

**SUPREME COURT OF INDIA**

Swamy Prakasananda

Vs.

State of Kerala

C.A.No.486 of 2003

(A.K.Mathur and R.V.Raveendran JJ.)

05.08.2008

**ORDER**

**R.V.Raveendran, J.**

1. The above appeal relating to the affairs of Sree Narayana Dharma Sanghom Trust was disposed of by judgment dated 2.5.2006. By subsequent order dated 26.2.2007 this Court had constituted a Monitoring Committee with eleven members, to function as a Board of Visitors advising the Trust Board on matters of policy and functioning, in particular :

“(i) To act as a vigilance organization to ensure that the affairs of the Sanghom are conducted in a proper, efficient and fair manner;

(ii) To inspect (either itself or by persons authorized) the educational or other institutions run by the Sanghom and examine their records and activities and cause any inquiry to be made in regard to the administration and finances of the Sanghom and its institutions;

(iii) To address the Trust Board with reference to the result of such inspection or inquiry or seek clarifications;

(iv) To tender advice on matters of policy to the Trust Board (which shall give due weight and consideration to such advice and communicate the particulars of action taken on such advice to the Committee and to the General Body of the Sanghom);”

This Court had also clarified that (i) none of the members of the Monitoring Committee will be entitled to any honorarium or fee other than reasonable expenses incurred for lodging and conveyance from the Sanghom; (ii) the constitution of the Monitoring Committee or its functioning shall not be construed as modification of the scheme of management of the Sanghom; and (iii) the Monitoring Committee will have no say in the day to day administration of the Sanghom by its elected Trust Board.”

2. The Monitoring Committee has submitted the first Annual Report dated 18.4.2008, wherein it has sought directions on its following suggestions:

“(a) The Convenor should be provided with an imprest amount of Rs.50, 000 to meet the expenses for arranging secretarial assistance.

(b) The Monitoring Committee be given express authority to appoint experts to enquire into the affairs connected with the administration of the Sanghom and its institutions.

(c) When any irregularities or malpractices are found, or any enquiries held into the affairs of the Sanghom or its institutions, the Monitoring Committee shall have the authority to issue positive directions to be carried out by the Trust Board, and in case of non-compliance with those directions, take appropriate action to enforce such directions, in the best interest of the Trust.”

3. Dr. K.Balachandran, Member, Monitoring Committee has submitted a separate report dated nil (received on 12.7.2008).

4. We have heard learned counsel on both sides on 13.5.2008. We have also taken note of the fact that the elections were held on 5.10.2006 and the newly elected Committee has now been in office for nearly one year and ten months and has attained sufficient experience in matters of governance; and that the Monitoring Committee appointed on 26.2.2007 has been in office for nearly one year and six months.

5. The intention of appointing the Monitoring Committee was not to make it a superior authority to which the elected Trust Board will report nor to entrust it with power to reverse the decisions of the elected Trust Board. The Monitoring Committee is intended to act as a group of elders/visitors/mentors interested in the Sanghom who will advise the Trust Board on matters of policy, conduct and vigilance. If any irregularities in the functioning of any of the institutions or organs of the Sanghom come to its notice, it will place the matter on record so that the Trust Board could give due weight to it while taking decisions. The ultimate decision-making will always be that of the elected Trust Board and not the nominated Monitoring Committee. In the circumstances, we clarify that while the Monitoring Committee may issue positive suggestions, it cannot enforce its suggestions as directions. The very existence of a Monitoring Committee with power to enquire, publish and expose any irregularities (to the Trust Board, General Body and the public) is intended to be a deterrent against any wrong doing. We cannot however authorize a non-elected advisory body like the Monitoring Committee to reverse or control the decisions of the elected Trust Board.

6. Having regard to the fact that the elected Trust Board has now been functioning for a considerable time with the guidance from the Monitoring Committee, it may no longer be necessary to have such a broad-based Monitoring Committee. We accordingly reconstitute

the Monitoring Committee into a more compact one with the following seven members from the original eleven:

- “1. Mr. T N Jayachandran, IAS (Retd.), Convenor
2. Mr. M N Prasad, Former Chairman, Indian Railways
3. Prof. M K Sanoo, Educationist
4. Mr. A M Gopalan, Educationist
5. Mr. A.R.Shankar Narayanan, G. M., Arya Vaidyasala
6. Mr. M N Suganabalan, Senior Advocate
7. Mr. N Dharmadan, Senior Advocate.

Appreciation for services rendered by the other members till now is placed on record. Their services and/or the services of others may be indented in future, if and when necessary.”

7. We also issue the following further directions/clarifications in regard to the functioning of the Monitoring Committee:

“(i) The Trust Board shall make available an imprest amount of Rs.50, 000/- to the Convener of the Monitoring Committee to meet the travel/lodging/miscellaneous/secretarial expenses. The Trust Board shall replenish the same, as and when required.

(ii) The Monitoring Committee can take the assistance of any Chartered Accountant or other expert to assist it in any enquiry and expenses thereof shall be borne by the Trust Board.

(iii) The Monitoring Committee may continue its functions. But it will not be necessary for the Monitoring Committee to file any further reports to this Court. If any clarifications are required, the Trust Board or the Monitoring Committee or individual members may approach the High Court of Kerala, by way of an appropriate application in Appeal Suit No.14/1956 disposed of on 26.3.1959.”

8. Copies of this order be sent to the Trust Board and the Monitoring Committee.