



Proceedings of the Administrator, Pachaiyappa's Trust, Chennai-30  
Hon'ble Mr. Justice S. Jagadeesan, Judge (Retd.)  
High Court of Madras  
Administrator

---

Rc.No.A3 / 2451 / 2023

Date: 04.07.2023

I was appointed as the Administrator by the Hon'ble Division Bench of the High Court of Madras, by its order, dated 28.04.2023 with a direction that "Learned Administrator shall consider various applications that were dealt by this court which had culminated to the present intra court appeal and also issue a general publication calling upon the members of the Trust as to their views on the existing scheme as framed by the Division Bench of this court by its order dated 24.09.2008 and shall take appropriate steps in respect of framing a scheme to the Trust if it is found necessary. We leave it open to the Learned Judge Administrator to do the needful for the Pachaiyappa's Trust by holding election to the office bearers and also leave it open to fix up his remuneration as the Judge Administrator deems fit".

I don't want to elaborate in detail the facts which culminated in the present order. However, to be belief I would say that a Learned Single Judge of this Hon'ble High Court by order dated 18.12.2019 amended various clauses of the original scheme framed by the Division Bench of this Hon'ble Court, dated 24.09.2008. Apart from the amendment of the scheme the Learned Single Judge passed certain other directions against which appeals were preferred. The Division Bench of the Hon'ble High Court of Madras by order dated 23.12.2020 allowed the Intra Court Appeal by setting aside the Judgment of the Learned Single Judge dated 18.12.2019 with various directions and observations and remitted the applications back to the Learned Single Judge. The relevant portion is extracted by the Hon'ble Division Bench in paragraph 4 of its order, dated 28.04.2023.

Subsequent to this remand, the Learned Single Judge deduced four issues of which is extracted by the Division Bench in paragraph 5 of the order dated 28.04.2023. Of the four issues pursuant to the order, dated 28.04.2023 of the Division Bench, I am concerned only with two issues i). Election of the Members to the Board of PCT and ii). Whether modification of existing scheme for PCT (as sought for in captioned applications) is required ?.

The Learned Single Judge on remand, by the order dated 30.11.2021 amended the clauses 4, 6, 8, 9, 11 & 11B of the original scheme dated 24.09.2008. **Clause 4** deals with the Commemoration of the founder and the amendment made by the Learned Judge is as follows;

***"Not conducting commemoration day for three consecutive years will operate as disqualification for trustees"***

**Clause 6:** deals with the Annual Local Inspection. In this clause, the amendment added by Learned Single Judge is;

***"Any failure to conduct annual local inspection and to file report of inspection of charities along with the annual report shall result in penalty of Rs.3,000/- each imposed on the Trustees personally and a further penalty of Rs.1000/- per day until such reports are filed after inspection".***

**Clause 8:** deals with Audit in this clause the Learned Judge introduced the amendment as follows;

***"The office of the Pachaiyappa's Trust Board shall provide books of account written and prepared as required by the certified auditor to enable him to audit the accounts every month. In case of failure on the part of the office to prepare and provide proper accounts and failure on the part of the Accountant to audit the same will result in the removal of auditor and persons responsible in the accounts department of Pachaiyappa's Board for failure to prepare the books of accounts as required by law."***

**Clause 9:** deals with Budget wherein the Learned Judge introduced the amendment as follows;

***"Any failure to prepare budget on or before 31<sup>st</sup> May every year for all charities and institutions under their management for the year commencing 1<sup>st</sup> July following and failure to submit copies every year on or before 15<sup>th</sup> June to the Advocate General of Madras and Board of Revenue and Non adherence to budgetary provisions, and expenditures in excess of the amount allotted in the budget for any particular purpose or item without specific reasons or sanctions recorded in writing and the failure to submit such sanctions over and above the allotment in the budget to submit before the Advocate General and the Board of Revenue within 15 days from passing of this resolution shall disqualify the Board of Trustees from holding and continue in office".***

**Clause 11(A):** deals with the qualifications of the Trustees. This clause as amended by the Learned Judge as follows;

***"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 election takes place Municipal Property Tax under the Madras Municipal Act IV of 1919 or property tax in any of the local bodies in Tamil Nadu in respect of such year to the aggregate amount of not less than Three Thousand rupees"*** (as per the original scheme the quantum of Property Tax to be paid is Rs.10,000/- which is being reduced to Rs.3,000/-).

**Clause 11(B):** deals with the constitution of the Board. Under this clause out of the Nine Trust Board Members; i). two to be elected by the Hindu Members of the Senate of the University of Madras; ii) 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 10 years standing; iii). Two to be elected by the Pachaiyappa's Trust College Council; and iv). Two to be elected from amongst the Electoral College consisting all the Approved Teachers from all the colleges of Pachaiyappa's Charities. As per this clause one individual will fall in multi constituencies and in order to prevent such hierarchy of certain individual the Learned Judge introduced the following amendment;

***"Provided a Voter will be entitled to cast his or her vote in any one of the constituencies only. This shall mean that a voter can exercise his or her vote in favour of Senate, Graduate or Council or Approved Teachers even if he happens to be a member of more than one constituency."***

***Explanation - For instance a Senate member who happens to be a Graduate, Council Member, and Approved Teachers cannot vote in all the constituencies, he / she should choose one of constituencies and cast his / her vote in that constituency only"***.

While considering these amendments of the Learned Single Judge, the Hon'ble Division Bench in para 16 of its order dated 28.04.2023 had expressed its disagreement with the reasonings of the Learned Single Judge in arriving upon a decision to modify the scheme as regards to the qualification of the Members in contesting elections and also the eligibility of the voters of the election. The Learned Judges have come to the conclusion on the basis of the finding of earlier Division Bench's order dated 23.12.2020. In para 17 of their order, dated 28.04.2023, the Learned Judges of the Division Bench held that the decision of the Learned Single Judge and the reasoning given in support of such a decision is also in contravention of the observation made by the Division Bench in its order dated 23.12.2020.

In view of the disagreement expressed by the Division Bench by its order 28.04.2023 in respect of qualification of members in contesting election and also the eligibility of the voters for the election, I am of the view that the direction issued by the Learned Judges of the Division Bench to the Administrator to call upon the members of the Trust as to their views on the existing scheme would restrict to these two clauses alone due to the exigency of the ensuing election and also considering the fact that there was no election for the past 5 years for the Trust Board. Only on this basis I call for the views of the members of the Trust who are the voters for the election. In 2018 my predecessor has updated the voter's list and the views of those who are in the updated list was sought for.

I called for the views of the voters as per the order of the Division Bench dated 28.04.2023.

Pursuant to the calling for their views, most of the Teachers who falls within the constituency of Graduates / Post Graduates & Research Scholars as well as the Council of College who forms the members of AUT (Association of University Teachers) sent a cyclostyle / xerox copy representation stating that there is no need for any amendment of the scheme and election should be held at an early date in accordance with the scheme framed in 2008. The Representation seems to have been prepared by one individual and the signatures of other members of the AUT had obtained in circulation and posted in bulk in two or three places and also about 20 representations were delivered at the office of the Trust by a single person who insisted for the acknowledgement in the individual names in whose name the views have been expressed. While considering these representations I am of the view, that the members of the Trust who are the voters especially educated and mostly in the Teaching Profession are expected to submit their views individually on the proposed amendment. The representation in bulk in cyclostyle form clearly establishes that there is no application of mind by individual and many of the individual voters have simply yielded to the wishes and views of someone who is interested in the election alone, by signing the representation. Hence, it cannot be taken that the individuals have submitted their views on applying their mind with regard to the need or otherwise of the amendment.

The next category of the voters, the members of the Trust who are the members of the Alumni Association Chennai Pachaiyappas. I am very sorry to say that this Alumni Association is not interested in the progress of the election process. When the views have been called for, one Mr. K. Loganathan, the executive committee member of Alumni sent a letter dated 16.06.2023 stating that in the website of the Trust Board except the paper publication dated 23.05.2023 no other details of the proposed amendment available. I requested the Secretary, Mr. G. Anbazhangan, to meet me in person on 20.06.2023 and showed him more than 70

representations received by me on the basis of the website uploading. I also asked him to verify from the office website. Like him one of the voter Mr. Ravikumar also complained & both of them came together and verified from the office computer and said that the proposed amendments are available in the website in a different heading and requested for extension of time to submit their views. They also requested to upload the same in a different head. Accepting their request the subject was uploaded and I extended the time till 28.06.2023 to submit their views and fixed the date 01.07.2023 for personal hearing also. Instead of submitting their views Mr. Loganathan sent another 4 pages letter finding fault with me in not calling for objections in respect of the six proposed amendments of the Learned Judge and also requested that I should call for the views in respect of all the amendments and give sufficient time for submitting their views for which purpose I must postpone the meeting fixed on 01.07.2023. Since, I have not yielded to his request, the Secretary Mr.G. Anbazhagan gave a police complaint on 29.06.2023 on the false apprehension of law & order problem. The most of the statements stated in the said police complaint are imaginary and against true state of affairs and request the police to stop the meeting or in the alternate get a letter from me holding responsibility for any untoward incidents if happens. From this conduct of the Alumni, I am of the view that their not interested in the election at an early date.

For the personal hearing on 01.07.2023 though 57 persons were present only 15 expressed their views.

As I stated earlier, I considered the two proposed amendments alone wherein, the qualification of the members in contesting election and also the eligibility of voters for the election, in respect of which the Learned Judges of the Division Bench in their order dated 28.04.2023 disagreed with the order of the Learned Single Judge, dated 30.11.2021.

As far as the proposed amendment, in respect of the qualification of the member in contesting of the election, clause 11(A) of the 2008 scheme, I am of the view that there need not be any amendment at this stage in view of the recent revision of Corporation and Municipal Taxes. By the recent revision made in the year 2021 the taxes have been hiked almost three times in some cases four times of the earlier tax. Due to this hike in Property Tax there is every possibility of increase in the number of voters. I am of the view that the amendment of this clause is not necessary.

So far as the amendment of clause 11(B), the eligibility of voters is concerned, there is no doubt the Trust Board Members have to be elected from four constituencies. In this multiple constituencies undoubtedly and admittedly many voters are having their eligibility to vote in more than one constituency. This eligibility of a group of members of the Trust who are voters, gives room for their supremacy and also some times those

who are in College Council and the Teacher's Constituency will have a commanding position over the Trust Board Members. In fact the Hon'ble High Court of Madras had an occasion to deal with such a situation in W.P. No.1571 of 2019 wherein the Members of legal profession have their voting eligibility in more than one association. The Learned Judge after elaborate discussion and referring to a number of rulings held that one bar one vote shall be the norm which means an advocate who is a member in more than one Bar / Advocate Association is not entitled to exercise his right to vote in mutliconstituency but is entitle to vote in one of Bar / Association as he chooses. In fact the Learned Judge elaborately discussed the reasons for imposing such restrictions. In my humble view those reasoning will be applicable for the ensuing election for the Trust Board Members also. Hence relying upon the said principles laid down by the Hon'ble High Court of Madras in its order dated 20.01.2021 in W.P.No.1571 of 2019 and following the same I am of the view that there is absolutely a need for the amendment of the Rule 11(B) in respect of the eligibility of voters alone. I accordingly amend the scheme of 2008 in respect of the clause 11(B) alone as follows;

<p>11.(B) CONSTITUTION OF THE BOARD:-</p> <p>The Board of Trustees shall consist of nine members who shall eventually be appointed in manner following:-</p> <p>Two, to be elected by the Hindu members of the Senate of the University of Madras.</p> <p>*3 – 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.</p> <p>*4 – Two, to be elected by the Pachaiyappa's Trust Board College Council hereinafter referred to.</p> <p>*5 – Two, to be elected from amongst the electoral college consisting of all the approved teachers from all the colleges of Pachaiyappa's Charities.</p> <p><i>*3 (modified as per the orders of the Hon'ble High Court in A.Nos.4224/2005, 4884, 4846, 4847 &amp; 4780/2006, dated: 04.01.2007)</i></p>	<p>11(B)CONSTITUTION OF THE BOARD:-</p> <p>The Board of Trustees shall consist of nine members who shall eventually be appointed in manner following:-</p> <p>Two, to be elected by the Hindu members of the Senate of the University of Madras &amp; Hindu Syndicate members of Thiruvallore University, Vellore.</p> <p>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.</p> <p>Two, to be elected by the Pachaiyappa's Trust Board College Council hereinafter referred to.</p> <p>Two, to be elected from amongst the electoral college consisting of all the approved teachers from all the colleges of Pachaiyappa's Charities.</p>
---	--

*\*4,5 (modified as per the orders of the Division Bench made in O.S.A.Nos.47 & 58 of 2007 and M.P.No.2/2007 in O.S.A.Nos.58/2007, dated :24.9.2008)*

**Provided a Voter will be entitled to cast his or her vote in any one of the constituencies only. This shall mean that a voter can exercise his or her vote in favour of Senate, Graduate or Council or Approved Teachers even if he happens to be a member of more than one constituency.**

**Explanation – For instance a Senate member who happens to be a Graduate, Council Member, and Approved Teachers cannot vote in all the constituencies, he / she should choose one of constituencies and cast his/her vote in that constituency only.**

Sd./-  
JUSTICE S.JAGADEESAN  
Administrator