

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

Monday, the 15th day of November 2022 / 24th Karthika, 1944

SSCR NO. 23 OF 2022

IN THE MATTER OF TRAVANCORE DEVASWOM BOARD - SABARIMALA SPECIAL COMMISSIONER REPORT - SM REPORT 23/22 - REPORT REGARDING THE IMPLEMENTATION AND MANAGEMENT OF THE VIRTUAL QUEUE SYSTEM FOR SABARIMALA DARSHAN BY THE TRAVANCORE DEVASWOM BOARD AS DIRECTED BY THE HON'BLE HIGH COURT OF KERALA IN DBP.NO.13/2021 AND IN WP(C)NOS.21609 AND 21812 OF 2021 DATED 22/04/2022 AND FOR EFFECTIVE CROWD MANAGEMENT OF SABARIMALA PILGRIMS - SUO MOTU PROCEEDINGS INITIATED - REG:

PETITIONER:

SUO MOTU

RESPONDENTS:

1. STATE OF KERALA (*CORRECTED)

REP. BY ITS SECRETARY TO GOVERNMENT,
REVENUE (DEVASWOM) DEPARTMENT,
THIRUVANANTHAPURAM - 695001.

*1ST RESPONDENT IS CORRECTED AS

THE SECRETARY TO GOVERNMENT,

REVENUE (DEVASWOM) DEPARTMENT,

GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001

*IS CORRECTED AS PER ORDER DATED 10/11/2022 IN
SSCR.NO.23/2022

2. STATE POLICE CHIEF,

POLICE HEAD QUARTERS, VAZHUTHACAUD,

THIRUVANANTHAPURAM - 695010.

3. THE DISTRICT POLICE CHIEF, PATHANAMTHITTA - 689645.

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4. THE DISTRICT COLLECTOR

COLLECTORATE, PATHANMATHITTA, KERALA - 689645.

5. PRINCIPAL CHIEF COSERVATOR OF FORESTS, (*CORRECTED)

THIRUVANANTHAPURAM - 695014.

*5TH RESPONDENT IS CORRECTED AS

THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WILDLIFE)
AND CHIEF WILDLIFE WARDEN, FOREST HEADQUARTERS,
VAZHUTHACAUD, THIRUVANANTHAPURAM-695014.

*IS CORRECTED AS PER ORDER DATED 10/11/2022 IN
SSCR.NO.23/2022.

6. DEPUTY DIRECTOR,

PERIYAR WEST DIVISION, PEERUMEDU, IDUKKI - 685531.

7. KERALA STATE ROAD TRANSPORT CORPORATION,

REPRESENTED BY ITS MANAGING DIRECTOR, TRANSPORT
BHAVAN,

FORT P.O., THIRUVANANTHAPURAM - 695035.

8. THE TRAVANCORE DEVASWOM BOARD,

REPRESENTED BY ITS SECRETARY,
NANTHANCODE, KAWDIAR POST,

THIRUVANANTHAPURAM - 695003.

9. DEVASWOM COMMISSIONER,

TRAVANCORE DEVASWOM BOARD, NANTHANCODE, KAWDIAR POST,
THIRUVANANTHAPURAM - 695003.

10. THE EXECUTIVE OFFICER, SABARIMALA,

PAMPA TRIVENI P.O., PATHANAMTHITTA - 689670.

*ADDITIONAL RESPONDENTS 11 TO 16 IMPLEADED

11. THE STATE OF KERALA,

REP. BY THE CHIEF SECRETARY TO GOVERNMENT,

GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001

12. THE SECRETARY TO GOVERNMENT,

TRANSPORT DEPARTMENT, GOVERNMENT SECRETARIAT,

THIRUVANANTHAPURAM-695001

13. THE TRANSPORT COMMISSIONER,

SSCR No.23 of 2022 and DBP No.70 of 2022

KERALA, TRANSPORT COMMISSIONERATE, VAZHUTHACAUD,
THIRUVANANTHAPURAM-695014

14. THE SECRETARY TO GOVERNMENT,

HEALTH DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001

15. THE DISTRICT MEDICAL OFFICER (HEALTH),

CIVIL STATION, PATHANAMTHITTA, PIN-689645

16. THE FOREST RANGE OFFICER,

PAMBA RANGE, VALLAKKADAVU P.O., VANDIPERIYAR (VIA),
IDUKKI-685553

*ARE SUO MOTU IMPLEADED AS ADDITIONAL RESPONDENTS 11
TO 16 AS PER ORDER DATED 10/11/2022 IN
SSCR.NO.23/2022

*17 THE UNION OF INDIA, REPRESENTED

BY THE SECRETARY (RT&H), MINISTRY OF ROAD TRANSPORT &
HIGHWAYS, PARIVAHAN BHAVAN, PARLIAMENT STREET, NEW
DELHI-110 001,

* ADDL.R17 IS *SUO MOTU* IMPLEADED AS PER ORDER DATED
15.11.2022

BY SR.GOVERNMENT PLEADER FOR R1 TO R6 & ADDL R11 TO R16

BY SRI.DEEPUN THANKAN, SC, KSRTC FOR R7

BY STANDING COUNSEL FOR TRAVANCORE DEVASWOM BOARD R8 TO
R10

BY SRI.N.RAGHURGAJ, AMICUS CURIAE FOR SABARIMALA SPECIAL
COMMISSIONER

SRI.S.MANU, DEPUTY SOLICITOR GENERAL OF INDIA FOR R17

THIS SABARIMALA SPECIAL COMMISSIONER REPORT ALONGWITH
DBP 70 OF 2022, HAVING COME UP FOR ORDERS AGAIN ON
15/11/2022, UPON PERUSING THE REPORT AND THIS COURT'S ORDER
DATED 14/11/2022, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

SSCR No.23 of 2022 and DBP No.70 of 2022

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

Monday, the 15th day of November 2022 / 24th Karthika, 1944

DBP NO. 70 OF 2022

IN THE MATTER OF TRAVANCORE DEVASWOM BOARD - SABARIMALA
SREE DHARMA SASTHA TEMPLE- MATTER PERTAINING TO THE
RESTRICTION IMPOSED ON THE ENTRY OF VEHICLES INCLUDING MOTOR
CARS FROM NILAKKAL TO PAMPA - SUO MOTU PROCEEDINGS INITIATED
BASED ON A COMPLAINT DATED NIL MADE BY SANDHYA R.,
THRIPUNITHURA - REG:

PETITIONER:

SUO MOTU

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT,
REVENUE (DEVASWOM) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001
2. THE SECRETARY TO GOVERNMENT
TRANSPORT DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001
3. THE TRAVANCORE DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, NANTHANCODE, KAWDIAR
POST,
THIRUVANANTHAPURAM-695003
4. THE DEVASWOM COMMISSIONER
TRAVANCORE DEVASWOM BOARD, DEVASWOM BUILDINGS,
NANTHANCODE,
THIRUVANANTHAPURAM-695003
5. THE EXECUTIVE OFFICER
SABARIMALA DEVASWOM, DEVASWOM BOARD BUILDINGS,
NANTHANCODE, THIRUVANANTHAPURAM-695003

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6. THE DISTRICT COLLECTOR
COLLECTORATE, PATHANAMTHITTA, KERALA-689645
7. THE DISTRICT POLICE CHIEF,
PATHANAMTHITTA-689645
8. THE CIRCLE INSPECTOR OF POLICE
PAMBA POLICE STATION, SABARIMALA, PIN-689662
9. THE STATION HOUSE OFFICER
SANNIDHANAM POLICE STATION, SABARIMALA SANNIDHANAM,
PATHANAMTHITTA-689713

BY STANDING COUNSEL FOR TRAVANCORE DEVASWOM BOARD

BY GOVERNMENT PLEADER

BY SRI.N.RAGHURAJ, AMICUS CURIAE FOR SABARIMALA
SPECIAL COMMISSIONER

THE DEVASWOM BOARD PETITION ALONGWITH SSCR 23 OF 2022,
HAVING COME UP FOR ORDERS AGAIN ON 15/11/2022, UPON PERUSING
THE PETITION AND THE COURT'S ORDER DATED 14/11/2022, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING.

ANIL K. NARENDRAN & P.G. AJITHKUMAR, JJ.

SSCR No.23 of 2022 and DBP No.70 of 2022

Dated this the 15th day of November, 2022

ORDER

Anil K. Narendran, J

SSCR No.23 of 2022:- The Special Commissioner, Sabarimala, has filed this report regarding the implementation and management of the Virtual-Q system by the Travancore Devaswom Board for Sabarimala darshan during Mandala- Makaravilakku festival season of 1198 M.E. (2022-23) and for effective crowd management at Nilakkal, Pamba, Sannidhanam and the trekking paths, transportation facilities for the pilgrims, etc.

1.1. This Court passed detailed orders in this SSCR, on 10.11.2022 and 14.11.2022, which shall be read as part of this order.

1.2. The Union of India, represented by the Secretary (RT&H), Ministry of Road Transport & Highways, Parivahan Bhavan, Parliament Street, New Delhi-110 001, is *suo motu* impleaded as additional respondent No.17.

1.3. The learned Deputy Solicitor General of India (DSGI) enters appearance for the additional 17th respondent. Registry to carryout necessary corrections in the cause title. Registry to issue a copy of this SSCR to the learned DSGI today itself.

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2. **DBP No.70 of 2022**:- This DBP is registered based on a complaint dated Nil made in the matter pertaining to the restrictions imposed on the entry of vehicles including motor cars from Nilakkal to Pamba.

2.1. On 09.11.2022, when this DBP came up for consideration, the learned Senior Government Pleader and also the learned Standing Counsel for Travancore Devaswom Board sought time to get instructions. Paragraphs 2 to 5 of the order of this Court dated 09.11.2022 in this DBP read thus;

"2. In the judgment dated 19.11.2019 in W.P.(C)No.30842 of 2019 and connected matter, a Division Bench of this Court ordered that light motor vehicles with a seating capacity of 15, carrying Sabarimala pilgrims, shall be permitted to enter up to Pamba for the purpose of dropping the pilgrims. The drivers of the vehicles concerned shall take back the vehicles to Nilakkal for parking immediately after dropping the pilgrims. When the pilgrims reach Pamba after darshan, upon passing such information, the drivers of the vehicles concerned shall be permitted to re-enter, solely to bring back the pilgrims. In the judgment it was made clear that, the above direction shall not be taken as a permission to park vehicles on the roadside from Nilakkal to Pamba. In case any vehicle is seen parked on the roadside, it would be open to the Police authorities to take appropriate action and take back those vehicles from there to Nilakkal.

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2. Seeking review of the judgment dated 19.11.2019 in W.P.(C)No.30842 of 2019, the Travancore Devaswom Board and its Commissioner filed R.P.No.686 of 2022, which is pending before another Division Bench of this Court, in which one among us [Anil K. Narendran, J.] is a party.

3. In the order dated 19.10.2022 in R.P.No.686 of 2022 in W.P.(C)No.30842 of 2019, the Division Bench noticed that the debris taken from Pamba river during the floods of 2018 are deposited in the entire area of the parking place of Chakkupalam I. The debris are also deposited near the entrance to the parking place of Chakkupalam II. The parking ground near Triveni Bridge, leading to the parking place at Hilltop sustained damages during the floods of 2018. Now, the Irrigation Department has constructed a retaining wall up to the level of 7 meters. The parking ground near Triveni Bridge is at a height of 7 meters above that retaining wall. By the order dated 19.10.2022 in R.P.No.686 of 2022 in W.P.(C)No.30842 of 2019, the Division Bench directed the Chief Engineer, Travancore Devaswom Board, the District Collector, Pathanamthitta, who is the Chairperson of the District Disaster Management Authority, and also the Superintendent of Police, Pathanamthitta to file detailed reports on the parking places at Chakkupalam I and II and Hilltop, within a period of two weeks.

4. From the complaint dated Nil, which forms part of this DBP, we notice that the entry of motor cars and other vehicles having seating capacity up to 15 are prevented at Nilakkal by the Police. However, the averments in the

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complaint would show that certain vehicles are being issued with pass for entry from Nilakkal with permission to park at Pamba.”

2.2. On 10.11.2022, when this DBP was taken up for consideration, the learned Senior Government Pleader submitted that Police have not issued any pass permitting parking of vehicles at Pamba during maasa poojas, that during Thulamaasa pooja 90 vehicles were booked for unauthorised parking at Pamba and that that in order to discuss various issues relating to crowd management during Mandala-Makaravilakku festival season of 1198 ME (2022-23), a joint meeting of the 6th respondent District Collector and the 7th respondent District Police Chief is scheduled to be held on 12.11.2022.

3. The District Collector, Pathanamthitta has filed an affidavit dated 14.11.2022 and the District Police Chief, Pathanamthitta has filed a statement dated 14.11.2022 on the arrangements made in connection with Mandala-Makaravilakku festival season of 1198 ME (2022-23).

4. On 14.11.2022, when SSCR No.23 of 2022 and DBP No.70 of 2022 came up for consideration, this Court passed a detailed order with various directions. Paragraphs 5 to 11 of that order reads thus;

“5. Regarding the arrangements made by the Motor Vehicles Department under 'Safe Kerala Project', the learned Senior Government Pleader would submit that 3 control rooms have already been opened at Elavunkal,

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Erumeli and Kuttikkanam. Each Control Room is having a Regional Transport Officer. Accident Rescue Team is arranged at Elavunkal with crane and recovery vehicle. 15 Enforcement Squads of the Motor Vehicles Department will be on duty 24 hours in the road network from Elavunkal to Pamba. Each squad will consist of 2 Assistant Motor Vehicle Inspectors and a driver. At Elavunkal, the service of one Doctor and ambulance is provided. The Enforcement Wing of the Motor Vehicles Department is provided with 31 vehicles for its enforcement activities. Around 300 motor mechanics deployed by authorised vehicle dealerships will be available in the road network from Elavunkal to Pamba to attend breakdowns.

5.1. The Enforcement Wing of the Motor Vehicles Department and the Police shall ensure that the operation of contract carriages (regardless of the State of registration), the buses operated by KSRTC/KUSRTC, etc. and also other motor vehicles used for the movement of Sabarimala pilgrims is strictly in compliance of the directions contained in the orders of this Court in SSCR No.20 of 2021, i.e., order dated 10.01.2022 [2022 SCC OnLine Ker 1105], order dated 26.05.2022 [2022 SCC OnLine Ker 2906], order dated 06.10.2022 [2022 SCC OnLine Ker 4898], order dated 10.10.2022 [2022 (6) KHC 435] and also the orders dated 14.10.2022 and 21.10.2022.

6. As pointed out by the learned Senior Government Pleader, the District Collector, Pathanamthitta and the District Collector, Kottayam have issued notifications fixing the price of food items in the eateries at Pathanamthitta

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District and Kottayam District, during Mandala-Makaravilakku festival season of 1198 M.E. The Enforcement Wings of Revenue Department, Local Self Government Institutions and also Food Safety Department shall conduct periodical inspections in the eateries within their respective areas, in order to ensure strict compliance of such notifications and also the relevant statutory provisions applicable to such eateries.

7. The learned Standing Counsel for Travancore Devaswom Board would submit that, as stated in the counter affidavit filed in W.P.(C)No.35827 of 2022, the Board has constructed an Annadanam Hall at Sannidhanam with more than 1,40,000 sq. ft. area, with seating facility for 2,000 pilgrims at a time. The Board has made all arrangements for providing Annadanam to pilgrims throughout the day. Breakfast, lunch and supper will be given to the pilgrims throughout the day. Annadanam will be provided day and night continuously, with a short intermittent break of 30 minutes for cleaning and arranging the hall and the tables. The Board is expecting approximately 30,000 to 35,000 persons per day for Annadanam. The Board has sufficient facilities to provide Annadanam to more persons, in the case of high footfall. The tender process for the supply of vegetables and other materials for the preparation of food is in the final stage. Sufficient number of workers and staff are arranged for the preparation and distribution of food. A Special Officer has been appointed in Sabarimala for the proper conduct of Annadanam efficiently and without giving room for any complaint. Upma and Kadala, Chukku kappi and Chukku

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vellam will be given for breakfast in the morning from 6.00 a.m. onwards. Meals with Ponni rice, Sambar, Aviyal, Thoran and Pickle/Vegetable Pulav, Salad and Pickle will be given for lunch from 12.00 noon onwards. Kuthari Kanji, Cherupayar curry and Pickle/Upma and Kadala will be given for Supper in the evening from 6.00 p.m. onwards till the last person leaves Sannidhanam. The Board has also constructed a two-storied Annadanam Hall at Pamba, which has the capacity to provide food for 500 pilgrims at a time. Annadanam Hall at Nilakkal has the capacity to provide food for 200 pilgrims at a time. The same dishes will be given in Pamba and Nilakkal. The Board has also made arrangements to provide sufficient quantity of drinking water and 'chukkuvellam' to the pilgrims at Annadanam hall and also at different points throughout the trekking path from Pamba to Sannidhanam.

7.1. As ordered in W.P.(C)No.35827 of 2022, the Assistant Executive Officer, Sabarimala, who is in the rank of Assistant Devaswom Commissioner, shall monitor the entire activities relating to Annadanam at Sabarimala and Administrative Officers at Pamba and Nilakkal shall monitor the entire activities relating to Annadanam at Pamba and Nilakkal. In the case of any shortfall in the conduct of Annadanam at Sannidhanam, Pamba or Nilakkal, the same shall be reported to the Special Commissioner, Sabarimala, who shall bring it to the notice of this Court for immediate interference. Registrar (Judicial) shall ensure that the reports filed by the Special Commissioner, Sabarimala are listed before the Bench on the same day itself.

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8. On 10.11.2022, when SSCR No.23 of 2022 came up for consideration, the learned Standing Counsel for KSRTC submitted that KSRTC would provide sufficient number of buses for the movement of Sabarimala pilgrims, during Mandala-Makaravilakku festival season of 1198 ME, from various depots in Kerala. KSRTC would also provide sufficient number of buses for Nilakkal-Pamba chain service. In the first phase, from 15.11.2022 to 04.12.2022, KSRTC would provide 300 buses, which will include 40 AC low-floor buses and 80 non-AC low-floor buses. In the second phase from 05.12.2022 to 13.01.2023, KSRTC would provide 500 buses and in the third phase from 14.02.2023 to 16.02.2023 i.e., till the end of the season, KSRTC would provide 1000 buses.

8.1. Today, the learned Standing Counsel for KSRTC seeks time to place on record a detailed report of the 8th respondent, in terms of the order of this Court dated 10.11.2022, on the transportation facilities for Sabarimala pilgrims during Mandala-Makaravilakku festival season of 1198 ME (2022-23) and also the deployment of buses for Nilakkal-Pamba chain service, which shall be placed on record by 16.11.2022.

8.2. In terms of the order dated 10.11.2022 in this SSCR, the Executive Engineer, Sabarimala Development Project shall install temporary CCTV cameras at the boarding points at Nilakkal and Pamba, in order to ensure that the vehicles used for Nilakkal-Pamba chain service by KSRTC are carrying only passengers within the permissible limit, as per permit conditions, and also to ensure the availability of a sufficient number of vehicles at the boarding points at

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Nilakkal and Pamba. If not already installed, temporary CCTV cameras shall be installed at the boarding points at Nilakkal and Pamba, by tomorrow, which shall be operational from 16.11.2022. Out of 10 booking counters at KSRTC boarding point at Nilakkal, one counter shall be earmarked for senior citizens and persons with disabilities and another counter for group booking. Any shortfall in Nilakkal-Pamba chain service by KSRTC shall be brought to the notice of the Special Commissioner, Sabarimala, who shall bring it to the notice of this Court for immediate interference. Registry shall list the reports filed by the Special Commissioner, Sabarimala, before the Bench on the same day itself.

8.3. In terms of the order dated 10.11.2022 in this SSCR, the Police and the Enforcement Wing of the Motor Vehicles Department shall have a constant vigil on the movement of Sabarimala pilgrims in Nilakkal-Pamba chain service by KSRTC. As directed in the communication dated 21.10.2022 of the Transport Commissioner, which we have referred to in the order dated 21.10.2022 in SSCR No.20 of 2021, the Police and the Enforcement Wing of the Motor Vehicles Department shall ensure strict compliance of clauses (a) to (g) of Rule 93 of the Kerala Motor Vehicles Rules, 1989 in respect of all transport vehicles, including the vehicles operated by KSRTC. The particulars regarding the number of passengers for whom accommodation is provided, the date of expiry of the permit and the date of expiry of the certificate of fitness, etc., shall be exhibited on the left-hand side of the vehicle in English letters and numerals, each not less than two and a half centimetres

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square, legibly painted either on a plane surface of the vehicle or a plate or plates affixed to it, as per the mandate of Rule 93 of the Kerala Motor Vehicles Rules.

9. Regarding the toilet facilities at Nilakkal, Pamba and Sannidhanam, the learned Standing Counsel for Travancore Devaswom Board would submit that, except 2 toilet blocks in Pamba and 1 toilet block at Sannidhanam, all toilet blocks have been auctioned. Sufficient bio-toilets are also arranged on the trekking path from Pamba to Sannidhanam.

9.2. The Assistant Engineers of the Travancore Devaswom Board at Nilakkal, Pamba and Sannidhanam and also the Assistant Engineer (Environment) of the Travancore Devaswom Board shall conduct an inspection of the toilet facilities at Nilakkal, Pamba and Sannidhanam and also the bio-toilets on the trekking path from Pamba to Sannidhanam, today itself. They shall submit reports before the Special Commissioner, Sabarimala, tomorrow (15.11.2022) by 11.30 a.m. Based on those reports, the Special Commissioner, Sabarimala shall submit a report before this Court tomorrow (15.11.2022) by 1.30 p.m., through e-mail, which shall be placed before the Bench when this SSCR along with the DBP is taken up for consideration at 02:00 p.m.

10. The learned Amicus Curiae for Special Commissioner, Sabarimala shall get instructions as to the present stage of the works undertaken in the trekking path from Pamba to Sannidhanam.

11. The learned Standing Counsel for Travancore Devaswom Board shall get instructions as to whether the

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Board has published information regarding Annadanam at Sannidhanam, Pamba and Nilakkal and also the facilities provided at Sabarimala Edathavalams referred to in the order of this Court dated 10.11.2022 in SSCR No.20 of 2022 in the Virtual-Q portal, for the information of pilgrims. The concerned Assistant Devaswom Commissioners shall conduct an inspection at Sabarimala Edathavalams in the temples under the management of Travancore Devaswom Board, today itself, to ensure that proper facilities are already provided to Sabarimala pilgrims in those temples, during Mandala-Makaravilakku festival season of 1198 ME (2022-23), as directed in SSCR No.20 of 2022, which is already listed for consideration tomorrow (15.11.2022)."

5. Today when these matters are taken up for consideration the learned Special Commissioner, Sabarimala has filed a report dated 15.11.2022, wherein it is stated as follows;

"As directed by the Hon'ble High Court, Assistant Engineers of Travancore Devaswom Board and Assistant Engineer (Environmental) have inspected the toilets at Sabarimala, Pamba and Nilakkal and enroute trekking path from Pamba to Sabarimala and submitted reports.

Toilet facilities at Sabarimala

Total number -1005

Free - 855

Pay and use -120

There are 885 free toilets out of which maintenance work of 835 toilets have been completed and the remaining will be completed within two days. A contract for engaging 60

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cleaning workers per day for the day-to-day cleaning of free toilets is awarded and they will do the water cleaning works of the toilets from the forenoon of 16.11.2022 itself.

Pay and Use Toilets

There are 120 numbers pay and use toilets which are auctioned and the toilets are serviceable.

Out of the 164 number of pay and use toilets in the queue complexes 116 are already auctioned and in case of the other 48 numbers are not auctioned day-to-day cleaning can be done by departmental cleaners and service can be given to pilgrims free of cost. The auctioneer has been given directions to complete water cleaning of toilets before 16.11.2022 and for engaging necessary labourers for day-to-day cleaning.

Bio-Toilets/Bio-Urinals:-

The Assistant Engineer (Environmental) has submitted a report stating that he has inspected the bio-toilets and bio-urinals at Nilakkal, Pamba and enroute Pamba to Sabarimala.

At Pamba

Bio-toilets –20 Nos.

Bio-urinals –40 (10 cabins having four urinals each).

All bio-toilets and bio-urinals are placed in site and pipeline work will be completed by the forenoon of 16.11.2022.

At Nilakkal

Bio-toilets –14 Numbers

Installation procedures are completed in all respects and all bio-toilets are ready to use.

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Enroute from Pamba to Sabarimala

Bio-toilets –34 Numbers

Bio-urinals at Pamba –54 (16 cabins)

Installation of 18 bio-toilets and 7 bio-urinals are completed in all respects and works of remaining bio-toilets and bio-urinals will be completed before 16.11.2022.

The operation and maintenance of the bio-toilets/bio-urinals will commence from 16.11.2022 forenoon.

Pamba

The Assistant Engineer, Pamba has reported that the B, C, D toilet blocks at Pamba Manappuram, 88x3 = 264 numbers are auctioned. The painting works are completed and repair works of the doors which are defective will be completed on 15.11.2022.

The auction process of ladies toilet block at Pamba having 66 toilets is going on. The cleaning works would be completed on 15.11.2022. (Information has been received from the Assistant Executive Officer, Sabarimala that the ladies toilet blocks at Pamba have been auctioned in the evening of 14.11.2022.)

The cleaning works of the free toilets numbering 26 opposite to the police mess would be completed by 15.11.2022.

The repair works of toilet block of Appachimedu and urinal at Charalmedu are completed. The rolling shutter destroyed by wild elephant of Neelimala toilet block having 56 toilets is repaired. The auction process of these toilets are going on. The cleaning works of the toilets will be completed by 15.11.2022.

Nilakkal

The Assistant Engineer, Nilakkal has inspected the toilets at Nilakkal.

TOTAL NUMBER OF TOILETS-1113 numbers.

Total number of permanent toilets –420 numbers

Container toilets-500 numbers (470 numbers toilet and 30 numbers bath.)

Integrated toilet complex-193 numbers (123 number toilets and 70 numbers bath.)

Two permanent toilet blocks are not in operation and all the other 340 numbers are in working condition and ready to use. Though these toilets were auctioned nobody has bid the same till now.

Container Toilets

160 toilets for the use of police force and other Government employees are being operated by a contractor who was awarded the work by the Travancore Devaswom Board. The remaining 340 containers are not yet auctioned as nobody is willing to bid. The Travancore Devaswom Board can hire a suction tanker and operate the remaining container toilets by engaging labour.

Integrated Toilet Complex

The integrated toilet complex is already auctioned and directions have been given to the auctioneer for completing water cleaning of the toilets before 16.11.2022 and engaged necessary labourers for day-to-day cleaning.

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All the toilets at Nilakkal base camp require water cleaning only and will be ready for service from 16.11.2022.

It is submitted that in case the pay-and-use toilets and container toilets at Pamba and Nilakkal are not auctioned its day-to-day cleaning can be carried on by re-deploying sufficient number of volunteers from the Sabarimala Sanitation Society, till the said facilities are auctioned off and till auction pilgrims can use the facility free of cost. I have interacted with the District Collector, Pathanamthitta, who is in-charge of the Sabarimala Sanitation Society and it is assured that re-deployment of sufficient number of Sabarimala Sanitation Society workers can be made for day-to-day cleaning of the toilet blocks at Pamba and Nilakkal which are not auctioned. In case of any shortfall in volunteers for cleaning the Travancore Devaswom Board should also hire labourers for day-to-day cleaning of toilets. The container toilets at Nilakkal which are not auctioned can be operated by the Travancore Devaswom Board by hiring suction tankers to dispose the liquid and solid waste to the chemical sewage treatment plant at Nilakkal and the day-to-day cleaning can be done by the Sabarimala Sanitation Society volunteers or in case of shortfall by labourers engaged by the Travancore Devaswom Board.

Directions may be issued to the Executive Engineer, Maramath wing of Travancore Devaswom Board, Sabarimala Development Project to co-ordinate with the Sabarimala Sanitation Society and District Administration to re-deploy sufficient number of Sabarimala Sanitation

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Society volunteers for day-to-day cleaning of unauctioned toilet blocks and to supervise the same by the Overseers of Maramath wing and also to hire suction tankers for disposing the waste from the container toilets at Nilakkal.”

6. Heard the learned Senior Government Pleader for the official respondents, learned Standing Counsel for Travancore Devaswom Board, the learned Standing Counsel for Cochin Devaswom Board, the learned Standing Counsel for Malabar Devaswom Board, the learned Standing Counsel for Guruvayur Devaswom Managing committee, the learned Standing Counsel for KSRTC, the learned Deputy Solicitor General of India, for Union of India and also the learned and also the learned Amicus Curiae for the Special Commissioner, Sabarimala.

7. From the report of the Special Commissioner, Sabarimala, we notice that the cleaning of around 98% of the toilet facilities at Nilakkal, Pamba and Sannidhanam has already been completed and those toilet blocks have also been auctioned. As suggested by the Special Commissioner, Sabarimala, in case any pay-and-use toilets and container toilets at Pamba and Nilakkal remain un-auctioned, its day-to-day cleaning can be carried out by re-deploying sufficient number of volunteers from Sabarimala Sanitation Society, till such facilities are auctioned, and the pilgrims can be permitted to use such toilets free of cost. The District

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Collector, Pathanamthitta, who is in charge of Sabarimala Sanitation Society, shall ensure re-deployment of sufficient number of volunteers from Sabarimala Sanitation Society. The Executive Engineer, Maramath Wing, and the Assistant (Environment) of the Travancore Devaswom Board shall conduct periodical inspections of the toilet facilities at Nilakkal, Pamba and Sannidhanam and also the bio-toilets on the trekking path from Pamba to Sannidhanam.

8. In the order dated 19.10.2022 in R.P.No.686 of 2022 in W.P.(C)No.30842 of 2019, a Division Bench of this Court noticed that the debris taken from Pamba river during the floods of 2018 are deposited in the entire area of the parking place of Chakkupalam I. The debris are also deposited near the entrance to the parking place of Chakkupalam II. The parking ground near Triveni Bridge, leading to the parking place at Hilltop sustained damages during the floods of 2018. Now, the Irrigation Department has constructed a retaining wall up to the level of 7 meters. The parking ground near Triveni Bridge is at a height of 7 meters above that retaining wall. In terms of the order dated 19.10.2022 in R.P.No.686 of 2022 in W.P.(C)No.30842 of 2019, the District Collector, Pathanamthitta, who is the Chairperson of the District Disaster Management Authority, and also the Superintendent of Police, Pathanamthitta has filed reports on the parking places at Chakkupalam I and II and Hilltop.

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9. In the judgment dated 19.11.2019 in W.P.(C)No.30842 of 2019 and connected matter, a Division Bench of this Court ordered that light motor vehicles with a seating capacity up to 15, carrying Sabarimala pilgrims, shall be permitted to enter up to Pamba for the purpose of dropping the pilgrims. The drivers of the vehicles concerned shall take back the vehicles to Nilakkal for parking immediately after dropping the pilgrims. When the pilgrims reach Pamba after darshan, upon passing such information, the drivers of the vehicles concerned shall be permitted to re-enter, solely to bring back the pilgrims. The said order will be applicable to three-wheelers but not to two-wheelers. In other words, there will be no permission for two-wheelers to go beyond Nilakkal or to park in any place beyond Nilakkal. In the judgment, it was made clear that, the above direction shall not be taken as a permission to park vehicles on the roadside from Nilakkal to Pamba. In case any vehicle is seen parked on the roadside, it would be open to the Police authorities to take appropriate action and take back those vehicles from there to Nilakkal.

10. In the statement filed by the District Police Chief, Pathanamthitta in DBP No.70 of 2022 it is stated that a joint meeting was convened with the District Collector, Pathanamthitta regarding vehicle management and traffic regulation in connection with Mandala-Makaravilakku festival season of 1198 ME. The Police have drawn up a detailed vehicle management plan for Sabarimala. In terms of the

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directions contained in the judgment dated 19.11.2019 in W.P.(C)No.30842 of 2019, vehicles with seating capacity up to 15 carrying Sabarimala pilgrims shall be allowed to enter up to Pamba, for the purpose of dropping the pilgrims. No such vehicle shall be allowed to park at Pamba and the driver has to take the vehicle back to Nilakkal parking ground, after dropping pilgrims at Pamba. Therefore, vehicles having dedicated drivers are allowed transit to Pamba for dropping pilgrims and self-driven vehicles have to be parked at Nilakkal itself. If the vehicular traffic in Pamba exceeds the available capacity then all the traffic will be managed by 'hold and release' mechanism with prior intimation with concerned officials. Efforts will be taken to decongest Pamba by deploying adequate manpower.

11. Having considered the materials on record and also the submission made by the learned Senior Government Pleader, the learned Standing Counsel for Travancore Devaswom Board and also the learned Amicus Curiae for Special Commissioner, Sabarimala, the entry of vehicles from Nilakkal has to be regulated during Mandala-Makaravilakku festival season of 1198 ME, in terms of the directions contained in the judgment dated 19.11.2019 in W.P.(C)No.30842 of 2019 and connected matter. Light motor vehicles with a seating capacity up to 15, carrying Sabarimala pilgrims, shall be permitted to enter up to Pamba for the purpose of dropping the pilgrims. The drivers of the vehicles concerned shall take back the vehicles to Nilakkal for

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parking immediately after dropping the pilgrims. When the pilgrims reach Pamba after darshan, upon passing such information, the drivers of the vehicles concerned shall be permitted to re-enter, solely to bring back the pilgrims. No vehicle shall be permitted to park vehicles on the roadside from Nilakkal to Pamba. The above direction will be applicable to three-wheelers, which are not self-driven by pilgrims; however, subject to the conditions of the contract carriage permit. The number of passengers in three-wheelers shall not exceed the passenger capacity. There will be no permission for two-wheelers to go beyond Nilakkal or to park in any place beyond Nilakkal. In case any vehicle is seen parked on the roadside, Police and the Enforcement Wing of the Motor Vehicles Department shall take appropriate action against the owner and driver of that vehicle and take back that vehicle from there to Nilakkal. If the vehicular traffic in Pamba exceeds the available capacity then the Police shall manage the traffic by 'hold and release' mechanism, with prior intimation to the District Collector, Pathanamthitta and the Special Commissioner, Sabarimala. The Police shall make efforts to decongest Pamba by deploying adequate Police personnel. The issues, if any, in the management of vehicular traffic between Nilakkal and Pamba, in terms of the directions contained above, shall be brought to the notice of this Court by filing reports by the District Police Chief, Pathanamthitta or the Special Commissioner, Sabarimala. Registrar (Judicial) shall ensure that such reports are

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placed before the Bench for orders, on the very same day.

12. A few screenshots taken from a news item that appeared in online media regarding two motor vehicles used for the transportation of Sabarimala pilgrims during the Mandala-Makaravilakku festival season of 1197 ME (2021-22), which is even now available in 'YouTube' are reproduced hereunder;



Such vehicles cannot be permitted to be used in public place for carrying Sabarimala pilgrims or any other passengers. Similarly, goods carriages cannot be permitted to be used in public place for

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carrying Sabarimala pilgrims or any other passengers. The Police and the Enforcement Wing of the Motor Vehicles Department shall prevent the use of such vehicles in public place, flouting the safety standards and also the standards relating to control of noise, referred to in the orders of this Court in SSCR No.20 of 2021.

13. In terms of the directions contained in the order dated 14.11.2022 in SSCR No.23 of 2022 and DBP No.70 of 2022, the Enforcement Wing of the Motor Vehicles Department and the Police shall ensure that the operation of contract carriages (regardless of the State of registration), the buses operated by KSRTC/KUSRTC, etc. and also other motor vehicles used for the movement of Sabarimala pilgrims is strictly in compliance of the directions contained in the orders of this Court in SSCR No.20 of 2021, i.e., order dated 10.01.2022 [2022 SCC OnLine Ker 1105], order dated 26.05.2022 [2022 SCC OnLine Ker 2906], order dated 06.10.2022 [2022 SCC OnLine Ker 4898], order dated 10.10.2022 [2022 (6) KHC 435] and also the orders dated 14.10.2022 and 21.10.2022.

14. In the order dated 09.11.2022 in DBP No.70 of 2022, this Court noticed that, though the entry of motor cars and other vehicles having seating capacity up to 15 are prevented at Nilakkal by the Police, the averments in the complaint dated Nil, which forms part of that DBP, would show that certain vehicles are being issued with pass for entry from Nilakkal with permission to park at Pamba.

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15. The restricted entry up to Pamba of light motor vehicles with a seating capacity up to 15, which carry Sabarimala pilgrims, is for the limited purpose of dropping the pilgrims, and the drivers shall immediately take back the vehicles to Nilakkal for parking. No vehicle shall be permitted to be parked on the roadside from Nilakkal to Pamba. Police and the Enforcement Wing of the Motor Vehicles Department shall take stringent action against the owner and driver of those vehicles. The prohibition regarding parking of vehicles on the roadside from Nilakkal to Pamba is absolute, which cannot be permitted to be flouted by motor vehicles exhibiting 'authorised' or 'unauthorised' name boards and emblems.

16. As per sub-rule (1) of Rule 4 of the State Emblem of India (Regulation of Use) Rules, 2007, a State Government may adopt the emblem as the official Emblem of the State or the union territory, as the case may be, without obtaining the approval of the Central Government. As per sub-rule (2) of Rule 4, where a State Government proposes to incorporate the emblem or any part thereof in the Emblem of that State or Union Territory, as the case may be, it shall do so after obtaining the prior approval of the Central Government and shall get the design and layout approved by the Central Government. As per the proviso to sub-rule (2), where a State Government has already incorporated the emblem or part thereof in the Emblem of that State or Union Territory, as the case may be, prior to the coming into force

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of these rules, it may, subject to the other provisions of these rules, continue to use the emblem. As per Rule 7, the use of the emblem on vehicles shall be restricted to the authorities specified in Schedule II.

17. The State Emblem of India (Regulation of Use) Rules, 2007 is one made by the Central Government in exercise of its powers under Section 6 of the State Emblem of India (Prohibition of Improper Use) Act, 2005. Under clause (c) of sub-section (2) of Section 6, the Central Government shall have the power to restrict the display of emblem on vehicles of constitutional authorities, foreign dignitaries, Ministers of the Central Government and the State Governments. As per sub-rule (1) of Rule 10, no person (including former functionaries of the Government, like, former Ministers, former Members of Parliament, former Members of Legislative Assemblies, former Judges and retired Government officials), other than those authorised under these rules, shall use the emblem in any manner. As per sub-rule (2) of Rule 10, no Commission or Committee, Public Sector Undertaking, Bank, Municipal Council, Panchayat Raj Institution, Parishad, non-government organisation, University, other than those authorised under these rules, shall use the emblem in any manner. Similarly, as per Paragraph 3.44 of the Flag Code of India, the privilege of flying the National Flag on motor cars is limited to the dignitaries specified in clauses (1) to (7). As per Rule 92A of the Kerala Motor Vehicles Rules, 1989, no motor vehicle other than those specified in clauses (i) to (xi),

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in the manner described against each such vehicle, shall exhibit any boards showing the name of the Government or the Government Department or the designation of the officer using it without permission of the Government.

18. In **Principal, Sabari PTB Smaraka H.S.S. v. Additional Registering Authority and others [2020 (2) KLT SN 9]** this Court held that the use of emblem and display of flag shall be permitted only on vehicles carrying the constitutional authorities and other dignitaries specified in Part I and Part II of Schedule II of the State Emblem of India (Regulation of Use) Rules, 2007/the dignitaries specified in clauses (1) to (7) of Paragraph 3.44 of the Flag Code of India, 2002. The 'Official Emblem of the State Government', after incorporating the 'State Emblem of India' or any part thereof, shall not be displayed on a motor vehicle, other than a vehicle carrying the constitutional authorities specified in Part II of Schedule II of the said Rules.

19. The learned Deputy Solicitor General of India would point out Office Memorandum No.13/4/2022-Public dated 04.11.2022 issued by the Government of India, Ministry of Home Affairs, which reads thus;

"Subject: Regarding compliance of Hon'ble High Court of Kerala's directions in W.P(C)No.23021 of 2018 filed by the Principal, Sabari PTA Smaraka versus the Additional Registering Authority, Ottapalam & Ors. before Hon'ble High Court of Kerala at Ernakulam.

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The undersigned is directed to refer to Ministry of Road, Transport and Highways O.M.No.RT-11021/63/2022-MVL dated 09.09.2022 forwarding therewith a copy of Hon'ble High Court of Kerala' order dated 08.04.2022 passed in the above said case.

2. The use of the State Emblem of India is governed by the State Emblem (Prohibition of Improper Use) Act, 2005 & the State Emblem of India (Regulation of Use) Rules, 2007 [as amended in 2010] (copy enclosed). Schedule-II to the aforesaid Rules, contains a list of constitutional authorities and other dignitaries who may display the State Emblem on their cars which includes President, Vice-President, Governors etc. Section 7 (1) [read with Section 3 of the Act] & Section 7 (2) [read with Section 4 of the Act] provides for penal provisions for improper use of the State Emblem & its use for wrongful gains respectively.

3. Use/display/hoisting of the Indian National Flag is governed by the Prevention of Insults to National Honour Act, 1971 and Flag Code of India, 2002 [copy enclosed]. Paragraph 3.44 of Section IX of the Flag Code of India, 2002 contains instructions regarding display of Indian National Flag on Motor cars and restricts its display on vehicles of some dignitaries only such as President, Vice-President, Governors, etc. Insult to Indian National Flag is a punishable offence as per Section 2 of the Prevention of Insults to National Honour Act, 1971.

4. State Governments/UT Administrations implement the provisions of the aforesaid Acts, Rules and Code and take actions to prevent any unauthorized use etc., within their respective territorial jurisdiction." (underline supplied)

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20. Openly flouting prohibitions contained in the statutory provisions referred to hereinbefore, the 'Official Emblem of the State Government', after incorporating the 'State Emblem of India', is displayed on motor vehicles carrying District Collectors, Law Secretary, etc.; and the State Emblem of India is displayed on motor vehicles carrying officers of the Income Tax Department, Customs, Central Excise, etc. Openly flouting Rule 92A of the Kerala Motor Vehicles Rules unauthorised name boards are exhibited on motor vehicles owned by Co-operative Societies registered under the Kerala Co-operative Societies Act, 1969; Societies registered under the Societies Registration Act, 1860, the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955, etc.; and even on vehicles owned by Non-Governmental Organisations (NGO's), Public Private Partnerships, etc. Many vehicles are seen plying in the State, carrying the name board 'Government of India', 'Government of Kerala', 'Kerala State', 'Government Vehicle', etc. to mislead the Police, the Enforcement Officers of the Motor Vehicles Department, by giving an impression that the said vehicles are owned by a Government Department. Persons in such vehicles are pretending as if they are Government servants and they are misusing such name boards to escape from the checking of vehicles by Police and Enforcement Officers of the Motor Vehicles Department and to avoid payment of toll at the toll booths and also the restrictions regarding parking or entry

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of vehicles.

21. Section 171 of the Indian Penal Code, 1860, which deals with wearing garb or carrying token used by public servant with fraudulent intent. As per Section 171, whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

22. It is for the Police and the Enforcement Wing of the Motor Vehicles Department to take stringent action against those who openly flout the prohibitions contained in the statutory provisions referred to hereinbefore. The prohibition regarding parking of vehicles on the roadside from Nilakkal to Pamba is absolute, which cannot be permitted to be flouted by any motor vehicle exhibiting 'authorised' or 'unauthorised' name boards and emblems.

List this SSCR and DBP on 18.11.2022, for further orders.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

P.G. AJITHKUMAR, JUDGE

bkn/-