

M.G. Chary

Vs

Government of Andhra Pradesh

(K. Ramaswamy, D. P. Wadhwa JJ)

09.05.1997

JUDGMENT

K. RAMASWAMY, J.

1. Five former hereditary Mirasidars of Shri Padmavathi Ammavari Temple, Tiruchanur, have stated that the daily and periodical pooja and other sacred rituals are being performed according to pancharatra Agamas. They are performed every day by each family through the deputies and them selves personally by a rotation on year to year basis. Shri Padmavathi Ammavari Temple, Thiruchanur was being managed by five families. They were responsible for the maintenance and cleaning the sanctum sanctorum and inner prakaram personally or through the deputies. Pooja is performed personally by one of the members of the family. They were responsible for safety of the jewellery and other valuables in the temple. After the judgment was rendered, they have suddenly been dispossessed of all the religious duties and other custodial responsibilities. It is the tradition and belief that Ammavaru is their family sister and out of devotion to their sister, they are assiduously performing daily worship of the deity with all religious fervor and devotion even many a time at their own expenses. Apart from the five, there are other nine qualified Archakas but all are prevented arbitrarily to perform the duties of Archaka. They are not permitted even to enter the temple. The scheme may be framed with similar directions with regard to the Mirasidars or Pedda Jeeyangar or Chinna Jeeyangar, as the case may be, which would be applicable to TTD.

2. By operation of Sections 34(2) and 144 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short, the 'Act'), all the hereditary rights stand abolished. The constitutionality of the said provisions has since been upheld; the Mirasidars of Shri Padmavathi Ammavari Temple, Tiruchanur have lost their hereditary rights. Under Section 142 of the Act, the abolition shall not affect any honour to which any former hereditary holder of office of Shri Padmavathi Ammavari Temple is entitled by custom. The performance of the religious ceremonies, pooja and worship in religious institutions according to the samparadayams and Agamas followed therein is protected. It has already been held in A.S. Narayana Deekshitulu vs. State of Andhra Pradesh & Ors. [(1966) 9 SCC 548] that the secular administration shall vest in the TTD which does not interfere with religious or spiritual functions including those relating to performance of the religious worship, ceremonies etc. therein. They are required to be conducted through Archakas who have been rendering service prior to the abolition. Therefore, if the Archakas/Mirasidars are desirous of continuing performance of poojas and rituals in their capacity as archakas, in terms of gradation of the archakas like the one approved in respect of the TTD employees, they may be appointed in the respective gradations by being treated as employees of Ammavaru Devasthanam; who do it in the same way as the archakas/Mirasidars of TTD. They perform pooja and religious ceremonies in Shri Padmavathi Ammavari Temple at Tiruchanur. This Court is aware of their religious fervor, dedicated devotion and sincerity with which the erstwhile mirasidars conducted their duties, performed daily, periodical or special poojas or festivals to Shri

Padmavathi Ammavaru. Some of them are practicing as advocates at the Bar. Therefore, we hope and trust that the TTD would appoint them with equal graduations as is being done in TTD and appoint them in the respective gradations of the archakas needed in Shri Padmavathi Ammavari Temple. In that behalf, when we suggested, Shri P.P. Rao has fairly stated that the former mirasidars should make a representation to the TTD and the Government. They would look into the matter and resolve any of the problems the mirasidars have in that regard. The mirasidars are directed to make a representation to the TTD. TTD would consider, if necessary, in consultation with the State Government and Commissioner of Endowments and resolve their problems, if any, and make appropriate decisions and, appointment or orders in that behalf.

3.The I.A. is accordingly disposed of. WRIT PETITION (C) NO. 638 OF 1987 A .S. Narayana Deekshitulu Vs. State of Andhra Pradesh JUDGMENT K. Ramaswamy, J.

1. In view of separate judgments pronounced today in the above mentioned matters, the following recommendations have come to be made by the Committee and accepted by the Government:

1. Constitution of Archakas and other Employees Salary and Remuneration Fund.
2. Providing Pension Schemes as in the case of Regional Joint Commissioner and Deputy Commissioner cadre temples.
3. Providing Dhoties, Uniform/Dresses to the Archakas and other employees.

4. Since it is suggested to appoint Additional Commissioner, the appointment of the welfare officer to look after the welfare measures in respect of Archakas and secular staff has become redundant.

5. Acceptance of the Government to frame a separate set of service conditions in respect of the Archakas and other religious staff in view of their peculiar duties attached to them is a good proposal.

6. Merging of the existing welfare scheme with the welfare scheme formulated.

7. In regard to condition No. 7 relating to approaching the Income Tax Authorities for obtaining income tax in respect of the income derived from the fund and the donations received from the public, and also for giving 100% exemption to the donors under Section 80-6 of the Income Tax Act, in relation to the contribution made to the funds, the Government of India is directed to consider giving such exemption.

8. Though the suggestion that the welfare measures should be taken to the door steps of the needy is laudable, it involves practical difficulty of huge outlay of expenditure. Therefore, the welfare measures would be administered by the Additional Commissioner from the Head-quarters in Hyderabad.

9. Amendment to the Act in regard to the Andhra Pradesh Endowments Archakas and other secular employees welfare funds, should also be brought within the statutory operation by suitable amendments to the Act so that it would form a statutory base.

10. Framing of scheme of Agama Patasalas and conducting of re-fresher courses suggested in the Deed. In view of what is held in the separate judgment, we approve of the above recommendations

made by the Committee and accepted by the Government. The covenants of the Deed of Trust must be deemed to be treated as part of this order. The application is accordingly disposed of.