

W.P.Nos.22916, 22921, 22926, 23026 and 23029 of 2021

THE HON'BLE CHIEF JUSTICE
and
P.D.AUDIKEVALU, J.

(Order of the Court was made by the Hon'ble Chief Justice)

The challenge in these petitions is to certain announcements that were made on the floor of the State Assembly and which culminated, first, in a notification dated September 9, 2021 issued by the Principal Secretary, Hindu Religious and Charitable Endowments Department, and, subsequently, in a notification of September 22, 2021 issued by the Commissioner, Hindu Religious and Charitable Endowments Department of the State.

2. The essence of the challenge is to the Commissioner's instructions to all temple authorities to melt the gold which forms a substantial part of the offerings made to the individual temples over the last ten years so that jewellery of varying fineness may be standardised upon melting and converted into pure gold in the Mumbai-based mint facility owned by the Government of India. The

decision also indicates that the gold would be invested in banks to earn interest income for the temples for renovation of the temples to be carried out from the interest received. The particular item in the notification of September 9, 2021 indicates that three regional centres would be established for supervising these works which would be undertaken through committees headed by retired Judges.

3. The petitioners refer to the authority exercised under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 by the Commissioner and the Fit Person appointed at a temple and submit that the decisions as to the administration and properties of any temple have, primarily, to be taken by the trustees pertaining to such temple and the Commissioner and the Fit Person have limited or supervisory roles in such matters.

4. As noticed in some previous matters, including in W.P.No.23070 of 2021 on which an order was passed on October 27, 2021, the problem has arisen since trustees have not been installed in the temples over a considerable period of time. It now

appears that advertisements have been issued for trustees to be appointed in the temples and, as recorded in the relevant order passed on October 27, 2021, according to the State such exercise would take four to six weeks to be completed.

5. The petitioners insist, upon a reading of Rules 11 to 13 of the Religious Institutions Custody of Jewels, Valuables and Documents and Disposal Rules framed under the said Act, to suggest that the decision as to whether any jewellery or other valuables belonging to a temple has to be disposed of or preserved, primarily rests with the trustees and permission may be granted in such regard by the Commissioner upon the trustees seeking such permission. The submission is that the Commissioner is the permission granting authority, but it is not open to the Commissioner to decide suo motu as to what valuables or properties of a temple may be preserved and what others disposed of and what others dealt with in some other manner.

6. The petitioners submit that the temples are governed by

their customs, the individual practices which are followed thereat and the nature of the functioning of the temples and the manner in which the properties of the temples, including the offerings thereat, may be dealt with are all subject to the decision of the trustees, irrespective of whether such decision requires sanction or concurrence of the Fit Person appointed for the particular temple or the Commissioner under the Act of 1959.

7. The matter requires consideration, particularly since it appears from Rule 12 of the said Rules that the Commissioner has the authority to issue instructions to the trustee "as may be necessary for the preservation or otherwise of the articles; where the articles may be jewels, vahanams or other valuables in the temple." Equally, Rule 13 gives authority to the trustee, subject to obtaining previous sanction of the competent authority, to melt any jewels or valuables in the temple.

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8. It is submitted on behalf of the State that it has been the usual practice of melting the offerings made in gold at temples

across the State. A rough figure of Rs.11.5 crore is indicated by learned Advocate-General as having been earned from such process which has, apparently, been used for the purpose of restoration and renovation of the temples.

9. It is submitted by learned Advocate-General that most of the temples require immediate attention and substantial funds are necessary for the renovation and restoration thereof. Other temple properties require protection and funds are necessary in such regard. According to the State, for the last decade or so these matters have not received the attention and gold and other offerings which have been dropped in the collection boxes have not been taken out to be assessed or even preserved or melted.

10. It appears that the offerings made over the last several years may not even have been inventorised.

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11. The State says that a committee has been put in place, including a retired Judge of the Supreme Court and a retired Judge

of the High Court of Madras, which committee is tasked with overseeing the conduct of inventory at each temple complex of the offerings made thereat and of all the properties that are owned by or belong to the temple. The State says that it is imperative that such exercise be conducted at the earliest to arrest the further leakage or alienation of the temple assets and properties, including the offering made by devotees.

12. While it may be perfectly in order for inventories to be carried out in an appropriate manner under the supervision of the committee where the retired Judges should take an active role and participate in the process, it may be too early for any decision to be taken for the melting of the gold which has been offered at the temples, particularly in the absence of the trustees at the temples being in place. Since the State has already commenced the exercise of installing trustees at the temples, learned Advocate-General submits that the work of carrying out the inventory of the offerings at the temples and the properties of the temples may continue unabated, but the decision of whether or not to melt the

jewellery which has been offered in the temples would be taken after the trustees are installed in the relevant temples.

13. In view of such submission and assurance given by learned Advocate-General, there may not be any room for the petitioners to apprehend that the jewellery or other valuables which form a part of the offerings at the temples may be alienated or dealt with to the prejudice or detriment of the individual temples or without there being any need therefor.

14. It is made clear that the exercise of completing the inventory of the offerings, including the jewellery and other valuables, may be conducted under the aegis of the retired Judges through the committees as indicated by the State; but no decision to melt any jewellery or to dispose of any valuable which forms a part of the offerings at the relevant temple should be taken without the trustees thereat being installed pursuant to the advertisements issued.

15. List these petitions along with W.P.Nos.22333, 22334 and 23070 of 2021 on December 15, 2021. The parties will have liberty to apply in the meantime, if there is any exigency.

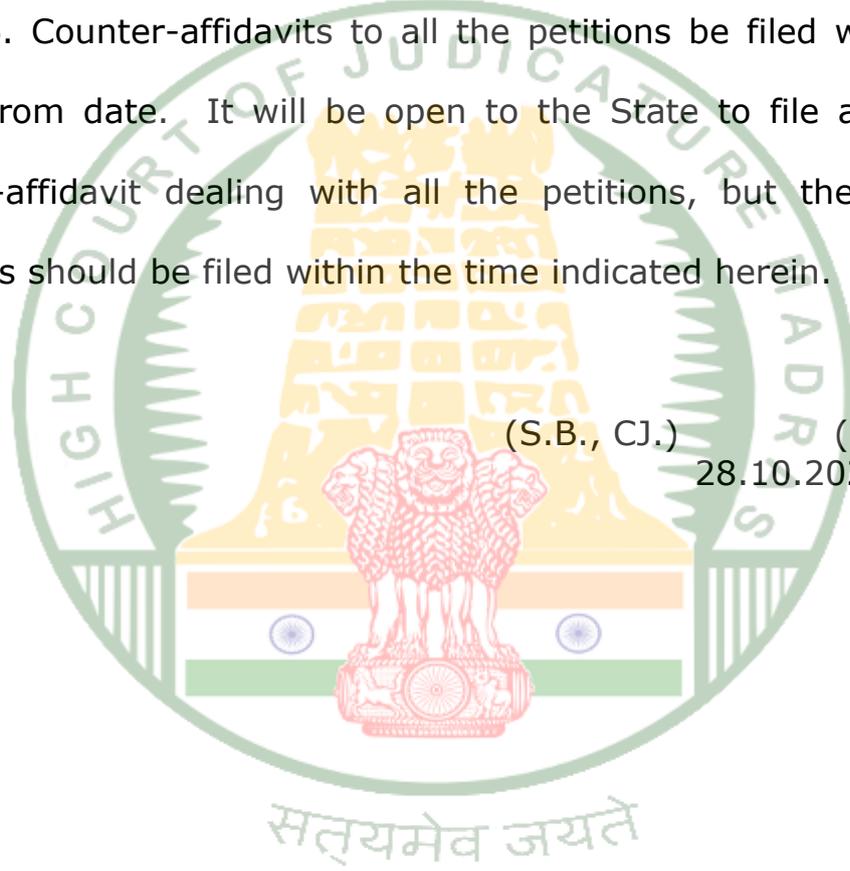
16. Counter-affidavits to all the petitions be filed within four weeks from date. It will be open to the State to file a common counter-affidavit dealing with all the petitions, but the counter-affidavits should be filed within the time indicated herein.

(S.B., CJ.)

(P.D.A., J.)

28.10.2021

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