

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.HRISHIKESH ROY

&

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY ,THE 11TH DAY OF OCTOBER 2018 / 19TH ASWINA, 1940

WP(C).No. 33240 of 2018

PETITIONER:

SWAMY DETHATHREYA SAI SWAROOP NATH,
AGED 43 YEARS
KERALA STATE PRESIDENT, AKHILA BHARATH HINDU
MAHASABHA, HINDU ASTHAN, RANNI, KULATHINKARA
PUTHEN VEEDU, RANNI LANE, PEROORKADA P.O.,
THIRUVANANTHAPURAM - 695 005.

BY SWAMY DETHATHREYA SAI SWAROOP NATH, (PARTY IN
PERSON)

RESPONDENTS:

1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF WOMEN AND CHILD DEVELOPMENT,
SASTHRI BHAVAN P.O., RAJENDRA PRASAD ROAD,
NEW DELHI - 110 001.
2. UNION OF INDIA,
MINISTRY OF MINORITY AFFAIRS, GOVT. OF INDIA,
NEW DELHI - 110 001.
REPRESENTED BY THE SECRETARY
3. STATE OF KERALA REPRESENTED BY THE CHIEF
SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM-695 001
4. THE CHAIRMAN, KERALA WAKF BOARD, VIP ROAD, KALOOR,
ERNAKULAM, KERALA-682 017

R1 & R2 BY ADV.SRI.N.NAGERESH, ASG
R3 BY K.V.SOHAN, STATE ATTORNEY
R4 BY BY ADV.SRI.T.P.SAJAD, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11.10.2018, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

This writ petition is filed as a Public Interest Litigation (PIL) by the petitioner who appears before us in person, and who claims to be the State President of the Akhila Bharatha Hindu Maha Sabha, Kerala Unit. In the writ petition, what is espoused is the cause of Muslim women, who allegedly are being denied entry into masjids for offering prayers, while Muslim men are not denied such entry. The prayer sought for in the writ petition is for a direction to the Union Ministry to issue an order permitting Muslim women to enter the masjid for the purposes of offering prayers.

2. We have heard the petitioner, and for the reasons that are to follow, we do not deem it necessary to entertain the present PIL at the instance of the petitioner;

(a) The petitioner, who claims to be the State President of the Akhila Bharatha Hindu Maha Sabha, Kerala Unit, does not purport to represent the Muslim women in the State, whose rights are allegedly infringed through a denial of entry into a masjid.

(b) The writ petition does not disclose material that would suggest that there is an established practice whereby Muslim women are being denied entry into masjids. A petition alleging violation of fundamental rights must indicate the nature of the right that is allegedly breached, the factual components of such right, as also the action that resulted in its breach. There is no averment in the writ petition that any of the rights of Muslim Women under Art.25 are violated. That apart, in the absence of any material to suggest that there exists a practice of denying entry to muslim women in Masjids, it may not be possible for this Court, in proceedings under Article 226

of the Constitution of India, to embark upon a fact finding enquiry as regards the existence of any such practice, and whether the said practice amounts to a breach of the fundamental rights under Art. 14, 21 or 25 of the Constitution.

(c) The averments in the writ petition do not suggest that the petitioner is a person who should be ordinarily concerned with the rituals and practices of the Islamic religion and, in particular, the alleged denial of entry to Muslim women in masjids. He has also not satisfactorily established his credentials as a person who has a history of espousing such causes before the superior courts in our country.

(d) We also note that the present PIL has attracted media attention in that a report regarding the filing of the PIL, appeared in the print media this morning, even before the matter was taken up for admission before this Court. We suspect therefore that this PIL is motivated by a desire of the petitioner for cheap publicity. We are of the view that the proceedings under Article 226 of the Constitution of India cannot be permitted to be misused for such purposes.

We do not see this as a fit case for exercise of jurisdiction under Article 226 of the Constitution of India. The writ petition, therefore, fails and is accordingly dismissed.

Sd/-

**HRISHIKESH ROY
CHIEF JUSTICE**

Sd/-

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

