

The Sree Padmanabhaswamy Temple Case: Landmark Ruling by the Indian Supreme Court

Vinod Rai

Summary

In a landmark judgement on 13 July 2020, the Indian Supreme Court overturned the Kerala High Court verdict which had ordered that the present 'Maharaja' could not automatically step into the shoes of the last ruler and, therefore, could not claim management rights over Sree Padmanabhaswamy Temple. In its verdict, the Supreme Court recognised the Covenant signed in 1949 between the Travancore-Cochin state and the Union of India and permitted the present descendants of the then-ruling family to continue its involvement in the management of the temple. There is now debate on the likelihood of this verdict impacting other similarly taken-over temples and it being tested against Articles 25 and 26 of the Constitution.

Introduction

The Supreme Court verdict, overturning the 2011 High Court judgement in the Sree Padmanabhaswamy Temple case, is indeed a landmark one and may have significant political repercussions in time to come. For a better appreciation of the judgement and its perceived ramifications for temples in the country, it will be useful to briefly delve into the history of the temple and its connection with the ruling family of Travancore.

Origins of the Temple

There is no written evidence of when Sree Padmanabhaswamy Temple was established. Historians assert that the shrine finds reference in Tamil literature of the Sangam period between 500 BC and 300 AD. Lord Padmanabha Swamy is the presiding deity of the Travancore royal family. On 17 January 1750, Anizham Thirunal Marthanda Varma, the then-Maharaja of Travancore surrendered the kingdom of Travancore to Lord Padmanabha Swamy.¹ In doing so, he pledged that he and his descendants would be vassals or agents of the deity and would serve the kingdom as Padmanabha Dasa (slave). Since then, the name of every Travancore king is preceded by the title 'Sree Padmanabha Dasa'. This effectively made the deity the ruler of the kingdom and all agreements or treaties were entered into by the Padmanabhadasa as the representative of the deity.² It is considered that the temple in its present sprawling architectural splendour is his creation. The system of the Travancore

¹ Temples of Kerala – Sri Padmanabhaswamy Temple. <https://temples.newkerala.com/Temples-of-India/Temples-of-Kerala-Sri-Padmanabhaswamy-Temple.html>.

² Vinod Rai, "Temple Administration", in Rethinking Good Governance – Holding to Account India's Public Institutions, Rupa Publications, 2019.

king managing the temple continued during the period of the last 'recognised'³ ruler, Sri Chithira Thirunal Balarama Varma, from 1931 to 1949.

In 1949, an Instrument of Accession was signed with the Indian Union. This instrument integrated the princely states of Travancore and Cochin into one, bringing Travancore-Cochin as a Part B state under the Constitution. Article VIII of the Covenant guaranteed to the Ruler of the Travancore state, Shri Chithira Thirunal Balarama Varma, and his successors the right to control and manage Sree Padmanabhaswamy Temple. In 1950, the Travancore Cochin Hindu Religious Institutions Act 1950 (the Act), which is the legislation that applies to administration of temples in Kerala by the Devaswom Boards, that is, religious endowment boards, came into force. Chapter III (Sections 18-23) of the Act specifically deals with Sree Padmanabhaswamy Temple and expressly codified the rights guaranteed under Article VIII of the Covenant and used the term 'Ruler' to refer to the head of the Travancore Royal Family. Under Sections 18-23, the Ruler is empowered to administer the temple through an Executive Officer appointed by him, with the advice of a three-member Advisory Committee nominated by him.⁴ In June 1965, the Maharaja registered 'The Sree Padmanabhaswamy Temple Trust', a public religious trust with the sole objective of administering and meeting the expenses of the temple connected with the daily puja, festivals, repairs, expenses on staff, etc. This trust had the Maharaja as the chairman and four others as members.

Legal Challenge to the Royal Family's Right

In 2007, advocate Ananda Padmanabhan filed a lawsuit on behalf of two devotees against the temple administration for mismanaging the temple and pleaded that the government appoint new trustees to manage the deity's wealth. The lawsuit was allowed by a Trivandrum lower court, which ordered the government to take over the temple and its possessions. However, the royal family contested the verdict in the Kerala High Court on the grounds that for centuries, it had traditionally presided over the temple administration and protected its possessions.

In 2011, the Kerala High Court, by a common judgement on a writ petition filed by the successor of the last ruler, held that the petitioner, Uthradom Thirunal Marthanda Varma, the then-Maharaja, or any successor of his family, could not claim control or management of the temple under Section 18(2) of the Travancore-Cochin Hindu Religious Institutions Act, 1950, after the death of the last ruler. The Court thus maintained that the petitioner did not automatically step into the shoes of the last ruler and, therefore, could not claim management rights over the temple under the provisions of the Act.

Disposing of the appeal filed by the royal family, the Kerala High Court issued a direction to the state government to immediately take steps to constitute a body corporate or Trust or other legal authority to take over control of the temple, its assets and management, and to run it in accordance with the traditions hitherto followed. Aggrieved by this judgement of

³ Recognised in the sense that the privy purses had not been abolished and the King was still the rightful ruler.

⁴ J Sai Deepak, "For God's Sake", *Open the Magazine*, 17 July 2020. <https://openthemagazine.com/features/for-gods-sake-3/>.

the Kerala High Court, the Maharaja and the then-Executive Officer of the temple filed two special leave petitions (SLPs) before the Supreme Court.

Significance of the Supreme Court Ruling

It is this judgement of the Kerala High Court on which the Supreme Court adjudicated. The Supreme Court overturned the High Court ruling and made the following salient observations:

1. The High Court's order is based on the recognition of the fact that the temple and its assets are not owned by the royal family and that Article VIII of the Covenant establishes a special relationship of *Shebait*⁵ (*Dharam Karta*) between the royal family and the deity. This special relationship was acknowledged by the Union government at the time of accession. Hence, the family continued to enjoy the right not because of its being a 'royal family' but because of its lineage of having been the custodian for centuries.
2. This relationship is independent of any title that was bestowed on the royal family which granted it any privileges. The *shebaitship* was pre-existing the Privy Purse abolition (26th Amendment of the Constitution.) The amendment abolished the titles and the privileges attached to it and had no bearing on the special relationship.
3. The High Court has laid emphasis on the fact that Article VIII of the Covenant specifically forms the basis of Chapter III (Sections 18-23) of the Act of 1950 which details the administration of the temple. The High Court has recognised the fact that the purpose of providing a chapter in the Act was to ensure that the rights guaranteed by Article VIII of the Covenant are protected and guaranteed to the ruler and his successors even after the signatory passes away and India converts to a Republic. It was in acknowledgement of this right that even the government of Kerala, which made many amendments to the Act of 1950, did not tamper with the rights granted to the ruler(s) even after the death of the signatory to the covenant.
4. Thus, Chapter III remains as it was originally signed in 1950 keeping secure the rights of the ruler and his successors as it was determined in Article VIII of the Covenant.

In light of the considerations of the aforementioned special characteristics of the relationship between the deity and its custodians (the rulers), the Supreme Court set aside the directions of the High Court and laid down a two-tier administrative structure for the Temple with:

1. Decisions relating to all policy matters shall be taken by the ruler or head of the Travancore royal family, who shall be advised by a three-member advisory body. The

⁵ A *Shebait* is any person who serves and supports the deity and works as a manager of the debutter property. The properties like the temple or any other land or property which is vested with the deity are managed by the *Shebait*. [https://advocatechenoyceil.com/2020/02/01/rights-of-a-shebait-in-property-dedicated-to-deity/#:~:text=Meaning%](https://advocatechenoyceil.com/2020/02/01/rights-of-a-shebait-in-property-dedicated-to-deity/#:~:text=Meaning%20of).

three persons are to be a retired High Court judge (to chair the Advisory Committee), an eminent person to be nominated by the ruler and a chartered accountant to be nominated by the chair in consultation with the ruler. The advice of this committee is to be binding on the ruler.

2. An administrative committee comprising five members who shall exercise the powers of administration. The members will be the district judge, a nominee of the ruler, one each of the Union and state governments and the chief *thantri* (priest). The powers of the administrative committee are also subject to the control and supervision of the ruler.

The Supreme Court has thus restored the pre-eminent position of the ruling family and even laid down that expenditure decisions exceeding ₹15 lakhs (S\$27,500) per month or ₹1 crore (S\$183,000) at one time, change in the standard operations of the temple, etc., can be undertaken only with the prior approval of the ruler.

It is evident from the verdict that the Supreme Court did not go into the fundamental right of religious freedom granted under Articles 25 and 26 of the Constitution. Whilst arguments were raised before the bench on this aspect, the Supreme Court took the stand that since such arguments were not raised in the proceedings before the High Court, it would not go into it. Thus, the strength in the order for the Sree Padmanabhaswamy Temple case is premised on the claim of *shebaitship* by the ruling family and not ownership or title of the temple and its assets (which are owned by the deity from 1750).

It is now being argued that similarly placed temples taken over by the state earlier may have a case to seek review of the takeover orders. However, there may be very few similarly placed cases. The administrative machinery prescribed by the Supreme Court has definitely offered solace to the Hindus of the area as compared to other famous shrines such as the Vaishno Devi Shrine in Jammu, Tirumala Tirupati Devasthanam in Andhra Pradesh, Jagannath Temple in Puri and Guruvayur Temple in Kerala itself, which have been taken over by the government. These devotees saw a secular state (in fact, in the present case, an atheist communist party managed the *devaswom* department of the government) managing the temple as a kind of impiety of the temple.

The Likely Conundrum

Two schools of thought are gaining ground in the context of this verdict. Firstly, it is being argued that in the light of the recognition granted by the Court to the perpetual validity of Article VIII of the Covenant, it would have a bearing in cases where the state has taken over temples elsewhere under similar circumstances.⁶ The second argument is that the administrative structure decreed by the Supreme Court will be tested against the rights guaranteed under Articles 25 and 26. It is felt that on this score, the verdict stands fragile.

With regard to the first argument, it needs to be recognised that three specific aspects of Sree Padmanabhaswamy Temple swung the decision in the favour of the ruler. First, as early

⁶ Pratap Bhanu Mehta, "PB Mehta writes: Padmanabhaswamy case turns on specific facts, but there are wider political ramifications", *The Indian Express*, 21 July 2020. <https://indianexpress.com/article/opinion/columns/padmanabhaswamy-case-kerala-pb-mehta-6515406/>.

as the 18th century itself (1750), the ruler had vested the ownership and title of the temple and all its assets to the deity and merely took on the role of a *shebait*. Thus, to that extent the temple ceased to be a property of the Maharaja and offerings received by the deity were ploughed back into the temple itself. Second, there is also the fact that in 1965, the ruler constituted a Public Trust and handed over even the management to that Trust (in which he continued to be a member). The third and most powerful argument was the predominance given to Article VIII of the Covenant even in the Act of 1950 which treated this temple on a different legal edifice from the others. The last of these arguments makes a very strong case for this verdict not being used as a legal basis for reopening the takeover of temples in other states, particularly neighbouring Tamil Nadu.

It may be recalled that in the recent judgement of the Sabarimala Temple, the Supreme Court had taken a stand to permit access to ladies even in the age group of 10 to 50 years, much against the traditions of the temple. Now, in the present verdict, a secular country could be seen to be permitting the state (Union and state government nominees) and indeed even the court (district judge) to be direct players in managing the affairs of the temple by being members of the administrative committee. This could be seen as violative of the spirit of secularism and Article 25 of the Constitution which guarantees freedom of practicing any religion. It may also be seen to be violative of Article 26, which guarantees the freedom to manage religious affairs to every religious denomination, by its decree of inserting state and judicial nominees in the management. These issues are likely to be debated when the Sabarimala Temple case comes up for review by a nine-judge bench constitutional bench.

It appears that this verdict of the Supreme Court may not be the final word, though the state government has decided not to appeal against the judgement. It remains to be seen what the Constitution bench has to say on the perceived infringement of Articles 25 and 26 of the Constitution as arguments on that aspect are likely to be raised in the Sabarimala Temple case.

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Mr Vinod Rai is a Distinguished Visiting Research Fellow at the Institute of South Asian Studies (ISAS), an autonomous research institute at the National University of Singapore (NUS). He is a former Comptroller and Auditor General of India. He can be contacted at isasvr@nus.edu.sg. The author bears full responsibility for the facts cited and opinions expressed in this paper.