

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Reserved on : **26.04.2019**

Pronounced on : **18.12.2019**

Coram

THE HONOURABLE MR. JUSTICE **R.SURESH KUMAR**

**A.No.1927 of 2019, A.Nos.10093, 10094, 10095, 10096, 10097 of 2018, A.No.1749 of 2019, A.Nos.1802, 1803 of 2019, A.Nos.2088, 2089, 2090 of 2019, A.No.2416 of 2019, A.No.10091 of 2018, A.Nos.3111, 3112, 3113, 3114, 3115, 3116, 3210, 3211, 3212, 3281 of 2019, O.A.No.210 of 2019, A.No.2417 of 2019 and A.No.10092 of 2018**

**A.No.1927 of 2019**

L.Chenkuttuvan

.... Petitioner

VS.

1. Interim Administrator  
Pachaiyappa's Board Trust Board,  
Rep. by Hon'ble Mr.Justice P.Shanmugam  
(Retd. Judge of the Madras High Court)  
New No.204, T.T.K.Road,  
Teynampet, Chennai - 600 018  
Having office at Pachaiyappa's Trust Board,  
Pachaiyappa's College, Chennai - 600 030.
2. Secretary  
Pachaiyappa's Trust Board,  
Pachaiyappa's College,  
Chennai - 600 030.
3. Dr.R.M.Jagannathan  
S/o. Munusamy Muthu  
No.29/52, Subramaniyar Street,  
Anna Nagar, Chennai,  
Kancheepuram - 631 501.

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4. S.Jayachandran  
Pachaiyappa's Trust Board,  
Pachaiyappa's College Campus,  
Poonamallee High Road,  
Aminjikarai, Chennai - 600 030.

.... Respondents

(3rd respondent impleaded as per order, dated  
27.03.2019 in A.No.2423 of 2019)

(4th respondent impleaded as per order, dated  
27.03.2019 in A.No.2421 of 2019)

**Prayer in A.No.1927 of 2019** : This application has been filed under Order XIV Rule 8 of Original Side Rules r/w Section 151 of CPC, seeking an order to direct the respondents not to proceed any further proceedings for elections for electing the Board of Trustee of Pachaiyappa's Trust Board.

For Applicant : Mr.R.C.Paul Kanagaraj  
and Mr.V.R.Kamalanathan

For Respondents : Mr.K.V.Sundararajan for R1  
Mr.P.V.S.Giridhar for R3  
Mr.Shankara Narayanan, Senior counsel  
for Mr.K.Gowtham Kumar for R4

**COMMON ORDER**

A.No.1927 of 2019 has been filed to direct the respondents not to proceed any further proceedings for elections for electing the Board of Trustees of Pachaiyappa's Trust Board.

1.1. A.No.10093 of 2018 has been filed to direct the 8th respondent to pay market value of the rent for the Amma Arangam at Rs.6,68,20,740/- and for Anna Arangam at Rs.2,79,97,980/- annually pending disposal of the above O.A.

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1.2. A.No.10094 of 2018 has been filed to appoint an Engineering Team to value the civil work completed during the year 2014-2018 and report the same to the Interim Administrator and this Hon'ble Court for appropriate action.

1.3. A.No.10095 of 2018 has been filed to appoint three Authorities : (i) Administration of Educational Institutions under the control of Pachaiyappa's Trust; (ii) Administration of property, movables and immovables belonging to Pachaiyappa's Trust and (iii) Management of Pachaiyappa's Trust and Charities and Endowment to function under the Interim Administrator, incur expenditure for that purpose.

1.4. A.No.10096 of 2018 has been filed to accept the below mentioned amendments under clauses 4, 6, 8, 9, 11(A), 11(B), 11(O), 11.1-12 of the New Scheme for the Management of Pachaiyappa's Charities and direct suitable amendments to be made in the New Scheme framed by this Court for the Management of Pachaiyappa's Trust.

1.5. A.No.10097 of 2018 has been filed to accept the below mentioned amendments under clauses 4, 6, 8, 9, 11(A), 11(B), 11(O), 11.1-12 of the New Scheme for the Management of Pachaiyappa's Charities and direct suitable amendments to be made in the New Scheme framed by this Court for the Management of Pachaiyappa's Trust.

1.6. A.No.1749 of 2019 has been filed to cancel the lease deeds in Document No.2028 of 2017, dated 02.05.2017 on the file of the Sub-Registrar, Anna Nagar, Chennai and in Document No.2220 of 2017, dated 02.05.2017 on the file of the Sub-Registrar, Periamedu, Chennai executed by the Pachaiyappa's Trust Board, 2nd respondent in favour of the Muhurthaam Event Management Private Limited, the 4th respondent.

1.7. A.No.1802 of 2019 has been filed to direct the respondents not to declare the elections for electing the Board of Trustees.

1.8. A.No.1803 of 2019 has been filed to direct the respondent to accept the proposed amendments before declaring the conduct of election or suitable amendments to be made to the Scheme for better management of the Pachaiyappa's Trust.

1.9. A.No.2088 of 2019 has been filed to direct the respondents not to issue or receive the nomination forms until the pending disposal of the modification Application related to Pachaiyappa's Trust Board.

1.10. A.No.2089 of 2019 has been filed to direct the respondents not to proceed any further proceedings relating to the Election of electing the Trustees of Pachaiyappa's Trust Board until the defective voter list in the Post Graduate, Graduate and Research Scholar constituency is rectified.

1.11. A.No.2090 of 2019 has been filed to direct the respondents not to proceed any further proceedings relating to the Election of electing the Trustees of Pachaiyappa's Trust Board until the Interim Administrator should send officers from Pachaiyappa's Trust Board in person to the unverified eligible Graduate Constituency members to collect their particulars. सत्यमेव जयते

1.12. A.No.2416 of 2019 has been filed to permit the Interim Administrator to cancel the Election Notification, dated 05.03.2019 inviting nominations and all further proceedings and steps taken in pursuance to the election notifications pending disposal of the Scheme Amendment application.

1.13. A.No.10091 of 2018 has been filed to direct the second respondent to take effective steps to recover Trust properties, namely Anna Arangam at Dr.Gurusamy Road, Chetpet, Chennai - 31 and Amma Arangam, multi purpose / marriage hall (in C.Kandasami Naidu College campus) at 3rd Avenue, Anna Nagar, Chennai - 102, including the Lease Deed, dated 02.05.2017 registered as Doc.Nos.2028 and 2220 of 2017 on the file of the SRO, Anna Nagar in favour of the 8th respondent, in contravention to the scheme framed by this Court.

1.14. A.No.3111 of 2019 has been filed to show cause as to why the expression "Graduates of Pachaiyappa's College shall mean all persons who shall studied Graduate / Post Graduate & Research Scholars from all six colleges now being run by Pachaiyappa's Trust as on date and taken their Degree or not in the University of Madras / Thiruvalluvar University and who shall have paid in to the office of the Board of Trustees, a registration fee of Rs.5/- (Rupees Five only) and registered their names in a list to be maintained for the purpose in the said office in Clause 11(C) in the New Scheme for the Management of Pachaiyappa's Charities.

1.15. A.No.3112 of 2019 has been filed to show cause as to why No person shall be eligible to be a Trustee, unless he / she is not violating any norms prescribed by the New Scheme for the Management of Pachaiyappa's Charities when he / she served as Trustee in the past.

1.16. A.No.3113 of 2019 has been filed to show cause as to why the Board of Trustees shall consist of nine members who shall eventually be appointed in manner following : Three, to be elected by the all persons who shall studied Graduate / Post Graduate & Research Scholars from all six colleges now being run by the Pachaiyappa's Trust in Clause 11(B) in the New Scheme for the Management of Pachaiyappa's Charities.

1.17. A.No.3114 of 2019 has been filed to show cause as to why no person shall be eligible to be a Trustee, unless he / she is not served as Trustee for the Management of Pachaiyappa's Charities for the past five years from the date of election notification.

1.18. A.No.3115 of 2019 has been filed to show cause to why by efflux of time shall be eligible to be re-elected subject, however to the

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condition that a person who was elected as Trustee and who has served as a Trustee shall not be eligible of re-election from any constituency until after expiry of a term of five years from the date on which he ceases to hold office in Clause II (I) in the New Scheme for the Management of Pachaiyappa's Charities.

1.19. A.No.3116 of 2019 has been filed to show cause as to why no person shall be eligible to be a Trustee for Pachaiyappa's Trust Board, unless he is a Hindu and unless he / she is old student from the Pachaiyappa's Trust managed Colleges in Clause 11(A) in the New scheme for the Management of Pachaiyappa's Charities.

1.20. A.No.3210 of 2019 has been filed to direct the first respondent to take immediate attention to improve and restore the Pachaiyappa's Higher Secondary School, Chennai.

1.21. A.No.3211 of 2019 has been filed to direct the Interim Administrator to restrain the commercial activities in the Pachaiyappa's Higher Secondary School, Chennai and to restore a educational institutional atmosphere in Pachaiyappa's Higher Secondary School, Chennai.



1.22. A.No.3212 of 2019 has been filed to remove the remaining Trustee Mr.Dorai Mohan from Trusteeship.

1.23. A.No.3281 of 2019 has been filed to modify the scheme so as to allow only old students who did his / her graduation course are to be eligible to contest the election in all constituencies to the Pachaiyappa's Trust Board or suitable amendment to be made to the scheme for better Management of the Pachaiyappa's Trust.

1.24. O.A.No.210 of 2019 has been filed to appoint an Administrator or Receiver to (i) manage the two multi purpose halls, i.e., Amma Arangam and Anna Arangam situated in C.Kandaswami Naidu College, Chennai and Pachaiyappa's College, Chennai respectively and to (ii) receive rents and other income earned through bookings made from the two multi purposes halls, Amma Arangam and Anna Arangam for educational and other allied purposes.

1.25. A.No.2417 of 2019 has been filed to accept the above mentioned amendments and Clause 11(A), 11(B), 11(C) and 1-12 of the New Scheme for the Management of Pachaiyappa's Charities and direct suitable amendments to be made in the New Scheme framed by this Court for the Management of Pachaiyappa's Trust.

1.26. A.No.10092 of 2018 has been filed to accept the three proposed amendments and direct suitable amendments to be made to the Scheme for better management of the Pachaiyappa's Trust.

## **2. Historical Background :**

2.1. In 1754, one Punchi Ammal, w/o Viswanatha Mudaliar gave birth to a male child at a village called Periyapalayam, 37 kms away from Chennai. The child before coming to this world had already lost his father, Viswanatha Mudaliar, who passed away few months prior to the child's birth.

2.2. The said male child had grown and lived in this world only for 40 years, within which he had created a history. The celebrity child was none other than the famous vallal (Philanthropist) Pachaiyappa Mudaliar. At the time of his birth, since already he lost his father, his mother with two elder sisters had been struggling a lot to meet both ends, hence, they had been living for some years with the help of one good-hearted person, namely, Reddy Rayar and thereafter, the family in the year 1760, moved to the city of Madras. By that time, the Pachaiyappa grown as a young boy who got the patronage of Powney Narayana Pillai, a Dubash, who paved the way for Pachaiyappas

commercial venture. Through him only, Pachaiyappa started his commercial activities, as Pachaiyappa was fixed by Narayana Pillai as an young Dubash with Norton Nicholas, a free merchant in Madras from 1754 (Dubash means a translator or interpreter, who shall be knowing two languages, especially English). Hence for English people, in those days, these kind of Dubashes were very much required for all their activities in Indian soil. Therefore, the Pachaiyappa, who had been able to speak languages like English, Spanish, French, Telugu besides Tamil, with this knowledge with more than one language, he become the successful Dubash to assist so many British merchants as well as British Indian companies and French companies.

2.3. This is how Pachaiyappa slowly grown as an young Entrepreneur / Merchant and started earning considerable fortune at his very tender age. Even during that period, out of his earnings, the young Pachaiyappa set apart considerable percentage of his earnings towards charities. Married to his niece Ayialammal, daughter of Subammal, Pachaiyappa had expanded his enterprising activities not only in Chennai but also in the District of then Chengalpet and later his concentration was at Thanjavur, where he developed close contacts with Kings of Tanjore. Accordingly, he started acting as the agent of

Kings of Tanjore for collecting tax. In this task, Pachaiyappa, since had been in very prompt and honesty which paid him back, as the king of Tanjore had to give 10 to 20% of rebate of the revenue collected by Pachaiyappa, thereby Pachaiyappa had amazed huge wealth at his early 30s.

2.4. Of late, Pachaiyappa's health deteriorated as he was suffered with paralytic stroke in the year 1794. As he understood that his life span would not be extended for a longer period, he thought of writing a Will, accordingly, Pachaiyappa wrote a Will on 22.03.1794, under which, Pachaiyappa earmarked or set apart huge wealth and properties of him for various charity purposes. For instance, the charity to be undertaken from Kasi Temple to Rameswaram Temple, Pachaiyappa earmarked several lakhs of Bagodas. Like that, so much of his properties have been earmarked or set apart for Hindu Religious Charitable work and also for other Philanthropic activities. Ultimately, Pachaiyappa died on 31.03.1794 (a New moon day) within few days of his writing up the Will.

2.5. The Will came to the notice of Sir.Herbret Crompton, the then Advocate General of Government of Madras, who had initiated

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steps to file a petition before the Supreme Court of Madras (Before the Chartered High Court of Madras came into being by the Charter issued by Queen Victoria, Supreme Court was established in three Presidencies, namely Calcutta, Mumbai and Chennai, i.e., at Madras) and obtained a decree for the performance of the charity and accounts of the funds accrued or generated from the huge properties of Pachaiyappa earmarked through the said Will.

2.6. Thereafter, one of the celebrity Advocate Generals of British era at Madras Presidency, Mr. George Norton, after realising that large amount of fund accrued in the Pachaiyappa's Estate, had taken steps to move the Supreme Court of Madras and obtained a scheme decree in 1841, wherein, apart from carrying out the religious activities / charities, there had been provision to set apart funds for the advancement of Education and Educational purposes.

2.7. Thereafter, at number of times, the decree have been passed by the Court on the Pachaiyappa's charities. The first decree was passed on 03.02.1826, thereafter, further decree was passed on 29.10.1832, whereby liberty was given to the Advocate General to appropriate surplus funds for educational purposes. On 30.10.1832,

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third decree was passed, declaring it proper to be carried into execution with regard to the additional funds beyond Rs.3,50,000/-, which had been set apart for charities as per the list given therein and further reserving any funds have to be diverted for performances of educational charities. On 06.08.1841, fourth decree was passed for the similar purposes.

2.8. Thereafter, the Board of Revenue of Madras Presidency had paved the way for a constitution of Management Board of the Pachaiyappa's charities and the said Board ordered for appointment of Trustees, filling up of vacancies and administration of Religious charities. Thereafter, the decree was subjected to modification on the following dates, 12.02.1909, 19.07.1920, 16.07.1963 and 04.01.2007. The last such modification was made by an order of the Division Bench of this Court, by order, dated 24.09.2008, whereby the decree had underwent some modification and a supplemental scheme was framed, which is in force till date.

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**3. Existing Modified scheme of Decree :**

3.1. The decree, as has been stated above, has been subjected to modification, lastly on 24.09.2008. After the modification, the

modified decree has been in force till date. Among other things, for the purpose of disposal of the present applications, the following clauses of the modified decree are extracted hereunder :

4. Commemoration Day -

The foundation of Pachaiyappa's Charities shall be commemorated in such manner as the Board of Trustees shall deem fit, annually on the Saturday before Easter Sunday of each year or on some other day as near thereto as may be found convenient. A public meeting shall be held on the evening of the said day at Pachaiyappa's Hall at Madras and at such meeting a printed report of the administration of the charities under the management of the Board of Trustees during the year ending 30th June previous shall be read and circulated. The said report shall include : -

1. Statement showing the receipts and disbursements relating to the charities during the year.
2. The report of the Auditor hereinafter referred to.
3. Certificates regarding the proper performance or celebration of the said several charities at the several places in the Mofussil from the Honorary

Local Superintendent's hereinafter referred to.

4. The report of the Local inspection, if any, held during the year as hereinafter provided.

5. Any explanation which the Board of Trustees may have to give or offer regarding any failure to perform or properly perform any of the said charities.

Copies of the said printed report shall, every year, be submitted to the Advocate-General of Madras for the time being and to the Board of Revenue.

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6. Annual Local Inspection :

The Board of Trustees shall, at least once in every three years, cause all the charities under their management to be locally inspected and reported upon by one or more of their own body or any other person to be specially deputed for that purpose. All the expenses incidental to such inspection may be ordered to be paid by the Board of Trustees from such funds and in such proportions as they may deem fit. A summary of the report of the Inspection of the charities shall be published



along with the annual report.

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8. Audit :

The accounts of the Board of Trustees shall be audited concurrently every month and also at the close of the year by a certified Auditor that may be appointed by the Court on application made by the Trustees. The remuneration of the Auditor shall be fixed by the Court and be paid by the Board of Trustees from the income of the funds under their management in such propositions as they may deem reasonable.

9. Budget :

The Board of Trustees shall, every year on or before the 31 May, prepare a Budget for all charities and institutions under their management for the year commencing the 1st July following. Copies of such budget shall be submitted, every year on or before 15th of June to the Advocate General of Madras and to the Board of Revenue, Madras. The provisions in the budget shall, as far as possible, be adhered to and no expenditure not provided for in the budget or in excess of the amount allotted in the budget for any particular purpose or item, shall be made, allowed or sanctioned by the Board of Trustees, except for reasons to be

recorded by them in writing. Copies of every resolution sanctioning any expenditure over and above the allotments in the budget, shall be submitted to the Advocate-General of Madras for the time being and the Board of Revenue, Madras within 15 days from the passing of such resolution.

11. The Board of Trustees

(A) Qualifications of Trustees : No person shall be eligible to be a Trustee unless he is a Hindu and unless he had paid for the year preceding that in which the election takes place Municipal taxes under the Madras Municipal Act IV of 1919 and due in respect of such year to the aggregate amount of not less than Ten thousand Rupees.

No one who is on the staff of any institution under the management of the Board of Trustees, shall be eligible to be elected or nominated as a Trustee.

(B) Constitution of the Board :

The Board of Trustees shall consist of nine members who shall eventually be appointed in manner following :

Two, to be elected by the Hindu members of the Senate of the University of Madras.

Three, to be elected by the Graduates / Post Graduates and Research Scholars from all the six colleges now being run by the Pachaiyappa's Trust as on date of not less than ten years standing.

Two to be elected by the Pachaiyappa's Trust Board College Council hereinafter referred to.

Two to be elected from amongst the electoral college consisting of all the approved teachers from all the colleges of Pachaiyappa's Charities.

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(E) Intimation of vacancy :

The occurrence of any vacancy in the Board of Trustees shall, within 15 days of such occurrence, be communicated by the Board of Trustees to the Advocate General of Madras and to the Board of Revenue, Madras.

(F) The Holding Elections :

It shall be the duty of the Board of Trustees to make the necessary arrangements for having the various elections, made

Within a month of the occurrence of any vacancy on the Board of Trustees, intimation of the occurrence of the vacancy shall be given, by post, to the electors concerned and each of

the eligible electors shall be given an identity card. As soon as vacancy arises in the Trust Board, written intimation shall be sent to the electors about the date of election and polling within a month. Eligible electors shall appear in person on the date of election, collect the ballot papers and then poll it in the ballot box / boxes arranged at each college. The identity of the voters shall be verified by the polling officers with the records made available to him by the Trust Board.

All elections shall be conducted and the votes told and the result of the election declared by a Committee to be appointed by the Board of Trustees consisting of three persons of whom the Principal of Pachaiyappa's College for the time being shall if possible, be one.

The election by the Pachaiyappa's Trust Board College Council and election of Trustees by the electoral college of all the approved Teacher of all the colleges of the Pachaiyappa's Trust / and any other election of trustee from respective constituency shall however as per the election procedure ordered as in clause 11(f) of this scheme. No persons shall be deemed to have duly elected or nominated as Trustee who is not so elected or nominated as Trustee who is not

so elected or nominated by a clear majority of the members constituting respective constituency respectively for the time being.

As soon as an election is made and declared, the result of any appointment by such election shall be communicated by the Board of Trustees to the Advocate-General of Madras and to the Board of Revenue, Madras, The Board of Trustees may pay all expenses incidental to the said elections from and out of the funds in their hands.

(G) Default in the holding of Elections :

In default of an appointment being made to any vacancy within three months of the occurrence thereof, it shall be competent to the Advocate-General of Madras, the Board of Revenue, Madras or to any Hindu resident of Madras to apply, by Judge's summons entitled in this matter, to any Judge sitting on the Original Side of the High Court of Judicature at Madras, to fill up the vacancy, and it shall be competent to such Judge on such application and after directing the issue or publication of such notice as may be deemed necessary to appoint to the vacancy any person qualified to be appointed as member of the Board of Trustees.

(H) Tenure of Office :

Save as hereinafter provided, every Trustee appointed under this scheme shall hold office for five years to be computed from the date of his election but may resign earlier.

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(K) Election of President :

The Board of Trustees shall, every year in the month of April, elect a President of their Board and such President shall be entitled to hold office till next election and shall be eligible for re-election.

(L) Quorum :

Five members of the Board shall form quorum for a meeting of the Board. There shall be an ordinary meeting of the Trustees once every month, Special meetings shall be called as often as may be necessary on a requisition from three Trustees.

#### **4. Genesis of present issue :**

4.1. As per the modified scheme referred to above, the Board of Trustees consisting of Nine members, shall be elected by election through the method referred to in the scheme itself by different electoral college. Each of the member elected so would have a tenure of 5 years. While that being so, out of the 9 member Trustee of the

Board, the term of four trustees had already been expired and in respect of the remaining five trustees are concerned, four out of the remaining five trustees term also had to be expired on 25.05.2018. Thereafter in order to elect the 8 trustees, election was proposed to elect new set of trustees by different electoral college referred to above. An interested person, who claims to be an old student of Pachaiyappa's College, who had a valid voter ID in the Registered Constituency, seems to have filed O.A.No.238 of 2018 with A.No.2624 of 2018 with a prayer to grant an order of injunction restraining the respondents 3 to 7 therein from calling for and conducting elections for the trustees to the Trust Board pending disposal of the O.A. And through A.No.2624 of 2018, the said applicant had sought for appointment of a retired Judge of this Court as a Commissioner to conduct the election for all the trustees right from preparing the voters list.

4.2. The said Original Application and Application were heard by a learned Judge of this Court and a detailed order was passed by this Court on 14.06.2018, whereby the learned Judge has passed the following order :

"25. For carrying out the same, this Court

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deem fit to appoint Honourable Mr.Justice P.Shanmugam (Retired) as Interim Administrator and also to conduct election. Though respondents 3 to 6 with respondent 7 constitute quoram. At present, the period of respondents 3 to 6 would expire very shortly, i.e., on 25.06.2018 they shall not take any major decision especially on the finance and other major decision in respect of the Trust properties. Interim Administrator should administer the Trust and conduct the election for 8 Trustees posts including 4 vacancies already fell and others will be vacated on 25.06.2018 as per the Scheme. It is ordered as follows :

- i. That the Honourable Mr.Justice P.Shanmugam (Retired Judge, High Court, Madras), residing at New No.24, T.T.K.Road, Teynampet, Chennai - 600 018, be and is hereby appointed as Interim Administrator.
- ii. That the Interim Administrator appointed herein shall take charge of the management of the Pachaiyappa's Trust on 25.06.2018 at 4.00 p.m.
- iii. That the Interim Administrator shall administer the Board till the elections are over and the new Board of Trustees take charge.



iv. That the Judge Commissioner appointed herein shall be paid a sum of Rs.1,00,000/- per month (Rupees One Lakh only per month) and the said sum shall be drawn from the funds of the Trust Board.

v. That the Judge Commissioner shall also entitled for car allowance of Rs.1,00,000/- (Rupees one lakh only) to defray the expenditure towards travelling.

vi. That after assuming charge, the Interim Administrator appointed herein shall make necessary preparation for conducting election for 8 vacancies as per the Scheme by preparing voters list fresh. Every endeavour should be made by the Interim Administrator to complete election expeditiously in terms of the object and scheme of the Trust.

vii. That the Interim Administrator appointed herein shall take the assistance of any person he thinks proper for conducting election and shall draw funds towards the expenditure for conducting election.

viii. That the Judge Commissioner appointed herein be and is hereby empowered to hire a personal secretary to assist him in his work and also entitled working space, personal staff and communication facilities and also draw

assistance from the existing staff of the Trust as he shall deem fit as necessary.

ix. That the existing trustees shall not take any major decision touching upon the financial matter, payments and other aspects including any decision over immovable properties, appointments, etc.

x. That the existing Trustees and other officials of Trust shall co-operate with the Interim Administrator for smooth administration of Trust.

26. The O.A.No.283 of 2018 and A.No.2624 of 2018 are ordered with the above terms."

4.3. Pursuant to the said order passed by this Court appointing Hon'ble Mr.Justice P.Shanmugam, a retired Judge of this Court, as an Interim Administrator, he took charge on 25.06.2018. After taking charge, the Interim Administrator, has so far filed four interim reports. The first one was filed by him on 27.07.2018 and his second interim report was filed on 09.10.2018 and he filed the third interim report on 14.12.2018 and filed his fourth interim report on 22.04.2019.

4.4. In order to have further understanding of the issues raised in these applications, the crux of those four interim reports filed by the

Interim Administrator are to be taken note of. In the first interim report, dated 27.07.2018, the interim administrator has stated about the number of institutions run by the Trust, number of other trust and charities who entrusted them the properties to the Pachaiyappa's Trust and also the number of buildings and properties belong to the Trust. Accordingly, the Trust is running 12 institutions as of now, out of which 6 are college level institutions and remaining 6 are schools. 23 other trust and charities entrusted their properties to the Pachaiyappa's Trust for management. Primarily estate called Chellammal Estate, Maragathammal Estate, E.Duraisamy Mudali Estate and some other Estates had been annexed with the Pachaiyappa's Trust on voluntary basis and those estates also being managed by the Pachaiyappa's Trust Board. The trust operates 44 Bank Accounts and the Board itself maintaining 19 Fixed Deposits, amounting to a total sum of Rs.27,92,02,819/-.

4.5. That apart, there are 224 buildings and 132 vacant sites owned or managed by the Pachaiyappa's Trust. The monthly rental income comes from these properties is only about Rs.3,49,263/-, as the rental was fixed for these buildings and properties at least 10 to 15 years back at a rock bottom rental value which is far from market value.

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4.6. The Pachaiyappa's Trust office is having 15 staffs consisting of five Junior Assistants, five Assistants and two Superintendents. That apart the institutions run by the Trust are having 358 teaching and 73 non-teaching staffs in self-financing scheme, i.e., unaided, in all the institutions put together. Those teaching and non-teaching staffs in self-financing basis are working temporarily with consolidated pay. As stated earlier, the term of office of all the Trustees, except one out of the 9 total trustees of the Trust Board, expired on 25.05.2018 or prior to that, therefore as of now, there has been no board and only the interim administrator has been administering the Trust by virtue of the orders passed by this Court referred to above. The interim administrator has also in his first interim report stated about the availability of funds of the Trust as on 30.06.2018 by giving the following table :

<b>Sl.No.</b>	<b>Particulars</b>	<b>Amount</b>
1.	Pachaiyappa's Charities Bank Balance (PC) - 20 Accounts	2,38,48,982.00
2.	Other Charities Bank Balance (OC) - 24 Accounts	55,39,128.00
3.	Pachaiyappa's and other Charities Fixed Deposits with Bank Total	16,94,41,802.00
	Total Funds available as on 30.06.2018	19,88,29,912.00

4.7. In the very first interim report, the interim administrator has also pointed out the transfer of funds of various estates to and in favour of construction of two multi purpose hall, namely Amma Arangam and Anna Arangam and in this context, the interim administrator would state that, totally a sum of Rs.28,38,28,152/- for Amma Arangam and a sum of Rs.3,16,00,773/- for Anna Arangam had been spent by the Trust Board.

4.8. In the said first interim report, the interim administrator has also pointed out that, the land consisting of more than 100 grounds had been purchased by the Pachaiyappa's Trust for C.Kandasami Naidu College for Men, Chennai - 102, from the Tamil Nadu Housing Board, by absolute sale deed, dated 03.09.1999, where there has been an important condition attached in the sale deed stating that, the property sold and the building constructed therein shall not be used for any other purpose except for educational purpose only. Then further details had been given about the fund diversion for spending on two multi purpose hall, i.e., Amma Arangam and Anna Arangam and also the interim administrator spoke about the compensation received by the Trust from Chennai Metro Rail Limited for the land of the Pachaiyappa Trust acquired for the metro line in the said first interim report, dated 27.07.2018.

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4.9. The interim administrator has filed the second interim report, dated 09.10.2018. In this report also, the interim administrator has stated about the financial mismanagement of the erstwhile Trust Board under the heading Finance, Amma Arangam, breach of Trust conditions, statutory non-compliance etc. The interim administrator in this interim report has also stated about the elections and the action taken by the interim administrator in this regard under various heading such as Senate Members, Approved teachers, Graduate Constituency, and College council.

4.10. In the said second interim report, the interim administrator has also stated under the heading Administration, the following :

"Administration :

38. There are six schools and six colleges under the Management of Pachaiyappa's Trust Board there as follows :

- (i) Pachaiyappa's College Higher Secondary School, Chennai-1.
- (ii) Pachaiyappa's Higher Secondary School, Kanchipuram.
- (iii) Pachaiyappa's Branch Secondary School, Kanchipuram.

- (iv) Pachaiyappa's Higher Secondary School, Chidambaram.
- (v) Pachaiyappa's Primary School, Chidambaram.
- (vi) Govindhu Naicker Secondary School, Chennai-1 (since affiliated from Pachaiyappa's Trust and is under separate management).
- (vii) Pachaiyappa's College, Chennai-30.
- (viii) C.Kandaswami Naidu College for Men, Chennai-102.
- (ix) Chellammal Womens College, Guindy, Chennai-32.
- (x) Pachaiyappa's College for Men, Kanchipuram.
- (xi) Pachaiyappa's College for Women, Kanchipuram.
- (xii) C.Kandaswami Naidu College for Women, Cuddalore."

4.11. All the above said institutions, according to the interim administrator, are run as aided institutions since aid are being given by the Government of Tamil Nadu. Under the heading properties and buildings of Pachaiyappa's Trust, the interim administrator has stated in his report that, there are about 500 buildings, residential and non-residential belonging to Pachaiyappa's Trust and notices have been

given to all these tenants for enhancement of rent as in most of cases tenancies have been continuing without enhancement or formal rental deeds.

4.12. The Administrator has further stated in the said report that, during the year 2015, number of constructions were proposed and contractors were appointed, however, it was not known or clear, whether the works were completed. 17 such works have been earmarked by the Administrator to state that, those works, though had been commenced by entrusting the work to the contractors by the erstwhile Trust Board, whether those works have been completed or not is not known to him as no such records were available it seems. Also the interim administrator has pointed out the discrepancies available in constituting the electoral college for electing various members for 9 member Trust Management Board. The interim administrator has also filed third interim report on 14.12.2018, where the interim administrator has pointed out that, at least two estates, namely P.T.Chengalvarayan Trust and Govinda Naidu Trust were separated from the Pachaiyappa's Trust due to alleged mismanagement of the Pachaiyappa's Trust Board and in this case, the P.T.Chengalvarayan Trust has now claimed a sum of Rs.4.92 crores as the amount due to them from the Pachaiyappa's Trust Board.



4.13. The interim administrator, in this third report has pointed out that, number of very eminent personalities had been in the Trust Board of Pachaiyappa's Trust at various point of time. Like that, very eminent personalities have been the Aluminis of the Pachaiyappas institutions. Illustratively, he has given some names which reads thus :

"5.7 As per the decree framed by then Supreme Court in the year 1842 trustees were appointed. Subsequently the Board of Revenue delegated the management to the committee consisting of 9 members subject to the General Superintendent of the Board of Revenue. Ever since the constitution of the Board of Trustees the eminent statesmen of Tamil Nadu became the Trustees and have contributed to the growth of the Board. Some of the noted names are Thiruvalluvar (1) T.Ethiraja Mudaliar, (2) M.C.T.Muthaiya Chettiyar, (3) Justice R.Sadasivam, (4) M.A.M.Ramasamy, (5) Manali S.Ramakrishna Mudaliyar, (6) Dr.A.Lakshmanaswami Mudaliyar, (7) C.P.Ramasamy Iyer and many I.A.S officers and Administrators. Some of the eminent Pachaiyappa's Alumini's are Tvl. (1) M.Patanjali Sastri, CJI, (2) Dr.P.V.Rajamannar, CJ, (3) P.Chandra Reddy, CJ, (4) K.S.Venkataraman, ICS Governors K.C.Reddy, Chandra Reddy,

Chief Ministers, Dr.C.N.Annadurai, K.Brahmananda Reddy, other Eminent persons, Tvl. Salem Vijayaraghavachariar, Murasoli Maran, Dr.R.P.Sethu Pillai, S.Govindarajulu, T.P.Minakshisundaram Pillai and so on."

4.14. In this report, the interim administrator has given his views about Amma Arangam and Anna Arangam and also he has given his views under various headings such as Non-performance of endowments, Finance conditions of Board, Litigations, Election to the Pachaiyappa's Trust Board and Administration.

4.15. The interim administrator on 22.04.2019 has filed his fourth interim report, wherein also further additional particulars had been given under various headings such as Election to the Board of Trustees, Financial conditions of the Pachaiyappa's Trust and Self-financing Evening colleges. In the said report, the valuation of the colleges run by the Pachaiyappa's Trust at Chennai, Cuddalore and Kancheepuram as per the value fixed by the Auditors appointed by Former Administrator, Mr.T.N.Seshan (Former Chief Election Commissioner of India) appointed by this Court, few years back has been given. In this context, the interim administrator has given the

following input about the value of the properties of those institutions :

"23. Thiru.S.Marudhavanan, Chartered Accountant appointed during the Thiru T.N.Seshan, I.A.S., period took efforts to value the properties of the five colleges in the year 2013 and submitted the audited reports 2004-2005, 2012-2013 of all the colleges. Unfortunately his bills remained unpaid. When he happened to present a reminder to the bill he was requested to submit the valuation report and audit reports which he furnished only on 19.04.2019. The Audited reports were not furnished by the office so far to the I.A. copies of the valuation reports are included in Volume VII. The following are the valuation of properties of the colleges.

<b>S.No.</b>	<b>Name of the College</b>	<b>Value of the property of Rs.</b>
1.	C.Kandaswami Naidu College for Men, Chennai	369,00,00,000/-
2.	C.Kandaswami Naidu College for Women, Cuddalore	10,50,00,000/-
3.	Pachaiyappa's College for Men, Kanchipuram	119,63,69,478/-
4.	Pachaiyappa's College for Women, Kanchipuram	82,42,38,020/-
5.	Chellammal Women College, Chennai	532,00,00,000/-
	<b>Total</b>	<b>1113,56,07,498/-</b>

The Certified Valuation Reports of these properties are given in the typed set of Volume VII so that they be part of permanent record before this Hon'ble Court. The value of the Pachaiyappa's College, Chennai could not be ascertained according to Thiru.S.Marudhavanan, Chatered Accountant because of non-cooperation of the college management at that time. However the approximate value of 30 Acres land and building of Pachaiyappa's College will be about Rs.1000 crores. The total value of C.Kandaswami Naidu College is relevant to ascertain as to how its value is reduced by putting up a Kalyana Mandapam. As against the total area of 2,60,693 sq.ft, 40,000 sq.ft. of land for building a Kalyana Mandapam and about 20,000 sq.ft. is taken over car parking.

24. Thus the value of building properties to Pachaiyappa's Trust and other trusts in the city of Madras alone would be about Rs.119 Crores. The value of the six colleges comes to Rs.2113 Crores. However, the income and return from these properties of Pachaiyappa's Charities land and buildings are very meagre compared to the value of the land and buildings. The details of the properties and rent are set out at pages 61 and 62 of the Annual Report Volume VI."

5. Among the applicants in the present set of applications, one of the application was filed by a Former Judge of this Court, namely Justice K.P.Sivasubramaniam, who is also an Alumini of Pachaiyapas college. Some of the applications were filed by the former students of the college or former principal or teaching staff of the college. If all the applications are taken together in the context of their respective prayer sought for therein, as has been indicated at the beginning of this order, the prayers sought for in these applications can be divided in to three broad categories. They are (i) issues relating to Election; (ii) issues relating to property and (iii) issues relating to modification of the scheme.

6. Those who seeks for modification of the scheme is concerned, mainly the applicants in that category sought for modification of the scheme in Clauses 4,8,9 and 11 of the modified scheme, dated 24.09.2008. The applicants who sought for modification of the scheme projected their plea on the ground that, since there had been mismanagement for longer time during the tenure of previous management boards and there has been large scale financial irregularities which amounts to misappropriation of funds of the Trust, it has become inevitable to make a suitable modification in the scheme

to entrust the administration of the Trust under the stewardship of a reputed person or group of persons, who, according to them, must be a former Judge of this Court or in this regard, the services of more than one former Judges can be availed.

7. In so far as the plea raised by some of the applicants in respect of properties of the trust is concerned, they very much projected the issue of construction of a multi purpose Auditorium / Hall called Amma Arangam at Kandasami Naidu College campus, Anna Nagar, Chennai and also the further construction, modification and upliftment of existing multi purpose hall, namely, Anna Arangam at Pachaiyappas College campus at Chennai. In this context, lot of issues were projected by the respective applicants to state that, there has been a complete mess in dealing with the construction of these two Arangams, i.e., multi purpose halls by the erstwhile Trust Boards and therefore it requires immediate remedial measure from this Court to retrieve these properties, which, according to them, have been leased out for 20 longer years for a paltry lease amount.

8. Like that, in so far as the projection made by some of the applicants with regard to the proposed election to be conducted for

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electing 8 Trust Board members through various electoral college, there had been number of complaints on the very electoral roll itself and in this context, it is their case that, the very eligibility condition prescribed for the electoral college members to become voter itself needs a relook and review, therefore they seek for a modification in this regard before going for Election.

9. Therefore broadly, on these three headings, as set out above, most of these applications have been filed and in support of the respective applications, affidavits were filed and respective respondents have chosen to file the counter affidavit in most of these applications and based on which, arguments and counter arguments were advanced by the learned respective counsels for the parties. That apart, the interim administrator also has filed at least three applications with various prayers as referred to above and on whose behalf also arguments were advanced by the learned counsel appearing for the interim administrator.

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10. I have heard Mr.Vijay Narayan, learned Advocate General, Mr.N.R.Chandran, Mr.A.L.Somayaji, Mr.AR.L.Sundaresan, Mr.Shankara Narayanan, Mr.K.Doraisami, Mrs.Chitra Sampath, learned Senior

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Counsels and Mr.K.V.Sundararajan, Mr.P.B.Balajai, Mr.R.C.Paul Kanagaraj, Mr.D.Jaganathan, Mr.G.Murugendran, Mr.Anbalagan, Mr.V.R.Kamalanathan, Mr.P.V.S.Giridhar, Mr.G.Mohanakrishnan and Mr.Anbukkarasu, learned counsels.

11. Mr.K.Doraisami, learned Senior counsel appearing for the applicants in A.No.1749 of 2019 and O.A.No.210 of 2019 to seek for cancellation of the lease deed in respect of Anna Arangam and Amma Arangam and also to appoint the Administrator or Receiver, has made submissions that, he is the former student of Pachaiyappas College at Chennai and he was provided shelter and education by the said Institution, because of the philanthropic activities of the charities, thereby he was able to become a lawyer and now stand before this Court as a reputed Senior counsel. He would further submit that, as regards the lease executed in favour of the lessee, i.e., Muhurthaam Event Management Private Ltd., (herein after referred to as "Muhurthaam" for the sake of brevity) in respect of Amma Arangam and Anna Arangam for a long lease of 20 years, it was not properly leased out, as the lease amount fixed by the Trust is comparatively very low with the market value and also the said Muhurthaam after becoming lessee, accordingly has been collecting huge sum from those

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who booked the mandapams for social events like marriage etc. That apart, he would further submit that, there has been a complete mismanagement on the financial aspect of the Trust by the erstwhile Trustees for the past several years. Therefore this Court must take a judicial notice of almost all the developments and to think of to appoint an Administrator on permanent basis to have the over all administration of the Trust.

12. Mrs. Chitra Sampath, learned Senior counsel appearing for the applicant in A.No.10097 of 2018 made submissions stating that, failure to perform the commemoration day makes the failure of Trustees and the failure to place annual local inspection report and also the non-appointment of Auditor by approaching the Court and non-preparation of the budget periodically with the approval, are all to be considered as a total failure on the part of the Trust Board, therefore in order to take a remedial measure, the prayer sought for by the applicant has to be allowed. She would further submit that, one voter one vote concept must be accepted and adopted. She would further submit that, as per the provisions available in the Bombay Public Trust Act, 1950, which later renamed as The Maharashtra Public Trust Act, 1950, activities of charitable trust and charities are taken

away from the jurisdiction of the Civil Court and thereby virtually the Jurisdiction of Civil Court is completely ousted.

13. She relied upon Section 80 of the said Act, which is now named as "The Maharashtra Public Trusts Act, 1950", which reads thus:

"80. Bar of jurisdiction :  
Save as expressly provided in this Act, no Civil Court shall have jurisdiction to decide or deal with any question which is by or under this Act to be decided or dealt with by any officer or authority under this Act, and in respect of which the decision or order of such officer or authority has been made final and conclusive."

14. On behalf of the Interim Administrator, the following applications were filed.

"(i) A.No.10093 of 2018 to direct 8th respondent to pay the market rent for the lease out Amma Arangam and Anna Arangam.  
(ii) A.No.10094 of 2018 to appoint an Engineering Technical Team to inspect the construction made, i.e., all constructions made by the erstwhile Trustees and to file a report.

(iii) A.No.10095 of 2018 is to sought for the prayer to appoint three independent authorities for administration of the Educational Institutions, Administration of properties and also the Management of the trust, charities and its endowments.

(iv) A.No.2416 of 2019 is to permit the Interim Administrator to cancel the election, and

(v) A.No.2417 of 2019 is to modify the scheme."

15. In support of all these prayers sought for on behalf of the Interim Administrator, Mr.K.V.Sundararajan, learned counsel appeared and made submissions that, as per the order, dated 14.06.2018 of this Court, the Interim Administrator (Hon'ble Mr.Justice P.SHANMUGAM, Retired Judge of this Court) was appointed and he took charge on 25.06.2018. After he was taking charge, he had to struggle to have access with the records and according to his reports, since he has filed so far four interim reports before this Court, there has been rampant financial irregularities and also several unilateral decisions had been taken by the erstwhile Trustees, which include the decision to construct two multi purpose hall, one is the existing Anna Arangam at Pachaiyappas College campus at Chennai and another one is the

construction of Amma Arangam, a multi purpose hall at the campus of Kandasami Naidu College for Men at Anna Nagar, Chennai. These decisions were taken by the committee members / members of the erstwhile trust board, in utter violation of various provisions of law governing the field and this has been clearly established and explained in the interim reports of the Interim Administrator.

16. He further submitted that, there had been incomplete auditing, delayed filing of Income Tax Return and also there had been considerable irregularities noticed in entrusting the construction work of two Arangams as stated supra to various individual contractors without floating any proper tender and also the way in which long term lease for 20 years given to the Muhurthaam for the said two Arangams are highly deplorable as it tend to make loss to the charities. He would further submit that, even though the additional construction in Anna Arangam and full construction in Amma Arangam had been taken place without even applying for necessary planning permission or building permission from the local authorities, namely Corporation of Chennai or Chennai Metropolitan Development Authority, those buildings since have been constructed spending several crores of rupees of the charities and also after obtaining huge loan from the Bank against

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various Fixed Deposits of the charities, those (mandapams) buildings need not be demolished for want of building permission / plan permission from local authorities but suitable remedial measures can be directed to be taken in order to save the buildings to utilise in better way, to compensate the financial loss and to be in the interest of the students of the colleges concerned and also in the interest and betterment of the Pachaiyappa's charities.

17. In so far as conducting of election as directed by this Court, to elect 8 Trustees for the Trust Board, steps had been taken by the Interim Administrator, however, the Interim Administrator found so many discrepancies in the very eligibility of the voters as well as the qualifications of persons to become the candidates and also the restricted scope without widening the same among all the colleges run by the charities to have broader electoral college / voters list, therefore, in this context, suitable modifications are required to be made in the existing new scheme, without which, if election process is undertaken, that will be a farce, as no purpose of the charities for its betterment could be achieved by conducting the election with the present set of guidelines and rules as there are lot of discrepancies as has been pointed out in detail in the interim reports by the Interim

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Administrator found in electoral college as well as the system of election.

18. In support of the applications, towards modification of the scheme, a Former Judge of this Court, Hon'ble Mr.Justice K.P.Sivasubramaniam and an Advocate of this Court, one Mr.S.Doraismy jointly filed applications in A.Nos.10096 and 10097 of 2018. Mr.Anbukarasu, learned counsel appearing on behalf of the applicants would reiterate the contentions raised in the respective applications by the said applicants and also brought to the notice of this Court that, the very construction made to have the multi purpose hall, i.e., Amma Arangam at the proposal stage itself was categorised as commercial venture, which kind of proposal ought not to have been undertaken by the Trust Board, that too at the cost of crores of rupees against the Fixed Deposits of the charities, thereby the charities, have not been benefited and only it will be the benefit and interest of some individuals or group of individuals to have unjust enrichment over large junk of money being collected by way of rental from those two mandapams, thereby the erstwhile trust board members acted directly detrimental to the interest of the charities, he contended.

19. He would also submit that, as per the records available, under four categories to select 9 members of trust board, totally there has been 1766 members to constitute the electoral college in all the four categories. This figure, comparing with the vast number of erstwhile graduates / post graduates and also the teachers of various institutions run by the Pachaiyappa's charities, is very very low, thereby within a small group of electoral college, every time the election to elect trustees for the trust board being conducted, thereby very few people again and again were able to succeed in the election and they occupy the position in the trust board and act against the interest of the charities.

20. Mr.P.B.Balaji, learned counsel appearing for the applicants in A.Nos.10091 and 10092 of 2018 made submissions that, in view of the discrepancies pointed out, the lease extended to Muhurthaam by the trust for 20 long years in respect of the two mandapams, namely Anna Arangam and Amma Arangam has to be cancelled.

21. Contra to the aforesaid submissions made on behalf of the applicants, some of the Senior counsels and counsels made submissions on behalf of the respondents, most of them are erstwhile trustees and also on behalf of the lessee, i.e., Muhurthaam.

22. In this context, Mr.A.L.Somayaji, learned Senior counsel, Mr.Sankara Narayanan, learned Senior counsel and Mr.AR.L.Sundaresan, learned Senior counsel made vehement contentions stating that, these applications to seek modification of the very scheme itself are not maintainable, as the scheme already framed and settled by this Court cannot be modified or tinkered with by merely filing an application, as that of the present applications. Moreover if the proposed modification, as they have sought for, are permitted to or allowed to, then it would amount to changing of the very scheme already framed and settled by this Court and that kind of venture cannot be made by this Court by merely entertaining these applications, since it will go outside the scope of the purview of Section 92 of CPC.

23. In support of the said contention, the learned Senior counsels referred have made submissions stating that, merely because some allegations have been made against the erstwhile trustees, the applicants cannot seek for the indulgence of this court to make amendment or modification of the existing scheme. They would further submit that, in order to substantiate the said allegations made against the erstwhile trustees as well as the lessee, Muhurthaam, there has

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been no empirical data to the satisfaction of this Court, as no such data have been filed and proved before this Court within the meaning of Indian Evidence Act, hence this Court cannot take into account those allegations and based on which, no modification can be made in the existing scheme.

24. The aforesaid learned Senior counsels would also make submissions that, in order to recover the property already been entrusted by way of lease, application outside the purview of Section 92 cannot be made, as those applications are not only against the purview of the scheme made under Section 92 of CPC but also against Order XIV Rule 1 of CPC. In support of these contentions, the learned Senior counsels relied upon **AIR 1967 SC 1044 (Bishwanath v. Radha Ballabhji)**, **82 LW 677 (Manikka Narasimhachari v. Ramasubbier)** and **AIR 1975 Allahabad 36 (Uma Shanker v. Salig Ram)**.

25. Mr.P.V.S.Giridhar, learned counsel appearing for some of the respondents also joined with the aforesaid Senior counsels appearing for the respondents and he would submit that, the affidavit averments made by the applicants have to be eschewed. Since no inadequacy of

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scheme was shown by the applicants, there is no requirement of any modification of the scheme. He would also submit that, an external Auditor once in three months can be appointed, who can audit the accounts of the Trust and give a report and to have a better management of the Trust, a professional management consultant can be appointed as a one time measure. That apart, the counsel suggested that, an Advisory Committee consisting of a retired Judge of this Court, some eminent personalities, social workers, some retired officials served in the Election Commission and other bodies including a women member can be inducted to aid and advise to the Trust Board. In support of the case of the respondents, the learned counsel relied upon further the Judgments reported in **AIR 1953 Bombay 393 (Shrinivas R.Acharya v. Purushottam Chaturbhuj)**, **AIR 1988 SC 1987 (Savitramma v. Cical Naronha)** and **AIR 1972 SC 330 (B.E.Supply Co., v. The Workmen)**.

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26. In view of the afore discussed uncontroverted facts and circumstances, this Court feel that the Judgments cited by the learned Senior Counsel and Counsel appearing for the respondents would not in any way advance their case.

27. On the issue of Elections, Mr.N.R.Chandran, learned Senior counsel appearing for some of the respondents / candidates who proposed to contest in the election, submitted that, once the election process is commenced, this Court has no jurisdiction to stop it by issuing a prohibitory order and in this regard, he would submit that, the election process was started by issuing notification by the Interim Administrator on 05.03.2019, which was published on 06.03.2019, however the Court granted stay for the election only on 05.03.2019, the day on which when the order was passed, the notification already dated and issued, therefore the election process commenced cannot be stopped. He would also submit that, in the name of seeking amendment of the scheme or modification of the scheme, the election process already commenced shall not be stopped.

28. Mr.A.L.Somayaji, learned Senior counsel as well as Mr.AR.L.Sundaresan, learned Senior counsel appearing on behalf of the lessee Muhurthaam would make submissions by relying upon the affidavit filed by the Muhurthaam that, despite the loss incurred by the said Muhurthaam, for the first one year after taking over the two properties into lease, they had paid the lease amount of Rs.1.50 crores and Rs.75 lakhs respectively for Amma Arangam and Anna Arangam

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and even though there has been a provision in the lease deed itself for an enhancement of the lease amount once in five years, the lessee made it clear in the affidavit filed before this Court that, if the Court ultimately feels that, some enhanced rent can be fixed on the mandapams from the lessee, then a 15% hike can be fixed from 01.07.2019 and if such enhancement is fixed, the lessee Muhurthaam would abide by that, they contended.

29. Also Mr.R.C.Paul Kanagaraj, learned counsel appearing for some of the applicants and Mr.V.R.Kamalanathan, learned counsel appearing for some of the applicants would make submissions that, in respect of the conditions imposed to become a eligible voter, in so far as the Graduate and Post Graduate constituency is concerned, the condition of 10 years waiting period and 6 months cooling period are not based on any intelligible criteria. Even though six colleges are run by the charities, the total eligible voters in that category comes only around 1144, which is comparatively very low. Therefore from a small group of electoral college, the members are being elected to the Trust Board, thereby the majority view of the interested persons, beneficiaries, erstwhile students of Pachaiyappas Institutions and charities are not truly reflected in the present system and therefore,

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the said criterion fixed without any intelligible criteria have to be re-looked and revisited in the interest of justice.

30. Mr.G.Murugendran, learned counsel appearing for one of the respondents in A.Nos.1802, 1803 and 1927 of 2019 made submissions that, these applications since have been filed without the leave of this Court, they are liable to be rejected and all these applications since have been filed after 14.06.2018, the day on which order was passed appointing Interim Administrator, these applications, with some special motive, have been filed before this Court, in order to stall election and from preventing the eligible candidates to become members of the Trust Board. The scheme already framed and modified in the year 2007 / 2008, latest by the Division Bench of this Court are having enough provisions to run the charities with its avowed objects and whatever criteria had been fixed in the modified scheme on the voters or electoral college are based on intelligible differentia and therefore it does not require any re-look and accordingly no modification to that effect is warranted.

31. Apart from these specific arguments advanced by the learned Senior counsel and learned counsel appearing for both sides,

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some more counsels also appeared and made submissions for and against these applications, almost in the similar line of arguments advanced by the learned Senior counsel and counsels referred to above.

32. I have also heard Mr.Vijay Narayan, learned Advocate General. He made submissions in general. The learned Advocate General would submit that, there cannot be a supervisory body over the Trust Board, therefore the appointment of a supervisory body or administrative or controlling body over and above the Trust Board may not be required. He would however suggest that, in order to have the check and balance to ensure the smooth administration of the charities and to avoid financial indiscipline and mismanagement of the charities, some Advisory Body can be in the offing. The learned Advocate General has completely ruled out that the Charities at any point of time can be taken over by the State Government under any circumstances, as the State Government does not have any intention or interest to take over the Charities. The said submission made by the learned Advocate General had been taken note of by this Court.

33. After hearing the arguments from both groups or both sides, the issue in controversy for resolvment for the purpose of disposal of these applications are categorised under four broad questions, they are :

(i) Whether this Court has got power to pass orders giving modification to the existing scheme ?

(ii) If so, what modification can be made in the front of general administration of the Trust in the context of Trust Board of the Pachaiyappa's charities ?

(iii) Whether the decision taken by the Pachaiyappa's Trust Board to extend the long term lease for Muhurthaam, the lessee, for two Arangams (Multipurpose Halls), namely Anna Arangam and Amma Arangam is justifiable or not ? and also

(iv) How the elections to be conducted for the Trust Board, before which, whether the criteria fixed for electoral college and the candidates contesting are liable to be varied or modified ?

34. First this Court wants to answer the question posed as to whether the proposed amendment sought for are permissible by making these applications before this Court and whether these

applications seeking modification of the existing scheme can be decided by this Court, without having a separate suit to be filed under Section 92 of the CPC.

35. In order to dwell into the first issue, let me take the relevant clause available in the existing new scheme. Clause 13 of the scheme reads thus :

"13. Except as herein expressly or impliedly modified or varied all the provisions of the said decree and decretal orders, shall remain in full force and effect and all parties hereto and any person interested shall be at liberty to apply for further or other directions or modifications or the scheme as necessity or occasion may required."

36. In the existing scheme, clause 13 makes it abundantly clear that, all parties hereto and any person interested, which means, any person interested over the smooth running and administration and functioning of the Pachaiyappa's charities, shall be at liberty to apply for further or other directions or modifications of the scheme as necessity or occasion may require.



37. Therefore if necessity or occasion arises or required, any interested person over the Pachaiyappa's charities can set the law in motion by filing appropriate application before this Court to seek for directions or modifications of the scheme.

38. This clause 13 have been heavily relied upon by almost all the learned Senior counsel and learned counsel who appeared for the applicants in the respective applications to seek for necessary amendment to the relevant clauses of the scheme.

39. In this context, it is the vehement contention of the learned Senior counsel and counsel appeared on behalf of the respondents, who are opposing the prayer of seeking modification of the scheme that, the scheme already been framed by the Court under Section 92 of CPC and settled cannot be amended, modified or tinkered with outside the scope of Section 92 of CPC. In other words, what they meant was, if a scheme decree is passed by the Civil Court under Section 92 of CPC, that become final. Assuming that, if there is any provision to make amendment or modification of the scheme in the scheme decree itself, that would be exercised only within the meaning of Section 92 of CPC and not beyond that. Therefore if at all any

modification is to be made in the existing scheme, unless a suit is filed either by the Advocate General or by two persons interested over the charities after getting leave from this Court, in no other way such modification or amendment can be made in the existing scheme, that too by filing mere applications like the present one.

40. The said arguments advanced by the learned counsel appearing for the respondents, opposing the proposed amendment of the scheme and the power of this Court in this regard, cannot be accepted in view of the settled legal position in this regard.

41. In this context, as has been relied upon by the learned counsels appearing for the applicants, one of the earliest Judgment of the Hon'ble Apex Court and also being a leading Judgment in this aspect, is the Judgment reported in **AIR 1961 SC 1206** in the matter of **Raje Anandrao v. Shamro and others.**

42. I have gone through the said Judgment of the Hon'ble Apex Court, where the facts are almost similar to that of the present one. The following two paragraphs of the said Judgment would give the complete answer to this issue :

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"11. Apart from authorities, however, let us see if there is anything in Section 92 of the Code of Civil Procedure which militates against providing a clause in a scheme framed thereunder for its modification by an application to the court framing the scheme. Section 92 permits a suit in the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature or where the direction of the court is deemed necessary for the administration of any such trust to be filed either by the Advocate-General or two or more persons having an interest in the trust with the consent in writing of the Advocate-General. Reliefs that can be obtained under that section are-

- "(a) removing any trustee;
- (b) appointing a new trustee
- (c) vesting any property in a trustee;
- (cc) directing a trustee who has been removed or a person who has ceased to be trustee, to deliver possession of any trust property in his possession to the person entitled to the possession of such property;
- (d) directing accounts and inquiries;

(1) (1907) L.R. 3 T.A. 78 (2) [1913] 24 M.L.J  
199.

(e) declaring what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust;

(f) authorizing the whole or any part of the trust property to be let, sold, mortgaged or exchanged;

(g) settling a scheme; or

(h) granting such further or other relief as the nature of the case may require.

Further sub-section (2) of Section 92 bars a suit claiming the above reliefs unless the suit is filed in conformity with Section 92(1). In the present appeal we are concerned only with the modification of a scheme; we are not concerned with appointment or removal of trustees or any other matter enumerated in sub-section (1) of Section 92. We do not therefore propose to consider whether it would be open to appoint or remove trustees etc., on the ground of breach of trust without recourse to a suit under Section 92. We shall confine ourselves only to the question whether in a case where there is a provision in the scheme for its modification by an application to the court, it is open to the court to make

modifications therein without the necessity of a suit under Section 92. So far as the scheme is concerned, Section 92 (1) provides for settling a scheme and if a suit is brought for this purpose it has to comply with the requirements of Section 92(1); but where such a suit has been brought and a scheme has been settled, we see nothing in Section 92 (2) which would make it illegal for the court to provide a clause in the scheme itself for its future modification. All that sub- section provides is that no suit claiming any of the reliefs specified in sub-section (1) shall be instituted in respect of a trust as is therein referred to except in conformity with the provisions of that subsection. This sub-section therefore does not bar an application for modification of a scheme in accordance with the provisions thereof, provided such a provision can be made in the scheme itself. Under sub-section (1) the court has the power to settle a scheme. That power to our mind appears to be comprehensive enough to permit the inclusion of a provision in the scheme itself which would make it alterable by the court if and when found necessary in future to do so. A suit under Section 92 certainly comes to an end when a decree is

passed therein, including the settlement of a scheme for the administration of the trust. But there is nothing in the fact that the court can settle a scheme under Section 92(1) to prevent it from making the scheme elastic and provide for its modification in the scheme itself That does not affect the finality of the decree; all that it provides is that where necessity arises a change may be made in the manner of administration by the modification of the scheme. We cannot agree that if the scheme is amended in pursuance of such a clause in the scheme it will amount to amending the decree. The decree stands as it was, and all that happens is that a part of the decree which provides for management under the scheme is being given effect to. It seems to us both appropriate and convenient that a scheme should contain a provision for its modification, as that would provide a speedier remedy for modification of the manner of administration when circumstances arise calling for such modification than through the cumbrous procedure of a suit.

12. In Veeraraghavachariar's case, ILR 51 Madras 31 the Madras High Court was cognizant of the two decisions of the Privy

Council in which clauses had been inserted in the scheme providing for its modification by an application. But the learned judges were of the view that the point was never raised much less decided by the Privy Council and therefore it could not be said that the Privy Council was of the opinion that such a clause would be intra vires. They thought that inserting such a clause in the scheme would imply that the suit would remain pending for ever. It is not necessary to hold that a suit under Section 92 in which a scheme is framed providing such a clause is pending for ever. The scheme deals with the administration of the trust and for the purposes of the scheme it would not be wrong or improper to treat a suit under Section 92 as analogous to an administration suit. On that view it would in our opinion be just and convenient to provide for a clause in the scheme which is framed for the administration of the trust to allow for its modification by an application. We therefore accept the view of the Bombay, Calcutta, Allahabad and Patna High Courts in this matter and hold that it is open in a suit under Section 92 where a scheme is to be settled to provide in the scheme for modifying it as and when necessity

arises, by inserting a clause to that effect. Such a suit for the settlement of a scheme is analogous to an administration suit and so long as the modification in the scheme is for the purposes of administration, such modification can be made by application under the relevant clause of the scheme, without the necessity of a suit under Section 92 of the Code of Civil Procedure. Such a procedure does not violate any provision of Section 92. The view taken by the Madras High Court that insertion of such a clause for the modification of the scheme is ultra vires is incorrect. It was therefore open to the District Judge in the present case to modify the scheme."

43. In the said Judgment as referred to above, the Apex Court has made it clear that, the sub-section (2) of Section 92 does not make a bar for an application for modification of a scheme in accordance with the provisions thereof, provided such a provision should have been available in the scheme itself. The Apex Court has also held that, a clause provided in the scheme which is framed for the administration of the Trust, is just and convenient to allow for its modification by an application. Such modification can be made by



application under the relevant clause of the scheme without the necessity of a suit under Section 92 of the Code of Civil Procedure and such a procedure does not violate any provision of Section 92.

44. Therefore in unequivocal terms, the Hon'ble Apex Court has held that, it is permissible for the Court to amend a scheme already been framed and settled under Section 92 of CPC by entertaining mere application, provided in the scheme so framed itself, must have a provision to that effect to entertain such kind of application in future to modify the scheme.

45. Here in the scheme in clause 13 as referred to above, it is undoubtedly a way opened, enabling the interested parties over the charities to approach this Court for modification or directions of the scheme if the necessity or occasion arises or required. Therefore this Court has no hesitation to hold that, if such eventuality arises which requires modification or direction from this Court of the existing scheme, especially certain clauses of the scheme in question now, for the administration of Pachaiyappa's charities, certainly the interested persons can knock the door of this Court by setting the law in motion by way of filing application in this regard. Therefore the said

preliminary objection raised on behalf of the respondents are liable to be rejected.

46. Yet another reason also can be given in support of the above view because, as has been traced the history of the Pachaiyappa's charities and the scheme framed by the Court, right from the Supreme Court of Madras and thereafter before this Court at various point of time, the scheme was subjected to modification several times and last such modification was made by a learned Judge of this Court in the year 2007 and the same has been confirmed by a Division Bench of this Court in 2008 and that modified scheme of 2007 / 2008 alone is in force as of now.

47. Before the last such amendment made in 2007 and 2008, there was a clause in the scheme, under which, two members of the Trust Board to be elected by the Hindu Councillors of the Corporation of Madras. It means two out of 9 trust board members to be elected for the Pachaiyappa's charities are to be elected from among the Hindu Councillors of the Chennai Corporation. The relevancy of the said clause seems to have lost its significance and therefore it felt the need of making amendment of the said clause and accordingly, sub-clause

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(4) of Clause 11(b) of the scheme decree which originally stood enabling two to be elected by the Hindu Councillors of the Corporation of Madras stand deleted and in order to give opportunity to other institutions, colleges and schools run by the Pachaiyappa's charities, the following amendment has been made :

"Two to be elected from amongst the electoral college consisting of all the approved teachers from all other five colleges of the Pachaiyappa's charities excluding Pachaiyappa's College for Men, Chennai."

This amendment in fact was made by the learned Judge in 2007, which was appealed to a Division Bench, where the Division Bench has made the following modification. In order to appreciate the same, the relevant portion of the Division Bench Judgment, dated 24.09.2008 made in O.S.A.No.47 and 58 of 2007 are extracted hereunder :

"18. Under Sub-Clause (4) of Clause 11(b) of the Scheme Decree, originally, "two to be elected by the Hindu Councillors of the Corporation of Madras", in view of the amendment now sought for by the appellants, the aforesaid part of Sub-Clause (4) of Clause 11(b) of the Scheme Decree, shall stand deleted and with a view to give opportunity to the other institution(s), College(s) and

School(s), the following incorporation is now being made, excluding the Pachaiyappa's College :

"Two to be elected from amongst the electoral College consisting of all the approved Teachers from all the other five Colleges of the Pachaiyappa's Charities, i.e., excluding Pachaiyappa's College for Men, Chennai."

19. With a view to accommodate the Pachaiyappa's College, it was discussed and suggested that instead of interfering with the amended Clause 12(b) of the Scheme Decree, as amended by the learned single Judge, if part of amendment as made in Sub-Clause (4) of Clause 11(b) of the Scheme Decree is made, which was made at the instance of the appellants, then, it may include "the Teachers of the Pachaiyappa's College", who now stands excluded in view of the amendment made by the learned single Judge on the application of the appellants themselves. Therefore, it was suggested that if the sentences, "other five" and "i.e., excluding Pachaiyappa's College for Men, Chennai", are deleted, then it may solve the problem. If such deletion is made, then, Sub-Clause (4) of Clause 11(b) of the Scheme Decree, which was, "Two, to be elected by the

Hindu Councillors of the Corporation of Madras", may be substituted and read as, "Two, to be elected from among the electoral College, consisting of all the approved Teachers from all the Colleges of Pachaiyappa's Charities".

48. The aforesaid Judgment of the Division Bench, confirming the learned single Judge order, which was the last amendment / modification made in the existing scheme, made it clear that, such kind of modifications are inevitable and if such situation arises, the Court will not hesitate to make such modification in the existing scheme by entertaining application(s) to be filed by the interested parties over the charities. Therefore what has been done by this Court, 12 years back, has again been now sought to be undertaken, because of the subsequent development and the experience we gained over the years, on the functioning of the charities and therefore the said arguments advanced on behalf of the respondents, that this Court without having a suit to be filed in this regard as contemplated under Section 92 of CPC or outside the purview of Section 92, amendment / modification in the existing scheme framed and settled cannot be made, is completely unsustainable and therefore the said argument is

out-rightly rejected. Therefore this Court feels that, there is absolutely no impediment for this Court to entertain these applications for modification sought for in the existing scheme. Therefore the first part of the issue is answered in favour of the applicants.

49. In view of the aforesaid conclusion in so far as the first part of the issue, i.e., the power of this Court to make modification of the existing scheme by entertaining these applications, the other issues cropped up for determination in these batch of applications are to be decided.

**50. FINANCIAL AND PROPERTY MANAGEMENT :**

50.1. In the front of financial management, the Interim Administrator in all his interim reports have stated much about the financial irregularities found out from the records available with the Trust. The first and foremost irregularity, according to the interim administrator, is that, funds available at various charities attached with Pachaiyappa's Trust have been diverted or taken away and utilised for various construction works especially the construction made in respect of two multi purpose hall, namely Anna Arangam and Amma Arangam. Every month budget, as contemplated, has not been prepared and

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Annual Budgetary proposal have not been made. No periodical Income Tax returns filed and several income aspect seems to have been suppressed or not disclosed to the Income Tax Department. That apart loan to the tune of more than Rs.20 crores availed by the Trust from Bank for construction of the Arangams and those loans mainly availed on the strength of the number of Fixed Deposits of the Trust.

50.2. After the Interim Administrator taken charge, he was able to get the interim Internal Audit Report on 29.11.2018 for the Financial year 2017-18, where, so much of financial indiscipline and irregularities have been found out. In order to appreciate these aspects, certain portions of the Internal Audit Report, dated 29.11.2018 filed before this Court are extracted hereunder :

"Interim Internal Audit Report Dated  
29.11.2018

PTB Report for financial year 2017-18  
Executive Summary Report

It is observed that the Pachaiyappa's Trust Board is in bad financial health due to the following reasons -

1. Indiscriminate inter-transfer of funds
2. Indiscriminate pre-closure of fixed deposits for taking up construction works

3. Borrowing from bank by pledge of fixed deposits and mortgage of immovable property belonging to the trust

4. Non-compliance with EPF / ESI / GST / Income Tax laws

5. Deficit in constituent college operations

6. Non-revision of rent for property owned by estates. For eg., rent of 55 paise / month has been fixed for prime location land of 2366 sq.ft at Royapettah, Chennai - 600 014.

Detailed audit reports have been issued by us on the above issues from time-to-time.

The overall financial health of the trust is very much affected and it is evident from the following :

Funds required for existing commitments as on date (29/11/2018) and for the next four months worked out to Rs.2,08,69,909 (Refer to Schedule)

Contingent liability for non-compliance with EPF / ESI / Income Tax laws works out to Rs.11,11,67,227.

Whereas liquid funds available as on today is inadequate to cover the above demands."

"INTERIM INTERNAL AUDIT REPORT DATED 29.11.2018

PTB Report for financial year 2017-18



## Detailed Report

There is an overall absence of financial disciplining in the operations of the PTB trust funds and various instances of the same are provided below-

### 1. Sporadic inter transfer of funds

Funds have been transferred among various units amounting to about Rs.23,14,99,462/- (INR 23.15 Crores) in Financial year 2017-18 along without regard to admissibility of utilization of fund (for details, refer Annexure 1 & 1.2).

Funds transferred from other Charities / Estates to Pachaiyappa units, i.e., diversion of funds amounted to about 2,73,79,909/- (INR 2.73 Crores) during Financial Year 17-18 (for details, refer Annexure 2 and Annexure 2.1).

In other words, admissibility of transfer of funds among various trusts / estates / charities should have been checked in accordance with covenants of the trust / charities.

### 2. Irregularities in inter transfer of funds

There is a shortage of Rs.3,19,86,738/- (INR 3.19 Crores) in inter transfer of funds as per accounts of pertinent trusts / estates / units of PTB and trusts / charities / estates / units managed by PTB as on 31.03.17 (for details, refer Annexure 4).

Further, there is a difference of Rs.3,52,50,647/- (INR 3.52 Crores) under inter-transfer loan accounts

between audited financial statements as on 31.03.2017 and the books of accounts of pertinent trusts / estates / units of PTB and trusts / charities / estates / units managed by PTB.

<b>Description</b>	<b>Inter-unit loan Accounts summary</b>
Balance as per Audited Financial Statements as on 31.03.2017 (Annexure 3)	32,63,909 (Credit)
Balance as per books of accounts as on 31.03.2017 (Annexure 4)	3,19,86,738 (Debit)
<b>Difference</b>	<b>3,52,50,647 (INR 3.52 Crores)</b>

3. Irregularities in operations of Pachaiyappa's College, Chennai

A. Suppression of Income

It is pertinent to note that one organization cannot have more than one PAN number, all estates / units / educational institutions under Pachaiyappa's charities collectively to be treated as one organization and a PAN in the name of organization Pachaiyappa's charities was already allotted.

Further, Pachaiyappa's College Men, Chennai applied for one more PAN and also was allotted PAN number AABTP2618L which is in violation of provisions of law.

Further, Pachaiyappa's College, Chennai has received

income of about 30,55,286 (INR 30.55 Lakhs) from PSUs-BHAVANI (Bharatya Nabhikiya Vidyut Nigam Lt) and Chennai Telephones Accounts Officer C&A - I, HQRS Zone which is reflected in the Income Tax Office system (under 26AS) (for details, refer Annexure 5).

It is observed that this income was neither reflected in the IT Returns of Pachaiyappa's charities (PAN : AAATP0561B) nor furnished by filing IT Returns of Pachaiyappa's college (PAN : AABTP2618L).

Income Tax Department has already issued Notice for Re-opening Assessment of FY 2010-11 vide Notice No. ITBA/AST/S/148/2017-18/1009592646(2), dated 31.03.2018.

B. Funds of other estates enjoyed by PC, Chennai

It is observed that there are sporadic fund transfers from various estates including Pachaiyappa's Estate to PCE, Chennai. Though these fund transfers have been treated as 'loan' in the books of accounts, no interest has been paid / provided for these loans.

In this regard, total loan balance payable to various estates by PCE, Chennai amounts to Rs.1,60,39,393/- (INR 1.60 Crores) as per Audited Financial Statements as on 31/03/2017.

Funds transferred from various estates / colleges to PCE, Chennai during Financial Year 2017-18 totalled to Rs.49,20,000/- (INR 49.20 Lakhs) (for details refer Annexure 6).

Whereas, there was no repayment / fund transfers from PCE, Chennai to other Charities / Estates during the Financial Year 2017-18.

C. Non-inclusion of hostel bank accounts

Pachaiyappa's College Hostel Bank A/c is neither included in PC Evening College Accounts nor Pachaiyappa's Charities A/c.

Indirectly, the amounts spent by Hostel and incomes of the Hostel are kept outside the books of accounts of PTB, resulting in scope for mismanagement / malpractices in fund utilization.

4. PTB management failed to handle ESI requirements properly in respect of certain category of employees working in colleges and hence there is likely demand of huge amount of about Rs.1,75,24,845/- (Refer Annexure 7).

5. PTB management failed to handle PF requirements properly in respect of certain category of employees working in colleges and hence there is likely demand of huge amount of about Rs.6,90,47,890/- (Refer Annexure 7).

6. PTB management failed to handle GST requirements properly and hence there is likely demand of about Rs.55,23,029.17/- (Refer Annexure 8).

7. PTB management failed to handle TDS requirements properly and hence there is likely demand of amount of

about Rs.1,36,069/- (INR 1.36 Lakhs) (Refer Annexure 9).

8. PTB management failed to establish proper accounting system to satisfy the requirements of "General Accepted Accounting Principles" and to ensure compliance of provisions Tax laws. Resultantly, the required statements, Returns for various years are not properly filed with the Income Tax Authorities.

The Income Tax Returns filed in respect of Pachaiyappa's Charities for last 7 years did not include financial results of certain Estates and Educational Institutions.

Accounts heads worked from time to time and the accounting teams presently working are not in a position to provide the required statements and records to Income Tax Authorities for the income tax proceedings in progress.

Above non-compliances may lead to re-opening of assessment of accounts of Pachaiyappa's charities for last 6 years.

Non furnishing of records and non-providing of convincing explanation to Income Tax Authorities may result in disallowing exemption and there is likely demand of huge amount (Refer Annexure-10)."

50.3. How transfer of funds from other Estates have been made without proper justification has been pointed out by the Interim

Administrator in the following terms :

"I. Transfer of Funds from other Estates to Amma Arangam : There were 74 transfers in the form of cheques from various charities and trust from 11.9.2017 to 13.6.2018 amounting to Rs.6,73,99,417/-.

II. Loans taken against fixed deposits the principal amount being Rs.17,12,72,465/- and the amount of loan sanctioned was Rs.18 crores.

III. Premature encashment fixed deposits towards construction of Amma Arangam from 31 deposits made during 2015-2016 the maturity of value being Rs.90,62,317/-. However, there were prematurely closed and a sum of Rs.56,30,270/- were withdrawn.

IV. Transfer of funds from other Estates to Anna Arangam. Between 11.1.2016 to 22.3.2018 20 transfers were made in the form of cheques amounting to Rs.2,94,26,000/-.

V. Transfer of funds from among various Estates / Trusts to Pachaiyappa's Estate. There were 9 transfers between 21.12.2015 and 13.6.2018 amounting to Rs.1,01,00,000/-.

Totalling Rs.28,38,28,152/- where as the accounts furnished by the Pachaiyappa's office for Amma Arangam the amount spent is shown Rs.26,30,14,628. And for Anna Arangam it is Rs.3,16,00,773 totalling 29,46,15,401/-.

3.13 The rate of interest on the loans taken for these constructions and how the principal amount and interest are going to be repaid and source are not spelt out. Similarly as to how the Fixed Deposits could be prematurely closed and the responsibility for the loss in the transaction is going to be fixed. There is no financial emergency for these premature encashment of Fixed Deposits and kinds transfers from one account and estate to another. It is against the mandates of Trust deed. There is no Auditor's opinion or report on the feasibility of these transactions and the consequences on the financial position and budget was not at all considered.

3.14 Section 27 of Private Colleges Regulation Act 1976 restricts alienation of the property of the Private College. The clause 27 (a) reads as follows :

No property of a Private College except with the previous permission in writing of the competent authority be transferred by way of sale, exchange, mortgage, charge, pledge, lease, gift or in any other manner whatsoever.

(b) if any such property is transferred without such permission, the transfer shall be null and void."

**51. ISSUE ON ANNA AND AMMA ARANGAM :**

This is one of the main issue raised by almost all the applicants

which mainly triggered them to approach this Court to make some modification in certain clauses of the scheme and ultimately also to cancel the lease deed executed by the Trust Board to and in favour of the Lessee, Muhurthaam for having lease hold right of the two Arangams for a period of 20 years for a lesser rental value.

**52. ANNA ARANGAM :**

52.1. This Anna Arangam, an Auditorium or multi purpose hall seems to have been constructed already in one side of the campus of the Pachaiyappa's college for Men at Chennai. Subsequently the Trust Board decided to expand its construction as a multi purpose hall / marriage hall or kalyana mandapam for the purpose of leasing out to a third party. More than 3 crores of Rupees seems to have been spent for the additional construction made in this Anna Arangam and ultimately this Arangam has been leased out to Muhurthaam, lessee, who is the 8th respondent in some of the applications. They have also been heard and submissions have been made on their behalf by the learned Senior counsel as well as the learned counsel appeared for them.

52.2. The said Anna Arangam, after having been constructed with additional construction or renovated, was decided to be leased

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out, therefore on 19.01.2017, advertisement in two Newspapers namely Makkal Kural and Trinity Mirror (No advertisement was given in leading Newspapers) with the following content :

"Pachaiyappa's Trust Board

(Pachaiyappa's College Campus)  
Harrington Road, Chennai - 600 030

Sealed Tenders are invited from Limited / Private Limited Companies for allotment of Anna Arangam, at Dr.Guruswamy Road, Chetpet, Chennai - 31 and Amma Arangam at 3rd Avenue, Anna Nagar, Chennai - 102, on long term lease basis. The last dated for submission of the Tender is 3rd February 2017 at 5.00 PM.

Member Secretary  
Pachaiyappa's Trust Board."

52.3. Pursuant to this advertisement, it seems that, the said Arangam has been leased out to the Muhurthaam the lessee by the lease deed dated 02.05.2017. The lease rental was fixed as Rs.75 lakhs per year and security deposit of Rs.25 lakhs was also fixed. The lease period was 20 years. The built up space was 24,800 Sq.ft with landed space of 50,000 Sq.ft within the Pachaiyappa's College campus. Also the Pachaiyappa's College play ground would be utilised by the lessee as car parking. Thereby not only the Anna Arangam but also

large extent of play ground of the college has been leased out for parking space for the lessee.

**53. AMMA ARANGAM :**

53.1. In fact this Arangam has been constructed at the college campus of C.Kandaswami Naidu College for Men, Anna Nagar, Chennai which is part of the Pachaiyappa's Charities. The establishment of the said college and the land where this construction had been made has its own history.

53.2. The land ad-measuring 119 grounds and 274 Sq.ft was purchased by the Pachaiyappa's Charities from the Tamil Nadu Housing Board by a sale deed, dated 03.09.1999. On perusal of the sale deed, it discloses that, the State Government, by G.O.Ms.No.950, Housing, dated 13.08.1975, duly sanctioned and approved an improvement scheme commonly known as "Arignar Anna Nagar Scheme" at Chennai. For the said scheme, large extent of vacant land had been acquired by the Government and the same seems to have been transferred to the Tamil Nadu Housing Board, out of which 119 grounds and 274 sq.ft., was sold by absolute sale by the Tamil Nadu Housing Board to the Pachaiyappa's Charities for the purpose of

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establishment of Educational Institutions. The said covenant is explicitly made in the said sale deed, which reads thus :

"The VENDOR further covenants with the purchaser that the Vendor shall indemnify and shall keep indemnified for ever the Purchaser against all claims, actions at law and other proceedings that may be started or instituted by any person or person whomsoever impeaching the title of the Vendor to convey the said property and against all loses, costs, damages and expenses which the Purchaser may sustain or be put to or incur by season of such claim actions at law and other proceedings. The Purchaser doth hereby, covenant with the vendor that the property hereby sold and the building constructed thereon shall not be utilised to any other purpose excepts as Educational Purpose only and as per Regular allotment order unless to consent to writing of the Vendor has been obtained by the Purchaser."

53.3. Therefore it has become clear that, the 119 and odd grounds of vacant land with existing building was purchased by the Pachaiyappa's Charities for Kandaswami Naidu Charities for

Educational purposes, where the C.Kandaswami Naidu College for Men was established and this is one of the important educational institution run by Pachaiyappa's Charities.

53.4. In this context, if we look at the 170th Annual Report on the Administration of the Pachaiyappa's Trust, year ending 31st March 2012, presented by the Board of Trustees of the Trust, among other things, the following has been disclosed :

"The proposal for construction of a separate Auditorium for the welfare of the students in the name of 'Amma Arangam' with an estimated cost of Rs.4/- Crores, the Foundation Stone has been laid on 24.02.2015 by the Hon'ble Minister for Higher Education, Dr.P.Palaniappan in the presence of the Board of Trustees."

53.5. Therefore it is to be ascertained that, on 24.02.2015, pursuant to the earlier decision taken by the Pachaiyappa's Trust Board, the then Minister for Higher Education of Government of Tamil Nadu laid the foundation stone for construction of the Amma Arangam with an estimated cost of only Rs.4 crores.

53.6. The said foundation stone laid for construction of Amma Arangam probably pursuant to the resolution made by the Pachaiyappa's Trust Board in its meeting, dated 10.12.2014, where the following resolution has been passed :

"Res.No.27 Re : Construction of an Auditorium in C.Kandaswami Naidu College for Men, Chennai premises.

Order :

It is resolved to construct an Auditorium in the premises of C.Kandaswami Naidu College for Men, Chennai for the benefit of students and same may be named as "AMMA ARANGAM".

53.7. Therefore the resolution was to construct the said Arangam, i.e., an Auditorium only for the benefit of students and not for any other purpose. That is the reason why the then Education Minister himself laid the foundation for the said construction of the Auditorium in the name of Amma Arangam.

53.8. It is interesting to be noted that, though such a resolution was passed in 2014 and foundation was laid in 2015 and construction seems to have commenced in 2015 or 2016 and it was made ready in

2017, till the construction of such Amma Arangam was completed and leased out to the Lessee, Muhurthaam, there was no plan approval or building approval by CMDA or Corporation of Chennai and in fact, no application seems to have been made by the Pachaiyappa's Trust Board to any of the planning authorities for such construction.

53.9. As has been referred to above, a paper advertisement was given inviting tender from prospective lessees to take the Amma Arangam premises for lease, on 19.01.2017 in the very same Newspapers, namely Makkal Kural and Trinity Mirror, whereas it was claimed that such advertisement was given in leading Newspapers.

53.10. It is further interesting to be noted that, the very tender notice itself was given by the Trust on 19.01.2017 inviting offer from prospective lessees on or before 03.02.2017. Well prior to the said dates, the said company (lessee), namely Muhurthaam Event Management Pvt., Ltd., was incorporated on 28.12.2016 itself. However on the date of incorporation, it is very interesting to be noted that, the said Muhurthaam management has given its registered address before the Registrar of Companies as No.14/29, Arignar Anna Arangam, Dr.Gurusamy Road, Chetpet, Chennai, Tamil Nadu- 600 031.

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So it is to be noted that, the advertisement was given on 19.01.2017 inviting prospective lessees, therefore the Muhurthaam Event Management Pvt., Ltd., being one of the prospective lessee should have responded only subsequent to 19.01.2017, whereas it was incorporated as a company on 28.12.2016 itself with the registered address at the very same Arignar Anna Arangam itself. This is evident from the extract taken from the website of the Ministry of Corporate Affairs and was filed at page No.48 of the typed set Vol.IV by the Interim Administrator. Thereafter the lease deed was executed in favour of Muhurthaam by the Trust Board on 02.05.2017 for 20 years long lease.

53.11. It is further to be noted that, on 06.11.2017, the Trust Board made the following resolution :

"Order :

Resolved to obtain a further loan of Rs.1 Crore towards TOD for completion of interior works in 'Pachaiyappa's Charities Amma Arangam Multipurpose Hall' at C.Kandaswami Naidu College for Men Campus, Chennai - 600 102, for which a rental income to be received approximately more than Rs.2,00,00,000/- (Rupees Two Crores) per annum from this

building premises.

The Trust will settle this TOD amount within 31.03.2018 out of interest accrued and rental income from the respective above said building premises."

53.12. Having leased out the property for the annual rental of Rs.1.50 Crores, they passed a resolution that, the rental income to be received approximately is more than Rs.2 Crores per annum from the said building, namely Amma Arangam. This is how the Trust Board passed resolution after resolution without disclosing the real factor and suppressing material factors.

53.13. Several such resolutions have been passed on various dates during 2017 and 2018, where many number of fund have been transferred from various charities towards the construction of this mandapam.

53.14. After all these things had happened on top of it, it is highly interesting to be noted that, on 30.05.2018 a request letter has been made to the Member Secretary, CMDA, Chennai, by one Vybogam Design Consortium Private Limited, which claimed that, the



Pachaiyappa's Trust is their client and on whose behalf he claimed to have made the request to the Member Secretary, CMDA, to seek for permission of the proposed additional construction of multi purpose hall in the existing institution building at C.Kandaswami Naidu College for Men, Pachaiyappa's Trust Board, Chennai. In order to appreciate the said factor, the entire letter, dated 30.05.2018 made by Vybogam is extracted hereunder :

"Vybogam Design Consortium  
Private Limited

30.05.2018

To  
The Member Secretary  
CMDA,  
No.1, Gandhi Irwin Road,  
Chennai - 600 008.

Dear Sir,

Sub : CMDA - Area Plans Unit - 'B' (North) -  
Proposed Additional Construction of Multipurpose  
Hall to the Existing Institutional Building for  
C.Kandaswami Naidu College for Men for  
Pachaiyappa's Trust Board at Plot No.4648A,  
Third Avenue, Arignar Anna Nagar, Chennai,  
Comprised in T.S.No.120 Part, Block No.1,  
Periyankudi Village, Egmore, Nungambakkam

Taluk, Corporation of Chennai, Division No.101,  
Zone VIII - Planning Permission - Reg.

We on behalf of client Pachaiyappa's Trust Board  
are enclosing herewith the following documents  
& plans towards the Additional Construction of  
Multipurpose Hall to the existing Institutional  
Building for C.Kandaswami Naidu College for  
Men for Pachaiyappa's Trust Board at Plot  
No.4648A, Third Avenue, Arignar Anna Nagar,  
Chennai.

1. PPA Form A / Form B with court fee stamp.
2. CMDA checklist.
3. Architect Certificate, Form for Certificate for  
structural design sufficiency.
4. Form of supervision.
5. Display Format - 2 Nos
6. Sale Deed duly attested
7. 7 sets of plans with CD.

We request you to kindly process the same and  
do the needful.

Thanking you, सत्यमेव जयते

Yours faithfully

For Vybogam Design Consortium Private Limited

MYTHILLI J. BABOU

Managing Director"

53.15. On 28.01.2019, the Assistant Engineer, Division 107, Area VIII of Chennai Metro Water Supply and Sewerage Board has written a letter to the Pachaiyappa's Trust Board, which reads thus :

"Sir,

Sub : CMWSSB - Area VIII - D.A.E.23 - Division 107 - M.D.Office complaint - Inspection by Area Engr. VIII and A.E.107 - Instruction based on observation - Usage of Septic tanks banned - New sewer connection to be effected - Reminder notice - Reg.

Ref.1. CMC No.08/107/09161/000

2. Our previous notice dt. 24.07.2018.

Based on the complaint received from M.D.Office today, the premises was immediately inspected by Area Engr. VIII and the Asst. Engr.107. It was found that, there is no sewer connection in existence as mentioned in the previous notice vide ref (2) cited above.

Since the management of Anna Arangam has not responded to our previous notice, it has been once again explained and instructed to the maintenance in-charge of the premises not to use septic tanks. It has also been insisted to construct the diaphragm chamber since the premises is a Kalyanan Mandapam.

It is also instructed to apply to CMWSS Board for effecting new sewer connection to the premises, within seven days from the receipt of this reminder notice. Failing which, necessary action will be taken as per the rules and regulations of CMWSS Board."

53.16. It is also to be noted that, in most of the resolutions pertaining to the fund transfer, fund allotment for construction of the Amma Arangam and Anna Arangam and resolved to lease out the Arangams to Muhurthaam, i.e., the lessee, only five trustees of the Board had passed the resolution. Probably at that time, only five trustees were available and it is further to be noted in this context that, the quorum for the meeting itself is five trustees.

53.17. In both the Arangams, i.e., Anna Arangam and Amma Arangam, the lease deed made it specific that, for the purpose of car parking for each Arangam, the college play ground of the respective colleges, namely Pachaiyappa's College for Men and Kandaswami Naidu College for Men at Chennai has also been leased out. Therefore it become crystal clear that, not only the Trust funds have been utilised for construction of these mandapams and the same has been

let out for lease to private parties but the play grounds concerned of these two colleges also been leased out for the purpose of car parking of the mandapams. This act on the part of the Trust Board is atrocious, therefore it is to be deprecated.

53.18. It is further interesting to be noted that, the Public Information Officer of Directorate of Collegiate Education, Government of Tamil Nadu, Chennai, by communication dated 15.12.2017 has informed the following :

"பார்வையில் காணும் மனுவில் குறிப்பிட்டுள்ளவாறு  
சென்னை 102 சி.கந்தசாமி நாயுடு ஆடவர்  
கல்லூரியில் திருமண மண்டபம் / கலை அரங்கம்  
கட்டுவதற்கான விண்ணப்பம் ஏதும் இவ்வலுவலகத்தில்  
பெறப்படவில்லை எனவும். கல்லூரிக்கல்வி  
இயக்குநரின் அனுமதி ஏதும் பெறப்படவில்லை எனவும்  
தெரிவிக்கலாகிறது."

53.19. On 07.03.2018, a representation has been given by a group of students who have claimed to be the former students, to the Member Secretary, CMDA, where they have revealed certain shocking information. To appreciate the same, a part of the content of the said letter is extracted hereunder :

"Respected Sir,

The management of Pachaiyappas Trust has constructed a Marriage hall named as AMMA ARANGAM at C.Kandaswami Naidu College, Annanagar, in Survey No.120/1, Periyakudal village, which is in the institutional zone of the CMDA master plan. Auditorium in the name of Anna Arangam in Pachaiyappas college also has been converted to a mandapam by constructing additional kitchen and dining without approval and both have been leased out for a period of 20 years to M/s. Muhurtham Event Management Pvt., Ltd., (possibly a benami company of the trustees, one Mr.Ravishankar director of this company is an employee in chairman's educational institution), vide agreement registered as Document No.2028 of 2nd May, 2017 for a paltry sum.

The same is against the provisions of the Section 27 of the Tamil Nadu Private Colleges (Regulation) Act and rules."

53.20. During the arguments, one of the counsel submitted that, even some of the Advocates Family already approached the lessee for Anna Arangam and Amma Arangam and according to the information

they furnished, the Anna Arangam is leased out for nearly about Rs.6 to 7 lakhs and more, depending upon the facilities availed and Amma Arangam is being leased out nearly about Rs.8 to 10 lakhs depending upon the facilities availed.

53.21. In this context, the applicant in A.No.1749 of 2019 filed a quotation obtained from the Muhurthaam Management for Anna Arangam and Amma Arangam, where they have disclosed that, the rent for 24 hours for Amma Arangam itself is Rs.6 lakhs + 18% GST, apart from various charges to be made, which comes around Rs.2 lakhs and more. Like that for Anna Arangam, the rent itself is Rs.4 lakhs + 18% GST and apart from that, nearly Rs.2 lakhs under various heads.

53.22. According to the learned counsels appearing for the applicants, the said amount quoted in the quotation is not the actual amount and beyond that they are charging. Therefore one thing is very clear that, in respect of Anna Arangam, Rs.4 lakhs + 18% GST is the rent, apart from other charges, which comes around Rs.2 lakhs and for Amma Arangam, Rs.6 lakhs + 18% GST with other charges comes about Rs.2 lakhs and above. Therefore this Court can take judicial

notice that, the mandapams are being let out for 24 hours for several lakhs of rupees.

53.23. In this context, as per the direction of this Court, the 8th respondent in the concerned application, who is the Muhurthaam Event Management Private Limited, has produced the carbon copy of the rent receipt book. On perusal, it discloses that, from 07.12.2017 to 15.12.2018, i.e., for one year, they claimed to have booked 100 events. Even according to the receipts, most of the events have been booked for one day, for which they received Rs.4 lakhs as rent and some days, it is for 12 hours, for which they claimed to have received Rs.2 lakhs as rent.

53.24. Assuming without accepting the said claim made by the Muhurthaam, lessee, that the mandapam is being booked for more than 100 days per year, each day average Rs.3 to 4 lakhs they collect, even if that rate is taken into account, per year Rs.3 to 4 Crores rental being collected by this Muhurthaam, apart from other charges and hidden charges. If all are taken into account, certainly several Crores of rupees being collected by the lessee for letting the mandapams for social functions like marriage etc. It become possible for the lessee to

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collect higher rent because of the vast vacant area being utilised by them as car parking which is nothing but the play ground of the college concerned.

53.25. Therefore the Pachaiyappa's College for Men and Kandaswami Naidu College for Men, Chennai, though were established by the Pachaiyappa's Charities for the advancement and betterment of socially weaker section of the society, to impart quality education in the vicinity of the metropolitan city of Chennai, are being utilised by private entrepreneurs for their commercial venture, thereby they are earning Crores of rupees every year at the cost of the facilities of the students who study at these two colleges.

53.26. In this context, it is further to be noted that, the very resolution passed by the Board in the year 2014 is to construct an Auditorium only for the students welfare and that is how in 2015 foundation was laid by the then Minister for Education, however slowly the said Auditorium has been converted into a very big multi purpose hall with all facilities of 20 AC rooms, massive kitchen and dining hall and on top of it, several grounds of vacant land, i.e., play ground of the college being sacrificed by the Trust for car parking, thereby

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utmost facilities have been provided for those who attend the social gatherings in these two Arangams, for which the entire rental being collected not by the Trust but by the individual or company, who is none other than the Muhurthaam, lessee.

53.27. It is also to be noted that, at least some of the complaint has come to State that, the Muhurthaam Event Management Private Limited is a Benami company of the Trustees, especially one Mr.Ravi Shankar, the Director of the Company is an employee of the Chairman's Education Institution, that means, in the Trust Board Ex-Chairman's Education Institution, therefore, the link between the Muhurthaam company and the erstwhile Trust Board Chairman or members, at least prima facie has been disclosed.

53.28. This Court however cannot go further into those details as those issues have to be probed by proper Investigating Agency.

#### 54. **MANAGING THE EDUCATIONAL INSTITUTIONS :**

54.1. The Trust Board also have failed in managing the educational institutions by making a proper selection of teaching faculties for the betterment of the education of the students of the

college. In this context, a batch of writ petitions have been filed before this Court in W.P.No.27095 of 2018 etc., batch, where, the selection and appointment of Principal of the Pachaiyappa's College had been questioned. Having heard the said writ petitions, a learned Judge of this Court, by a common order dated 24.04.2019 in a batch of writ petitions, has given detailed directions, where he found that, there has been large scale irregularities in making the selection of teaching faculties. Ultimately in the operative portion of the said order, the learned Judge has given the following direction :

"85. This being the factum of the lis on hand, this Court is inclined to pass the following orders:-

1.a) In respect of WP No.27095 of 2018, the impugned proceedings of the then member Secretary of the College Committee of the Pachaiyappa's College, Chennai-600 030, now represented by the fourth respondent in file number Rc.No.A1/682/2010 dated 20.4.2018 and the consequential proceedings in R.C.No.A1/682/2010 dated 9.6.2018 stand quashed.

1.b) In respect of WP Nos.12126 to 12129 of 2018, the impugned Circular of the third respondent dated 20.4.2018 in proceedings

Rc.Nos.A1/682/2018, A1/683/2018,  
A1/684/2018 and A1/685/2018 stand quashed.

1.c) In respect of WP Nos.31076 and 31083 of 2018, the impugned Circular of the third respondent dated 20.4.2018 in proceedings RC Nos.A1/682/2018 and A1/685/2018 stand quashed.

2) The process of selection conducted by the Pachaiyappa's Trust Board through its Selection Committee and College Committee are declared null and void and in violations of the Provisions of the Tamil Nadu Private Colleges (Regulations) Rules, 1976 and the University Grants Commission Regulations.

3) The Interim Administrator appointed by the High Court of Madras is directed to conduct a fresh selection for appointments/promotions to the Post of Principal for all the Colleges by strictly following the Statutes/Rules and the University Grants Commission(UGC) Regulations. The process of selection is directed to be concluded as expeditiously as possible and without causing any delay.

4) The Interim Administrator is directed to look into the complaints made by the writ petitioners and other members in respect of corrupt activities in the process of selection and

file appropriate complaint before the Director of Vigilance and Anti-Corruption, who in turn, shall probe the issues in relation to the corrupt activities in the process of selection, with reference to the competent Educational authorities, and the University and initiate all appropriate actions.

86. With the above directions, all the writ petitions stand allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed."

54.2. The said learned single Judge order referred to above has been appealed to a Division Bench, where also in a batch of Writ Appeals in W.A.No.1584 of 2019 etc., batch a Division Bench of this Court, by order, dated 21.10.2019 has upheld the decision of the learned single Judge and has concluded as follows :

"35. As we have concluded that the selection process is marred by irregularities and breach of UGC Regulations, we are inclined to confirm the order passed by the learned single Judge. At the same time, we find that there is no strong or direct materials made available to conclude that there were corrupt practice and motives attributable against the selection

committee. At best, the selection is only vitiated by reason of non-adherence to the UGC Regulations and other procedural aspects. In such view of the matter, as rightly pointed out by the learned single Judge in Para No.85 (4), the Interim Administrator shall look into the complaints made by the writ petitioners with respect to corrupt practice, if any material is made available, if so, then the Interim Administrator is at liberty to proceed further in accordance with law.

36. In the light of the above conclusion arrived at by us and having regard to the submissions made on behalf of the Interim Administrator of Pachaiyappa's Trust Board, we hereby appoint Justice N. Paul Vasanthakumar, retired Judge of this Court to constitute a fresh selection committee, for selection and appointment of the Principal of the constituent colleges administered by Pachaiyappa's Trust Board and also to complete the entire selection process as soon as possible, preferably, within a period of three months. The learned Interim Administrator shall issue a common notification for selection and appointment of Principals for all the colleges of the Pachaiyappa's Trust Board. The initial remuneration payable to

Justice N. Paul Vasanthakumar is fixed at Rs.5,00,000/- which is payable by the Pachaiyappa's Trust Board.

37. Subject to the above observation, we confirm the order passed by the learned single Judge and consequently, the Writ Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

54.3. In the said two Judgments, both by the learned single Judge as well as by the Division Bench, the learned Judges have concurrently held that, there has been violation of relevant rules and regulations by the Board in making the selection for the post of Principal.

54.4. The said Judicial findings given in those Judgments would further strengthen the ground and the plea raised by the applicants herein that, there has been a complete mess and mismanagement in the Trust Board for the last several years. Therefore remedial actions are required to be taken.

**55. YET ANOTHER ANGLE :**

55.1. In fact this kind of mismanagement and financial irregularities in the Pachaiyappa's Trust Board had been noticed in earlier years also. Accordingly, at one point of time, the State Government thought it fit to take over the management of Pachaiyappa's Trust. Therefore the Government brought a legislation called Pachaiyappa's Trust (Taking over of Management) Act 1981 (Tamil Nadu Act 11 of 1981) for a limited period in the public interest and in order to secure the proper management of the said Trust. It seems that, the validity of the said legislation was under challenge before this Court in W.P.No.1192 of 1984 and ultimately single Judge of this Court held that, the said piece of legislation is ultra vires and void. Aggrieved over the said order, Intra Court Appeal have been filed by the Government in W.A.No.1996 of 1987. By Judgment, dated 14.09.1988, a Division Bench also, upheld the said decision of the single Judge stating that, by virtue of bringing the said Act, the legislature has been in usurpation of the Judicial power, therefore it was held that, the said Act was unconstitutional and void.

55.2. As against the said decision made by a Division Bench of this Court, further appeal was filed in C.A.No.3427 of 1988 by the

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State Government to the Hon'ble Supreme Court, where the Hon'ble Supreme Court, by Judgment, dated 11.07.1996 has held as follows :

"There is no doubt that the Act was meant to be a temporary measure. But it is continuing for more than fifteen years. Keeping in view the facts and circumstances of this case we are not inclined to interfere with the operative part of the High Court Judgment. We however do not wish to go into the merit of the reasoning on which the judgment is based. We dismiss the appeal. We, however, make it clear that any other enactment touching the subject, if challenged, may be dealt with on its own merits. The interim committee shall hand over the Management to the Trust within three months from today. The appeal is disposed of accordingly."

55.3. Accordingly, the Government issued G.O.Ms.No.720, Education, Science and Technology Department, dated 07.10.1996, by which, the administration taken over by the State Government during the interregnum, i.e., during the pendency of the said litigations before various Courts, had been given back to the Pachaiyappa's Trust.

55.4. In this context, it is to be noted that, once the scheme is framed by Court of law, thereby a public charity is being maintained as per the scheme, where if any mismanagement is found, financial irregularities is noticed, thereby very purpose of the charity is being defeated, the remedial action would be not to bring a legislation by the concerned legislature to take over the management of such charities either directly by the Government or any named agency or authority. However the only remedial action available is to approach the Court of law to seek suitable modification in the scheme, so as to enable to have check and balances to ensure that, the administrative body as enshrined in the scheme strictly follow and adhere the scheme without giving any iota of chance to mismanagement or without giving any room for financial irregularities defeating the very object of the charities.

55.5. Therefore, once the Courts have taken the view that, the scheme framed by the Court cannot be meddled with or tinkered with, even by a legislation, as such attempt to be made by the legislature of the State or Centre would be construed only as an usurpation of the judicial domain of the Courts, certainly the responsibility and duty of the Courts become more relevant, important and in fact it become enhanced.

55.6. In other words, if the legislative competence is held against them, in the matters of the scheme framed by the Courts to administer public charities, then if any remedial measures to be taken to ensure the smooth and better administration of such charities by the administrative body as envisaged in the scheme, only Court must to swing into action. Therefore looking from this angle also, it become inevitable for the Courts to plunge into action to take remedial measures, whenever it is brought to the notice of the Court that, the charities concerned is not being properly maintained or there has been complete mal-administration or financial irregularities in the management of the charity, which makes the very object of the charity being defeated, the Court, without any hesitation, has to explore the possibility of providing all remedial measures.

55.7. This is because, the administration and management of charities through a scheme is nothing but or like a child of the Court of law. In other words, a scheme decree to administer a public charity is a brain child of Court of law and if the brain child of the Court of law is struggling or suffering to survive, certainly the mother of the Child, i.e., the Court has to lend its hands for the smooth running and betterment of such charity through its brain child.

55.8. Therefore looking from this angle also, this Court is convinced that, a necessity has arisen and a situation is warranted where a modification is required in certain clauses of the existing new scheme as has been modified in the year 2007 / 2008 in administering the Pachaiyappa's Charities.

**56. ISSUE ON ELECTION :**

56.1. This is also one of the vital issue raised by almost all the applicants. In respect of this issue, it is the case of the applicants as well as the Interim Administrator that, certain modifications are required with regard to the eligibility of the voters and also in some other or peripheral areas pertaining to Election.

56.2. Under the existing scheme, Clause 11 speaks about the Board of Trustees, their qualifications, method of election, disqualifications, intimation of vacancy, holding of election, tenure of office and also election of President. Clause 11(B) of the scheme envisages that, the Board of Trustees shall consist of 9 members who shall eventually be appointed in manner the following :

"Two, to be elected by the Hindu members of the Senate of the University of Madras.

Three, to be elected by the Graduates / Post Graduates and Research Scholars from all the six colleges now being run by the Pachaiyappa's Trust as on date of not less than ten years standing.

Two, to be elected by the Pachaiyappa's Trust Board College Council hereinafter referred to.

Two, to be elected from amongst the electoral college consisting of all the approved teachers from all the colleges of Pachaiyappa's Charities."

56.3. From the above it become mandated that, two of the Trustees are to be elected by the Hindu members of the Senate of the University of Madras. Three members to be elected by the electoral college consisting of Graduates, Post Graduates and Research Scholars from all the six colleges run by the Pachaiyappa's Charities and every voter of such electoral college must have standing of not less than 10 years after they becoming eligible to be a voter. Two out of Nine Trustees shall be elected by the Pachaiyappa's Trust Board college council constituted in this regard. The remaining two members are to be elected from among the electoral college consisting of all the approved teachers from all the six colleges run by the Pachaiyappa's Charities.

56.4. In this context, though the total members of the Trust Board shall be 9, as of now there are 8 vacancies, as only a single member is having the tenure. In order to elect these 8 members, the election schedule was given by the Interim Administrator and it was published in the leading newspapers on 06.03.2019. Only at that time, applications were moved before this Court to stay the election on various grounds. The major grounds urged on behalf of the applicants, who wanted to stall the election was, in so far as the Graduate and Post Graduate constituency, for electing three members, is concerned, the total number of eligible voters, as per the voters list released by the Interim Administrator, were very low comparing with the strength of eligible persons to become voters, since all the Graduates and Post Graduates as well as Research Scholars came out from all the six colleges run by the Pachaiyappa's Charities can become the eligible voter in that category. Also the 10 years standing and 6 months cooling period prescribed under this category, i.e., Graduate and Post Graduate category of voters to become eligible, according to the applicants, had not been made on any intelligible basis.

56.5. Also there are complaints to show that, same person finds two places in the voters list. And also the property tax limit prescribed

for the candidate to contest in the election since was Rs.10,000/-, that paved the way that, only affordable citizen or wealthy citizen alone can contest the election. In this context, the applicants pointed out lot of discrepancies found in the election system, as has been projected by the Interim Administrator also in his interim report. The second interim report of the Interim Administrator was relied upon by some of the applicants counsel and also the suggestion given by the Interim Administrator as to the modification or improvement in election system of Pachaiyappa's Charities as has been made in his second interim report, dated 09.10.2018, was also relied upon by the applicants.

56.6. On perusal of those materials and on consideration of those grounds urged by the applicants, who filed the applications to stall the election, this Court after having found prima facie case in favour of the applicants, decided to stay the election, accordingly on 05.03.2019, interim order of stay was granted.

56.7. Thereafter as per the special arrangement, those applications as well as other connected applications filed in this regard were grouped together and placed before this Court for disposal and accordingly, comprehensive hearing was given by this Court to various

counsels referred to above, who made submissions for and against all these applications for several days. In this context, it was argued by some of the counsels appearing for the respondents in the applications who are the prospective candidates to contest the election that once the election process is commenced, the same cannot be interfered with by the Court of law and in this regard, they made submissions stating that on 05.03.2019, notification was issued and on that date, since the interim order of stay was granted interfering with the election process, the same was not justifiable, they argued.

56.8. But the fact remains that, on 05.03.2019, some of the applications were moved before this Court and on seeing the prima facie case as has been spelt out above, this Court granted interim order of stay and the election notification dated 05.03.2019 was published only on 06.03.2019, therefore on the date of the publication of the election notification, there has already been a stay granted by this Court, hence it cannot be construed that, this Court, after having allowed the interim administrator to proceed with the election and the election notification having been issued and the election process having been commenced, has interfered with the election process. Therefore the said argument advanced by the learned Senior Counsels



as well as the Counsels in support of the above proposition is liable to be rejected, in view of the aforesaid factual matrix.

56.9. In this context, the Interim Administrator in his second interim report, dated 09.10.2018, has given some suggestions on the electoral reforms, i.e., modifications required, in the scheme. To appreciate the same, the said portion of the interim report of the Interim Administrator is extracted hereunder :

"55. The Interim Administrator has functioned within the parameters prescribes in the New Scheme framed for the management of Pachaiyappa's Charities by the Hon'ble Division Bench of Madras High Court dated 24.9.2018 in O.S.A.Nos.47 and 58 of 2007 for the past three months. During this short period, the Interim Administrator found scope for improvement in the Scheme and the following suggestions are given for better management of PTB.

(i) The Constitution of the Trust Board consists of 9 members to manage the Pachaiyappa's Charities consisting of Colleges, Schools, Charities, Endowment, Lands and Buildings. There are lakhs beneficiaries and public from the Pachaiyappa's Trust and properties and its Management. The Pachaiyappa's Colleges are

only a part of Pachaiyappa's Charities. The control given to only Pachaiyappa's Colleges to elect the trust appears to be not fair. The other beneficiaries may have interest to say in the formation of the Board.

(ii) Voters from the category of "Graduates" (11(B)) requires 10 years standing for registration. Further after registration they have to wait for six months from the date of registration. While other categories of voters and the contestants for trust no such qualification is prescribed. This may suitably be modified.

(iii) A voter can technically being member of the Senate may happen to be a Graduate, a College Council Members, Approved Teacher and thus he can exercise 9 votes to elect the Trustees. This leads to imbalance and restriction the value of the votes can be prescribed.

(iv) A Trustee to contest should have paid property tax of not less than ten thousand rupees and therefore only wealthy people can contest. The wealth of a person as a condition can be dispensed with.

(v) While Senate members of University of Madras can be a voter, the Senate members of

Thiruvalluvar University if any are not voters.

(vi) The disqualification clause 11(J) prescribes imprisonment and absence for trust meetings as stated but there is no consequence for failure to conduct Commemoration day, failure to prepare budget, audit, non filing of I.T. Returns, E.S.I., P.F., returns and mismanagement of funds and trust having serious financial commitments. Such misleads and mismanagement can be included as disqualifying factors for a Trustee to contest and hold the position of the Trustee.

(vii) The Pachaiyappa's Trust Board Council constituted under Clause 12 of the Scheme has to be in accordance with Private Colleges and Schools (Regulation) Act."

56.10. Having regard to the aforesaid, on the issue of elections, discrepancies were pointed out by the parties on the eligibility of electors / voters who constitute electoral college and also the qualification and criteria fixed for the candidates to contest in the election. In this regard as has been extracted above, in Clause 11 of the scheme, in Clause 11(A), when the eligibility of the candidate was fixed, it has been stated that the person who wants to contest to become a Trustee of the Pachaiyappa's Charities, must be a Hindu and

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he should have paid property tax under the Chennai Municipal Corporation Act, 1919 not less than Rs.10,000/- in the year just preceding to the election year. Therefore the two main criteria fixed or qualification fixed in the scheme for those who want to contest the election for the Trust Board are (i) he must be a Hindu and (ii) he should have paid the property tax not less than Rs.10,000- in the previous year of the election year at the Chennai Corporation. Apart from these two major qualifications, there has been no other qualifications seems to have been prescribed under the scheme.

56.11. In this context, it is the contention of the learned counsel appearing for the applicants as well as the Interim Administrator that, the property tax payment criteria of Rs.10,000/- fixed by the Court in the existing scheme is on the higher side and because of which, only those who paid higher property tax at Chennai, that means only wealthy people, alone have become eligible to contest.

56.12. In this context, it is to be noted that, prior to 2007-2008 modification, the scheme envisages the eligibility criteria, under which, candidate must be a Hindu and he should have paid a sum of Rs.100/- as property tax who alone would be eligible to contest, however the

same has been revised upward as not less than Rs.10,000/-. Therefore only from 2007-2008 onwards the property tax payment limit was enhanced from Rs.100/- to Rs.10,000/-, i.e., 100 times hike. Though this Court at that time thought it fit to enhance the said criteria, the subsequent experience we gained would disclose the factor that, by virtue of such enhanced criteria of Rs.10,000/- property tax, only the wealthy people who have huge or hefty property within the Chennai Corporation limit alone become eligible to contest the Election.

56.13. In any Democratic set up, such kind of prescription based on wealthiness of an individual, that too by way of an exorbitant fixation, whereby making several eligible candidates to become ineligible from contesting the election, cannot be made.

56.14. If such a higher prescription on the basis of wealthiness of a person is made to contest in election in any democratic set up that would run contra to the basic idea of democracy and also would go against the fabric of democracy. Therefore this Court feel that, such a higher prescription of Rs.10,000/- as property tax can be reduced reasonably.

56.15. Like that, in the category of electoral college consisting of Graduates, Post Graduates and Research Scholars of six colleges run by the Pachaiyappa's Charities, a further criteria has been made that, one can become a voter only after having waited for 10 years after he becoming Graduate, Post Graduate and Research Scholar as the case may be. This criterion is also, in the considered opinion of this Court, not based on any intelligible differentia.

56.16. The reason being that, three members to the Trust Board have to be elected from this category of electoral college consisting of only Graduates, Post Graduates and Research Scholars of six colleges run by Pachaiyappa's Charities. If that being so, the intention of giving three members to this category is only to echo the views of former students or the present day Post Graduates or Research Scholars who have completed the respective courses of Graduation, Post Graduation in Pachaiyappa's Group of Institutions, in the Board of Trustees, for better administration of the Charities.

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56.17. If that being so, absolutely no intelligible reason is available to accept, before this Court, to have a rider that, such a voter having the eligibility of Graduation, Post Graduation or Research

Scholar, have to wait for 10 years to become the voter. Because of this prescription of 10 years waiting period, several thousands of Graduates, Post Graduates and Research Scholars who have come out successfully in recent years from Pachaiyappa's Charities run Institutions would become ineligible, thereby, a majority section of eligible persons under this category are denied the voting right, which, in the considered opinion of this Court, is certainly not based on any intelligible differentia. Therefore the 10 years standing as prescribed under the Scheme, i.e., Clause 11(B) is to be modified suitably.

56.18. Like that, in the same category of Graduates, Post Graduates or Research Scholar voters, yet another criteria is fixed that, they will become voter after having a cooling period of six months to exercise their franchise, even though they become eligible to be a voter in that category. Even this prescription of making them to wait for six months may be longer period, therefore this Court feels that, this also requires some modification.

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56.19. In so far as the category of two members to be elected by the Hindu members of the Senate of the University of Madras is concerned, as has been rightly pointed out by the Interim  
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Administrator in his report that, whether such a prescription giving such right only to the University of Madras can be a justifiable one in the present context, is also a question to be answered.

56.20. In this context, it is to be taken note of the fact that, in those years there was only the University of Madras in the entire Madras Presidency and even thereafter for long years, despite some other Universities had come in, in the recent years after Independence in the State of Tamil Nadu, the service area of University of Madras extended almost all northern Districts including the Chennai city. Since all the six colleges run by Pachaiyappa's Charities located originally under the servicing area of University of Madras, it was thought it fit to have such a prescription that, two members to be elected by Hindu members of the Senate of the University of Madras.

56.21. However now certain servicing area of University of Madras have been bifurcated and had been entrusted to Thiruvalluvar University located at Vellore. This Court understands that, at least the college located in Cuddalore run by Pachaiyappa's Charities is affiliated to Thiruvalluvar University, therefore, definitely the governing body of Thiruvalluvar University, if not senate, it may be a Syndicate, i.e., the

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members of the Syndicate of Thiruvalluvar University also can have a say and their voice also to be echoed in the Trust Board of Pachaiyappa's Charities, taking into account that one out of six colleges run by Pachaiyappa's Charities is affiliated to the Thiruvalluvar University. Therefore in this category also this Court feels that, certain modification is required.

56.22. As has been brought to the notice of this Court by the Interim Administrator as well as most of the applicants, the electoral college are in four different categories to elect the 9 members of the Trust Board, which will be consisting of (1) the Graduates, Post Graduates, Research Scholars in one category, (2) the teaching faculties of Pachaiyappa's Institutions in another category, (3) Senate members of the University of Madras in one category and (4) another category consisting of College council members. There are cases where even one single member who may be a Graduate or Post Graduate or Research Scholar would be an approved teacher of any of the Pachaiyappa's Institutions and also in some cases, he may be a member of the Senate of the University of Madras. Therefore this situation was pointed out specifically by the learned counsel for the applicants as well as the Interim Administrator that, there are chances,

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where, one single voter can exercise his franchise in more than one category by virtue of the position he is holding as a Graduate or as a Post Graduate or as a Research Scholar and also as a teaching faculty and also as a member of the College Council and the Senate of the University of Madras.

56.23. If such a situation arise, a same voter would be in a very advantageous position to vote in almost all the categories, thereby it will tilt the pendulum of democratic balance especially in electoral regime. Therefore, this Court feel that, in order to avoid such an undue advantage available to any individual or a single voter, to ensure cent percent democracy in conducting the election and choosing the Trust Board members, this Court deem it fit that, "One voter One vote" concept has to be strictly followed. The very purpose of electing 9 members to the Trust Board from 4 different category of electoral college is to give equal representation in the Trust Board for each category of stakeholders of Pachaiyappa's Institutions to echo their voice. When that being the position, no single member or group of members of any electoral college under all the 4 categories, shall have any peculiar advantage to have more voice than any other voter. This is because, in democracy, so far as the electoral college is concerned,

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all are equal and therefore one cannot claim or enjoy any special advantage or privilege to have more weightage in exercising his franchise. Therefore this Court is also of the considered view that, "One voter One vote" concept shall be strictly adhered to and implemented in the election to conduct the 9 members Trust Board of the Pachaiyappa's Charities.

56.24. In Clause 11(K), it has been provided under the scheme that, the Board of Trustees shall every year in the month of April, elect a President of their Board and who shall be entitled to hold office till next election and shall be eligible for re-election.

56.25. In so far as this prescription of electing a President from among the 9 Trustees, this Court, after having taken into account the over all developments in the recent years or in some decades in various fronts, as has been discussed in detail herein above, is of the considered view that, a retired Judge of this Court can be appointed as President / Chairman of the Trust Board and in view of the same, this Court feels that, Clause 11 (K) under the, "Election of President", also requires some modification.

**57. CONCLUSIVE DISCUSSION :**

57.1. This Court after having traced out the historical background of Pachaiyappa's Charities as has been provided in nutshell under the heading "Historical Background", in the opening part of this order, has realised that, a towering personality and a noble soul who lived 250 years back in this part of the country, i.e., in the present State of Tamil Nadu, had achieved some unique features in his restricted life span of 40 years. When Vallal Pachaiyappa born, he already lost his father and the family had nothing to survive. Despite such a precarious conditions the child grow and started entering into enterprising ventures in those days and he had earned unimaginable fortune at the age of 20s and 30s. That great person thought of the society and therefore he bequeathed a Will, set apart huge wealth and fortune of him for charitable and philanthropic activities.

57.2. On perusal of the interim reports filed by the Interim Administrator, this Court understands that, the total worth of the properties of Pachaiyappa's Charities, where subsequently several other similar Trust or Charities had annexed their wealth and properties, worth about several thousands of crores. Such an amazing properties with reputed Educational Institutions both in college level as

well as in school level spread across a part of Northern Tamil Nadu, have to be administered with utmost care, diligence and also with great devotion.

57.3. Pachaiyappa's College for Men at Chennai is considered to be the first Indian College established in this part of the country even prior to the establishment of colleges under the then British regime. Such a uniqueness is attached with the Pachaiyappa's Charities, which produced several thousands of Graduates, Post Graduates, Research Scholars and celebrity personalities like Thiruvalarkal (1) T.Ethiraja Mudaliar, (2) M.C.T.Muthaiya Chettiyar, (3) Justice R.Sadasivam, (4) Manali S.Ramakrishna Mudaliyar, (6) Dr.A.Lakshmanaswami Mudaliar and (7) C.P.Ramasamy Iyer. Some of the very towering personalities who are the products of Pachaiyappa's Institutions, are Thiruvalarkal (1) M.Patanjali Sastri, Former Chief Justice of India, (2) Dr.P.V.Rajamannar, Former Chief Justice (3) K.S.Venkataraman, ICS, Governors K.C.Reddy and Chandra Reddy, Former Chief Ministers of Tamil Nadu, Dr.C.N.Annadurai and K.Brahmananda Reddy and several other such celebrity personalities were the products of Pachaiyappa's Institutions. Apart from the educational front, the Pachaiyappa's Charities doing charity work in so many Hindu temples from Kasi to

Rameswaram. Some of the famous temples like Arulmigu Athmanatha Swamy Teple, Avadaiyar Koil, Pudukkottai District, Sri Ramanathasamy Temple, Rameswaram, Arulmigu Sri Ranganathasamy Temple, Sri Rangam, Sri Bangaru Kamatchiamman Temple, Thanjavur, Sri Ekambaranathan Temple, Big Kanchipuram and Arulmigu Sri Parthasarathy Temple, Chennai are the beneficiaries of Pachaiyappa's Charities.

57.4. When such a great philanthropic activities are being undertaken not only for Hindu Temples but also for the cause of education, the Pachaiyappa's Charities have to be maintained with utmost care and due divinity. As I quoted in the earlier part of this order, the scheme framed by this Court for administering the Pachaiyappa's Charities, is the brain child of this Court and if the child of this Court is facing any hurdle or struggling to grow or even to survive, certainly the mother of the child, i.e., this Court will not be a mute spectator driven by any technicalities as has been projected by the learned counsels appearing for the respondents. Accordingly, this Court is not only convinced but also has duty to venture into save its child. In this endeavour whatever remedial measures to be undertaken and whatever modification is required in this scheme, have to be necessarily undertaken without any hesitation.

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57.5. In this context, it is painful to note that, the erstwhile Trust Boards had taken indiscriminate decisions without any plausible reason and converted the valuable land of that charities as well as the fund, towards commercial ventures. The constructions of two Arangams (Mandapams), namely Anna Arangam and Amma Arangam are classic examples to show that how recklessly and in cavalier manner, the Trust Board acted upon, completely detrimental to the interest of the Charities.

57.6. In this context, it is to be noted that, the Tamil Nadu Town and Country Planning Act 1971 is the complete legislation governing the field of planning permission / building permission of whatever development to be undertaken in this State. Section 49 of the Act requires any person intending to carry any development in land or building, to make application in writing to appropriate planning authorities for permission. If no such application is made or no such permission is granted or permission is granted and subsequently revoked or permission is granted but the same is contravened and if any development is taken place without the permission or in contravention of the permission granted or contravention of the permission which has been granted and modified or after the

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permission for development has been duly revoked, then what shall be the consequences has been spelt out under Section 56 of the said Act, under which, the planning authority is empowered to issue notice to such unauthorised development or construction made in contravention of the situation mentioned in the said section, for demolition or alteration of the building or carrying out on the land or to discontinue any use of land or building.

57.7. Here in the case in hand, it is an obvious fact that, no planning permission was obtained by Pachaiyappa's Charities for construction of Anna Arangam or Amma Arangam and these aspects have been discussed in detail in the earlier part of this order. Therefore as of now these mandapams (Buildings) constructed by the charity are unauthorised construction within the meaning of the aforesaid provisions of the Town and Country Planning Act, thereby these buildings are vulnerable to face the consequence of removal or erasing of the building itself.

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57.8. Knowing well of these consequences, the Trust Board recklessly acted upon in constructing those buildings and they did not take care of the compliance of statutory requirements under the said



Act and they have also not taken care of the financial instability caused to Pachaiyappa's Charities because of the huge loan obtained by the Charity from the Bank for the constructions of the said mandapams.

57.9. That apart, large extent of playgrounds of two colleges, namely Pachaiyappa's College for Men at Chennai and C.Kandaswami Naidu College for Men at Anna Nagar, Chennai, had been also leased out along with the mandapams for commercial venture, thereby the very avowed object, for which those institutions were established, i.e., for educational purpose and for interest of the students, have been given a go-bye.

57.10. That apart, the erstwhile Trust Boards have also compromised the recovery of earnings from such commercial venture as this Court pointed out in the earlier part of this order that, even though the Trust Board expected the minimum revenue of two Crore from Amma Arangam, had decided to let out for Rs.1 1/2 crores per year. Even the said 1 1/2 Crores fixed by the erstwhile Trust Board is not based on any acceptable method.

57.11. No documents whatsoever had been filed before this Court as to how many tenders were received by the Trust Board to lease out the mandapams and how those tenders were scrutinised and the present lessee Muhurthaam was finalised. As pointed out earlier by this Court, the Muhurthaam Event Management Private Limited was registered as a company in December 2016, whereas notification issued by the Trust Board for inviting tender to lease out the mandapam was in January 2017 and prior to that, at the time of registration, the registered address of the lessee Muhurthaam was given as Anna Arangam at Pachaiyappa's college campus, Chennai.

57.12. It is also to be noted that, at least some complaint had come to establish the link between the lessee Muhurthaam and the erstwhile Chairman of the Trust Board. Those aspects cannot further be probed by this Court, except to state that, those issues have to be investigated by a proper Investigating Agency and in this regard law can be set in motion.

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57.13. Indiscriminate fund diversion from the various charities towards the construction of two Arangams had been taken place as pointed out by the Interim Administrator. No proper budget had been

prepared for several years as contemplated under the scheme. Several statutory dues like ESI, GST etc., had not been paid by the charity and in this regard, there may be demand from statutory authorities from the Charities to the extent of lakh and lakh and crores of rupees as has been indicated in the Audit Report submitted by the present Auditor appointed by the Interim Administrator.

57.14. That apart several civil construction works seems to have been undertaken by the erstwhile Trust Boards in the yesteryears, for which fund had been allotted and there has been no proper vouchers to that effect and no records to show that those work had been given to the contractors on the basis of tender and whether those works had been completed to the satisfaction of the Trust Board, had not seems to have been ensured.

57.15. The Commemoration day of Pachaiyappa's Charities which ought to have been held every year without fail, where Annual Report in printed book form has to be published, has not been conducted and published in the manner expected under the scheme for several years.

57.16. Apart from these pointed infirmities, irregularities, mismanagement, misdeeds, more and more such unjustifiable activities or activities not in consonance with law could have been taken place in the affairs of the Pachaiyappa's Charities in the yesteryears. Taking into consideration of the totality of all these situations, this Court is of the complete satisfaction that, a situation has arisen, which requires urgent remedial measures and also necessary modification in the scheme. Therefore invoking Clause 13 of the scheme, this Court wants to make necessary modification in the existing scheme of Pachaiyappa's Charities, in order to ensure better, qualified, dedicated management and administration of Pachaiyappa's Charities, which will go for a long way to serve the society at large.

57.17. Accordingly the question Nos.2,3 and 4 arise for consideration are answered as above.

**58. MODIFICATION MADE IN THE SCHEME :**

In view of the aforesaid facts, circumstances as well as discussion referred to above, this Court is inclined to make the following modification in the existing scheme for better and desirable administration of Pachaiyappa's Charities :

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(i) In Clause 11(A) of the scheme, for the words **"Ten Thousand Rupees"**, it shall be substituted as **"Three Thousand Rupees"**.

(ii) In Clause 11(B), the word **"nine members"** shall be replaced by **"ten members"**.

(iii) In Clause 11(B), where following the words, **"The Board of Trustees shall consist of nine members who shall eventually be appointed in manner following"**, the following shall be inserted. **"There shall be a President of the Trust Board, who shall be a Former Judge of the High Court of Judicature at Madras to be appointed by the High Court of Judicature at Madras from time to time"**.

(iv) In Clause 11(B) for the words, **"Two to be elected by the Hindu members of the Senate of the University of Madras"**, the following shall be substituted **"Two to be elected by the Hindu members of the Senate of the University of Madras and the Hindu Syndicate members of Thiruvalluvar University, Vellore"**.

(v) In the said Clause 11(B), the word **"ten years standing"** shall be replaced by **"six months standing"**

*and the following words also shall be added, "who must have completed the waiting period of one month after becoming eligible to become the voter under this category".*

*(vi) In the said Clause 11(b), after the words referred to in Clause (v) above, the following shall be inserted :*

*"That "One voter One vote" concept shall be strictly adhered to and implemented. A voter in a particular category shall not be eligible to vote in another category, even though he is eligible to be a voter in that category also. In this regard, option shall be exercised by a voter, before the cut-off date fixed in this regard for finalising the voter list, that under which category he wants to be retained his name as a voter. Once such option is exercised, he shall be accordingly inducted or included only in that category voter list and if no such option is exercised within the cut-off date, it is open to the President / Trust Board / Election Officer to retain the voter in any one of the category and delete his name in other categories."*

(vii) The Clause 11(K) under the heading Election of President, shall be replaced with the following :

**11(K) PRESIDENT :**

(a) The President of the Trust Board shall be appointed by the High Court of Judicature at Madras from time to time.

(b) No one except a Former Judge of the High Court of Judicature at Madras shall be appointed as a President.

(c) The President so appointed shall hold office for a period of two years and he shall be eligible for re-appointment for one more term.

(d) In case of vacancy arises to Presidentship due to resignation or otherwise, new President shall be appointed in the manner aforesaid.

(e) The Honorarium, Perquisites and other facilities to be provided to the President shall be fixed by the High Court of Judicature at Madras from time to time.

*(f) The President shall be the head of the Trust Board, who shall lead the Trust Board in discharge of the duties towards the administration of the Pachaiyappa's Charities in entirety.*

*(g) In case of non-availability of quorum to have the Trust Board meeting, the President, in extraordinary circumstances or in emergent situation can hold the Trust Board meeting with available members notwithstanding the quorum.*

*(h) In case of extraordinary emergency, where an very urgent decision has to be taken and implemented, the President can take such decision and implement the same without waiting for the Trust Board meeting. However any such decision taken and implemented by the President in such extraordinary emergent circumstances, such decision shall be immediately referred to the Advisory Committee for urgent advisory opinion and after getting the same within a shortest possible period, the decision of the President as well as the advisory opinion of the Advisory*



*Committee shall immediately be placed in the very next meeting of the Trust Board for approval / ratification.*

*(viii) After Clause 11(O), a Clause 11(P) shall be added which will consist the following :*

**11(P) ADVISORY COMMITTEE** : *There shall be an Advisory Committee to aid and advise the Trust Board, consisting of the following members :*

*(a) A Former Vice Chancellor of any Central or State University at Tamil Nadu, who shall be appointed by the President of the Trust Board.*

*(b) An Officer of Hindu Religious and Charitable Endowments Department of Government of Tamil Nadu not below the rank of Joint Commissioner, who shall be nominated by the Commissioner of HR & CE Department.*

*(c) An Officer of the State of Tamil Nadu not below the rank of Joint Secretary, who shall be nominated by the Chief Secretary of Government of Tamil Nadu.*

(d) A designated Senior Advocate practising at the High Court of Judicature at Madras, who shall be nominated by the Advocate General of Tamil Nadu.

(e) A reputed Auditor having considerable experience in the field of Auditing, who shall be appointed by the President of the Trust Board.

(f) The members of the Advisory Committee shall hold office for a period of two years and shall be eligible for re-nomination. If any of the members of the Advisory Committee vacate office on resignation or otherwise, suitable subsequent incumbent from the respective category shall be appointed / nominated within a period of 30 days from the date of such vacating the office.

(g) In case the members in Clause (b) and (c), vacate office by virtue of their official capacity or otherwise, in the respective category, suitable alternative nomination be made within a period of 30 days from such vacating office of those two members.

(h) The Advisory Committee as far as possible shall have meeting at least once in 60 days, where whatever matters referred by the Trust Board for the advise, shall be transacted.

*(i) Notwithstanding the above, the Advisory Committee can have emergency meetings for the purpose of urgent or early disposal of any issue referred to it by the Trust Board.*

*(j) Each member of the Advisory Committee shall be eligible to claim a sitting honorarium, for each such meeting, which shall be fixed by the President in consultation with the Advisory Committee.*

*(k) Though the functions of the Advisory Committee is mainly on the front of advising the Trust Board in all matters referred to it, such as General Administration, field of education, field of properties, field of financial management and field of litigation, if any particular aspect where Advisory Committee wants to render its advise, suo moto to the Trust Board, they can do so.*

*(l) The quoram of the Advisory Committee shall be three members and the advisory opinion to be rendered to the Trust Board shall be formed on the basis of either unanimity or by majority.*

*(m) Once an advise is rendered on any subject referred to it or suo moto by the Advisory Committee,*

*regard shall be given by the Trust Board to the advise in implementing the decision pertaining to such subject, where such advise is given.*

*(n) The Former Vice Chancellor member of the Advisory Committee shall act as Convenor of the Committee to convene the meeting for transacting the business referred to it.*

*(o) The Advisory Committee shall be provided with necessary Secretarial assistance on need basis by the Trust Board, which includes the place of meeting of the Advisory Committee at the Pachaiyappa's Building and the incidental expenses to be incurred if any for conducting such meeting of the Advisory Committee.*

59. The aforesaid modifications, in the opinion of this Court, have become inevitable for the smooth administration of the Pachaiyappa's Charities and accordingly, these modifications are made in exercise of the power of this Court under Clause 13 of the scheme itself.

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60. The President of the Trust Board shall be paid the monthly honorarium of Rs.2,00,000/- (Rupees Two lakhs only) and he shall

also be entitled for the logistic allowance of Rs.1,00,000/- (Rupees One lakh only). This apart, he shall be also eligible to claim reasonable expenses incurred by him by way of TA and other miscellaneous expenses, which he would reasonably incur at the time of visiting the outstation to look after the Institutions and Charities run by Pachaiyappa's Trust Board.

61. The President shall have a Secretariat consisting of required number of staff and assistants, which shall be fixed by the President and appointment to that effect can be made by the President, of course subject to the approval of this Court.

62. Since the lessee Muhurthaam of Anna Arangam and Amma Arangam had been given the lease for the said Arangams by the Trust Board without proper procedure to be adopted in this regard and comparatively for a very low rental value, this Court feels that, the said lease, being an unlawful one for the aforesaid reasons elaborately discussed in the earlier part of this order, is liable to be terminated.

63. Since the said buildings, namely Anna Arangam and Amma Arangam have been built without the plan approval or building

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approval from competent authorities under the law, which is in force, those buildings are vulnerable for demolition at the initiation of the authorities concerned. However, so far no such attempt has been made by the authorities invoking the provisions of the Tamil Nadu Town and Country Planning Act, 1971. Therefore utilising this situation, the Pachaiyappas Charities can act swiftly to make appropriate application in the manner known to law, especially in the context of the aforesaid Act and shall make application to the CMDA for getting approval of the said Arangams (Buildings). This view is taken by this Court, purely on the basis of the fact that, a huge money to the extent of several crores of rupees of Pachaiyappa's Charities have been invested in these two buildings, therefore if these buildings are demolished or erased, that will cause heavy financial damage to the Charities, which would be detrimental to the very smooth running of the Charities in the coming years.

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64. In so far as the allegations made against the erstwhile Trustees of the Trust Board is concerned, those issues have to be gone into only under the appropriate procedure in the manner known to law. In this regard, it is open to the Trust Board, with the advise of the Advisory Committee, to set the law in motion to bring those, who had

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been in violation or contravention of any of the provisions of the scheme, which tend to violate any law for the time being in force, into book for taking appropriate legal action including criminal or punitive action against those erring persons.

65. Since the lessee Muhurthaam has paid only the contractual lease amount, which may not be in commensurate with the market value and also the lessee have not paid the contractual lease amount for 10 months between May 2017 and March 2018 as reported by the Interim Administrator, it is open to the Trust Board to claim whatever due payable by the Muhurthaam lessee in those two headings since the lease is terminated now.

**66. CONCLUSION :**

In view of the aforesaid discussion, situation, circumstance, reasons and legal requirement, this Court is inclined to dispose these applications with the following orders :

*(i) The modification referred to above in paragraph 58 (i) to (viii) in the existing scheme of the Pachaiyappa's Charities at Chennai are given effect to immediately.*

(ii) As per the modified scheme, election shall be conducted by the Trust Board headed by the President to be appointed, to elect the members of the Trust Board under various categories, within a period of six months from today, after implementing the modification made herein above with regard to the eligibility condition and criteria pertaining to the voter / elector / electoral college as well as candidates who contest under various categories.

(iii) Invoking the power of this Court under Clause 11(K) (a) of the Modified Scheme, this Court, appoints Hon'ble Mr. Justice P.SHANMUGAM, former Judge of this Court (who is presently the Interim Administrator of Pachaiyappa's Charities) as the President of Pachaiyappa's Trust Board, who shall immediately take charge and act upon accordingly.

(iv) The lease deed executed by the erstwhile Trust Board of Pachaiyappa's Charities, dated 02.05.2017 to and in favour of Muhurthaam Event Management Private Limited in respect of both Anna Arangam and Amma Arangam are hereby cancelled.



(v) *In view of the cancellation of the lease agreement, Muhurthaam Event Management Private Limited, the lessee, shall hand over the two Buildings, namely Anna Arangam and Amma Arangam to the Pachaiyappa's Trust Board within a period of 10 (Ten) days from today.*

(vi) *By virtue of this cancellation of the lease of Anna Arangam and Amma Arangam, if any social gathering / function or meeting already fixed by the lessee, those details shall be provided to the Pachaiyappa's Charities Trust, who, on receipt of the said details, shall act upon as far as possible without prejudice to the interest of the third parties who have booked the Mandapams / Arangams for such social events.*

(vii) *It shall be open to the Trust Board of Pachaiyappa's Charities to recover whatever due payable by the lessee Muhurthaam under the heading Arrears of rental and also under the heading Actual rent in commensurate to the market value of the buildings, in the manner known to law.*

(viii) *It shall also be open to the Trust Board of the Pachaiyappa's Charities to take appropriate*

*legal action, by setting the law in motion against any erstwhile Trustee or Trust Board members for having violated various laws for the time being in force in the field of General Administration which includes financial irregularities and commercial venture with the intention of getting unjust enrichment.*

*(ix) The Trust Board of Pachaiyappa's Charities shall take every endeavour to save the Anna Arangam and Amma Arangam by making appropriate application to the plan authorities under the Tamil Nadu Town and Country Planning Act for getting approval of those buildings immediately.*

*(x) The Trust Board of Pachaiyappa's Charities shall take every endeavour to save as far as possible the playground of the two colleges, namely Pachaiyappa's College for Men at Chennai and C.Kandaswami Naidu College for Men at Chennai in the respective college campuses by releasing the playgrounds from the clutches of parking area of the respective Buildings (Arangams).*

*(xi) After getting necessary approval from*

*plan authorities to the said two mandapams, namely Anna Arangam and Amma Arangam, it shall be decided by the Pachaiyappa's Trust Board as to the future usage and utility of those mandapams having regard to the avowed object of educational advancement of the Institutions where these mandapams are situated and also the recovery of money by utilising the said mandapams in a proper manner without causing any damage to the due running, functioning of the educational institutions, for the purpose of repaying the loan advanced by the Bank.*

*(xii) The Pachaiyappa's Trust Board shall take every endeavour to strictly follow various provisions of the scheme including the modified one in the field of budgeting, auditing, financial discipline, election, protection and saving of the properties, doing charities to religious institutions and other aspects.*

*(xiii) The Pachaiyappa's Trust Board shall ensure that, Commemoration Day shall be conducted every year without fail, where the printed Annual Report shall be published and thereafter within one month, the Board shall file a*

*yearly report before this Court for perusal and approval.*

68. With the aforesaid directions and orders, all these applications are disposed of.

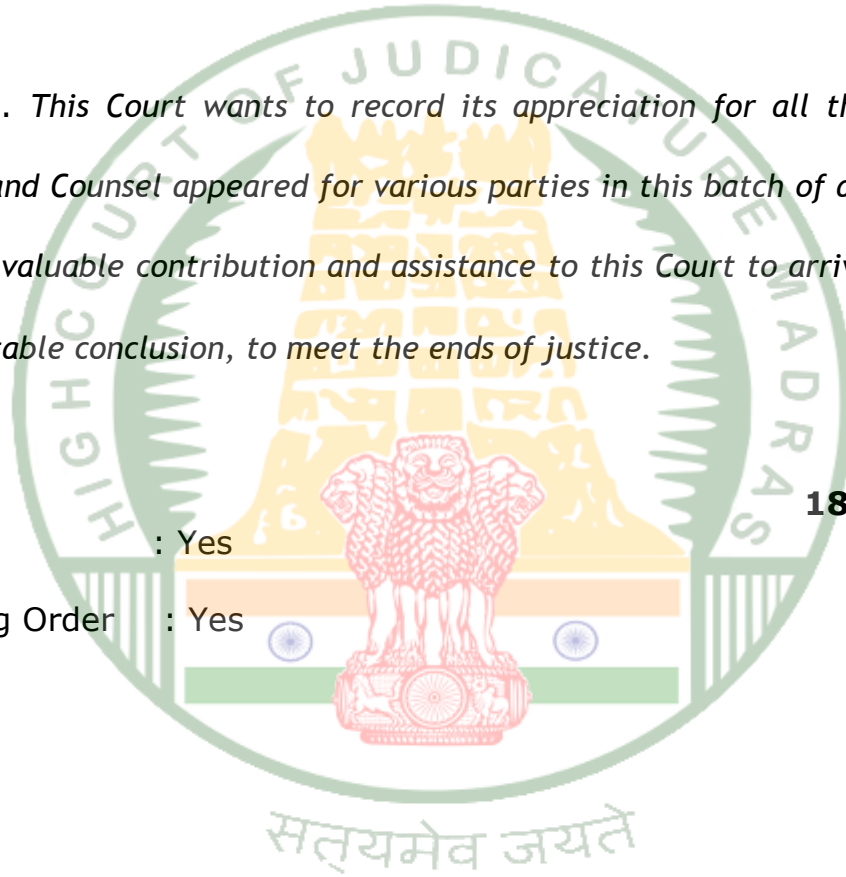
69. *This Court wants to record its appreciation for all those Senior Counsel and Counsel appeared for various parties in this batch of applications for their valuable contribution and assistance to this Court to arrive at a just and equitable conclusion, to meet the ends of justice.*

Index : Yes

Speaking Order : Yes

tsvn

**18-12-2019**



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To

1. The Interim Administrator  
Pachaiyappa's Board Trust Board,  
Rep. by Hon'ble Mr.Justice P.Shanmugam  
(Retd. Judge of the Madras High Court)  
New No.204, T.T.K.Road,  
Teynampet, Chennai - 600 018  
Having office at Pachaiyappa's Trust Board,  
Pachaiyappa's College, Chennai - 600 030.
2. The Secretary  
Pachaiyappa's Trust Board,  
Pachaiyappa's College,  
Chennai - 600 030.

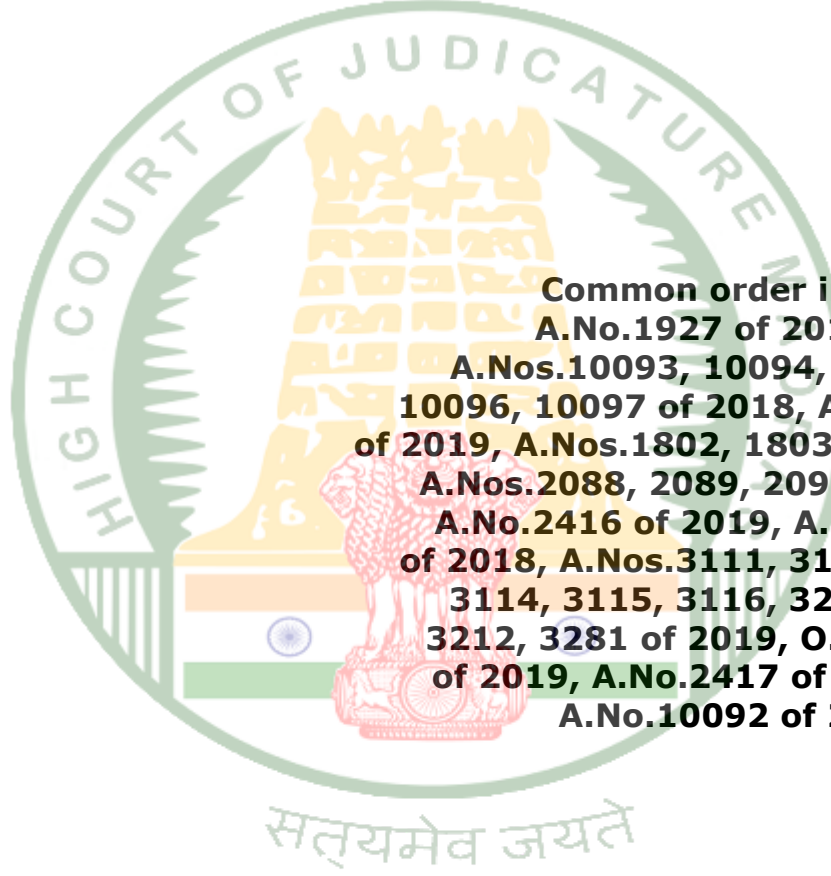


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A.No.1927 of 2019 etc., batch

**R.SURESHKUMAR, J**

tsvn



**Common order in  
A.No.1927 of 2019,  
A.Nos.10093, 10094, 10095,  
10096, 10097 of 2018, A.No.1749  
of 2019, A.Nos.1802, 1803 of 2019,  
A.Nos.2088, 2089, 2090 of 2019,  
A.No.2416 of 2019, A.No.10091  
of 2018, A.Nos.3111, 3112, 3113,  
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3212, 3281 of 2019, O.A.No.210  
of 2019, A.No.2417 of 2019 and  
A.No.10092 of 2018**

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**18-12-2019**

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