

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 4670 OF 2023

VINEETH P & ORS.

...APPELLANT(S)

VERSUS

HARIDASAN V & ORS.

...RESPONDENT(S)

WITH

C.A. Nos. 4687-4689/2023

C.A. No. 4684/2023

C.A. No. 4692/2023

C.A. No. 4685/2023

C.A. Nos. 4674-4680/2023

C.A. No. 4690/2023

C.A. No. 4693/2023

C.A. Nos. 4578-4580/2023

C.A. No. 4581/2023

C.A. Nos. 4582-4583/2023

C.A. No. 4691/2023

C.A. Nos. 4671-4673/2023

C.A. No. 4686/2023

C.A. No. 4683/2023

C.A. Nos. 4681-4682/2023

C.A. Nos. 4574-4576/2023

C.A. No. 4584/2023

ORDER

1. In this batch of civil appeals the controversy revolves around and facts shorn, were that way back on 16.02.2001 an advertisement was issued by Guruvayoor Devaswom Managing Committee (in short "GDMC") inviting applications from eligible candidates to fill up regular posts of scavenger. As per advertisement various persons applied but GDMC did not complete the said process of selection. Due to non-selection and appointment, a writ petition was filed seeking directions to complete the regular selection process following the advertisement.

2. It was also the fact that on issuing advertisement till filing of the writ petition, many temporary employees were engaged by GDMC on various posts including the post of scavenger and some of them were regularized. In the counter affidavit filed before the High Court, it was stated that GDMC on 25.08.2014 vide Resolution No. 299 had taken a decision to regularize the employees appointed

temporarily. The said Resolution was also challenged by filing a subsequent Writ Petition (C) No. 32574 of 2014 wherein interim order was passed on 04.12.2014 staying further proceedings of regularization pursuant to the said resolution. The High Court, by another order dated 20.02.2015, permitted the GDMC to prepare a fresh list for regularization and submit a report. Pursuant to this, on 15.05.2015, Resolution No. 60 was passed, preparing a fresh list. It was to be given effect from 01.04.2015, subject to approval of the government. The said resolution sets up that due to working of these persons temporarily for quite some time, if not regularized, it may violate their human rights/fundamental rights. Thus, in light of the judgment of the **Secretary, State of Karnataka and Ors. Vs. Uma Devi: (2006) 4 SCC 1**, regularization was recommended.

3. The High Court while testing the said resolution and the order of regularization on the anvil of the ratio of judgment of **Uma Devi (supra)**, was of the view that the resolutions passed by GDMC were arbitrary, illegal and not in conformity with the ratio of the judgment of the **Uma Devi (supra)**. Further, it was directed that all the substantive vacancies may be identified and be reported to the competent authority to conduct fresh selection process following the relevant rules. However, the Court did not disturb the resolution

dated 25.11.2010 of regularization as 'one time measure' of those employees who have completed 10 years of temporary service. The Court also observed since employees regularized vide resolution dated 25.11.2010 were not party, therefore also their appointments cannot be disturbed. The directions issued by the High Court in paragraphs 45, 46, 57, 61 and 62 are relevant, hence for ready reference are produced as under:

“45. From the above, it is quite clear that the course pursued by the respondent Devaswom, attempting to regularise the service of temporary employees, who came to be appointed without much publicity and without giving chance to all the interested/eligible parties to have participated in the process of selection, under the cover/guise of extension of benefits flowing from paragraph 53 of the Umadevi's case, that too, by passing a resolution to grant regularization even in the case of persons, who were having only two years and even much less of service cannot but be deprecated in the strongest possible words. We are of the view that the resolution taken by the Board is not having the support/foundation on the law declared by the Apex Court [which is the law of land and applicable to all, by virtue of Article 141 of the Constitution of India].

46. As observed by the Apex Court in paragraph 29 of the Apex Court in (2017) 3 SCC 410 (cited supra), it is only the Devaswom, who is to be blamed for not effecting appointments of persons on 'regular basis' to meet the requirement; but for repeatedly effecting temporary recruitments without much publicity and subsequent regularization, giving benefit only to a limited few; thus compromising with the merit and suitability, denying entry to a large sector of persons, who otherwise may be eligible and would have participated in the process of selection, had there been proper publicity, also mentioning that the recruitment process would be for 'regular posts' or at least mentioning that there was a chance for being regularized; if all other requirements of selection were satisfied. In the said circumstances, the Devaswom is

directed to identify the vacancies to be filled up on a permanent basis as above, and all the vacancies shall be reported for filling up on a regular basis in accordance with the relevant Rules, by reporting the same to the Devaswom Recruitment Board, which has already been brought into existence.

Merit of each case is separately dealt with in the above background.

57. Before parting with the case, it has to be noted that serious dispute has raised from the part of the Guruvayoor Devaswom Managing Committee as to the field of recruitment to be left within the purview of the Kerala Devaswom Recruitment Board, who has been impleaded as the additional 5th respondent in W.P. (C) No. 30801 of 2016 [as per order dated 21.03.2017 in I.A. No. 4875 of 2017]. It is stated by the Guruvayoor Devaswom Managing Committee in their counter affidavit that the Kerala Devaswom Recruitment Board was brought in existence as per the Kerala Devaswom Recruitment Board Act, which was brought into force on 01.03.2014, and the Board, in fact, was constituted only much later on '14.08.2015.' This being the position, it is stated that the Recruitment Board cannot have any say with regard to the steps for regularization of temporary hands sought to be pursued by the Managing Committee 'prior to 14.08.2015' and as such, the resolutions taken by the Guruvayoor Devawom Managing Committee in respect of Service of the temporary hands prior to 14.08.2015 have to be given effect to. It is however stated in paragraph 10 of the said affidavit dated 01.04.2017, that the Guruvayoor Devaswom would report the vacancies that arose after 01.04.2015 and that the Board can start the selection process accordingly. It is also pointed that the Guruvayoor Devaswom was not a party in DBP 79 of 2014 or DBP 60 of 2015, whereby direction was given by this Court to fill up the vacancies on war footing, through the Devaswom Recruitment Board, as per the order dated 06.07.2015.

61. As mentioned already, the only possible instance of regularization pursuant to the verdict rendered by the Umadevi's case [cited supra] could have been the regularization of the service of the persons having completed '10 years', as a one time measure, which has been effected by the Devaswom as per the resolution dated 25.11.2010. Having effected that, it was not open for the Guruvayoor Devaswom Management Committee to have pursued further

regularization of temporary hands as and when they completed 10 years of service and such persons who have been regularized in service after the decision taken on 25.11.2010. Since such persons, who have completed 10 years of service after 25.11.2010 are not in the party array and their regularization is not under challenge; this Court does not intend to mention anything further in this regard, but for declaring that no further regularization exercise shall be done in respect of any temporary hands, without causing all the regular vacancies/substantive vacancies to be notified to the Kerala Devaswom Recruitment Board to conduct selection and advise candidates based on the qualification stipulated to the posts in question.

62. At the same time, it has to be noted that, because of the illegal exercise that was being pursued by the Guruvayoor Devaswom Managing Committee by engaging temporary hands and continuing them for quite long without resorting to regular recruitment, the persons who came to be appointed so might have crossed the upper age limit. In the said circumstances, while notifying the posts for regular appointment, it is possible for the Guruvayoor Devaswom to provide for "age relaxation" to such extent the above temporary hands have been working under the Guruvayoor Devaswom Management Committee and also provide some weightage for the service already rendered by them, for example; 'one mark' for 'one year' of completed service, subject to a maximum of 10 marks and to assess the eligibility and suitability accordingly, along with such other requirements and subject to satisfaction of the other qualifications/requirements."

4. Being aggrieved, the appellants who were engaged temporarily and regularized by these two resolutions, and GDMC have challenged the impugned judgment in these appeals on various grounds.

5. Having heard learned senior counsel Shri Jayanth Muthraj, Dr. K.P. Kylasnatha Pillay, Shri V. Giri, Shri Thomas P. Joseph and

Shri Dama Seshadri Naidu, for the parties, we have perused the provisions of the Guruvayoor Devaswom Employees Regulations, 1983 (in short “GDMC Regulations”). Regulations 4 and 5 specify the appointing authority and method of appointment and Regulation 17 which confers powers for temporary appointment in case of emergency. All the aforesaid provisions are reproduced here under;

“Regulation No. 4:

4. Appointing Authority: The appointing authority for all the posts in the Guruvayur Devaswom Service shall be the Managing Committee

Regulation No. 5:

5. Method of Appointment: Appointment to the following categories of posts in the Guruvayur Devaswom Service shall be made as follows:

(a) Direct recruitment shall be made after due publication of notices inviting applications. Eligible persons shall be called for written test or interview or both and selection made on the basis of merit.

(b) In the case of appointments by promotion or direct recruitments, direct recruitment shall be resorted to only if suitable qualified candidates for promotion are not available.

(c) The Management Committee shall decide the method of appointment in the case of temporary posts as and when required.

Provided that the posts of Executive Engineer, Assistant Executive Engineer, Assistant Engineer, Personal Assistant to administrator, Accounts Officer and Manager shall be treated as selection category. Appointment to the selection category shall be made by the Managing Committee from among members eligible for appointment to such category on the basis of merit and ability, seniority being considered only where merit and ability are approximately equal.

xx xx xx
(d) Qualifications:-xx xx xx

(e) Qualification regarding age: (I) xx

xx xx

(ii) The Managing Committee shall prescribed age limit in the case of temporary posts as and when required.”

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Regulation No. 17

17. Temporary appointment: - Where it is necessary in the interest of the Devaswom owing to an emergency which has arisen to fill immediately a vacancy in a post and there would be undue delay in making such appointment in accordance with the regulations, the Administrator may appoint a person otherwise than in accordance with the regulations temporarily after obtaining the approval of the Managing Committee.

Provided that a person appointed under this regulation shall not be allowed to continue in such post for a period exceeding 180 days and that he shall be paid the minimum pay in the time scale of pay applicable to such post.”

6. On a perusal of the aforesaid Regulations, it is clear that GDMC is the appointing authority and the appointments have to be made after due publication of notice and inviting applications. The eligible candidates were required to face written test and oral interview prior to their appointment by the GDMC. However, in case of emergency, if necessary, in the interest of Devaswom in case of undue delay in making regular appointment, vacancy may be filled and approval of the emergency appointment is required to be obtained from the managing committee. As per regulations, such appointment

cannot be continued for more than 180 days.

7. As discussed by the High Court it is apparent that after the advertisement to fill up the regular post of scavenger, the process was not completed for about a decade, hence temporary appointments were made and continued for more than 180 days without taking recourse as prescribed in Regulation 5. GDMC further passed the resolution to continue the persons who were engaged temporarily under Regulation 17 and to regularize them. In the given facts, the High Court was right to opine that, such regularization was dehors the regulation and was not permissible even as per judgment of **Uma Devi (supra)**, however, the action of GDMC was not countenanced.

8. As informed, during pendency of the litigation, Kerala Devaswom Recruitment Board (for short "KDRB") was constituted and the said Board conferred with the powers to undertake the process of recruitment and to make recommendations for appointment. Section 9 of the Kerala Devaswom Recruitment Board Act, 2015 specifies the functions of the Board which are relevant, hence, reproduced as thus:

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"9. Functions of the Board: (1) The Board shall have the following functions, namely:

(i) notwithstanding anything contained in any other existing Act or Rules or Regulations or orders or judgment or decree in respect of the appointment of candidates to the

posts in Devaswom Board, the Board shall prepare select list for the appointment of candidates to various posts other than the hereditary posts and posts in the aided educational institutions in the Devaswom Boards as per the provisions of this Act, Rules and Regulations;

(ii) to invite applications, to conduct written examination or interview or written examination and interview and to prepare select list for selection to the various posts other than the hereditary posts under the Devaswom Board, as may be prescribed, as and when the requisition for such examination is received from the concerned Devaswom Board.

(iii) to make all required arrangements in connection with the examination including the preparation of question papers, supervision of examinations and valuation, conduct of interview and preparation of the select list;

(iv) to conduct any other examination relating to Devaswom Board as entrusted by the Government

(v) to call for and obtain details regarding the examination from the concerned Devaswom Board.

(2) The Board shall be responsible for the proper conduct of the examination, to maintain the secrecy in the preparation of question paper, valuation, preparation of the list of candidates to be interviewed and preparation of the final select list to be furnished to the Devaswom Board and other connected matters and for the safe custody of the records pertaining to the examinations.

(3) (i) The Board shall conduct written examination to the candidate who had submitted applications and prepare lists, after conducting interview or written examination and interview;

(ii) Examination may be conducted for any Devaswom Board or for all the Devaswom Boards in suitable manner for the said purpose.

(iii) An applicant, who applies for more than one post or to more than one Devaswom Boards, shall not be denied the right to appear in more than one examination.

Provided that, if the candidate applies for examinations to various posts being conducted by the Board and in the circumstance of conducting examinations to more than one post by the Board on the same day the right referred in 3 (iii) shall not be available to such candidate.

(4) The procedure to be followed by the Board, in respect of the invitation of applications, conduct of written examination, preparation of list of candidates to be

interviewed, conduct of interview and preparation of the select list to various posts in the Devaswom Board, shall be such as may be prescribed.

(5) The Board may issue general directions to the Devaswom Boards incidental to the functions of the Board and as are necessary for the conduct of the examinations.

(6) It shall be the duty of the Board to furnish the select list to the Devaswom Board and advise to the candidates prepared in the manner as may be prescribed.”

9. After commencement of the said Act, the High Court was justified to interpret and hold that now it is the function of the Board to fill up the vacancies in Guruvayoor Devaswom. Therefore, in our view, the direction as issued by the High Court by the impugned judgment is in conformity with the provisions of the regulations and of the subsequent development of bringing the Kerala Devaswom Recruitment Board Act, 2015 in force. As per above discussion, there appears no merit in these appeals filed by the appellants and GDMC.

10. At this stage, learned senior counsel appearing on behalf of the appellants made a fair suggestion that the appellants who were appointed temporarily are still continuing as per the order of this Court dated 12.12.2017 by which status quo as on that day was directed to be maintained, however, abrupt discontinuation of these employees may cause serious hardship in day-to-day function of Guruvayoor Devaswom. It is further urged that the appellants who

have experience and now became over aged, on advertising the vacancies, may lose chance to participate in the process of selection though they are experienced hands. It is also contended that after their engagement temporarily by the Guruvayoor Devaswom, they were continued by GDMC and now working for more than a decade. Therefore, the temporary employees may be permitted to participate in the process of fresh selection, if any advertised, which is to be conducted by the Kerala Devaswom Recruitment Board as one time measure. In the meantime, they be allowed to continue in Guruvayoor Devaswom till regular appointment are made. Learned counsel appearing on behalf of the respondent submits that in this regard appropriate directions may be issued to do complete justice with the parties.

11. Having considered the said submissions, we dispose of these appeals with the following directions: -

- (a) The appeals filed by GDMC and the employees challenging the judgment of the High Court dated 31.08.2017 are of no merits, hence dismissed.
- (b) The appellants who are working temporarily and the persons whose appointments have been approved by the

High Court by the impugned judgment, are permitted to participate afresh in the process of selection to be initiated. If they are over aged, they be granted age relaxation as one time measure in the said selection process.

- (c) The Board is at liberty to formulate a policy of granting marks to the person having experience.
- (d) The GDMC shall inform about the vacancies to the Kerala Devaswom Recruitment Board including the vacancies on which temporary employees are working within two months and the Board shall notify those vacancies within a month thereafter the selection procedure shall be completed within a further period of four months.
- (e) Interim order passed by this Court on 12.12.2017 shall continue to operate for a period of six months or till completion of the selection process by the Kerala Devaswom Recruitment Board, in view of the foregoing directions, these appeals stand disposed of.

12. Pending application(s), if any, shall stand disposed of.

....., J.
(J.K. MAHESHWARI)

....., J.
(RAJESH BINDAL)

**New Delhi;
July 18, 2024.**

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.4670/2023

VINEETH P & ORS.

Appellant(s)

VERSUS

HARIDASAN V & ORS.

Respondent(s)

([GROUP MATTER]

IA No. 37998/2022 - APPLICATION FOR PERMISSION
IA No. 30133/2021 - EARLY HEARING APPLICATION
IA No. 37999/2022 - EXEMPTION FROM FILING O.T.
IA No. 93980/2022 - INTERVENTION/IMPLEADMENT
IA No. 126113/2019 - MODIFICATION)

WITH

C.A. No. 4687-4689/2023 (XI-A)
IA No. 131565/2018 - EARLY HEARING APPLICATION)

C.A. No. 4684/2023 (XI-A)
IA No. 1959/2019 - MODIFICATION)

C.A. No. 4692/2023 (XI-A)C.A. No. 4685/2023 (XI-A)C.A. No. 4674-4680/2023 (XI-A)

C.A. No. 4690/2023 (XI-A)
(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 123403/2021
IA No. 123403/2021 - APPROPRIATE ORDERS/DIRECTIONS)

C.A. No. 4693/2023 (XI-A)

C.A. No. 4578-4580/2023 (XI-A)
IA No. 3413/2020 - WITHDRAWAL OF CASE / APPLICATION)

C.A. No. 4581/2023 (XI-A)C.A. No. 4582-4583/2023 (XI-A)C.A. No. 4691/2023 (XI-A)

C.A. No. 4671-4673/2023 (XI-A)
(FOR EXEMPTION FROM FILING O.T. ON IA 130625/2017
IA No. 130625/2017 - EXEMPTION FROM FILING O.T.)

C.A. No. 4686/2023 (XI-A)

C.A. No. 4683/2023 (XI-A)

**(FOR EXEMPTION FROM FILING O.T. ON IA 134723/2017
IA No. 134723/2017 - EXEMPTION FROM FILING O.T.)**

C.A. No. 4681-4682/2023 (XI-A)

**(FOR EXEMPTION FROM FILING O.T. ON IA 134760/2017
IA No. 134760/2017 - EXEMPTION FROM FILING O.T.)**

C.A. No. 4574-4576/2023 (XI-A)

C.A. No. 4584/2023 (XI-A)

Date : 18-07-2024 These matters were called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE RAJESH BINDAL**

For Appellant(s) Mr. Raji Joseph, AOR

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Mr. Adithya Koshy Roy, Adv.
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**Dr. K.P. Kylasnatha Pillay, Sr. Adv.
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**Mr. V. Giri, Sr. Adv.
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Mrs. Anu K. Joy, Adv.
Mr. Abraham C. Mathew, Adv.
Ms. Rao Vishwaja, Adv.
Mr. Alim Anvar, Adv.
Mr. Rahul Narang, Adv.
Mr. Abraham Mathew, Adv.
Ms. Vishwaja Rao, Adv.
Mr. Harshed Sundar, Adv.
Mr. Nihar Dharmadhikari, Adv.**

**Mr. Shinoj K.narayanan, Adv.
Mr. Manu Krishnan, Adv.
Mr. Ranjith K.C., AOR
Ms. Niveditha R. Menon, Adv.
Mr. Aditya Verma, Adv.**

Mr. Tarun Kumar, Adv.
Mr. Pranav Krishna, Adv.

Mr. Thomas P. Joseph, Sr. Adv.
Mr. Govind Manoharan, Adv.
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Mr. Deepak Prakash, AOR
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Mr. Vishal Somany, Adv.
Mr. Kamal Singh Bisht, Adv.
Mr. Raneev Dahiya, Adv.
Mr. Nachiketa Vajpayee, Adv.
Ms. Divyangna Malik, Adv.
Ms. Vishnu Priya, Adv.
Ms. Merlyn J. Rachel, Adv.
Mr. Vardaan Kapoor, Adv.
Mr. Rahul Lakhera, Adv.
Mr. Rahul Suresh, Adv.
Ms. Manshi Sinha, Adv.

Mr. Kedar Nath Tripathy, AOR

M/S. Axess Legal Corp, AOR

Mr. Rajeev Mishra, Adv.
Mr. Sanand Ramakrishnan, Adv.

Mr. Venkita Subramoniam T.R., AOR
Mr. Ranjith K.C., AOR

UPON hearing the counsel the Court made the following
O R D E R

Applications for intervention(s)/impleadment(s) are allowed. Cause title be amended accordingly.

The Civil Appeals are disposed of in terms of the Signed Order placed on the file.

I.A. No.3413/2020 stands dismissed as not pressed.

Pending application(s), if any, shall stand disposed of.

(VIJAY KUMAR)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)