Protecting a Right by Taking It Away: Parens Patriae over a Sampradaya and Article 26

The recent court-directed selection of Sri Vaishnava Jeeyars by the Madras High Court at Srirangam and Azhagar Kovil

S. Veeraraghavan v. State of Tamil Nadu, W.P.(MD) No. 30431 of 2026, and R. Sathyanarayanan v. Secretary to Government, HR&CE Department, W.P.(MD) No. 30448 of 2026 (Madurai Bench, both decided on 23.10.2026)

Rangarajan Narasimhan, Srirangam[1] · 8 November 2026

Abstract

On 23 October 2026, the only sitting day of the court's Dussehra vacation, a Division Bench of the Madras High Court heard for the first time, and finally decided the same day, two public interest petitions about vacancies in the headship of Sri Vaishnava mutts: the Sri Ranganarayana Jeeyar Mutt at Srirangam, vacant for eight years, and the Thirumalirunjolai Sri Ramanuja Jeeyar Mutt, vacant for some eighty years, according to the order. It held that the vacancies infringed the fundamental rights of the disciples and devotees. In the Srirangam order it rightly held that the State has no role in choosing the head of a mutt. Yet, contrary to that very holding, it then directed a State officer, the Joint Commissioner of the Hindu Religious and Charitable Endowments Department (hereinafter referred to as the HR&CE Department), to convene the selectors, prescribed how candidates should come forward, fixed a six-month limit, allowed the choice to be made "unanimous or by majority", and warned that, if the deadline was missed, the court would itself step in under its parens patriae jurisdiction through a "kindred institution". In the Azhagar order, applying the same principles, it took that step at once: it named three persons to choose the head, fixed no time limit, and directed that the HR&CE Department "will formally issue proceedings recognising" their choice. In both, the court crossed the line it had itself drawn. Having held that the State may not interfere in a matter of religion, it reserved the same power to itself. It did so by invoking parens patriae, a jurisdiction that exists only to protect those unable to act for themselves, in a matter the Constitution leaves to the Sampradaya alone.

The article argues that the orders reached a sound declaration by a route that does not hold. Neither petition could ground a writ: each sought mandamus against authorities the court itself

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held to have no role, and neither petitioner had made any demand of them. The custom of succession was declared without pleading or proof. The eleven judgments cited support the exclusion of the State but not one of the directions; read in full, they point instead to protecting each mutt's deity and property during a vacancy. The directions exceed a writ court's jurisdiction and, carried out through the temple's administrative records, would hand the choice of an Ācārya to a body the Sampradaya itself does not recognize. In the end, an order that set out to protect the rights of devotees would deny the Sampradaya the very right under Article 26 that its own holding affirms.

Keywords: Article 26(b); Article 25; religious denomination (Sampradaya); mutt; Jeeyar; custom; parens patriae; public interest litigation; mandamus; Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

I. Introduction

A mutt, in the law of religious endowments, is an institution whose head is its spiritual center. His responsibilities in the Sampradaya are many; among them are teaching disciples, carrying the tradition forward and performing the religious duties of his office. Choosing a qualified person as its head is not only the right of the Sampradaya to which the mutt belongs; it is the Sampradaya's internal affair. Article 26(b) guarantees every religious denomination the right to manage its own affairs in matters of religion. The authoritative Hindi text of the Constitution, published under Article 394A, renders "religious denomination" in Article 26 as *dhārmik sampradāy* (धार्मिक संप्रदाय). The Constitution itself thus names the Sampradaya as the holder of this right, and this article uses the two words together. The choice of the head of a mutt lies at the core of that right. The right is not a concession the State grants, nor a function the State performs and then steps back from. Nor is the choice any concern of the State. The State cannot recognize or approve a choice; at most, it receives the mutt's own record of a succession, in the register the Act requires the mutt to keep (s.29). The Sampradaya (denomination) holds this right against the State and against every other outside authority, courts included. The Supreme Court has affirmed this for more than seventy years, from *Shirur Mutt* onwards.

The Srirangam order restates that principle. Its central holding is that the State has no role in choosing the head of the Sri Ranganarayana Jeeyar Mutt. On that point the order is correct. This article accepts that holding without reservation, and nothing in what follows should be read as questioning it.

The difficulty lies in what follows. Having said that the choice belongs to the Sampradaya (denomination), the court went on to tell the Sampradaya how to choose, who would call the meeting, how the vote might be taken, how long it had, and what would happen if it failed. Some of this may well reflect the Sampradaya's own practice. But the court was shown no Pramana for any of it, and did not ask for one; observations of this kind must rest on such a basis, not on assumption. It also named the persons to whom the choice belongs, by a word that has more than one meaning, described their duties, and commented on their conduct, although none of them was before it. All of this was done on a petition that carried no application for interim relief, although the vacation notification admitted only matters with such applications requiring urgent hearing. It was heard for the first time and decided the same day, the only sitting day of the court's Dussehra vacation, without counter-affidavits.

This article has four aims.

1. To restate the right: Article 26(b) vests in every Sampradaya the management of its own affairs in matters of religion, and the choice of the head of a mutt lies at its core.
2. To mark the limits that right places on the State and on the courts alike, and to show that overreach by either, however well meant, is in substance a denial of Article 26.
3. To explain what public interest litigation and the writ of mandamus are for, and why neither can be used to command private persons, least of all to perform a religious act.
4. To identify the zone of ecclesiastical matters into which no outside authority may enter.

Along the way, it argues three things: that a Sampradaya's custom must come from its own Shastras and the Pramanas its Pūrvācāryas (the lineage of earlier Ācāryas) accepted, and that where a court must know it, the custom must be pleaded and proved, not declared from the bench or taken from any one person's say-so; that a mutt is distinct from a temple, and its head is not a servant of the temple or of the State; and that a court's proper role in a vacancy is to protect the institution and its property and, at most, to help the Sampradaya come together, while the State's is to perform its own statutory duties; the choice of the head belongs to neither.

It pursues those aims through a narrow question. The question is not whether the mutt needs a head, or whether the persons named are the right ones. It is whether a writ court, on this record, had the power to reach its conclusions by the route it took. The answer matters beyond Srirangam. The same bench, on the same day, applied the same method to another mutt, the Thirumalirunjolai Sri Ramanuja Jeeyar Mutt; this article examines both orders, for the method has already been repeated.

Where this article refers to the Sampradaya's own texts and understanding, it does so for one purpose only: to show that these are matters on which the Sampradaya has its own sources and its own answers, and which are therefore beyond the State and the courts alike. It does not ask any court to decide them, and it does not decide them itself. Where it mentions a particular office it does so only as an example of why the order's directions cannot work, not as a comment on any person.

A short guide for the general reader

This article is written for lawyers and for members of the Sampradaya alike. The terms below are explained in plain language. Readers familiar with them may skip to Part II.

Terms of the Sampradaya

Pramana. Literally, a means of valid knowledge. In this article the word is used for an authoritative source on matters of religion: for the Sri Vaishnava Sampradaya, the Vedas and the Divya Prabandham (Ubhaya Vedanta), the Shastras, and the works of the Pūrvācāryas that expound them. Within the Sampradaya, a belief or practice carries weight only if a Pramana supports it.

Ācārya Puruṣas / Siṃhāsanādhipatis and Jeeyars. The 74 Siṃhāsanādhipatis appointed by Swami Ramanujacharya, the eight Aṣṭadiggajas appointed by Swami Manavala Mamunigal, and the lineages descending from them. They guide souls to moksha, and within the Sampradaya only they, or one the Sampradaya has recognized for the purpose, such as a Jeeyar, may perform

Pancha Samskara (Samāśrayaṇam), the initiation on which everything else in the Sampradaya rests. Jeeyars are Sannyāsis.

The four Āśramas. The stages of life set out in the Shastras: Brahmacharya, the celibate life of a student; Gṛhastha, the married, family life; Vānaprastha, the life of retreat that may follow; and Sannyāsa, the life of renunciation.

Sthalathars. Persons entrusted, by heredity or by office, with particular Kainkaryams in a Sri Vaishnava temple. Many are Ācārya Puruṣas, but not all: at Srirangam the Uthama Nambi is a Sthalathar but not an Ācārya Puruṣa. The word is used narrowly in the temple's records and more widely in the Sampradaya's own understanding.

Mutt (math) and its head. A religious institution presided over by a spiritual head, chosen according to the founder's direction or the institution's usage. A mutt is distinct from a temple. For example, the Sri Ranganarayana Jeeyar Mutt at Srirangam is headed by a Jeeyar; its first Jeeyar was Koora Narayana Jeeyar.

Kovil Ozhugu (கோயிலொழுகு). The chronicle of the Srirangam temple, recording its history and the Kainkaryams entrusted over the centuries. It is a record of what was done, not a Pramana or a code of what ought to be done; in law it is evidence that a practice was followed.

Legal terms

Religious denomination (Sampradaya). A body of believers with a common faith, a common organization and a distinctive name. The authoritative Hindi text of the Constitution calls it a *sampradāy*. The Sri Vaishnava Sampradaya is such a denomination. Its Thengalai section, to which both mutts in this article belong, is protected as a section of it, for Article 26 extends to "any section" of a denomination.

Article 25. Guarantees to every person freedom of conscience and the right freely to profess, practice and propagate religion, subject to public order, morality and health and to the other provisions of Part III. It is an individual's religious right.

Article 26. Guarantees to every religious denomination, or any section of it, subject only to public order, morality and health, the rights to establish institutions, to manage its own affairs in matters of religion, to own property, and to administer it in accordance with law. It is the denomination's collective right.

Ecclesiastical matters. A term from the law of churches, used by courts for matters of faith, doctrine, worship, religious office and the internal order of a religious body. In Indian law it corresponds broadly to the "matters of religion" that Article 26(b) leaves to each religious denomination. Courts treat such matters as beyond their reach, except where a person's civil right, to an office or to property, actually depends on them.

The HR&CE Act and Department. The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, and the department that administers it. Under s.23 its role is general superintendence, to see that institutions are properly administered and their income used for their own purposes. Toward a mutt it is more restrained: its provisions on appointing and punishing servants do not apply to mutts (s.44), and it permits no interference with the religious functions of a mutt's head (s.105(b)) or with the rights under Article 26 (s.107).

Writ petition (Article 226). A petition to the High Court under Article 226, which empowers it to issue writs to any person or authority, for the enforcement of fundamental rights and for any other purpose. A **writ of mandamus** commands the performance of a public duty that the law places on the person or body concerned. It may issue to a private body only where that body performs a public duty, and does not lie in private matters.

Public interest litigation (PIL). A writ petition in which the court allows a person to come forward on behalf of others, usually those unable to approach the court themselves, to enforce a public duty. It relaxes the rule on who may file a case; it does not enlarge what the court may decide.

Counter-affidavit. The sworn reply of a party against whom a petition is filed. It is how the other side places its case in writing before the court. Without it, the court hears only one side.

Typed set. The bundle of documents filed with a writ petition, typed and paginated for the court, on which the petitioner relies.

Vacation bench. During the court's vacations, the Chief Justice sets up vacation benches so that urgent cases (personal liberty, threatened demolition, harm that cannot wait) are not left unheard. They are meant for urgent and usually interim relief, not for final decisions on contested questions that can wait for the regular court.

Impleading; representative suit. To implead a person is to make him a party so that he can be heard. Where many people share an interest, the law allows a suit by or against representatives, with public notice to all concerned, so that the decision binds them fairly.

Custom and usage. A custom is a practice followed so long and so consistently that it has the force of law. A party relying on a custom must plead and prove it with evidence.

Ratio and obiter. The ratio of a judgment is the principle necessary to decide the case. A High Court's ratio binds the courts subordinate to it, and benches of the same court of equal or smaller strength; it does not bind the High Courts of other States, for which it is only persuasive. The Supreme Court's ratio binds all courts (Article 141). An obiter dictum is an observation made in passing; it may be persuasive, but it does not bind.

Mutatis mutandis. Latin for "with the necessary changes having been made". When a court applies an earlier decision to a new case mutatis mutandis, it applies the same reasoning, adjusted to the new facts.

Parens patriae. "Parent of the nation": the court's protective jurisdiction over those who cannot look after themselves, such as children, persons of unsound mind and, in Hindu law, the deity as a perpetual minor. It is not a power to act in place of a competent body that holds its own constitutional right.

II. The two orders

Both orders of the Madras High Court were made by the same Division Bench, sitting as the vacation bench at the Madurai Bench, on 23 October 2026, the only sitting day of the court's Dussehra vacation, on petitions filed two days earlier. In this article they are called the

Srirangam order (W.P.(MD) No. 30431 of 2026) and the Azhagar order (W.P.(MD) No. 30448 of 2026). Unless stated otherwise, paragraph references are to the Srirangam order.

A. The Srirangam order

The petition. The petitioner described himself as a devotee of the temple and a Śiṣya of the Sri Ranganarayana Jeeyar Mutt. The Jeeyar's Peetham has been vacant since the 50th Jeeyar attained Thirunadu (passed away; literally, reached the divine abode) in 2018. The petition relied on representations made by various persons to the Joint Commissioner, HR&CE, who is the executive officer of the Sri Ranganatha Swamy Temple, Srirangam, and to the Government; none was made by the petitioner himself. He asked for a mandamus directing the respondents to ensure that the vacancy is filled. The respondents were the State, the Commissioner, the Joint Commissioner, and an "Executive Trustee" of the temple. His affidavit accepted that the Act does not empower the Department to appoint the head of a mutt (affidavit, para 10), yet asserted that the Department had a statutory duty to see the vacancy filled (affidavit, para 15). It stated that a majority of the Sthalathars support a particular candidate.

The holding. The court held (paras 11 and 15) that the selection of the head of a mutt is a matter of religion under Article 26(b), and that the State and the HR&CE Department have no role in it. It described the Sthalathars of Srirangam as the persons who, by custom, select the Jeeyar (paras 9 and 11). It also held that the vacancy infringed the fundamental rights of the disciples of the mutt, including the petitioner (para 17), and, earlier, that it breached the petitioner's rights under Article 25 (para 9).

The directions. The court then directed, in substance, that:

1. the Joint Commissioner "call upon the Sthalattars to convene a meeting at the very earliest" (para 17);
2. the Sthalathars "request eligible and suitable persons to come forward to adorn the Peetham", the court leaving the "road map" to them (para 17); it had earlier said that their decision "can be unanimous or by majority" (para 9);
3. the exercise be completed within six months, as an "outer time limit" (para 17);
4. the Department "acknowledge" the person chosen, "and nothing more" (paras 11 and 15);
5. if the Sthalathars fail to act, the court would step in "in exercise of our parens patriae jurisdiction", and may call upon a "kindred institution" or enlist "certain eminent Vaishnavite Saints" (para 18).

The observations. In reaching these directions the court made observations on the nature of the Jeeyar's office (an "apex" position; that a Jeeyar must be an ascetic; that he must take Sannyāsa after being a Gṛhastha; that he is "a neutral arbiter" and "the personal attendant of the Lord Himself": paras 8 and 9), on the duties of the Sthalathars, and on the reasons for the delay (para 9). Some of these observations concern persons who were neither parties nor given an opportunity to be heard. It also observed that the new head is housed in the Cheran Mutt within the temple campus and has a right to be maintained out of the income of the mutt (para 19).

B. The Azhagar order

The petition. The petitioner, a resident of Madurai who said he had received Samāśrayaṇam from "the disciple of Sri Ramanuja Achariya", described himself as a devotee of Kallalagar. He

said that the post of Jeeyar of the "Sri Ramanujam Jeer Mutt" at Arulmigu Kallalagar Temple had been vacant for seventy years, and that the respondents had a "statutory duty" to appoint a Jeeyar, citing s.63 of the Act. He made no representation to any authority: his affidavit says that "even sending representation to the respondents will not serve any purpose". It also asks the court to treat the vacancy itself as urgent: it "can be construed as urgency so as to file this writ petition in the vacation court". The respondents were the State, the Commissioner, the Joint Commissioner at Madurai, and the Executive Officer of the temple. He sought a mandamus directing them to fill the post "within stipulated time".

The typed set. It contained two documents. The first is the Thozhil Attavanai, with an accompanying Suthanthira Attavanai: a schedule of the temple's Kainkaryams and emoluments written in 1803 under the East India Company, of which a copy certified on 9.6.1937 was filed. It is signed by the "Thirumalirunjolai Ramanuja Jeeyar", who is described in its opening as the Srikaryam and Dharmakartha of the sannidhi. The second is a petition of 17.3.1946 by the then occupant of the "Asthanam of Sri Pattarbiran Jeer" to the Hindu Religious Endowments Board, under s.18 of Act II of 1927, praying that his arrears of remuneration be paid. The index and the list of dates describe it as a "Copy of the order of H.R,E Board, Madras". It is not an order. The only act of the Board on it is an endorsement by its office, dated 15.4.1946, forwarding the petition to the Executive Officer of the temple "for remark". That petition states that succession to the Asthanam was by nomination of the presiding occupant. The 1803 schedule names the temple's Sthalathars, and refers to more than one Jeeyar.

The order. The court applied the principles of the Srirangam order "mutatis mutandis" (Azhagar order, para 9). It distinguished Srirangam on the ground that at Azhagar Kovil "there are no sthalattars"; and since the mutt had been "headless for eighty years", so that "one would be groping in the dark to trace its disciples and followers", it relied on *Vidyapurna* to hold that "the court in the place of the sovereign will have to step in". From the Attavanais it found that the Jeeyar "is an intrinsic part of the temple administration", "the paramount authority", that "he will hold the temple keys", and that he is to be maintained out of temple funds (para 11). It held that the petitioner's right flows from Article 25 (para 12). It then requested three persons, the Thirukurungudi Jeeyar Swamy, the Alwarthirunagari Jeeyar Swamy and "Periya Nambigal Swamy", to choose the next pontiff; "consciously" refrained from any time-bound direction because "venerable religious personages" had been entrusted with the task; and directed that the Department "will formally issue proceedings recognising" the choice (para 13).

C. The two orders together

The contrast matters. In one order a deadline and a warning of intervention bind the selectors; in the other, selectors chosen by the court are trusted without either. The contrast is sharper still for the length of the two vacancies. The Thirumalirunjolai Sri Ramanuja Jeeyar Mutt had been without a head for about eighty years, since the 1940s; the Sri Ranganarayana Jeeyar Mutt for eight. The longer vacancy received no time limit at all; the shorter, a six-month limit and the prospect of the court's intervention. Both orders rest on the same premise, that a writ court may arrange the succession to a mutt. What the Srirangam order held in reserve, the Azhagar order did.

III. The question is the method, not the result

Many readers will welcome the Srirangam order. It keeps the State out of the choice of a religious head, it recognizes a local tradition by name, and it tries to end a long vacancy. It may be tempting to say that an order with a good outcome needs no scrutiny.

That would be a mistake, for four reasons.

First, a writ court's power comes from Article 226 and the limits the law places on it, not from the merit of the result. A direction that the court had no power to give is not saved because it is sensible.

Second, a declaration of custom made without proof will be cited with the same weight as one made after a full trial, but it rests on nothing that can be tested. If the custom so declared is incomplete, the Sampradaya may now find it harder to show what its practice actually is. And time works for the declaration, not for the practice. Left as it is, within a few decades the order will be cited as the custom itself, and any practice that differs from it will have to be proved against it (Part V-D).

Third, method travels. Courts cite earlier orders for what they did, not only for what they said. If a writ court may, at a first hearing before a vacation bench, appoint a convener, fix a deadline and a voting rule, and reserve power to complete a religious succession itself, the next court may do the same for any mutt, of any Sampradaya, however settled its tradition. Such a method would fall hardest on mutts whose tradition is less settled and whose selectors are less well known.

Fourth, in matters of religion the means are themselves part of the Sampradaya's tradition. A head chosen by a process the Sampradaya does not recognize as its own is not, in the Sampradaya's eyes, validly chosen, however suitable the person may be. Nor is a choice valid when it is made under compulsion: a selection made because a court has set a deadline, and warned that it will otherwise act itself, is not the free act of those whose act it must be. The view, held even by some within the Sampradaya, that what matters is only that the vacancy will at last be filled, overlooks this. A court that prescribes the means, even toward a result the Sampradaya would welcome, affects the very thing Article 26(b) protects. And a means, once sanctioned, does not stay in careful hands. A power to design a religious succession, once recognized, is available to whoever next holds power over the Sampradaya, and for whatever purpose.

The sections that follow therefore set aside the question "is this the right outcome?" and ask only: was the petition maintainable, was the custom proved, do the judgments cited support the directions, did the court have power to give them, and were persons not before it treated fairly?

IV. The threshold: a petition that could not ground a writ

The two remedies, and their limits

Public interest litigation. Public interest litigation relaxes the rule of standing. It allows a person acting bona fide to approach the court on behalf of those who, by reason of poverty, disability or a disadvantaged position, cannot approach it themselves, to enforce their rights or a public duty owed to them. It does not create new causes of action, enlarge the court's

jurisdiction, or displace the ordinary remedies the law provides. In *Balwant Singh Chaufal* the Supreme Court laid down guidelines to keep it within those bounds. A Sampradaya and its Ācāryas are not persons unable to approach the court. A question internal to a denomination, such as who may choose its head and how, is not one on which the public at large has a claim against the State.

Mandamus. A writ of mandamus commands the performance of a public duty imposed by law. It issues to the State and its authorities, and also to any other person or body performing a public duty; but "if the rights are purely of a private character no mandamus can issue" (*Andi Mukta Sadguru Shree Muktajee Vandasjiswami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani*, paras 15 and 20). It does not issue to private persons to perform private functions, and it cannot command a religious act. The choice of a successor to the head of a mutt is a religious function (*Ambalavana Pandarasannathi*, discussed in Part VII-B). If it were treated as a public duty enforceable by mandamus, it would cease to be the Sampradaya's own affair. Article 26(b) does not merely forbid that. It guarantees to the Sampradaya the right to manage its own affairs in matters of religion, and so protects the choice of its head against any such taking over. The direction to the Sthalathars, who were not parties, to choose within six months is in substance a mandamus to private persons to perform a religious act. It fails on both counts.

Measured against these principles, the petition fails at each step.

A. No duty in the respondents

Mandamus issues to compel a public authority to perform a duty the law casts on it. The petition named the State, the Commissioner, the Joint Commissioner and the Executive Trustee of the temple. The petitioner's own affidavit accepted that the Act does not empower the Department to appoint the head of a mutt (affidavit, para 10). It asserted a "statutory duty" to see the vacancy filled (affidavit, para 15), but identified no provision imposing one. The court then held that none of the respondents has any role in choosing the Jeeyar. A writ of mandamus cannot issue to an authority to do what the court itself says that authority may not do. Once para 11 was reached, the prayer had nothing left to attach to.

The same is true of the prior demand. The petitioner himself made no demand of any authority. The representations in the typed set were sent by others, to the Joint Commissioner and to the Government. A demand made by someone else, to an authority that has no power in the matter, does not found mandamus. The persons who, on the court's own view, could act were never approached in the petition and never made parties.

The Azhagar petition is plainer still. It made no demand at all (Part II-B). The "statutory duty" it relied on is not found in s.63 of the Act. That section empowers the Joint or Deputy Commissioner to inquire into and decide certain disputes, among them "what the established usage of a religious institution is". It imposes no duty on anyone to fill the headship of a mutt.

B. The wrong respondents, and the absent ones

The fourth respondent was "the Executive Trustee" of the temple. No one held that office when the petition was filed, for there has been no Board of Trustees since 2021. The terms are often used loosely, but they belong to different frameworks: "Executive Trustee" to the 1942 scheme made under the 1927 Act (clause 7), "Chairman" to the 1959 Act (s.48), and "Board" has meant

both the State's Hindu Religious Endowments Board and the temple's own Board of Trustees. In a writ petition, where the respondent must be an authority that exists and owes the duty, the difference is not merely one of words. The petition was thus directed, in part, against an office with no holder. A misnamed respondent is ordinarily a curable defect; here there was no holder of the office to whom the writ could be corrected. The mutt is a separate institution, a "math" as defined in s.6(13) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, whose head is its trustee under s.6(22). The temple has no legal interest in the succession to the mutt, and its executive officer cannot speak for the mutt. The State law officers who appeared could speak only for the Department.

Those whom the order binds were absent. The Sthalathars, whom the order names as selectors and directs to act within six months, were neither arrayed as parties by the petitioner, nor impleaded by the court, nor heard. Nor were the disciples of the mutt or the wider Sri Vaishnava community as a body, nor any person whose candidature the petition itself mentioned.

C. Fundamental rights against whom?

The order found an infringement of the petitioner's fundamental rights under Article 25 (para 9). Fundamental rights of this kind are enforceable against the State. Article 25 protects an individual's freedom of conscience and practice against restraint; Article 26(b) protects the Sampradaya's (denomination's) collective right to manage its affairs in matters of religion. The two are not of equal reach. Article 25 grants the individual's freedom "subject to public order, morality and health and to the other provisions of this Part", and Article 26 is one of those provisions. The individual's right is exercised within the denomination; it cannot be made the means of controlling the denomination. A devotee's Article 25 right cannot be used to have the denomination's own affairs in matters of religion decided for it, whether by the State or by a court. No State action restrained the petitioner's practice. The Azhagar order went further, holding that a devotee's right to insist on the temple's customs "flows out of Article 25" (Azhagar order, para 12); but a devotee's Article 25 freedom is not infringed because a Sampradaya has not yet chosen its head. On the court's own finding, the State had kept out. A vacancy that the Sampradaya has not yet filled is not a State infringement of anyone's rights, and a right of the Sampradaya (denomination) under Article 26 is not enforced by directing the Sampradaya. (The order's own remedy, by contrast, would supply State action: see Part VII-A.)

D. Credentials, and representative proceedings

State of Uttaranchal v. Balwant Singh Chaufal requires a court entertaining a public interest litigation to satisfy itself first of the petitioner's credentials and bona fides (para 181). The petitioner's claim to be a disciple, and his assertion of what a majority of the Sthalathars wanted, were not tested. Nor are the disciples of a mutt the only persons interested in it. The mutt belongs to the Sampradaya. Its direct disciples stand in a close relationship to it, but in the Sampradaya every Sri Vaishnava has the same stake in it as a disciple, for the Ācāryas are revered equally. Those interested are therefore not one family but many. A claim made on behalf of all of them, about a matter internal to the Sampradaya (denomination), is the kind of claim the law sends to a representative suit, with notice to those interested (Order I Rule 8 CPC, and the suits provided by the 1959 Act itself, which displaces s.92 CPC for Hindu religious institutions: s.5(e)), not to a writ petition decided on affidavits.

The Srirangam paperbook bears this out. The petitioner made no representation of his own to any authority; the representations in the typed set were sent by others. Nothing in the typed set supports his claim to be a Śiṣya of the mutt. Every letter in the typed set supports a single candidate. These are the facts that called for the inquiry *Balwant Singh Chaufal* requires; the order records none.

The Azhagar petitioner said that he had received Samāśrayaṇam from "the disciple of Sri Ramanuja Achariya", without naming the Ācārya, and claimed no connection with the mutt itself. The order records no inquiry into either petitioner's standing.

E. Decided without hearing the Sampradaya

The petition was filed during the court's Dussehra vacation, for its single sitting. It was heard for the first time on 23 October 2026, and finally decided the same day, the only day on which the vacation court sat (Notification No. 179/2026). No notice was ordered, to the named respondents or to anyone else, and no counter-affidavit was called for; counsel for the official respondents simply appeared. Nor could the named respondents put the other side. The State's law officer "straight away submitted that steps will be taken so that the said Mutt has a Head within six months" (para 3). That was the opposite of the submission the law called for: that the Department has no say in the choice of the head of a mutt (as the court itself went on to hold, paras 11 and 15), so that a prayer for a mandamus against it was misdirected and the petition should be dismissed. The temple's authorities have no interest in the succession to the mutt. And the direction that followed gave the Department a role, as convener, that the Act does not give it (Part VII-A), a role it may cite in future. No one before the court had an interest in opposing the petition; those who had were not there.

In the Azhagar case the temple's counsel "took exception to the prayer made in the writ petition" (Azhagar order, para 3). The order does not say on what ground, and does not answer the objection. And there too no one from the Sampradaya was heard. The court treated the absence of anyone to hear as a reason to act itself: it found "no sthalattars", and thought that one "would be groping in the dark to trace its disciples and followers" (Azhagar order, para 9). If those interested cannot readily be found, that is a reason for public notice, not for deciding without it. And the record pointed to people who could have been asked: the 1803 schedule in the typed set names the temple's Sthalathars, and the Sampradaya's Ācāryas and mutts are known. Even the three persons the court named as selectors were not heard before they were named.

Vacation benches sit for matters that cannot wait for the regular court, where delay would cause irreparable harm. The record discloses no such urgency. A vacancy of eight years is, by definition, not an emergency of hours. Had the petition been listed before the regular bench after the vacation, nothing would have been lost, and those affected could have been heard, and the matter decided on a full record.

The purpose of a vacation bench. During the court's vacations the Chief Justice constitutes vacation benches so that the court is never closed to a litigant who cannot wait. The work of a vacation court is, by design, urgent work: personal liberty, threatened demolition or dispossession, interim protection where delay would cause irreparable harm, and similar cases in which the reopening of the regular court would come too late. The notification for this sitting was explicit: "The cases with stay/interim applications required urgent hearing alone shall be

filed", and in such cases "the interim applications will be listed for hearing" (Notification No. 179/2026). Their orders are typically interim, holding the position until the case can be heard by the regular bench to which the Chief Justice, as master of the roster (*State of Rajasthan v. Prakash Chand*, paras 10 and 14), has assigned that class of work. Final adjudication of a contested question, in which persons not before the court have a stake, is not what a vacation bench is for.

The same Bench, on the same day, showed the course a vacation sitting ordinarily takes. In a petition filed with an application for interim relief (W.M.P.(MD) No. 23303 of 2026), it recorded that counsel took notice for the respondents, granted an interim stay, and directed the matter to be posted on 23.11.2026, after the vacation (W.P.(MD) No. 30469 of 2026). Other public interest petitions in the same sitting were admitted, with notice ordered (W.P.(MD) Nos. 30376, 30443 and 30461 of 2026); in one of them, the Government Pleader took notice for respondents 1 to 4, and the court directed notice to the others, "returnable in eight weeks" (W.P.(MD) No. 30376 of 2026). In another, it heard the Additional Advocate General and Senior Counsel for the temple, granted an interim injunction, and directed the papers to be placed before the Chief Justice for a Larger Bench (W.P.(MD) Nos. 30445 and 30468 of 2026). The two petitions considered here carried no application for interim relief. No notice was ordered in either, to the named respondents or to anyone else, and no interim order was made; they were finally decided on their first listing.

A petition about a vacancy of eight years, seeking directions on the religious succession of a mutt, bears none of the marks of a vacation matter. It was neither urgent nor a request for interim protection. Its final disposal at the first hearing before a vacation bench left no room for the counters, notice and verification described below.

The persons most affected by the order were the Sri Vaishnava community itself: the Sthalathars named as selectors, the other Ācārya Puruṣas of Srirangam, the Jeeyars, the disciples of the mutt, and the Sampradaya at large, whose custom the order declared. None of them had an opportunity to place their case on record by way of a counter-affidavit. Nor can their silence be read as consent. Many of those affected do not see how an order of this kind touches them, and some may even welcome it as favorable to them (Part III). That is the reason for notice, not an answer to it: a court that declares the custom of a whole community must itself bring that community before it, and cannot take its absence for agreement. A court proposing to declare a custom binding a whole community, prescribe a procedure for its religious succession, and comment on identified persons needed at least to hear them. Where a public interest petition affects a body of persons too numerous to be impleaded individually, the court has the means to reach them. In the Sampradaya those means lay ready to hand. The Ācārya Puruṣas and the Jeeyars are identifiable, and it is they who bear the responsibility to do right by the Sampradaya; they are its natural representatives. The least the court should have done was to implead them. Beyond that, it could have directed public notice, as a representative suit would require. Instead, the order passed strictures on the Sthalathars, who were not before it (para 9; Part VIII).

The Azhagar petition was in the same position. It was filed at the same time, and heard the same day by the same vacation bench, on an affidavit that itself asked the court to treat as urgent a vacancy of seventy years by its own count, and eighty by the court's.

The papers before the court show why neither matter could be decided in this way. Between them, the two records contained an 1803 schedule made under the East India Company, a 1946 petition speaking of nomination by the presiding occupant, a 1989 order appointing a Jeeyar under the service provisions of the Act, and letters supporting a single candidate. The affidavits themselves offered assertions rather than evidence: an account of the Kovil Ozhugu without a single extract from it, a "statutory duty" without a provision, and a custom without a pleading. Each document raised questions that only those concerned could answer: whether the 1803 schedule reflects present practice; who the Sthalathars of each temple are; and what the Sampradaya's own usage requires. At Azhagar Kovil even the most basic facts were unknown. The record does not settle the name of the Peetham: the petition and the order call it the Sri Ramanuja Jeeyar Mutt, in slightly different spellings, while the 1946 petition, the only document in the record on succession, calls it the "Asthanam of Sri Pattarbiran Jeer". Nor does it show where the last Jeeyar lived, whether the mutt had premises of its own and what became of them, what property it holds, what Kainkaryams its head performed, or who its Śiṣyas are. Questions of that kind cannot be answered at a single hearing, on a single affidavit, with no counter and none of those concerned before the court.

They are not academic questions. A Jeeyar chosen without answers to them would take office with no known premises, property or Śiṣyas, and no settled Kainkaryam. A Sannyāsi shall not touch fire, and so cannot cook his own food. He lives on Bhikṣā (alms), which he does not ask for; under the Dharma Shastras, it is the duty of Gṛhasthas to provide for him. If no one does, he starves. The order says that he is to be housed within the temple campus and "maintained out of the temple funds" (Azhagar order, para 11). In practice those funds are under the control of an Executive Officer appointed by the Department. The Act does not permit an Executive Officer to be appointed for a mutt at all (s.45(1)). The temple has at present no trustees, so that the Executive Officer answers only to the Department. Yet the Jeeyar would depend for his food and shelter on that officer, and so on the very authority that, by the court's own holding in the Srirangam case, has no role in his office. The order puts a State officer where the Shastras place the Gṛhastha. An order that fills an office without answering these questions leaves the person who fills it to find the answers alone. And he would face them without the Sampradaya behind him. A Jeeyar placed on the Peetham from outside, without the Sampradaya's own choice and consent, has no Śiṣyas who chose him and no Ācāryas who installed him. A religious office of this kind cannot be filled by force from outside; its head must come from within the Sampradaya, by its own process, or the office will not hold. If the court wished to act, the law gave it a proper object. Where a listed temple has no hereditary trustee, s.47(1) of the Act requires the authorities to "constitute a Board of Trustees". That is a public duty of the State, in the administration of the temple, and a writ of mandamus may enforce it. The choice of a Jeeyar is not such a duty.

F. The basic checks a PIL requires

Because public interest litigation relaxes the ordinary rules of standing and pleading, the court itself must supply the safeguards those rules provide. At least four checks are basic.

1. **A prior demand.** Before a court commands an authority to act, that authority must have been asked to act, and have failed to. It gives the authority the chance to act before it is ordered to, and it is a check the court must make however genuine the petition before it. Neither petitioner made any representation of his own. The Azhagar petitioner said that sending one "will not serve any purpose" (Part II-B). That is not a reason a court can

accept: a petitioner cannot excuse himself from asking by predicting the answer. It is also self-defeating. The respondents had no power in the matter at all, as the court itself held. If that is why a representation to them would serve no purpose, a writ commanding them to act could serve none either: a court cannot order an authority to do what the law does not allow it to do. The defect was not only that they were not asked, but that they were the wrong authorities to ask, and the wrong authorities to command (Part IV-A).

2. **The bona fides of the petitioner.** *Balwant Singh Chaufal* requires the court to satisfy itself of the petitioner's credentials and bona fides before entertaining the petition (para 181). Here the petitioner's claim to speak for the disciples, and his statement of what a majority of the Sthalathars wanted, were accepted, so far as the order records, without inquiry.
3. **The correctness of the claim.** A PIL is decided on affidavits, so the facts asserted must be tested, by a counter-affidavit, a report from an authority competent to give one, or a direction to produce documents. Here the account of the Jeeyar's functions, and the claim that the vacancy affected the administration of the temple, were accepted as stated and supplemented by judicial notice. The affidavit's account of the Kovil Ozhugu, which credits the Jeeyar with custody of a "Golden Seal" over the temple's treasury, granaries and sanctum doors, with the keys of the main sanctums, and with the role of a "neutral spiritual arbiter", was adopted without a single extract of the chronicle, or any other document, being produced. Whether or not these are, or ought to be, the Jeeyar's responsibilities, none was verified.
4. **Fidelity to the record.** A finding must rest on what is pleaded in the affidavits or argued and recorded at the hearing. Several of the order's statements appear in neither: that the Sthalathars choose "unanimous or by majority"; that the Jeeyar must have been a Gṛhastha before Sannyāsa; and the remarks about the Sthalathars' motives (Part VIII). Words that no party used, and no party could answer, should not find their way into a judgment that will be cited against them.

These checks are not formalities. They are what stands between a public interest petition and a decision treated as binding on people who were never heard.

The point is not that each of these defects is fatal by itself. It is that together they leave the directions without a lawful foundation. Para 11 is a declaration the court could make in answering the prayer. The rest required a different proceeding, different parties and evidence.

V. Custom declared, not proved

A. What the law requires

Succession to the headship of a mutt is governed by the usage of that particular mutt. That is the starting point of every judgment the order cites on the succession to a mutt. It follows that the usage must be shown. In *Sital Das v. Sant Ram* (para 11), the Supreme Court, adopting the Privy Council in *Genda Puri*, said that the law of succession to a mahantship is a question of the custom and usage of the particular institution, to be proved by evidence. In *Mahalinga Thambiran v. Arulnandi Thambiran* (para 13) the Court again treated the usage of the mutt as a question of fact to be pleaded and proved.

In a matter of religion, the question is not only what was done but what the Sampradaya holds to be right. *Shirur Mutt* itself says that "what constitutes the essential part of a religion is primarily to be ascertained with reference to the doctrines of that religion itself" (para 20). For the Sri Vaishnava Sampradaya, those doctrines are found in the Shastras and in the Pramanas (authoritative texts and teachings) accepted by its Pūrvācāryas. Within the Sampradaya, a claimed usage carries weight only if it is consistent with them. The assertion of any one person, however learned or eminent, even an Ācārya, is not by itself enough; still less is the understanding of a court.

Proof of a custom of succession in such a mutt therefore has two strands: evidence of consistent practice, which records such as a temple chronicle may help to show; and the Sampradaya's own authoritative sources, which show that the practice accords with its Shastras and tenets. Neither strand was before the court.

B. What the record contained

The petition did not plead a custom of succession. It asserted that a majority of the Sthalathars supported a named person, and offered no proof of it. The assertion sits in a paragraph that rests on what "is learnt" (affidavit, para 13); it names none of the Sthalathars, and the typed set contains nothing from any of them, only a letter from the candidate addressed to them. It did not say that the Sthalathars are, by custom, the body that selects the Jeeyar; or how they do so; or whether the choice is unanimous, by majority, or in some other way; or that a candidate must have been a Gṛhastha. No document setting out the custom was produced, and no one was heard who could speak to it.

The order nonetheless declares all of these things. When each of its statements about the custom and the office is traced to its source, a pattern appears:

Statement in the order	In the pleadings?	Any supporting material?
The Sthalathars select the Jeeyar	Not pleaded as a custom; the affidavit says only that a majority of the Sthalathars support one candidate	The typed set contains a candidate's letter to the Sthalathars and a 1989 order recording their "opinion"; neither proves who selects, or how
Selection "unanimous or by majority"	No	None
The Jeeyar "occupies the apex position in the scheme of things"	No	None
The Jeeyar is "invested with certain functions and powers"	Affidavit para 9, as a paraphrase of the Kovil Ozhugu	No extract of the chronicle or any other document produced; not tested
The Jeeyar is "envisaged as a neutral arbiter to ensure that Agamas are followed"	Affidavit para 9, same paraphrase	No extract produced; not tested

Statement in the order	In the pleadings?	Any supporting material?
The Jeeyar is “the personal attendant of the Lord Himself”	Affidavit para 9, same paraphrase	No extract produced; not tested
A Jeeyar must be an ascetic	Affidavit para 11 (“should become a sanyasi”)	Not tested
The Jeeyar “must take to sanyas after leading the life of a house holder”	No	None

Some of these statements came from the affidavit; some have no source at all. Those taken from the affidavit rest on the petitioner’s own account of what the Kovil Ozhugu says, without a single extract of it, and untested by any counter. With one exception, the statement that the Jeeyar must first be a Gṛhastha, which the Sampradaya’s own Pramanas contradict (Part VII-G), this article takes no position on whether the statements are accurate, or on whether the responsibilities described are, or ought to be, the Jeeyar’s. Those are questions for the Sampradaya to answer, not for a court; and they are outside the scope of this article, whose point is that none was verified, and a declaration with no proof has no foundation in the record, whatever its accuracy.

None of this is owed by the Sampradaya to anyone. How it chooses its head is its own affair, and it need explain it to no one. A court has occasion to examine a custom only when someone complains that it is being departed from; the burden then lies on him to plead and prove it. The petitioner made no such complaint: nothing in the petition says that any procedure followed, or proposed, offends the Shastras, the Sampradaya’s tenets or its usage. No dispute about the custom was before the court, and nothing called for a declaration of it. And even where such a dispute exists, a question that concerns the whole Sampradaya is not one that a single individual may bring on its behalf; it can be brought only in a representative capacity, with notice to all concerned (Part IV-D). It is a boundary that courts and litigants alike should keep.

C. The chronicle

The history of the Srirangam temple is recorded in the *Kovil Ozhugu*, a chronicle of events. A chronicle records what happened; it does not lay down what ought to happen. At most, in a properly constituted proceeding, entries in such a chronicle may be evidence that a practice was followed, and so may help to prove a custom. They cannot be read as a code of rules. The order, adopting the affidavit, calls it “an administrative manual” (para 8). That description is mistaken, and nothing in the record would have allowed the court to rely on the chronicle for the propositions it declared.

D. Why this matters to the Sampradaya

A custom declared in a judgment tends to become the custom. If the declaration is narrower than the practice, or adds conditions the practice does not know, the Sampradaya (denomination) may later have to contend with the judgment as evidence against its own usage. Such a declaration does more harm than good.

Within minutes, the declaration had its effect. The Azhagar order restated as “the settled usage” of the Sri Ranganarayana Jeeyar Mutt that the Sthalathars select the successor. Of the

Thirumalirunjolai Sri Ramanuja Jeeyar Mutt, it said that "there are no sthalattars", though the 1803 schedule in its own typed set names the temple's Sthalathars, and refers to more than one Jeeyar.

The Azhagar order's own record raised questions it did not answer. The only document in it on succession, the 1946 petition, speaks of succession "by nomination of the presiding occupant"; on how a successor is chosen when there is no one to nominate, the record is silent, and rightly so, for that is not a question for a court to answer. Yet the court answered it, by naming the selectors itself, as the Srirangam order had answered it by declaring who selects. The record does not settle even what the institution is (Part IV-E). And the order treated an 1803 schedule, made under the East India Company, as one of "the governing documents" of the temple (Azhagar order, para 11), without asking whether it reflects present practice.[2] Whatever that schedule shows of the Jeeyar's role in 1803, it is evidence of what was done then. Whether it is done now, and how the head of the mutt is to be chosen, is the domain of the Sampradaya, and must be left with it.

VI. The judgments cited, read in full

The Srirangam order cites eleven judgments. The test applied here is a strict one, and it is the right one for a case about the headship of a mutt: does the judgment concern succession to the head of a religious institution, and does it, as part of its ratio, support the step for which it is cited? A judgment about temple archakas, or about the property of an institution, may be persuasive on a general proposition, but it cannot found a direction about who chooses the head of a mutt or how. The Azhagar order relies on substantially the same judgments (Azhagar order, paras 6, 8 and 9), so what follows applies to both.

A. Judgments on other offices

Adi Saiva Sivachariyargal Nala Sangam v. Government of Tamil Nadu and *A.S. Narayana Deekshitulu v. State of Andhra Pradesh* concern the appointment of archakas, who are servants of a temple. *Marthanda Varma* concerns the management of a temple by its shebait. None concerns the head of a mutt. Yet each is made to carry a step in the orders. *Adi Saiva* is cited to hold that a public interest petition on the succession to a mutt is maintainable (para 4). *Deekshitulu* is cited for the protection of rituals, and leads straight to the court's conclusion that it was "constrained to intervene" (para 14). *Marthanda Varma* is cited for the primacy of custom (para 13); in the Azhagar order it becomes the ground for restoring, after eighty years, an office the court then fills through selectors of its own choosing (Azhagar order, para 6). The Jeeyar is neither a temple servant nor a shebait: the 1959 Act names archakas and pujaris among the office-holders and servants that a trustee appoints (s.55(1), Explanation), and does not name the head of a mutt. Judgments about those offices say nothing about who chooses the head of a mutt, or how.

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[2] The order describes these as documents of the temple's "religious and secular administration". "Secular" is a much-abused word. It is defined neither in the Constitution nor in the 1959 Act, yet it is regularly used to move matters of religion out of the protection of Article 26. Its effects on that Article deserve a separate article.

B. Judgments on property and statutory control

Krishna Singh v. Mathura Ahir arose from a suit to evict tenants from a mutt's property. The mahant's succession came up only incidentally, and was decided on evidence of the sect's custom, at a full trial; there was no vacancy for a court to fill. The *Lakshamana* decision concerns the validity of statutory controls on mutts under the Andhra Pradesh legislation. Neither says anything that supports a court arranging the choice of a head. *Lakshamana*, if anything, tells against the directions: it upheld State control only to the extent a statute provided it. Where no statute gives the State a role, there is no role; and what the State cannot do without a statute, a writ court cannot do by direction in its place.

C. Judgments that say more than the order quotes

Three judgments, read in full, carry qualifications the order does not mention. They are not technicalities. In each, the part left out answers the very question the order went on to decide.

Ratnakar. The order quotes para 31 up to the words "there can be no Math without a Matadhipathi", and ends the quotation there (para 16). Read as quoted, the passage suggests that a mutt cannot exist without its head. The very next sentence of the judgment says the opposite: "But it does not mean that a Math can never exist or its object be defeated by not installing the Matadhipathi". The difference is not small. On the first reading a vacancy threatens the mutt's existence, and urgency, a deadline and a fallback may seem justified. On the second, which is what the judgment actually says, the mutt endures, and nothing compels the vacancy to be ended on a timetable set from outside.

Marthanda Varma. The order quotes paras 91.10 and 91.11, but not the paragraph that follows them. Para 91.12 reads: "It is not open to the court to lay down a new rule of succession or to alter the rule of succession completely." This is the sentence that answers the case. The Supreme Court has said in terms that a court may not lay down a rule of succession; the order relies on the paragraphs before it, does not refer to the one that limits its own power, and so steps over the boundary the Supreme Court set. Para 91.13 then deals with the interim: in the absence of a shebait, the law protects the properties of the idol through a de facto shebait. Read together, those paragraphs point to protection in the interim, not to a court-supervised selection.

Vidyapurna Tirtha Swami v. Vidyanidhi Tirtha Swami (1904). The order reads the case as a ladder of persons who may appoint a successor. But the passage is obiter, and it opens by saying that succession "is regulated in the case of mutts by the custom or usage of each particular mutt"; the court comes last, only when every other course has failed. The appointment actually made in that case, by the head of a kindred mutt, was not upheld. The judgment also recognizes that interregnums occur: when a head became incapable through lunacy, a manager of his estate was appointed and the worship went on through his ordained disciple. *Vidyapurna* thus supports protecting the property and continuing the worship in a vacancy. It does not support a deadline or a kindred-institution fallback.

D. Judgments that support the holding only

Commissioner, HRE v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt is the foundation of the holding in para 11. It also states the principle that defeats the directions: a religious denomination "enjoys complete autonomy in the matter of deciding as to what rites and

ceremonies are essential according to the tenets of the religion they hold and no outside authority has any jurisdiction to interfere with their decision in such matters" (para 23). The choice of the head who is to perform and preserve those rites stands on no lower footing. *Sital Das* and *Mahalinga* confirm that succession depends on the usage of the mutt, and require that usage to be proved. *Gouthaman*, also cited, supports the conclusion that the State has no role, and gives no direction of the kind made here.

E. The count

Of the eleven judgments, those that concern the headship of a mutt and bear on the decision as ratio support one proposition: that the choice belongs to the Sampradaya (denomination) according to its own usage and the State has no part in it. That supports para 11. **None of the eleven supports any of the directions**: the convener, the procedure, the voting rule, the deadline, the acknowledgment, or the fallback. A summary is in the Annex.

Two of them go further and limit the court itself: *Marthanda Varma* (para 91.12) forbids a court to lay down a rule of succession, and *Shirur Mutt* (para 23) denies any outside authority jurisdiction to interfere with a denomination's decision on what its tenets require.

VII. Directions beyond jurisdiction

A. A State officer as convener

Having held that the State has no role, the order gives a State officer one. The Joint Commissioner is to convene the Sthalathars. The 1959 Act confers no such power on him in relation to a mutt. The order goes further still: it says he "ought to have nudged" the Sthalathars into selecting a successor (para 10). A State officer has no business nudging a Sampradaya in its internal affairs. His duty is to see that the law is upheld, and the law itself forbids him to interfere with the religious functions of the head of a mutt (s.105(b)) or with the rights of a denomination under Article 26 (s.107). Nor is a direction of a High Court to a public officer a nudge; it is an exercise of State authority in the selection, and the selectors are bound to respond to it.

The risk is not theoretical. In May 2021 the temple administration issued a notice (Na.Ka. 342/1428/D1, dated 06.05.2021) inviting applications for the post of Jeeyar. It described the appointment as a "பணி நியமனம்" (appointment to service), laid down qualifications, required a ration card, caste and police certificates, a medical fitness certificate and a no-objection certificate from the candidate's family, and stated that the person appointed would be subject to disciplinary control under s.56(1) of the Act. The process stopped after objections that it violated Article 26. That episode shows how readily a convening role becomes a selecting role once a State officer is given a foothold. The direction that the Sthalathars "request eligible and suitable persons to come forward to adorn the Peetham" (para 17) carries the same model into the order itself. It treats the Peetham as a post to be applied for. Whether a Jeeyar is found by inviting candidates, or is identified by those whose duty it is to identify him, is for the Sampradaya to say; the direction decides it for them.

Nor was 2021 the first time. In 1989 the vacancy was filled by an order of the temple's Deputy Commissioner and Executive Officer (Na.Ka. 934/99/D1, dated 1.12.1989), to which the order itself refers with concern (para 11). The candidate applied for the post. The Commissioner had already "permitted" an appointment. The temple's Sthalathars were asked only for their

“opinion”. The appointment was to the “பணி” (post) of Sriranganarayana Jeeyar under s.55(1); Sannyāsa was to be taken on receipt of the order; the appointee was required to live in a residence described as temple-owned and to use it only for temple purposes; and he was declared subject to control under s.56(1). Both provisions are among those that, by s.44, “shall not apply to maths” (mutts). Each step placed a religious succession inside a service framework. That framework could never have fitted. The Tamil Nadu Hindu Religious Institutions (Officers and Servants) Service Rules, 1964 would set an age limit of 45 for entry and retirement at 60, require a fitness certificate from “the head of a math” (mutt), and pay gratuity to a “family”. A Sannyāsi who heads a mutt cannot be fitted into that frame. That is the course para 11 rightly forbids, and it is the course a convening role for a State officer invites. Yet the appointment order was made, acted on, and stood for nearly three decades. That is how such encroachments take hold: an order issued with the appearance of authority is followed, whether or not the authority exists, and once followed it becomes the precedent for the next. The protection the Sampradaya needs from the courts is protection against exactly this, review of the State’s action when it goes beyond its power, as para 11 itself provides.

The danger is not only that a State officer convenes. It is also whom he would convene. The order speaks of “the Sthalattars” as if the word had one meaning. It has two. In the temple’s administrative records it denotes the holders of certain hereditary offices; the Uthama Nambi, for instance, holds such an office, but is not an Ācārya Puruṣa. In the Sampradaya’s own understanding, the Sthalathars of Srirangam include Ācārya Puruṣa lines such as those of Mudaliandan Swamy and Annan Swamy, whom the administrative records do not treat as Sthalathars today. A Joint Commissioner can convene only from his own records. The body he would assemble would include those who stand as Śiṣyas and leave out Ācārya lines such as these. The right to choose an Ācārya would pass, in effect, to Śiṣyas. That is a serious interference in how the Sampradaya operates, and it follows from the direction itself.

Who, then, should choose? This article deliberately does not answer, and neither should a court. The question is not a gap in the order that a better answer could fill; it is the wrong question for anyone outside the Sampradaya to ask. To answer it, a court must first decide who may decide, and so select those who will select. Whatever answer it gives, even a correct one, is then the court’s answer and not the Sampradaya’s. The answer may well prove to be the Sthalathars, in the Sampradaya’s own sense of the word. But it is for the Sampradaya to give, from its own Pramanas and usage, and no court’s reading of a record such as the Kovil Ozhugu can settle it in its place.

There is an irony here. The petition was brought on the footing that the vacancy offended the devotees’ freedom under Article 25. But a vacancy the State did not cause involves no State action, and offends no one’s Article 25 right. The order’s remedy would supply the State action that was missing. The State stood ready to supply it: its law officer “straight away submitted that steps will be taken so that the said Mutt has a Head within six months” (para 3; Part IV-E). And the freedom the remedy would offend is that of everyone it draws in. Article 25 protects freedom of conscience as well as practice: the freedom not to be made to perform a religious act, or to perform it in a manner, that one’s faith does not ordain. Those whom a State officer would convene from the temple’s records, among them the Uthama Nambi, would be called upon to choose a Jeeyar, a role their own understanding does not give them, within a deadline, by a vote the order prescribes, on a model drawn from another faith, and under the prospect of the court’s intervention. At Azhagar Kovil, three religious persons were named to make the choice; the

order does not record that any of them was consulted, or asked whether he was willing, and a request made in a judicial order, whose outcome the Department is directed to recognize, is not one a religious head may easily decline. The devotees, the petitioner among them, would then receive as their Ācārya one chosen in a manner the Sampradaya does not ordain, though the practice Article 25 protects includes receiving one's Ācārya in the manner the Sampradaya ordains. In setting out to secure a fundamental right, the order has arrived at a place where it would deny one, to those who choose and those who receive alike; the remedy would injure the very right it was invoked to protect. Left alone, the Sampradaya protects both: the freedom of each devotee under Article 25, and its own right under Article 26. That is why it is not for a court to step in.

There is a further consequence at Azhagar Kovil. In a Sampradaya, the duty of identifying a Jeeyar falls on particular persons, and performing it is their religious practice. The order found that there are "no sthalattars", without inquiry and without notice, though the 1803 schedule in its own typed set names the temple's Sthalathars. It then gave the choice to three persons of its own naming. If those on whom the Sampradaya places that duty are there, the order sets them aside unheard. *Naresh Shridhar Mirajkar v. State of Maharashtra* holds that a judicial order is answered by appeal, not by a writ; that is a rule about remedies. It does not change what the order, once carried out, does to those it displaces: it takes from them a religious duty that is theirs, and with it the very practice Article 25 protects.

None of this could have come to light in the way the petition was decided. The two meanings of "Sthalathar", the place of the Ācārya Puruṣas, and the effect of the remedy on the very right it invoked are exactly what counter-affidavits and notice to the Sampradaya would have brought before the court. A vacation bench, deciding the petition finally at its first hearing, had no means of seeing them. That is the cost of deciding a public interest petition of any kind, and above all one touching a Sampradaya's religious affairs, in haste, without counters and without notice to those whose rights it decides.

B. The law already speaks to the Commissioner's role

In *Ambalavana Pandarasannathi v. State of Tamil Nadu*, a Division Bench of the Madras High Court quashed a notice by which the Commissioner had questioned the choice of a successor by the head of the Thiruvavaduthurai Adheenam. It held that "the choice of a successor is a religious function of the Head of the Mutt and it can never be construed as a purely administrative function" (para 8); that "in the matter of choice or succession to the office, it shall be only according to the usage or direction of the founder and, jurisdiction of the Commissioner is excluded from the purview of the Act" (para 9); and that s.105(b) protects the religious and spiritual functions of a mutt, "which obviously include nomination and customary ceremonies for ordainment" (para 13). The order does not refer to it. That case concerned a nomination by a living head, not a vacancy; but the holding in para 9 is general: the choice goes by usage, and the Commissioner has no part in it. On that view, a direction that the Joint Commissioner convene the selection is a direction to do what the statute excludes.

C. A deadline the law does not set

The 1959 Act anticipates vacancies in the headship of a mutt. Section 60 provides for interim arrangements "when such vacancy cannot be filled up immediately". The Act thus accepts that a

vacancy may last, and provides for the institution in the meantime. It sets no time within which the Sampradaya (denomination) must choose. Neither does any judgment cited. The six-month figure first appears in the order as a submission of the Additional Advocate General that "steps will be taken" so that the mutt has a head within six months (paras 3 and 10). The process to be resumed, according to para 10, was the 2021 call for applications. That submission was itself an assumption of a role the State does not have, and in para 11 the court rightly rejected the process it described. Yet the court kept the six-month figure, framed for that administrative exercise, and converted it into a binding limit on the Sampradaya. A religious decision, which by its nature waits until a person qualified under the Sampradaya's tenets is found, becomes a statutory-style process with a closing date.

D. The vote

The order states that the decision "can be unanimous or by majority" (para 9), and so prescribes a rule of decision for a religious body. No pleading or source suggests that this is the usage at Srirangam. Even if a court could declare the selecting body, it could not, without proof, declare how that body decides. Nor does the rule answer the questions it raises. A majority of whom: of all the Sthalathars, or of those present? What if the votes are tied? Is a Sthalathar who declines to take part counted in or out? Is there a quorum? On all of this the order is silent, and then it says: "We leave it to the wisdom of the Sthalattars to decide on the road map. We do not want to micro-manage" (para 17). It has done neither fully: it prescribes too much to have left the matter to the selectors, and too little to be a procedure at all. And it sets the selectors a deadline under that half-written rule, having already attributed the vacancy to them (para 9). The Azhagar order gives no rule at all. Its three selectors "shall confer amongst themselves either in person or through virtual mode" (Azhagar order, para 13); whether they must agree, or two may outvote one, it does not say.

E. The fallback

The most serious passage is the last. The order "make[s] it clear" (para 18) that if the Sthalathars "fail to discharge this duty cast on them", the court "will not hesitate to step in in exercise of our parens patriae jurisdiction", that it may call upon a "kindred institution", and that it has "in mind certain eminent Vaishnavite Saints" whose services it may enlist.

The passage opens with a comparison. The Sthalathars, it says, "should be locked inside the Mutt premises and allowed to come out only after resolving the issue", "just as the Cardinals are locked inside the Sistine Chapel and the doors are opened only when the white smoke emanates from the chimney indicating the selection of the Pope" (para 18). The remark should never have been made. It measures a Sampradaya by another religion's way of choosing its head: the seclusion of a conclave is the Catholic Church's own rule, which binds it from within, and no court imposes it; under *Shirur Mutt*, what a religion requires is "to be ascertained with reference to the doctrines of that religion itself" (para 20), and the practice of another faith, however venerable, is no measure of it. Had a court suggested, even in passing, that the Cardinals should choose the Pope in the manner prescribed by a Sri Vaishnava Sampradaya, the remark would at once have been seen for what it is.

Nor is it a thing that can be said to any Sampradaya, of any faith. No one would suggest that the judges of a court be locked in their chambers, not to come out until they decide a matter of

national importance; the suggestion would rightly be taken as an affront to the independence and dignity of the court. The Ācāryas of a Sampradaya are owed no less.

The image is one of compulsion, and it fixes the outcome in advance: the doors open only when a Jeeyar has been chosen. But a Jeeyar is not produced to order, like an article bought in a market. In the Sri Vaishnava Sampradaya he must be possessed of Jnana and Anushtana. Swami Manavala Mamunigal says why this matters, in Upadesa Ratnamalai (pasuram 61):

> ஞானம் அனுட்டானம் இவை நன்ருகவே உடையன்
> ஆன குருவை அடைந்தக்கால் மாநிலத்தீர்!
> தேனுர் கமலத் திரு மாமகள் கொழுநன்
> தானே வைகுந்தம் தரும்.
>
> "O people of this wide world! When one reaches an Ācārya who truly possesses Jnana and Anushtana, knowledge and conduct in keeping with it, the Consort of Sri Mahalakshmi, who dwells on the lotus flower full of honey, will Himself grant Sri Vaikuntha." (Meaning based on the translation by Raghuram Srinivasa Dasan, divyaprabandham.koyil.org.)

The Ācārya is the means by which the Śiṣya reaches the Lord. Finding such a person is therefore the Sampradaya's own work, done in its own time, and it may be that the right person has not yet come forward. A choice made under pressure is not the free act of those whose act it must be (Part III).

The remark is said to be made "in passing", and by its own description was not needed to decide the case; whether a remark is "necessary for the decision of the case, as an integral part thereof" is among the considerations *Mohammad Naim* sets out (para 11; Part VIII). But a remark made in passing is not received in passing: it stands beside the warning that follows, and outside the court it is repeated as the court's view of how a Sampradaya ought to choose its head.

Parens patriae is the jurisdiction of the sovereign, exercised through the court, to protect those who cannot protect themselves: minors, persons of unsound mind and, in the law of endowments, the deity as a perpetual minor, when its manager has failed it. A Sampradaya (denomination) is under no such disability; it is the constitutional holder of the very right in issue. Nor does *Vidyapurna* help. Its reference to appointment "in the last instance by the Court as representing the sovereign" (at p. 457), repeated in *Mahalinga* (para 13), applies only when every earlier course has failed (Part VI). At Srirangam the order itself found that the Sthalathars select; at Azhagar Kovil it found none, without inquiry. And *Vidyapurna* was decided in 1904, when the sovereign was the Crown and Article 26 did not exist. Today a court acting as the sovereign stands in the place of the State, the very authority para 11 shuts out. The order thus keeps the State out of the selection and then reserves the same power for itself.

The passage reserves to the court a power to complete a religious succession through persons it would choose from outside the selecting body. It is the step that the principle of *Shirur Mutt* excludes, for on matters of religion "no outside authority has any jurisdiction to interfere" (para 23), and the step that *Vidyapurna*, on its facts, refused to uphold: the appointment made there by the head of a kindred mutt was not sustained. The Azhagar order shows the step taken: there the court itself named the selectors. It gave no reason why their institutions are "kindred" to the mutt. It called all three "the Heads of the Kindred Institutions" (para 13). Yet one of them,

"Periya Nambigal Swamy", is named without any description. A Periya Nambi is an Ācārya Puruṣa and a Gṛhastha, who heads no mutt; he is not the head of a kindred institution in the sense in which *Vidyapurna* used the words, and the order's only basis for naming him fails. Nor did the order record that the Periya Nambi was himself a petitioner before the same Bench that day, in two public interest petitions of his own (cause list of 23.10.2026, items 43 and 52, on either side of the Azhagar petition at item 48). Nothing is suggested against him. The point is that the court chose a selector of a religious succession without recording who he is, what he heads, or that he was a litigant before it, and that no one affected by the choice had an opportunity to address it. An order that chooses the selectors of a religious succession without saying who they are, or why, cannot be tested by those it binds. Nor does the reasoning contain any limiting principle. If a court may name the selectors of a religious head when it finds none, nothing in that reasoning stops it from naming a temple's Sthalathars, or a Sampradaya's Ācāryas, when those too are found wanting. The power claimed has no natural end, which is itself the clearest sign that it is not a power a court has.

F. "Acknowledge"

The order says that the Department "cannot claim the right to appoint or even to approve the appointment", and that the choice "has to be formally acknowledged by the department and nothing more" (para 11; see also para 15). The first statement is right. The second gives the Department a step the Act does not give it. The Act provides for no acknowledgment of the head of a mutt. What it provides is a register, which "shall be prepared, signed and verified by the trustee of the institution concerned" (for a mutt, its head), and submitted by him "directly in the case of a math" to the Commissioner (s.29(2)), showing "the names of past and present trustees and particulars as to the custom, if any, regarding succession" (s.29(1)(a)). The record of who heads the mutt is thus made by the mutt itself; the Department receives it. An acknowledgment is something else: an act of the Department, on which the head's standing would appear to depend. The 1989 appointment order treated the Jeeyar as the holder of a temple "post" under s.55(1), subject to control under s.56(1) (Part VII-A), and for nearly three decades the office was held on those terms, though the Jeeyar is not a servant of the temple. A Department's "acknowledgment" will likewise come to be treated, by the Department and by those who deal with it, as its approval; and once acted on, it would be as hard to question as the 1989 order was. The words "and nothing more" do not cure this. The step itself is one the Act does not provide for.

G. Pronouncements on the Sampradaya's tenets

The order states that the Jeeyar "occupies the apex position in the scheme of things" and has been "invested with certain functions and powers"; that he "has to be an ascetic"; that he "must take to sanyas after leading the life of a house holder"; that he "is envisaged as a neutral arbiter to ensure that Agamas are followed" (para 8); and that he "is considered as the personal attendant of the Lord Himself" (para 9). Each of these is a statement about the content of a Sampradaya's (denomination's) faith and practice. Some were drawn from the petitioner's affidavit and some have no source at all; none was proved. Statements of this kind belong to the Sampradaya's Ācāryas, grounded in Pramana; not to a petitioner's affidavit, and not to a court. Matters of this kind are within the Sampradaya's exclusive sphere under Article 26(b). A court may find, on evidence, what a Sampradaya's (denomination's) practice is when a dispute requires it. It may not supply that practice from its own understanding, and a judgment that does so may be cited

later as if it were a finding. That is how a fresh dispute begins: a Jeeyar chosen in keeping with the Sampradaya's own Pramanas may be challenged in court for not meeting the order's test.

The statement that the Jeeyar "must take to sanyas after leading the life of a house holder" shows the danger. Sri Bhashyam, Sri Ramanuja's commentary on the Brahma Sutras and a foundational text of the Sri Vaishnava Sampradaya, says otherwise. In the Purushartha adhikaranam, the Sutra-kara holds that the other Āśramas are to be undertaken just as the Gṛhasthāśrama is (Brahma Sutra 3.4.19). Sri Ramanuja quotes the Jabala Upanishad: "or else, one may take Sannyāsa directly from Brahmacharya, or from the Gṛhasthāśrama, or from Vānaprastha" (*yadi vetarathā brahmacaryād eva pravrajed gṛhād vā vanād vā*; Jābāla Upaniṣad 4.1, as quoted at p. 237). He holds that the scriptural texts on the Gṛhastha's duties, including the debt of progeny, bind only those who are not detached (*avirakta*) (Brahma Sutras 3.4.17 and 3.4.20). The point is not that the court should have decided between the two. It is that a statement which the Sampradaya's own Pramanas contradict was made from the bench, without anyone from the Sampradaya being heard.

VIII. Remarks about persons not before the court

In *State of U.P. v. Mohammad Naim*, the Supreme Court held that, in making disparaging remarks about persons whose conduct comes before it, "it is relevant to consider (a) whether the party whose conduct is in question is before the court or has an opportunity of explaining or defending himself; (b) whether there is evidence on record bearing on that conduct, justifying the remarks; and (c) whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct" (para 11). There, a judge had made general remarks about the entire police force of the State when only one officer's conduct was before him; the Supreme Court held them neither justified nor necessary, and directed that they be expunged (paras 12 and 13). The test protects persons who have had no chance to answer, and it protects the court's own findings from resting on assumption.

In paras 9 and 10 the order explains the vacancy by reference to the Sthalathars. Beginning with the maxim "Nature abhors vacuum. So does power", it says that if there is no Jeeyar, "the power vested in him gets distributed among the Sthalattars and the Bhattars. They receive the honours in the place of the Jeeyar. Since there is no Jeeyar, there is no one to question them also. There is no incentive for them to choose the next Jeeyar. On the other hand, the status quo suits them" (para 9). It adds that "the Sthalattars did not extend their cooperation" (para 10).

Each of the three considerations in *Mohammad Naim* tells against these remarks.

1. **Opportunity.** The Sthalathars were not parties and were not heard.
2. **Evidence.** Nothing on record speaks to their motives, to any refusal to cooperate, to who receives what honors, or to why the vacancy has continued. The petition itself does not blame them: it complains of the Department, and asserts that a majority of the Sthalathars support a candidate, which, if anything, suggests engagement rather than indifference. The remarks also rest on a misreading of the office. The order says that, since there is no Jeeyar, "there is no one to question them also" (para 9). But in the Sampradaya the Jeeyar is one of the Sthalathars, not their superior. It was never his role to question them, and his absence leaves no such gap. Nor does anything on record suggest that any of them has done anything that calls for questioning.

3. **Necessity.** The holding in para 11 did not depend on why the vacancy had continued. The remarks were not needed to decide anything the court could lawfully decide.

Remarks of this kind have consequences beyond the case. They are reported in the press, they attach to an identifiable group of families, and they cannot be answered in the proceeding in which they were made. They also sit uneasily with the order's own premise: a court that holds the Sthalathars to be the custodians of a religious choice, and then describes them as having reasons not to exercise it, has made a finding about a matter of religion on no material. If the court believed the vacancy suited the Sthalathars, it is difficult to see why it entrusted the choice to them; if it trusted them, the remarks were unnecessary. The order cannot hold both positions.

The Azhagar order does the same. It says that the last Jeeyar was "appointed in 1937" and "appears to have vanished from the scene sometime in 1946" (para 6). To say of a Jeeyar that he vanished from the scene is to suggest that he abandoned his office. The only document on the point, his own petition of 1946, shows the opposite: he was still "the present occupant" of the Asthanam and had moved away only through ill-health. Nor does the record show an appointment in 1937: the only document of that year is the certified copy of the 1803 schedule. The remark does not follow the record, and it is made of a Jeeyar who has long since passed away, who can never answer it.

IX. The remedy the judgments point to

The statute and the judgments the order cites do not leave a court helpless when a mutt is without a head. They point consistently to one kind of relief: protection of the institution and its property in the interim, leaving the choice of the head to the Sampradaya (denomination).

- **The statute.** Section 60 of the 1959 Act provides, "when such vacancy cannot be filled up immediately", for the "temporary custody and protection of the endowments" and for an arrangement for administration "until… another trustee succeeds to the office"; and in making it, "due regard" must be had "to the claims of the disciples of the math" (s.60(3)). It is an interim provision. It does not authorize the selection of a head, and it is not a reason to force one.
- ***Vidyapurna*.** When a head became incapable through lunacy, a manager of his estate was appointed under the Lunacy Act, and the worship of the mutt's deities went on, performed by his ordained disciple; the evidence was that other swamis might also perform the puja on such occasions. The headship was not filled from outside: the appointment made by the head of another mutt was not sustained.
- ***Ratnakar*.** A mutt continues to exist during a vacancy; the absence of a head does not end the institution.
- ***Marthanda Varma*, para 91.13.** Interim administration is the court's concern; the succession is not.

During a vacancy the Jeeyar's Kainkaryams must still be performed. They are not ordinary tasks. The Thiruvaradhanam of the mutt's Perumal, in particular, is not open to anyone who walks in; who may perform it, and on whose permission, is governed by the Sampradaya's own rules. How those Kainkaryams are cared for in the interim is therefore a matter for the Sampradaya to decide. In the previous vacancy the Department decided it instead. The temple's office appointed a Sripatham Thangi as a "temple nominee" for the daily Thiruvaradhanam (Na.Ka. 3142/97/C5,

dated 28.5.1988), and the head archaka as a "temple nominee" to attend to the Jeeyar's ekantha duties (Na.Ka. 1535/98/D1, dated 12.5.1989); the 1989 appointment order then canceled both. The record does not show who arranged the present interim performance of those Kainkaryams. Whoever did, it is not the Department's arrangement to make, nor the court's, even if it is the very arrangement the Sampradaya would itself have chosen. As with the choice of the head, the question is who decides, not whether the answer is right (Part III).

One protective task open to the court was left undone. The 1989 order describes the Jeeyar's residence, 128 North Uthra Street, as owned by the temple. The order itself (para 19) calls it the Cheran Mutt and says the Jeeyar is entitled to be maintained out of the mutt's income. Whether the property belongs to the mutt or to the temple was a question to be ascertained, not assumed. Even if the building belongs to the temple, the Perumal (Vigraham) worshipped there by the mutt, and the mutt's other belongings, are the mutt's; the 1989 order itself refers to the daily Thiruvaradhanam of the Vigrahams there. That matters to the Sampradaya: Samāśrayaṇam is performed before that Perumal. If the court was to act as parens patriae at all, protecting the deity and the property of the mutt during the vacancy was a proper field for it.

A court asked to act on a vacancy of this kind could therefore have:

1. declared, as it did, that the State has no role in the selection;
2. directed that the mutt's properties, if any, be identified and protected under s.60 or the general law, with due regard, as s.60(3) requires, to the claims of the disciples, and with an account to be kept for the eventual head;
3. left the selection to the Sampradaya (denomination), without convener, deadline or fallback; and
4. left any dispute about who may select, or how, to a properly constituted representative suit in which the custom could be pleaded and proved.

If the concern was administration, the gap on the State's side lay elsewhere. The temple has for some years been run without a functioning board of trustees, with the Joint Commissioner in charge. Where a temple has no hereditary trustee, the Act requires that a Board of Trustees be constituted ("shall constitute a Board of Trustees", s.47(1)(a)); that is a duty of the State, and the kind of duty mandamus exists to enforce. Directing the Department to perform its own statutory functions would have been well within the court's powers, and would have served the temple. Directing a religious body to perform a religious function on a timetable is outside them, and harms the very right it claims to protect. The temple without trustees was also a proper field for parens patriae: the deity is a perpetual minor in law.

X. What should be preserved, and conclusion

What should be preserved

Para 11's central holding should stand. It restates settled law: the selection of the head of a mutt is a matter of religion under Article 26(b), and the State and the HR&CE Department have no role in it. That holding protects every mutt in the State, and it is consistent with *Shirur Mutt*, with *Ambalavana Pandarasannathi*, and with s.105(b) of the 1959 Act.

Its words on acknowledgment should not. The Act provides for no acknowledgment of the head of a mutt; the record of who heads a mutt is the register the mutt itself prepares and submits (s.29; Part VII-F).

The Azhagar order shows how easily acknowledgment slides into something more. There the court directed that, once the choice is made, "the department will formally issue proceedings recognising the same". Recognition is approval in all but name. It is exactly what para 11 of the Srirangam order says the Department may not do, and what the Introduction to this article says the State cannot do.

Restoring custom means restoring it whole

The Srirangam order quotes *Marthanda Varma* (para 91.11): if aberrations are to be corrected, the correction "must take us in the direction of re-establishing the rule of custom". The Azhagar order says that "it is time to restore the said tradition" (para 6). Both are right in principle. But the custom to be re-established is the Sampradaya's own management of its religious affairs, in which the Sthalathars, the Theerthakarars, the Ācārya Puruṣas and the Jeeyars act on their own, unfettered by any outside authority. The orders restore one fragment of that custom, the filling of a vacant seat, and then fetter even that fragment with a State convener, a deadline and the prospect of the court's intervention. Even within the office of Jeeyar the restoration is partial. The Azhagar order's own typed set speaks of "இதர ஜீயாள்" (the other Jeeyars) and of the "பட்டத்து ஜீயாக்கள்" in the plural; the Kovil Ozhugu speaks of eight Jeeyars (எட்டுப் பிரம்பு) at Srirangam. The orders provide for one, and say nothing of the rest. A process designed by a court is not a restoration of custom; it is a new departure from it.

That is why the old records matter. The 1803 schedule, the Kovil Ozhugu and documents like them are treasures: they show how these temples were once run, with the Sampradaya's own people managing its religious affairs. Present practice is far from what they describe, and much of that record is forgotten, or lost. The gap has grown over a long period, decades and in places centuries, in which the State in one form or another has administered these temples. Recovering that custom, and rebuilding the Sampradaya's practice from it step by step, is the Sampradaya's own work, and above all the work of its 74 Siṃhāsanādhipatis and its Jeeyars. No court can do it for them; a court that tries replaces the custom it means to restore.

A wider caution

Article 26 has been eroded before, not by any single decision but by successive steps, each reasonable in isolation. Statutory control over the administration of religious institutions, once upheld, has tended to grow by amendment over decades. *Ambalavana* itself records an instance: when the Commissioner was found to have no power to question a mutt's choice of successor, the court noted that the State, "quite conscious of this lacuna in the Act for the control and supervision of the Heads of Mutts", had already passed an amendment, then "pending assent" (para 11). A judicial order that gives a State officer a convening role, sets a timetable and reserves a power to complete a succession supplies a model that legislation could later adopt. The protection in para 11 of the Srirangam order is only as strong as the restraint shown in the directions that follow it.

Nor can the model work elsewhere. In some temples none of the Sthalathars is an Ācārya Puruṣa. If a Jeeyar's Peetham there falls vacant, are the Sthalathars to choose him? A court has no means

to answer that, least of all on affidavits at a first hearing. And every answer it gives raises the next dispute: who is a Sthalathar, in which sense, whether a particular person may take part, whether a choice by majority binds those who dissent. An order meant to fill a vacancy becomes the starting point of fresh litigation, and those who never asked to be in court are driven to appeal in order to protect what was always theirs. The law favors the opposite: it is in the public interest that litigation should come to an end (*interest reipublicae ut sit finis litium*). In matters of religion above all, what a court can lay down is a principle that holds in every case, not a procedure fashioned for each mutt as it comes. On 23 October the same Bench fashioned two, minutes apart: for Srirangam, selection by the Sthalathars, convened by the Joint Commissioner, by majority if need be, within six months; for Azhagar, selection by three persons the court itself named, with no time limit; the Azhagar order itself refers to the Srirangam matter as "an identical issue a little while ago" (Azhagar order, para 3). A principle that the Sampradaya chooses by its own usage holds in every case. A procedure designed by the court does not.

Overreach is a denial of Article 26

Article 26 is framed as a guarantee to the denomination, subject only to public order, morality and health. It is not subject to the convenience of the State, nor to a court's view of what would be best for the institution. When the State selects, approves or supervises the choice of a religious head, it takes the right away directly. When a court does the same through directions, the effect on the Sampradaya is identical: the decision is no longer its own. In *Mirajkar*, the Supreme Court held that a judicial order made in a matter before the court "cannot be said to affect the fundamental rights of citizens under Article 19(1)" (para 37); that its correctness "can be challenged only by appeal and not by writ proceedings" (para 60); and that a stranger whom such an order binds may challenge it "by appeal under Article 136" (para 58). The same reasoning would apply to Article 26. That is a rule about remedies. It does not change what a direction of this kind does to the substance of the right. A court, the guardian of Article 26, is the last authority that should empty it of content.

The no-go zone

The decided cases, read together, mark out matters that belong to the Sampradaya alone, and into which neither the State nor a court may enter of its own motion:

- who may be the head of a mutt, and what qualifications, Sannyāsa (renunciation) or Dīkṣā (initiation) are required;
- who selects the head, and by what process, whether nomination, consultation, consensus or any other mode the usage recognizes;
- when the selection is made, and how long the Sampradaya may take to find a person qualified under its tenets;
- the rituals, Kainkaryams and honors attached to the office, and who performs them during a vacancy;
- the internal relationships of Ācāryas, disciples and institutions within the Sampradaya.

The law reaches these matters by only three doors. The first is a civil suit in which a person's right to the office or to property is actually contested: under Explanation I to s.9 CPC, such a suit "is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies", and in it the custom is pleaded and proved by those

who live it. The second is the regulation of the financial administration of the institution under a valid law, which may protect property but may not choose the head (*Ambalavana*, para 9). The third is formed by the express limits in Article 26 itself: public order, morality and health. None of these doors was open in this case. A public interest petition decided on affidavits, at its first hearing before a vacation bench, is not one of them.

The court's proper role: to empower

The answer is not that courts must keep away. Article 226 gives the High Court wide powers, and a Sampradaya is entitled to their protection. But those powers serve the Sampradaya when they empower it, not when they act in its place: to restrain the State from any part in the choice; to undo the service framework the Department had built around the office; to protect the mutt's deity and property in the interim; and to leave the Sampradaya free to exercise its right under Article 26 to its fullest extent. At most, a court may request the Siṃhāsanādhipatis and the Jeeyars to come together and act by the Sampradaya's own usage, or appoint someone to arrange such a gathering, leaving it to the Sampradaya to say who should sit in it. Used in that way, the court's wide powers strengthen Article 26. Used to design the succession, they displace it. A court may not name those who are to choose: naming a few sets the rest aside, and those not named will stand back, because the choice has become the subject of a court order.

An objection: "be flexible, and get it done"

At this point, some within the Sampradaya, and others well disposed toward it, may raise an objection, and it deserves an answer. The Peetham at Srirangam has been vacant for eight years, and that of the Thirumalirunjolai Sri Ramanuja Jeeyar Mutt for far longer. It may be said that the order at least makes something happen; that to oppose it is to prefer a principle to a Jeeyar; and that in such times one must be flexible and get the thing done by whatever means.

The answer begins with what kind of thing the selection of a Jeeyar is. It is not an administrative appointment, where a practical compromise does no harm. It is a matter of religion, governed by the Sampradaya's Shastras and the Pramanas of its Pūrvācāryas. A Sri Vaishnava is Parathanthra (wholly dependent on the Lord and bound by His Shastras). He has no authority to set them aside for convenience, and every step he takes in such a matter must rest on a Pramana. The law of the State weighs competing interests and allows for compromise. The Sampradaya does not: on what its Pramanas require, it holds even those within it to a line with no middle ground. The principle is stated in Embar's words to Parasara Bhattar on faith in the meaning of the Charama Sloka, recorded by Pillai Lokacharya in Mumukshuppadi:

> ஆஸ்திகனுய் இவ்வர்த்தத்தில் ருசிவிச்வாஸங்களை உடையனுய் உஜ்ஜீவித்தல்,
> நாஸ்திகனுய் நசித்தலொழிய நடுவில் நிலையில்லை
>
> *Asthikanai ivvarththaththil ruchi-visvasangalai udaiyanai ujjeeviththal, nasthikanai nasiththal ozhiya naduvil nilai illai.*
>
> "Either to be uplifted as an Asthika, with taste and faith in this truth (of the Charama Sloka), or to perish as a Nasthika; there is no state in between."

What Embar says of the Charama Sloka holds equally of every Pramana of the Sampradaya: of the Shastras and of the teachings of its Pūrvācāryas. In the Sampradaya's own understanding, a compromise on what the Pramanas require is not a middle path between faith and its absence;

there is no such path, and a step taken off the Pramana is a step away from it. The answer for one who finds this hard is not to soften the teaching, but to develop the Vairagya to understand and practice it. This is said of the Sri Vaishnava Sampradaya and its Pramanas; every other Sampradaya holds the same right under Article 26 to be governed by its own, and is owed the same respect.

If those within the Sampradaya may not find a middle ground on what its Pramanas require, still less may anyone outside it, however well meant the effort. That is what Article 26 protects. *Shirur Mutt* holds that "what constitutes the essential part of a religion is primarily to be ascertained with reference to the doctrines of that religion itself" (para 20); not, that is, by an outsider's view of what is reasonable for the times. A Sampradaya that holds itself to its Pramanas without compromise is exercising exactly the autonomy that Article 26(b) guarantees. A proposal to find a middle ground, made by those who do not hold its founding principles, is a proposal to set that autonomy aside.

Flexibility of the kind urged would not deliver what it promises:

- **The Jeeyar's standing.** A Jeeyar chosen through a process designed by a court and convened by a State officer would carry that origin with him. Within the Sampradaya, his selection could be questioned as not following its own usage. Outside it, it could be questioned as resting on directions made without jurisdiction. Or, more likely, he may simply be passed over. Few would contest a court's order openly, but the Sampradaya's acceptance cannot be ordered, and a Jeeyar whom the Sampradaya does not recognize as its own may find himself without Śiṣyas, without honor and without support. That would fall hardest on one who accepted the Peetham in good faith, for the sake of the Sampradaya. And a Jeeyar in that position must still sustain himself and his office. Denied support from within, he may seek it elsewhere, and the price may be compromise on what the Sampradaya's Pramanas require. A Peetham held on those terms is worse than one left vacant. It would also defeat the very purpose the order set out to serve: a Peetham filled on paper, and still empty in the Sampradaya's eyes. That is why such an office cannot be filled from outside. It must be filled from within (Part IV-E).
- **A Jeeyar without a mutt.** At Azhagar Kovil the risk is sharper still. The record does not show where the mutt stood, whether it has premises or property of its own, or who its Śiṣyas are (Part IV-E). One who takes Sannyāsa to fill that Peetham gives up all he had, and receives in its place an office with no home, no means, no following, and little knowledge of what it once was. He would be like a man blindfolded and left in a forest, struggling to keep his life, let alone to carry the Sampradaya forward. Those who now urge compromise, so that some good may come of it, will not be there to share that burden.
- **Other mutts.** The route, once accepted, would not stay with one mutt (see "A wider caution" above). What is given up for one Jeeyar is given up for every one who follows.

Nor is the alternative to do nothing. The vacancy is a call to the Sampradaya to act, not a license for others to act in its place. The Pramanas exist. The records of past practice can be gathered. The Ācārya Puruṣas, the Jeeyars and the pundits of the Sampradaya can be asked to sit together in a Sadas and declare, on Pramana, how the choice is to be made. If a court is to help at all, it can do no more than that (see "The court's proper role" above). Even that has a cost, and someone must bear it: in fairness the petitioners who brought the matter to court, though properly

the Sampradaya itself. That is slower than a direction with a deadline, but it is the only route by which the result will be the Sampradaya's own.

This is a test of time for the Sampradaya. A tradition endures when it holds to its Pramanas even when that is hard; it is in such times that its strength is shown. One that trades them for convenience may survive in form, while the truth it carries is forgotten.

Conclusion

The Srirangam order reached a sound declaration by a route that does not hold, and the Azhagar order followed the same route on the same day. Both petitions sought mandamus against authorities that the court held to have no duty, and neither petitioner had made any demand of them. The custom was declared without pleading or proof. The judgments cited support the exclusion of the State but not one of the directions. The directions give a State officer a role the statute excludes, require the Department to acknowledge a choice the Act leaves the mutt itself to record, impose a deadline the statute does not, prescribe a rule of decision no source records, and reserve to the court a power to complete a religious succession through others. Persons named in the order were commented on without being heard. The order's own remedy, carried out through the temple's administrative records, would hand the choice of an Ācārya largely to those who stand as Śiṣyas, offending the very freedom the petition invoked; and one of its statements on the Sampradaya's tenets is contradicted by its own Pramanas. In the end, an order that set out to protect the rights of devotees, and rightly kept the State out of the choice, would deny the Sampradaya the very right under Article 26 that its own holding affirms.

None of this requires a view on who should be the next Jeeyar, or on whether those named in the order are the right persons to choose. Those are questions for the Sampradaya (denomination). The point of this article is narrower and, for the law, more lasting: when a court holds that a matter belongs to a Sampradaya (denomination), the same holding marks the limit of what the court itself may do in it.

Two lessons follow for the future. For a devotee or disciple with a grievance about any matter internal to the Sampradaya, such as a vacancy in a mutt, the first course is to take it to the Sampradaya's own Ācāryas, the Ācārya Puruṣas and the Jeeyars. If that fails, and he wishes to go to law, the proper route is a representative suit, with notice to those interested, in which the custom of the Sampradaya or the institution concerned is pleaded and proved by those who live it, not a public interest petition against authorities that have no role. For the Sampradaya, the lesson is vigilance. As noted above, the protection of Article 26 is rarely lost in a single decision; it is worn away by small steps, by statute and by order, each reasonable in isolation. Each step that goes unanswered becomes the starting point for the next.

Annex: the eleven judgments at a glance

Judgment	Institution / office	Subject	Supports para 11?	Supports any direction?
Shirur Mutt (1954)	Mutt	Article 26(b); autonomy of the Sampradaya (denomination)	Yes	No; tells against them

Judgment	Institution / office	Subject	Supports para 11?	Supports any direction?
Sital Das (1954)	Mutt	Succession by usage, to be proved	Yes	No
Mahalinga (1974)	Mutt	Usage of the mutt is a question of fact	Yes (in principle)	No; requires proof
Vidyapurna (1904)	Mutt	Succession; ladder passage obiter	In part	No; kindred appointment not upheld
Ratnakar (1987)	Mutt	Mutt survives a vacancy	In part	No; omitted words tell against them
Gouthaman (2012)	Mutt	State has no role	Yes	No
Krishna Singh (1981)	Mutt	Property; succession incidental, decided on evidence	In principle	No
Lakshamana (1996)	Mutt	Statutory control of mutts	No	No; State role only by statute
Marthanda Varma (2020)	Temple (shebait)	Management of a temple	No	No; paras 91.12–91.13 not considered
A.S. Narayana Deekshitulu (1996)	Temple (archakas)	Appointment of archakas	No	No
Adi Saiva (2016)	Temple (archakas)	Appointment of archakas	No	No

Judgments, orders and sources relied on

The orders discussed

- *S. Veeraraghavan v. State of Tamil Nadu*, W.P.(MD) No. 30431 of 2026, Madras High Court (Madurai Bench), order dated 23.10.2026 (the Srirangam order).
- *R. Sathyanarayanan v. Secretary to Government, HR&CE Department*, W.P.(MD) No. 30448 of 2026, Madras High Court (Madurai Bench), order dated 23.10.2026 (the Azhagar order).

Other orders of the same sitting (23.10.2026)

- W.P.(MD) No. 30469 of 2026 (interim stay; posted after the vacation).

- W.P.(MD) Nos. 30376, 30443 and 30461 of 2026 (admitted; notice ordered).
- W.P.(MD) Nos. 30445 and 30468 of 2026 (common order; interim injunction; papers placed before the Chief Justice for a Larger Bench).
- Madras High Court, Notification No. 179/2026 (Dussehra vacation sitting).

Judgments

- *Adi Saiva Sivachariyargal Nala Sangam v. Government of Tamil Nadu*, (2016) 2 SCC 725.
- *Ambalavana Pandarasannathi v. State of Tamil Nadu*, (1982) 2 MLJ 221 : 1982 SCC OnLine Mad 84.
- *Andi Mukta Sadguru Shree Muktajee Vandasjiswami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani*, (1989) 2 SCC 691.
- *A.S. Narayana Deekshitulu v. State of Andhra Pradesh*, (1996) 9 SCC 548.
- *Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, (1954) 1 SCC 412 : AIR 1954 SC 282.
- *Krishna Singh v. Mathura Ahir*, (1981) 3 SCC 689.
- *Ma. Gouthaman v. State of Tamil Nadu*, 2012 SCC OnLine Mad 4201.
- *Mahalinga Thambiran v. Arulnandi Thambiran*, (1974) 1 SCC 150.
- *Naresh Shridhar Mirajkar v. State of Maharashtra*, (1966) 3 SCR 744 : AIR 1967 SC 1.
- *Ratnakar B. Kailaje v. Ramrao Narasingrao Divigi*, 1987 SCC OnLine Kar 96.
- *Sital Das v. Sant Ram*, AIR 1954 SC 606.
- *Sri Marthanda Varma (Dead) through LRs v. State of Kerala*, (2021) 1 SCC 225 : 2020 SCC OnLine SC 569.
- *Sri Sri Lakshamana Yatendrulu v. State of Andhra Pradesh*, (1996) 8 SCC 705.
- *State of Rajasthan v. Prakash Chand*, (1998) 1 SCC 1.
- *State of U.P. v. Mohammad Naim*, (1964) 2 SCR 363 : AIR 1964 SC 703.
- *State of Uttaranchal v. Balwant Singh Chaufal*, (2010) 3 SCC 402.
- *Vidyapurna Tirtha Swami v. Vidyanidhi Tirtha Swami*, ILR 27 Mad 435 (1904).

Statutes and rules

- Constitution of India, Articles 19(1), 25, 26, 136, 141, 226 and 394A.
- Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.
- Madras Hindu Religious Endowments Act, 1927 (Act II of 1927).
- Code of Civil Procedure, 1908: section 9, Explanation I; Order I Rule 8.
- Tamil Nadu Hindu Religious Institutions (Officers and Servants) Service Rules, 1964.

Records

- Sri Ranganathaswamy Temple, Srirangam: Na.Ka. 934/99/D1, dated 1.12.1989 (appointment order); Na.Ka. 342/1428/D1, dated 06.05.2021 (notice inviting applications).
- Thozhil Attavanai and Suthanthira Attavanai (1803), certified copy dated 9.6.1937; petition dated 17.3.1946 to the Hindu Religious Endowments Board (typed set in W.P. (MD) No. 30448 of 2026).
- Kovil Ozhugu (chronicle of the Srirangam temple).

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