

3. Admit.

4. The learned Deputy Solicitor General of India-in- charge enters appearance for the 1st respondent Union of India, Adv. Chitra P. George, the learned Standing Counsel for Food Safety and Standards Authority of India for the 2nd respondent and the learned Senior Government Pleader for respondents 3 to 8.

5. During the course of arguments, the learned Standing Counsel for Cochin Devaswom Board would point out the decisions of a Division Bench of this Court in Travancore Devaswom Board v. Ayyappa Spices [2023 (4) KHC SN 9: 2023 KHC OnLine 286] and Ayyappa Spices v. Travancore Devaswom Board [2023:KER:24739 : 2023 KHC OnLine 9678] and also the decision of the Apex Court in Travancore Devaswom Board v. Ayyappa Spices [2024 (2) KHC SN 5: 2024 SCC OnLine SC 244]. The learned Standing Counsel would submit that while setting aside the aforesaid decisions of

this Court on the question of maintainability of a writ petition under Article 226 of the Constitution of India, the Apex Court observed that issue No.2 relating to the applicability of Food Safety and Standards Act, 2006, to the Travancore Devaswom Board does not arise for consideration in that case.

6. The learned Deputy Solicitor General on India-in- charge, the learned Standing Counsel for Food Safety and Standards Authority of India and the learned Senior Government Pleader seeks time to file counter affidavits. Four weeks' time granted.

7. There will be an interim stay as prayed for, for a period of one month.

List on 11.10.2024.

Sd/-

ANIL K. NARENDRAN, JUDGE Sd/-

P.G. AJITHKUMAR, JUDGE MIN 13-09-2024 /True Copy/ Assistant Registrar APPENDIX OF WP(C) 32852/2024 EXHIBIT P 1 TRUE COPY OF SHOW CAUSE NOTICE BEARING NO. 17/2024 DATED 14/02/2024 ISSUED BY THE 8TH RESPONDENT TO THE 2ND PETITIONER.

EXHIBIT P 3 TRUE COPY OF SHOW CAUSE NOTICE BEARING NO. 17/2024 DATED 17/05/2024 ISSUED BY THE 8TH RESPONDENT TO THE 2ND PETITIONER ( ALONG WITH ITS TYPED COPY ) EXHIBIT P 4 TRUE COPY OF NOTICE BEARING NO. 106/2024 DATED 23/02/2024 ISSUED BY THE 7TH RESPONDENT TO THE 2ND PETITIONER. ( ALONG WITH ITS TYPED COPY ) EXHIBIT P 6 TRUE COPY OF COMMUNICATION BEARING NO. 166/2024 DATED 17/04/2024 ISSUED BY THE 7TH RESPONDENT TO THE 2ND PETITIONER. ( ALONG WITH ITS TYPED COPY ) 13-09-2024 /True Copy/ Assistant Registrar