

# HINDU AMERICAN FOUNDATION



◀ Promoting Understanding, Tolerance and Pluralism ▶

Hindu American Foundation  
P.O. Box 48528  
Tampa, FL 33647

September 2, 2004

The Honorable Raymond J. Dearie  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

RE: The Hindu Temple Society of North America, *et al* v. The Supreme Court of the State of New York, *et al*

Case No. CV 04-3342

LETTER SUPPORTING REQUEST FOR INJUNCTIVE RELIEF

Honorable Judge Dearie,

We, at the Hindu American Foundation, and on behalf of AGNI Corporation, Catholic League for Civil and Religious Rights, Hindu Human Rights Group, Hindu International Council Against Defamation, Hindu University of America, Ile Obatala Oya, Kanchi Kamakoti Seva Foundation, Navyashastra and Queens Federation of Churches (detailed information of these additional amici interests stated at the end of this letter) respectfully submit this letter as amici curiae supporting the request for injunctive relief filed by the Plaintiff, the Hindu Temple Society of North America (the "Hindu Temple").

The Hindu American Foundation is a human rights organization whose purpose is to provide a voice for the 2 million Hindu Americans in the United States. The Foundation interacts with and educates government, media, think tanks, academia and public fora about Hinduism and issues of concern to Hindus locally and globally. Promoting the Hindu and American ideals of understanding, tolerance and pluralism, the Foundation is firmly opposed to hate, discrimination, defamation and terror.

In this letter supporting the Hindu Temple's request for injunctive relief, we seek to highlight two issues of grave concern to the religious liberty of not only Hindu Americans, but all Americans. The first issue implicates the right to free exercise as guaranteed by the First Amendment of the U.S. Constitution. If the order of the Supreme Court of the State of New York (the "Supreme Court") is not overturned, an unprecedented state-sponsored intrusion into the religious autonomy of the Hindu Temple as well as the religious practice of the Hindu community will be allowed in patent violation of the U.S. Constitution.

As the U.S. Supreme Court has stated, "religious organizations have an interest in autonomy in ordering their internal affairs, so that they may be free to: 'select their own leaders, define their own doctrines, resolve their own disputes, and run their own institutions. Religion includes important communal elements for most believers. They exercise their religion through religious organizations, and these organizations must be protected by the (Free Exercise) (C)lause.'" *Corporation of Presiding Bishop*, 483 U.S. at 335-336 (Brennan, J., concurring) (quoting Douglas Laycock, *Towards a General Theory of the Religion Clauses: The Case of Church Labor Relations and the Right to Church Autonomy*, 81 Colum. L. Rev. 1373, 1389 (1981) (alterations in original), and citing *Serbian Eastern. Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976) and *Kedroff v. Saint Nicholas Cathedral*, 344 U.S. 94 (1952)). In the instant case, every action of the state court unequivocally violates the very core principles of the Free Exercise Clause as interpreted by the highest court of this nation.

It is rather difficult to fathom the rationale, if any, the Supreme Court has exercised in its willful interference into the internal, sacred affairs of the Hindu Temple. The order mandating a state-sponsored referee to determine the method by which the Hindu Temple structures and governs itself; who qualifies as a member, an inquiry which potentially includes determining



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who qualifies as a “Hindu”; and imposing rule by a majority of state-approved members, absent any legal basis, appears punitive and represents a potentially hostile interference into the sanctity of the Hindu Temple. It also clearly interferes with the Hindu Temple’s ability to function, let alone exercise its religion, as the Board of Trustees, which as an entity has governed the Hindu Temple for the past thirty years, is no longer able to conduct its business including appointing, hiring and dismissing priests; exercising authority over the design and expansion of the temple grounds according to Hindu religious principles; managing the scheduling of religious services at the temple; deciding which divinities will be honored as well as the forms of devotion that will occur at the temple; controlling the finances of the temple; and all other aspects of religious and temporal activities associated with the temple. In light of the egregiousness of the intrusion as well as the tone of the Supreme Court’s proceedings thus far, we at the Hindu American Foundation are disturbed by the apparent lack of neutrality displayed by the court and are left to conjecture whether a similar scenario would have arisen had the religious institution in question been Protestant or Catholic or other majority faith.

Further, though the determination of the qualification of a “member” by the state-sponsored referee may appear benign, in the context of the faith at issue, it can and will be problematic. Traditionally, Hindu temples do not have a membership as understood by majority faiths. Indeed, a Hindu may frequent a particular temple, but he is not considered to “belong” to that particular temple. A temple is a sacred place of worship open to all seekers. And because Hindu temples, both in India and abroad, have not traditionally had “memberships”, several communities in the U.S. govern their temples similarly to those in India and abroad, entrusting management of temple affairs to a Board of Trustees. However, regardless of the construct of self-governance used by any temple in the United States, this is a function that must be left strictly in the control of adherents of the particular faith and not in the hands of the government.

Today, more than 1,500 different religious bodies and sects co-exist and flourish in the United States. There are over 360,000 churches, mosques, temples and synagogues<sup>i</sup> and more than 40 percent of Americans state they have attended worship services during the previous week.<sup>ii</sup> It is the secular ideals of our forefathers, including the separation of church and state and the right to free religious exercise, that have allowed religion to thrive in the United States while enabling peaceful coexistence among a plurality of faiths. The Supreme Court’s order threatens these very ideals, as well as every law and precedent pertaining to fundamental, constitutional rights.

The second issue of concern invokes the Fourteenth Amendment of the U.S. Constitution. Clearly in violation of the constitutionally guaranteed right to equal protection under the law, the New York Religious Corporations Law (“RCL”) distinguishes between different faiths, providing legal benefits and custom-tailored laws to majority religious organizations such as, Baptist, Methodist, Presbyterian and Roman Catholic churches, while minority religious organizations, such as Hindu, Muslim and Buddhist, are pigeon-holed into two ambiguous subsections referred to as “Free Churches” and “Other Denominations” where laws are not individualized to best fit their needs and in some cases, may impose legal disadvantages. And even if this Court finds that the RCL does not violate the Equal Protection Clause of the Fourteenth Amendment, the method by which the Supreme Court has applied the RCL to the Hindu Temple has denied the Temple its right to due process under the same. As the RCL requires, any vacancies on the Board of “Free Churches” must be filled by the remaining Trustees. In the instant case, the Supreme Court has grossly failed to uphold the letter of the law by designating a referee to disband the current Board of Trustees, determine who is a member of the Hindu Temple for voting purposes and arbitrate an election by these state-approved voting members for a new Board of Trustees to govern the oldest Hindu temple in the United States of America.

For the foregoing reasons, we strongly urge this Court to grant the Plaintiff injunctive relief. We also request the Court to hold the New York Religious Corporations Law facially unconstitutional and in violation of the Fourteenth Amendment of the U.S. Constitution or in the alternative, hold the actions of the Supreme Court of the State of New York denied Plaintiff due process of law under the Fourteenth Amendment of the U.S. Constitution.

Respectfully,

**Suhag A. Shukla, Esq.**  
**Legal Counsel, Hindu American Foundation, on behalf of**



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**Shradadand Sital, President**  
**AGNI Corporation**

Agni Corporation (Stichting Werkgroep Agni in Dutch) is a Dutch registered organization with the Hindu Dharma (Hinduism) as background. The objective of this organization is to represent the interests of Hindus nationally and internationally promoting human rights and providing humanitarian aid. AGNI has represented the interests of Hindus since its formation in March 2000.

**Dr. William A. Donahue, President**  
**Catholic League for Civil and Religious Rights**  
450 Seventh Avenue  
New York, NY 10123

The Catholic League is the nation's largest Catholic civil rights organization. Founded in 1973 by the late Father Virgil C. Blum, S.J., the Catholic League defends the right of Catholics – lay and clergy alike – to participate in American public life without defamation or discrimination. Motivated by the letter and the spirit of the First Amendment, the Catholic League works to safeguard both the religious freedom rights and the free speech rights of Catholics whenever and wherever they are threatened.

**Professor Kuldip C. Gupta, President**  
**Hindu University of America**  
113 N. Econlockhatchee Trail  
Orlando, Florida 32825-3732

Hindu University of America is an institution of higher education providing learning, research and training in a broad spectrum of topics related to the Vedic/Hindu culture including religions, philosophies, practices and other related areas. It aims to promote the catholicity of Hinduism, and to establish harmony among Eastern religious thoughts and modern sciences and technologies, thereby contributing to better human understanding and global peace. It is also committed to the growing needs of modern western society to obtain authentic and unbiased understanding of the vast and rich heritage of Hindu culture, traditions, and philosophy. Hindu American University is authorized by Florida State Department of Education to award Masters and doctoral degrees in Hinduism, Hindu Philosophies and five other allied programs.

**Niraj Thakker**  
**Hindu Human Rights Group**  
PO Box 44814  
London  
SE18 1YT - UK

The Hindu Human Rights Group, a London based human rights watch group, was formed to protect the rights of Hindus around the world, under both global and domestic jurisdictions. To facilitate this purpose, its Charter has been formulated, following the standard emanating from the 1945 United Nations Charter, and accepted norms of international human rights, the most important of these being the Universal Declaration of Human Rights in 1948.

**Ved Prakash Chaudary, President**  
**Hindu International Council Against Defamation**  
22 Jackie Drive  
Morganville, NJ 07751



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The mission of Hindu International Council Against Defamation is to protect the Hindu religious beliefs, knowledge systems, philosophy, spiritual traditions, and way of life from negative portrayals, misrepresentations, misappropriations, and stereotyping by press/media, commercial enterprises, religious or political organizations, public policy makers, authors, writers and the academic world and to provide an informed, balanced, and positive view on Indic traditions, including Hindu, Sikh, Jain and Buddhist traditions.

**Baba Anthony Cabrera Mondesire, M.S.**  
**Baba Olorisa OLO-OBATALA Awo Faka**  
**Ile OBATALA OYA**  
339 Quincy Street  
Brooklyn, NY 11216

Ile OBATALA OYA, a religious and cultural organization affiliated with the Church of the Lukumi Babaluaye, is dedicated to promoting the faith tradition – Yoruba / Lukumi and diasporic Yoruba – as a positive contributors to the upliftment of the human condition and human progress through education, pro-active interfaith work and advocacy for human rights .

**Professor Raghunath**  
**Kanchi Kamakoti Seva Foundation**  
491 S. Oyster Bay Rd  
Plainview, NY 11803

The Kanchi Kamakoti Seva Foundation is an organization for spiritual enlightenment and international philanthropy.

**Vikram Masson**  
**Navya Shastra**  
6332 Denton Drive  
Troy MI 48098

Navya Shastra is a U.S. based, worldwide movement of scholars, activists, priests and laypeople dedicated to fostering the spiritual equality of all Hindus. It has lobbied Hindu religious leaders to welcome members of the so-called lower castes into their institutions; networked with and supported Dalit leaders; publicly questioned UNESCO's program to fund Vedic schools in India; and awarded scholarships to discriminated Dalit students. Navya Shastra is presently recommending that Hindu institutions and temples in the United States adopt caste-free practices. Some of its advisors include Arun Gandhi, founder of the Mahatma Gandhi Institute of Nonviolence, and O.P.Gupta, India's ambassador to the Finland. Navya Shastra has been featured or mentioned in publications as diverse as *Outlook* and *India Abroad*.

**Rev. N. J. L'Heureux, Jr., Executive Director**  
**Queens Federation of Churches**  
86-17 105th Street  
Richmond Hill, New York 11418-1597

The Queens Federation of Churches, Inc., was organized in 1931 and is an ecumenical association of Christian churches located in the Borough of Queens, City of New York. It is governed by a Board of Directors composed of equal number of clergy and lay members elected by the delegates of member congregations at an annual assembly meeting. Over 380 local churches representing every major Christian denomination and many independent congregations participate in the Federation's ministry. The Queens Federation of Churches has appeared as *amicus curiae* previously in a variety of actions for the purpose of defending religious liberty. The Queens Federation of Churches and its member congregations are vitally concerned for the protection of the principle and practice of religious liberty and believe that governmental intrusion into the organization and governance of a religious congregation is an egregious violation of the First Amendment.



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<sup>i</sup> “Front Page,” ACLU, March 6, 1998, at: <http://www.aclu.org>.

<sup>ii</sup> Ibid.

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[www.hinduamericanfoundation.org](http://www.hinduamericanfoundation.org)