

The Indian Constitution

and

Hindu religious Institutions

India being a Secular Republic, whether a non-secular, religious worshipping place can be taken over and administered directly or through nominees, by the Law Makers themselves, is not seems to have so far been examined in detail by the stake holders, concerned.

Regulations to control Hindu religious worshipping places were first introduced by the British Govt. prior to independence and it was continued by the Tamil Nadu Govt. and the Kerala Govt. without any major modifications in the content (HR&CE Act). In the Act, it was clearly mentioned that no hereditary worshipping place can be taken over by the Board without the consent of the owner and in any event, it cannot be taken over but to be given to the next member in line of the Hereditary family which own the temple. In the judgment in the case of Deekshitar's Natarajar Temple at Chidambaram which was taken over by the Tamil Nadu Government, the Hon. Supreme Court reiterated the right of the owners of the temple and ordered its takeover, illegal.

But now, taking over the control of the worshipping places of majority community directly or through nominees by the executive on the strength of legislation in the legislature has become an accepted proposition as if it has constitutional sanction. Nobody is bothered or concerned to verify the constitutional provisions before embarking on the takeover of temples. This approach is in total disregard to the secular principle or concept as enunciated in the Indian Constitution and neglecting the constitutional sanction and right to manage inherited property by a citizen.

This may be due to the argument put forward by the Kerala state Government in the Guruvayoor Sree Krishna temple/ Devaswom Act case that "the activities inside the temple are religious in nature for which the decision of the Tantri who is occupying a religious position, is final and that

all other activities of the temple including administration, Finance, Procurement, establishment, Land Property, Construction etc. are not religious in nature but secular in nature and hence it can be taken over by the Government". This argument was upheld by the Hon High Court of Kerala and also by the Hon. Supreme Court of India.

But it is not true. The functions inside and outside the temple cannot be differentiated as religious and nonreligious but it is one and the same. The Government argument is only to justify the takeover.

Nowhere it is mentioned that who will appoint the Tantri whose post is religious in nature according to the statement made by the Kerala state Government and duly approved by the Hon. High Court and the Hon. Supreme Court in "Sree Krishna Temple, Guruvayoor" case. By religious beliefs and practices a Tantri of a temple is appointed by the Ooralan or the owner of the temple. Even now, if the family of a Tantri of a temple does not have any male sibling/s, then the Ooralan or the owner of the temple has to find out another suitable person for occupying the post of the Tantri and for which the Ooralan is the only authorized authority.

A secular Government, Judiciary or Executive do not have the authority to make appointments to religious posts and is also not doing so especially in the case of religions like Christianity, Islam, Sikhism, Budhism etc. Hinduism is the only exception.

It is further to be noted that in the case of religious minorities (worshipping Places, Religious centers, educational Institutions etc.) no government has at any time took a similar decision as that in the case of Guruvayoor Sree Krishna Temple, dividing activities in to secular and religious/non secular. It is a clear and open case of discrimination.

So, it is clear that the entire activities in temples cannot be divided into secular and non secular activities as stated by the Kerala State Government.

Now, the Kerala State Government is reported to have submitted an affidavit informing government's willingness to take over the Sree Padmanabha Swamy Temple in the model of Guruvayoor Sree Krishna Temple. This shows the eagerness or the desire on the part of the power-to-be in the executive to take over the administration of a temple which is so far the richest in the world, in total disregard to the Indian Constitution. The plight of Sabarimala temple and the mis-management being done there, the undesired happenings in the Sree Guruvayoor temple in recent times and elsewhere shows the real intention. The political back grounds and political leanings of the present members of various Devaswom Boards constituted by the Kerala State Government is also a pointer as to why the government is very eager to take over the temple.

If the real intention of the Government is the efficient administration of the temples, the Government should have published the Sankaran Nair Commission report, which was constituted by the very state government itself, and would have adopted and implemented its recommendations, years back subject to open discussion and acceptance by the concerned parties. Further, there are a large number of temples which are either remain closed or short of funds for meeting day to day activities and nobody cares for such temples. The annuity payable to various temples and other assistance by the government is in arrear for years. Almost all old temples in Kerala was having sufficient land holdings given by its owners, as a source of revenue for the temples, but lost everything due to various land acts brought out by the successive state governments without giving adequate compensation. There are a large number of temples in the Malabar area of Kerala, where the Malabar Devaswom Board is to make available funds for paying salaries to the temple staff, but not fulfilling their obligation, there by leaving the temple staff high and dry.

And when the temples are being brought up by the owners with the active participation of the worshipping public, the government is again trying to hinder the smooth running of the temples through interference and legislations, which might be due to various political compulsions and interests.

The Government is now highlighting the “Guruvayoor model” for takeover of the Sree Padmanabha Swamy Temple. But before considering this proposal it would be worthwhile to re-examine whether The Guruvayoor Sree Krishna Temple take over by the Government by passing the Guruvayoor devaswom Act is good under the Indian Constitution. In the Guruvayoor devaswom Act and also in other Devaswom acts, there is a very serious and grave constitutional violation. By incorporating a provision by which the Hindu members in the council of Ministers and the Hindu members of the legislature assembly are only authorized to nominate the members to various Devaswom Boards the law makers themselves have decided to group on religious basis within the Assembly (Law Making Forum/Law Makers) and in the Ministry as well. By doing so, all parties to it have violated the provisions of the Indian constitution. Is it not a serious disrespect and gross violation of the Indian constitution!

If the Council of Ministers or the members of the Legislature Assembly as a whole take a decision or pass any Act, then it should not be aimed at a particular religion, but should be covering the worshipping places of all the religions, only; otherwise it will be discriminatory in nature, again.

At present, a District Judge and an I A S officer who is part of the Executive are in charge of the temple administration who are on oath to the Indian constitution to be secular.

Further it may also be noted that no force or coercion is applied on any Individual to go to any temple, by any temple authority. Who ever goes to temples and other worshipping places are going there, on their own interest, beliefs and convictions, only. If they are giving any offerings to a temple, it does not confer on him any right to administer the temple. This was made clear in the Case of Sree Adi Viswaswara of Kashi Viswanath temple, Varanasi.

If at all any act which is against the law of the land is found to be committed in any temple, the concerned are to be tried under the law of the land and the remedy is not the taking over of the temple itself by the Government.

Sree Padmanabha Swamy Temple is a Private religious hereditary property but opened to the public for worshipping, and is just like any such worshipping place of other religions. The attempts made to tarnish the image and standing of the family which owns the temple, by vested interests is highly painful and point to unknown hidden schemes for the smooth takeover of the temple by those who masterminded it.

The fact that the world's richest valuables are still inside the vaults of the temple tells the intentions and credibility of the Family which owns the Sree Padmanabha Swamy Temple. Any demand for verification and production of these valuables by this temple alone and closing the eyes towards other temples and worshipping places of other religions is a clear discrimination and is unlawful. The hue and cry made about the Sree Padmanabha Swamy Temple and the onscreen media trial being carried out frequently are all well pre-scripted and well played.

The Hindu Temples are the centers which protected, nurtured and brought forward the Sanathana Dharma principles, teachings and scriptures from centuries over. Any attempt to destabilize the system, which is the sole aim of its detractors, will only result in to its collapse which under the present circumstances if happens, seems to be virtually irredeemable.

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