

THE MALABAR HINDU RELIGIOUS AND CHARITABLE INSTITUTIONS AND ENDOWMENTS BILL, 2020

A

BILL

to provide for better administration and governance of the Hindu Religious and Charitable Institutions and Endowments in the Malabar area of the State of Kerala.

Preamble.- WHEREAS it is expedient to consolidate the law for the administration and governance of the Hindu Religious and Charitable Institutions and Endowments in the Malabar area of the State of Kerala

BE it enacted in the seventy first year of the Republic of India as follows:-

CHAPTER -1

PRELIMINARY

1, **Short title, extend and commencement.**- (1) This Act may be called The Malabar Hindu Religious and Charitable Institutions and Endowments Act, 2020

(2) This Act shall extend to the Malabar area of the State of Kerala and applies to all the Hindu Religious and Charitable Institutions and Endowments mentioned in Schedule II

(3) This Act shall come into force at once

2. **Definitions.**- In this Act, unless the context otherwise requires :-

(a) "Act" means the Malabar Hindu Religious and Charitable Institutions and Endowments Act, 2020;

(b) "Archaka" means and includes a poojari, santhi, or other person who performs or conducts any archana, pooja or other rituals in a temple or religious institution;

(c) "Board" means Malabar Devaswom Board Constituted under sub section (1) of section 4 of this Act;

- (d) "Commissioner" means the Commissioner appointed under sub section (1) of section 21 of this Act;
- (e) "Department" means the Hindu Religious and Charitable Endowment (Administration) Department came into being for the purpose of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951);
- (f) "Dittam" means the schedule of articles required and quantum of requirements in connection with worship, or offering as well as the daily poojas and other general, special and periodical services, ceremonies or observances in respect of a religious institution, endowment, Mutt or specific endowment, as the case may be;
- (g) "Educational Institutions" means such educational institutions established and run by the religious institutions under the Act;
- (h) "Government" means the Government of Kerala;
- (i) "Group of Religious Institutions" means more than one religious institution, religious endowments, specific endowments and trusts under the same trustee;
- (j) "Hereditary Trustee " means the trustee of a religious institution succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force, but does not include any body or committee by whatever designation known, registered or unregistered and society registered under the Societies Registration Act, 1860 (Central Act.21 of 1860) and also trusts registered under the Indian Trust Act , 1882;
- (k) "Hindu" means a person who is a 'Hindu' by birth or conversion and who professes Hindu religion;
- (l) "Malabar Area" means the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 39 of 1956);
- (m) "Mutt" means a Hindu Religious Institution with properties attached thereto and presided over by a preceptor, the succession to whose office devolves in accordance with the directions of the founder of the institutions or as regulated by custom or usage and;

- (i) Whose duty is to engage himself in imparting religious instructions or rendering spiritual service; or
- (ii) who exercises or claims to exercise spiritual leadership over a body of disciples and includes places of religious worship or instructions which are appurtenant to the institution.

Explanation:- where the head quarters of a Mutt is situated outside the area of application of this Act, but the Mutt has properties within the area of control shall be exercised over the Mutt in accordance with the provisions of this Act, in so far as the properties of Mutt was situated within the area of application of this Act is concerned;

(n) “Person having interest “ means :-

- (a) in the case of a temple, a person who is entitled to attend at, or is in the habit of attending the performance of worship or service in the temple the distribution of gift threat;
- (b) in the case of a Mutt, a disciple of the Mutt or a person of the religious denomination to which the Mutt belongs;
- (c) in the case of a specific endowment or other institution ,a person who is entitled to attend at, or is in the habit of attending the performance of the service of charity; or who is entitled to partake, or is in the habit of partaking, in the benefit of charity;
- (o) “Prescribed” means prescribed by the Rules or Bye-laws made under the provisions of this Act;
- (p) “Religious Charity” means public charity associated with a Hindu festival or observance of a religious character, whether connected with a religious institution or not;
- (q) “Religious endowment” means property belonging to or given or endowed for the support of a religious institution or given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity and includes the temple, shrine or other religious endowment dedicated to or used as of right by the Hindu Community concerned and also the premises thereof.

Explanation:- All properties which belonged to given or endowed for the performance of any service or Charity of a public nature connected therewith or of any other religious Charity, shall be deemed to be a religious endowment within the meaning of this definition, notwithstanding whether, before or after the commencement of this Act, the religious institution has ceased to exist or ceased to be used as a place of public religious worship or instruction or the service or charity has ceased to be performed or not;

- (r) "Religious Institution" means temple, Mutt, religious endowments, Trusts or specific endowment;
- (s) "Scheme" means the scheme of administration framed by the competent courts having jurisdiction or by the authorities under the Act till the enforcement of this Act, in respect of the temples under section 58 of the Madras Hindu Religious and Charitable Endowment Act 1951 (Madras Act, XIX of 1951);
- (t) "Specific endowment" means any property or money endowed for the performance of any specific service or charity or in connection with a religious institution or for the performance of any other specific service or charity;

Explanation I:- Two or more endowments of the nature specified in this sub section the administration of which is vested under a Common Scheme settled shall be construed as a single specific endowment for the purpose of this Act;

Explanation II:- where specific endowment attached to a religious institution is situated partly within the area of application of this Act and partly outside such area of control shall be exercised in accordance with the provisions of this Act over the whole of the specific endowment as if the religious institution is situated within the area of application of this Act;

- (u) "Temple" means a place by whatever designation known used for public religious worship, and dedicated to, or for the benefit of, or used as of right by the Hindu Community, or any section thereof, as a place of public religious worship;
- (v) "Trustee" means any person or body by whatever designation known in whom or in which the administration of a religious institution is vested and includes any person or body who or which is liable as if such person or body were a trustee.

CHAPTER-II

BOARD AND ITS OFFICERS

4. Constitution of the Malabar Devaswom Board.-(1) The Government shall , by notification in the Official Gazette, constitute a Board by name “The Malabar Devaswom Board”.

(2) The Board shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of both movable and immovable properties and to enter into contracts and may sue and be sued in the name of the Board

(3)The Head Quarters of the Board shall be at Kozhikode

(4)The Board shall consists of the following five Hindu members permanently residing in Malabar area , namely:-

- (a) two members from general category;
- (b) one member representing the hereditary trustees of the temples under the Board;
- (c) one woman member;
- (d) one member from the Scheduled Caste or Scheduled Tribes

Explanation.- For the purpose of this section “Scheduled Castes” and “Scheduled Tribes” shall have the same meaning as is assigned to them in clauses (24) and (25) respectively of Article 366 of the Constitution of India

(5) The members mentioned in clauses (b),(c),and (d) shall be nominated by the Hindus among the Council of Ministers of the State and the members mentioned in clause (a) shall be elected by the Hindus among the members of the Kerala Legislative Assembly as provided in section 5 ;

(6) The Hindus among the Council of Ministers of the State shall also nominate a member of the Board as its President .

5. Election of Members of the Board.- The Government shall appoint a retired District Judge as an electoral officer for the conduct of election of the Members to the Board mentioned in clause (a) of section 4 of the Act and the election shall be held in accordance with the rules as may be prescribed.

6. Term of office of the members.- Save as otherwise provided in this Act, every member of the Board shall hold office for two years from the date of notification of constitution of the Board.

Provided that the elected and nominated members together shall constitute the Board, and hence notification shall be made, only after completion of both the election and nomination, together.

7. Qualification for membership.- *A person shall be qualified for nomination or election as a member of the Board only if he:*

- (i) is a permanent resident of Malabar Area;
- (ii) is a Hindu ;
- (iii) is a believer of God and temple worship and
- (iv) has completed the age of 50 years.

8. Oath by a member.- Where a person has been elected or nominated as a member of the Board, before entering the office as a member he shall take a oath before the Secretary to Government, Devaswom Department and if the Secretary is not a Hindu, a Secretary nominated by the Government, stating that he is a person professing Hindu religious rites and is a believer of God and temple worship.

9. Disqualifications for Membership.- A person shall not be eligible for election or nomination as a member of the Board, if such person.-

- (a) is of unsound mind and stands so declared by a competent Court; or
- (b) has applied for being adjudged as an insolvent or is an undischarged insolvent; or
- (c) has been convicted by a Criminal Court for an offence involving moral turpitude; or

- (d) *has been removed from holding any office in pursuance of an order of a court, or*
- (e) *is an employee of Government or a local authority; or*
- (f) *is a member of Parliament or Legislative Assembly of any State or a member of any Local Self Government Institutions; or*
- (g) *is interested in a subsisting contract for making any supplies or executing any work of the Board*

10. Supervening Disqualification.- where the Government is satisfied that a person elected or nominated as a member of the Board has become subject to any of the disqualifications specified in clauses. (a) to (g) of section 9 or does any act prejudicial to the interest of the Board or absent from three consecutive meetings without any sufficient reason or ceases to be a Hindu, the Government may, for reasons to be recorded in writing, by order, remove such member from office:

Provided that a member shall not be removed under this section unless such member has been given a reasonable opportunity of being heard.

11. Resignation by a member.- The president or a member of the Board may in writing, addressed to the Secretary to Government in charge of Devaswom Department, resign his membership and the resignation shall take effect on the date of acceptance of the same by the Government.

12. Filling up of casual vacancies.- If any member by reason of ill health, death, resignation, removal or otherwise is unable to complete full term of office, the vacancy so caused shall be filled by nomination or election, as the case may be, and the person so appointed or elected shall hold office so long as the member in whose place such person appointed would otherwise have continued in office.

13. Honorarium and TA of President and Members.- The President and Members of the Board shall be entitled for a monthly honorarium and sitting fees as may be fixed by the Government from time to time, by notification published in the Official Gazette. The travelling allowance shall be admissible to the members at the rate admissible to Class I officers under the Government of Kerala.

14. Meetings of the Board.- (1) The Board meetings shall be convened in the head quarters of the Board or at such other places as may be decided by the President and shall meet at least once in every month and **or as and when** if it is found necessary for the transaction of **any** business.

(2) Every meeting of the Board shall be convened by the Commissioner on the direction of the President of the Board. The Commissioner may give notice at least within 7 days prior to the meeting. The Commissioner may also be present at the meetings of the Board.

15. Quorum of meeting.- (1) Three members shall form the quorum for the meeting of the Board.

(2) If at the time appointed for the meeting or within half an hour thereafter there is no quorum the meeting shall stand adjourned. The Commissioner shall fix a date in consultation with the President for the adjourned meeting, and one week's notice of such date shall be given to the members.

16. Special Meetings.- A special meeting of the Board shall be convened by the Commissioner on the direction of the President or on receipt of a requisition signed by not less than 3 members specifying the urgency of the meeting and the business to be transacted at such meeting.

17. Standing committees of the Board.- (1) The Board shall constitute, for its proper functioning, the following standing committees with three members each; namely:

(a) Standing Committee for Finance and Establishment

(b) Standing Committee for works, Development and environment.

(2) The President of the Board shall be the Chairperson of the Standing Committee for Finance and Establishment.

(3) The Board shall nominate one of the members of the Standing Committee for works, development and environment as its Chairperson.

(4) The duties, responsibilities and the conduct of the proceedings of the Standing Committee shall be as may be prescribed.

(5) The Standing Committee shall meet at least once in a month.

(6) The recommendations of the Standing Committee shall as far as possible be unanimous and in case of any difference of opinion among the members in respect of any subject matter before it, the reasons for the difference of opinion, which shall be recorded by the member or members duly signed and it shall be placed before the Board for a lawful decision.

18. Temple Advisory Committee.- (1) Subject to the approval of the Board, Temple Advisory Committee may be constituted for each temple in the name of the temple as Temple Advisory Committee for the purpose of ensuring adequate participation of Hindu Devotees.

(2) The composition, tenure and functions of Temple Advisory Committee shall be in such manner as may be prescribed.

19. Validation of Proceedings.- No act or proceedings of the Board shall be deemed to be invalid merely by the reason of any defect in its constitution or on the ground that the President or any member thereof was subjected to any disqualification under the provisions of the Act; or disqualified or ceased to hold office, or by reason of such act or proceeding having been done or taken during the period of any vacancy in the office of the President or any member of **the** Board.

CHAPTER III

DEPARTMENT AND ITS EMPLOYEES, ASSETS AND LIABILITIES

20. Hindu Religious and Charitable Endowments (Administration) Department .-

(1) *The Hindu Religious and Charitable Endowments (Administration) Department shall stand abolished and the employees of the abolished Department shall continue in the Board as a vanishing category in the Board .*

(2) *The full time employees of the abolished Department shall hold office in the Board with the same terms and conditions of service and with the same rights and privileges of Government employees.*

(3) *The liability to pay and allowances and pensionary benefits of the employees referred to in sub section (2) shall be the liability of the Board.*

(4) *Any question as to whether any person was a full time employee of the abolished Department , shall be referred to the Government and the decision thereof shall be final.*

(5) *All the assets and liabilities of the said Department already vested in the Board shall remain as the property of the Board and any of its assets and liabilities are still in the custody of that Department, the same shall stand transferred to , and vest in the Board forthwith.*

(6)The eligibility of promotion to the employees shall be determined in accordance with the General and Special Service Rules applicable to the employees of the Government. The resultant vacancy shall be the post of the Board and the Board may, with prior permission of the Government, shall have the power to fill such posts as per the Service Rules applicable to the Board.

CHAPTER IV

OFFICERS AND EMPLOYEES OF THE BOARD

21.The Commissioner and other Officers of the Board.-(1) The Board shall appoint an Officer not below the rank of a Deputy Commissioner who is eligible to be promoted as Devaswom Commissioner and in the absence of such an officer an officer not below the rank of a Joint secretary to Government, Law Department as Devaswom Commissioner.

(2) The qualification for appointment shall be as may be prescribed in the Special Rules issued by the Board as approved by the Government.

(3)The Commissioner shall be the Chief Executive Officer of the Board who shall implement the decisions of the Board.

(4) The Commissioner shall be a person professing Hindu religion and a believer of God and temple worship.

(5) The Commissioner, as the Chief Executive Officer of the Board, shall have the power of control and discipline of the employees of the Board as per the Rules applicable to the Board.

(6) Subject to the provisions of this Act, Rules and Bye-laws the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner.

(7) The Commissioner or any officer deputed by the Commissioner in this behalf may inspect all movable and immovable properties, records, correspondence, plans, accounts and other documents relating to any religious institution.

22. Deputy Commissioners , Assistant commissioners, other Officers and Staff of the Board.-(1)The Board may appoint such number of Deputy Commissioners ,Assistant commissioners and such other Officers and Staff as are necessary for discharging its functions under this Act and the Rules framed thereunder.

(2) The Board may create with the prior approval of Government , such number of posts of officers and employees of the Board ,as it requires.

23.Appointment of officers and employees of the Board.- (1) *Notwithstanding anything contained in the Act and the Rules made there under relating to recruitment and services of officers and employees of the Board, all the appointments in the Malabar Devaswom Administrative Service of the Board for which direct recruitment and promotions from temple employees are resorted shall be made from the select list of candidates prepared by the Kerala Devaswom Recruitment Board constituted under the Kerala Devaswom Recruitment Board Act, 2015 (16 of 2015)*

(2) *The Executive Officers and Employees of the temples under the administrative control of the Board shall be deemed to be the employees of the Board in the relevant temples .*

(3) *The Board shall have power to make appointment of Executive Officers from the select List prepared by the Kerala Devaswom Recruitment Board .For this purpose the Board shall group the temples as may be prescribed and make appointment of Executive Officers to such sub-group Devaswom to carry out the day to day administration of the temples in each sub group as may be prescribed:*

Provided that the number of sub-groups shall be limited to such number without exceeding the total number of grade I and Grade II institutions taken together.

CHAPTER V

GENERAL POWERS AND DUTIES OF THE BOARD AND ITS OFFICERS

24. Administrative powers of the Board.-(1) Subject to the provisions of the Act, the Board shall administer the religious institutions, trusts, mutts, endowments attached with the religious institutions, its movable and immovable properties and Funds.

(2) The Board shall do all things reasonable and necessary to ensure that such religious institutions, endowments, properties and trusts are properly administered and supervised and that the income thereof are duly appropriated for the objectives and purposes of such institutions, endowments and trusts.

(3) Without prejudice to the generality of the provisions of this Act, the main powers and duties of the Board shall be.-

- (a) the administration, maintenance and development of the religious institutions, Mutts, trusts and endowments attached therewith, its control and supervision as provided in the Act;

- (b) to expedite action for the eviction and recovery of the properties of the religious institutions which were encroached upon or illegally alienated by the trustees;
- (c) Fixation of scales of pay and make payment of salary to all the Executive Officers and employees of the religious institutions and Mutts as may be prescribed;
- (d) to sanction grant for renovation of the temples under the provisions of this Act, as may be prescribed;
- (e) to prepare and approve annual budget of the Board and furnish a copy **of** the same to Government;
- (f) to prepare and maintain in the prescribed manner a complete record containing full information relating to the origin, nature, extent of properties, income, objects and beneficiaries of different classes of religious endowments and trusts within the jurisdiction of the Board;
- (g) to prepare and maintain a register containing true copies of all documents *relating to the creation of* religious trusts;
- (h) to conduct timely inspection of the religious institutions, Mutts, trusts, and endowments its movable and immovable properties and the accounts of the endowments attached therewith, as may be prescribed;
- (i) call for information, reports, returns and other documents from the religious institutions, Mutts, religious endowments and trusts from time to time;
- (j) give directions for proper administration of religious institutions, Mutts, trusts and endowments attached therewith in accordance with the law governing such institutions;
- (k) to institute whenever it thinks fit, an inquiry relating to the administration of the religious institutions, Mutts, trusts and endowments attached therewith and expedite action thereon.
- (l) to institute or defend any suit or proceedings with respect to a religious institution, Mutt, trust and endowments attached therewith or any matter connected therewith ;
- (m) to conduct audit of accounts of the religious institutions, Mutts, trusts and endowments attached therewith, annually;

- (n) to furnish the Government or to such officer as the Government may appoint in this behalf, any statement, report, return or other document and any information which the State Government or the officer authorized in this behalf, as the case may be, require to report giving detailed accounts of the activities of the Board and also to furnish the Government an annual report duly approved by the Board;
 - (o) to regulate the conditions of service and recruitment of the employees required to the administrative service of the Board as may be prescribed;
 - (p) to regulate the conditions of service and recruitment of the employees required to the temple service including the Executive Officers as may be prescribed;
- (4) The Board may delegate any of the powers vested with it to the Commissioner, Deputy Commissioners or Assistant Commissioners and exercise it, subject to the Bye-laws approved by the Board.

25. Preparation and Publication of list of religious institutions on the basis of income.- The Board shall prepare and publish in the manner as may be prescribed a list of religious institutions under its administration on the basis of income of the religious institutions.

26. Power to enter into religious institutions.- (1) The President, members of the Board, Commissioner, Deputy Commissioner or Assistant Commissioner having jurisdiction and any other person authorised in this behalf shall have the power to enter into any religious institution or any place of worship for the purpose of exercising any power conferred or discharging any duty imposed on such officers by this Act, the Rules and the bye-laws made thereunder.

(2) The President, members of the Board, Commissioner, Deputy Commissioner, Assistant Commissioner and every other person exercising powers of Superintendence and control under this Act, so far as may observe custom and ceremonies appropriate to the religious institution in respect of which such powers are exercised and in case of mutt, act in conformity with the usages of a mutt and in the dealings with the head of the mutt.

27. Power of the Board to borrow.- The Board may from time to time with the previous sanction of the Government and subject to such terms and conditions as the Government may impose, borrow any sum **necessary** for the purposes of any project or scheme undertaken or to be undertaken by it.

CHAPTER VI

Powers and Duties of the Government

28. Grants by the Government.- The Government shall after due appropriation made by the State Legislative Assembly by law in this behalf, pay to the Board by way of grants, such sums of money as the Government may think fit, to the Malabar Devaswom Fund for the purpose of this Act.

29. Power of the Government to review the working of the Board.- The Government shall have power to review the general working of the Board in every six months based on the report of the Board and such other relevant matters and may issue necessary directions to the Board as may be deemed necessary and such direction shall, as far as reasonably, be complied with by the Board, promptly and submit a report to that effect to the Government. In case of failure without sufficient cause will be a reason for initiating proceedings to dissolve or supersede the Board.

30. Appointment of Chief Commissioner.- In the event of the Board being dissolved or superseded or all the members of the Board ceased to hold office by reason of disqualification under section 9, resignation under section 11 or if the Board become defunct, the Government may by notification in the Official Gazette appoint an officer not below the rank of the Secretary to Government, who is professing Hindu religion and a believer of god and temple worship as the Chief Commissioner of the Board to exercise the powers and perform the duties of the Board, till a new Board is constituted.

31. Appointment of a Commission.- (1) Notwithstanding anything contained in this Act the Government may by notification in the Official Gazette appoint a Commission to enquire into and report on the allegations, if any, of irregularities, corruption, mal administration or misappropriation of the funds by the Board.

(2) The Commission appointed under sub section (1) shall be a sitting or retired Judge of the High Court of Kerala who is professing Hindu religion and a believer of God and temple worship.

CHAPTER VII

INQUIRY, SUITS AND APPEALS

32. Deputy Commissioner to decide certain disputes and matters.- (1) The Deputy Commissioner shall have power to inquire into and decide any of the following disputes as to the question with regard to the religious institutions, properties and endowments

attached within the purview of this and situated within the area of jurisdiction of the Board, after hearing all the parties concerned, namely:-

- (a) whether any institution or endowment is a religious institution or endowment as defined in this Act and whether it can be declared so;
- (b) whether any property of an endowment, whether it is a religious endowment or charitable endowment as defined in this Act and whether it can be declared so;
- (c) whether an institution or endowment is a charitable institution or charitable endowment as defined in this Act and whether it can be declared so;
- (d) whether any property is a specific endowment as defined in this Act and whether it can be declared so ;
- (e) whether any property or money which has been given for the support of an institution is an endowment or not ;
- (f) whether a trustee holds or held an office as a hereditary trustee; and
- (g) any other dispute which may be referred to by the Board.

(2) Any person aggrieved by the final order of the Deputy Commissioner under sub section(1) may prefer an appeal to the Board within 60 days from the date of the Order.

(3) Any person aggrieved by the order of the Board ***under sub section (2)*** may file a suit before the Sub Court having jurisdiction in which the religious institution, endowment, hereditary trust or the property is situated and the decision of the Sub Court shall be final.

(4) The Board or the Sub Court may stay the execution of the Order against which the appeal or suit, as the case may be, has been filed.

33. Appropriation of Endowments.- (1) The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been or has subsequently become impossible of realisation, by order, direct that the endowments of the institution shall be appropriated to all or any of the following purposes, namely,-

- (a) the propagation of the religious tenets of the institution;
- (b) the establishment and maintenance of University, Colleges or other educational Institutions in which special provision is made for the study of Hindu religion, philosophy or Sastra or for imparting the instruction in Hindu temple architecture;

- (c) the establishment and maintenance of educational institutions where instruction in the Hindu religion is also imparted to the Hindu students thereof;
- (d) promoting the study of Indian languages including Sanskrit;
- (e) promotion of Indian Arts and Architecture;
- (f) the establishment and maintenance of orphanages for Hindu children;
- (g) the establishment and maintenance of asylums for Hindus suffering from various ailments;
- (h) the establishment and maintenance of hospitals and dispensaries;
- (i) grant of aid to any other religious institutions under the Board which is poor or unable to perform its activities effectively.

(2) The order of the Deputy Commissioner under sub section (1) shall be published in the manner as may be prescribed.

(3) Any person aggrieved by an order of the Deputy Commissioner under sub section (1) may prefer an appeal to the Board within 60 days from the date of publication of the order.

34. Determination and appropriation of properties and funds of defunct religious institutions.- (1) The Deputy Commissioner may, on being satisfied that a religious institution has, whether before or after the commencement of this Act, ceased to exist, hold an inquiry in the manner as may be prescribed to ascertain its properties and funds, and after doing so, shall pass an order ,—

- (a) specifying the properties and funds of the institution;
- (b) appointing a trustee there of;
- (c) directing the recovery of any such properties or funds from any person who may be in possession thereof; and utilised for renovating the institution or if such renovation is not possible be appropriated to any one or more of the purposes specified in section 33.

(2) The Deputy Commissioner may, on being satisfied, after holding an inquiry in the manner as may be prescribed, that any building or other place which was being used for religious worship or instruction has, whether before or after the commencement of this Act, ceased to be used for that purpose, pass an order,-

- (a) directing the recovery of such building or place from any person who may be in possession thereof, and
- (b) laying down that it shall be used for religious worship or instruction as before, or if such use is not possible be utilised for any one or more of the purposes specified in section 33.

(3) Nothing contained in sub section (1) or (2) shall be deemed to authorise the Deputy Commissioner to pass an order in respect of any property or funds which vested in any person before the Commencement of this Act by the operation of the law of Limitation.

(4) Every order of the Deputy Commissioner under sub section (1) or (2) shall be published in the manner as may be prescribed.

(5) Any person aggrieved by an Order of the Deputy Commissioner, may prefer an appeal before the Board within 60 days from the date of publication of the order.

35. Power of the Commissioner to settle Scheme.- (1) When the Commissioner has reason to believe that in the interest of the proper administration of a religious institution, a scheme should be settled for the institution, either suo-motu for reasons recorded or when not less than five persons having interest make an application in writing, stating that for the proper administration of the religious institution a scheme should be settled for it, the Commissioner if he is satisfied that, is satisfied that it is necessary or desirable to do so, shall with the prior approval of the Board, by order, settle a scheme for the administration of the institution.

(2) A scheme settled under sub-section (1) for an institution shall contain provisions for.-

- (a) the exclusive peculiarities regarding the religious institution, name of its founder or family, if any;
- (b) the name of the sub temples, if any, attached to the main temple;
- (c) name of family or families of hereditary trustees, if any;
- (d) a schedule of properties in which the religious institution or temple situate and endowments attached to the temple;
- (e) associating one or a body of persons for the purpose of participating or assisting in the development of the whole or any part of the religious institution or religious endowments or such matters of specific endowment:

Provided that such person or body of persons shall be chosen from the respectable persons having interest in the locality of such religious institution or endowment is situated.;

- (f) defining the powers and duties of the trustee;
- (g) pending the framing of a scheme for a temple or for a specific endowment other than one attached to a Mutt, the Commissioner may appoint an

Executive Officer to carry out the day-to-day administration and specify the powers and duties of the Executive Officer.

(3) The Commissioner may at any time or on recommendation of the Board, by order modify or cancel any scheme settled under sub-section (1).

(4) Every order of the Commissioner settling, modifying or cancelling a scheme, under this section shall be published as in the manner as may be prescribed and the order shall be binding on the trustee, the Executive Officer and the persons having interest, as the case may be.

(5) An appeal against the order of the Commissioner under this section may lie to the Government, within 60 days from the date of Order.

36. Assumption of management in certain cases.- The Board may assume the management of any private temple, religious institution, endowment or hereditary or non hereditary trust subject to such inquiry as may be provided under section 37, in the circumstances specified below, namely:-

- (a) if any one of them makes an application in writing for such assumption, or where the founders have reserved to themselves the power of appointing and dismissing themselves, and if majority of such founders are willing and makes an application in writing for such assumption or where there are two founders and if any one of them makes an application for such assumption;
- (b) on making application in writing by not less than half the number of trustees stating their refusal or inability to continue as trustee;
- (c) where any one or more of the trustees died intestate without any legal heir and if the remaining trustees have failed in carrying out their duties properly and in the best interest of the institution; and
- (d) where there is proved mismanagement and maladministration of any religious institution, trust or endowment.

37. Enquiry prior to Assumption:- (1) Before assumption of the management of any institution under S.36, the Board shall authorise an officer not below the rank of a Deputy Commissioner to make an inquiry as may be prescribed. After such inquiry, if the Board is satisfied that for proper administration of religious institution, endowment or trust, as the case may be, assume the management of it and may pass an Order accordingly.

(2) The Order of the Board under sub-section (1) shall be published in the manner as may be prescribed.

(3) Any person aggrieved by an order of assumption passed on any of the grounds under sub section (1), may within a period of 60 days from the date of publication of the order of assumption, institute a suit in the District Court, within whose jurisdiction the subject matter situates.

(4) The Board may appoint an Executive Officer to carry out the administration of the institution assumed under sub-section (1).

38. Power of the Board to restore management: (1) Where an order has been passed under section 37, the Commissioner may pass such other or further orders as may be deemed necessary, incidental or conducive to carry out the orders of the Board for assumption including orders for search or seizure of the keys, jewels and other valuables, vessels, records and other properties, movable or immovable, belonging to the institution or for the transfer of their possession to such person or persons as the Commissioner may direct.

(2) If at any time the Board is satisfied that in the interest of the institution, for reasons to be recorded in writing, it seems expedient to restore the management of an institution assumed under sub-section (1) of section.36, the Board may restore the management of the institution to the original trustees or founders and may lay down such conditions as it may deem fit for proper management of the institution, after such restoration:

Provided that, the money recoverable by the Board from the institution on account of loan advanced or money spent during the period of assumed management, shall be remitted to the Board fund before the restoration of the management of the institution, by the person or body of persons, to whom the management has to be restored.

39. Appeal to the Board:- (1) Any person aggrieved by any order passed by the Commissioner or Deputy Commissioner or any other officer authorised in this behalf under any of the provisions of this Act where a suit or appeal is not provided, may prefer an appeal to the Board within 60 days from the date of the order.

(2) The Board may on such appeal after hearing the parties concerned, if necessary, modify, cancel or remit back the order for reconsideration.

40. Power of the Board to call for records, files and pass orders:- (1) The Board may call for and examine the records or files of the Commissioner, Deputy Commissioner or Assistant Commissioner or any other officer authorised in this behalf in respect of any proceedings, decision or order under this Act other than a

proceedings, decision or order in respect of which a suit or an appeal to a court is provided by this Act, to satisfy as to the regularity of such proceedings, or the correctness, legality or propriety of any decision or order passed therein.

(2) If ***it appears to the Board, after due inquiry that*** any such proceedings, decision or order has been passed by the Commissioner, Deputy Commissioner or Assistant Commissioner or any other officer authorised in this behalf has to be modified, annulled reversed or remitted back for reconsideration, the Board may pass orders accordingly.

(3) The Board shall not pass any order prejudicial to any party, under sub section (2) without giving such party a reasonable opportunity of being heard.

(4) The Board may stay the execution of any proceedings, decision or order referred to in sub section (1) pending the exercise of powers under sub section (2) in respect thereof.

(5) Any party aggrieved by the order of the Board may prefer an appeal before the Government within 60 days from the date of receipt of the order.

CHAPTER-VIII

RELIGIOUS INSTITUTIONS IN GENERAL

41. Maintenance of Registers and Records in the religious institutions.- (1) The Executive officer or the Trustee, as the case may be, of every religious institution shall maintain the following registers, namely:-

- (a) register containing particulars of all movables and immovables properties of the institution;
- (b) register containing particulars of movables and immovables given or endowed for the performance of any service or charity;
- (c) register of dittam specifying the quantum of goods required and the scale of expenditure for daily poojas, rites and rituals ordinarily and recurring for periodical festivals, annual festivals and connected expenditure;
- (d) register containing particulars of all liabilities of the institution;
- (e) register containing posts sanctioned to the institution under the Act and Rules and their service details;

- (f) register containing the names of all officers to which any salary, emoluments or perquisite is attached and the nature ,time and conditions of service in each case;
 - (g) register showing the names of past and present trustees and particulars as to the custom regarding succession to the office of trustee;
 - (h) register showing the jewels, gold, silver, precious stones, vessels and utensils and other valuable belongings to the institution;
 - (i) register showing particulars of all other endowments of the institution and all title deeds and other documents; and
 - (j) any other register as may be prescribed.
- (2) Copies of the aforesaid registers shall be prepared, verified and signed by the Executive Officer or the trustee, as the case may be.
- (3) Approved copies of the registers and records shall be kept in the office of the Board and originals shall be kept in the religious institution concerned.
- (4) The Commissioner or an officer authorised in this behalf shall scrutinise the entries in the register every year and submit to the Board for its approval.
- (5) The Board may after making such enquiry as it may consider necessary , by order, direct such alterations or additions to the Registers, as it may think necessary.

42. Submission of Accounts and Returns to the Board.- *All* the Executive officers or the trustees, as the case may be, shall furnish such accounts and returns, reports or other information relating to the administration of the institutions to the Board within the time as may be prescribed.

43. Submission of Balance Sheet to the Board.- All the Executive Officers or the trustees, as the case may be, shall within 30 days from the closing of each financial year, prepare an annual Balance Sheet containing the nature and extent of the income, expenditure, outstanding and savings of the institution during the previous financial year and send a copy to the Board as may be prescribed.

44. Enforcement of service of charity in certain cases:- (1) Where a specific endowment attached to a Mutt or temple consists of a charge for performance of charity on property and there is failure in due performance of the service or charity, the trustee or Executive Officer of the Mutt or temple concerned may require the person in possession of the property on which the endowment has a charge to pay the expenses incurred or likely to be incurred in causing the service or charity to be performed otherwise. In default of making **such** payment by the person as required, the Deputy

Commissioner may on the application of the trustee or Executive Officer, as the case may be, after giving the person in possession a reasonable opportunity of being heard, by order, determine the amount payable to the institution.

(2) Where the person in possession of the property on which the endowment has a charge is not the person responsible in law for the performance of the service or charity and any amount is paid by or recovered from the person in possession, the Deputy Commissioner may on the application of the person in possession and after giving the person responsible in law a reasonable opportunity of being heard, by order, require the person responsible in law to pay the person in possession the amounts so paid or recovered.

(3) Any person aggrieved by an order of the Deputy Commissioner under sub- sections (1) or (2), may prefer an appeal to the Board within 60 days from the date of receipt of the order.

(4) On application by the Executive Officer or Trustee, as the case may be, to the Collector of the District concerned in which the property referred to in sub-section (1) is situated, or on application by the person in possession to the Collector of the District concerned in which any property of the person responsible in law is situated, as the case may be, the Collector shall recover from the person in possession or the person responsible in law, as the case may be, the amounts specified in the order of the Deputy Commissioner, as modified by the order of the Commissioner, if any and the expenses of such recovery as if it were arrears of public revenue due on land and pay to the Executive Officer, trustee or to the person in possession, as the case may be, the amount due to him.

45. Sections 46 to 51 not to apply to Mutts or specific endowments attached to Mutts:- The provisions of sections 46 to 51 shall not apply to Mutts and specific endowments attached to Mutt.

46. Power to appoint Trustees.- (1) The Board shall constitute a Trustee Committee consisting of not less than three and not more than five persons to a religious institution included in the list published under the provisions of this Act, where it has no hereditary trustee for the proper administration and management of such religious institution.

(2) Where in the case of any such institution having a hereditary trustee, the Board after notice to such trustee and after such inquiry, as the Board deems fit, considers for reasons to be recorded, that the affairs of the institutions are not and are not likely to be properly managed by the hereditary trustee, the Board may, by order, appoint such number of non hereditary trustees as the Board thinks it necessary, so however the total number of trustees shall not exceed five.

(3) Appointment of a non hereditary trustee in any institution having a hereditary trustee can be done only upon a finding by the Board that a non hereditary trustee is required to be appointed for the purpose of the administration of that institution and circumstances existed for such appointment.

(4) Every trustee appointed under sub-section(1) and every non hereditary trustee appointed under sub-section(2) shall hold office for a term of five years, unless in the meantime such trustee is removed or dismissed or his resignation is accepted by the Board or he otherwise ceases to be a trustee.

(5) Where the Board, by order, appoints any non hereditary trustee in any of the institution having hereditary trustees, such hereditary trustee, may file a suit before the Sub Court having jurisdiction to set aside or modify such order, within 30 days of the receipt of the order.

47. Power to suspend, remove or dismiss trustees.- (1) The Board may suspend, remove or dismiss any hereditary or non-hereditary trustee of any religious institution under the Act for any of the following reasons, namely:-

- (a) for persistent default in the submission of budgets, accounts, reports or returns; or
- (b) for wilful disobedience of any lawful order issued under the provisions of this Act by the Board, Commissioner or any other officer authorized in this behalf; or
- (c) for any malfeasance, misfeasance, nonfeasance, breach of trust or neglect of duty in respect of the institutions and trust; or
- (d) for any misappropriation or improper dealing with the properties of the institution; or
- (e) for unsoundness of mind or other mental or physical defect or infirmity which renders such person unfit for discharging the functions of the trustee.

(2) When it is proposed to take action under sub- section (1),-

- (a) the Board may authorise the Commissioner or Deputy Commissioner to frame charges against the trustee concerned and after affording an opportunity of being heard and after conducting such inquiry, he shall furnish a report to the Board.
- (b) Pending enquiry the Board may authorize the Commissioner or the officer authorised in this behalf to place the trustee under suspension and to appoint a fit person to discharge the functions of the trustee.

(3) A trustee who is removed or dismissed under sub section (1) may prefer an appeal before the Government within one month from the date of receipt of the final order and the decision of the Government shall be final.

48. Disqualification of trustees:- (1) A non hereditary trustee shall cease to hold his office if he,-

(a) is sentenced by a Criminal Court to imprisonment for a period not less than six months for any offence involving moral turpitude.

(b) applies to be adjudicated or adjudicated as an insolvent;

(c) is an office bearer of a national or regional political party;

(2) In case of doubt or dispute, the Commissioner shall determine whether a trustee is disqualified under sub-section (1) or not and his decision is final.

(3) If a hereditary trustee becomes subject to any of the disqualifications described by sub-section (1), the Commissioner may supersede the trustee.

(4) Any person affected by an order of the Commissioner under sub section (2) or (3) may prefer an appeal against the order to the Board, within one month from the date of receipt of the order.

49. Filling up of vacancies in the office of hereditary trustee.- (1) When a permanent vacancy occurs in the office of the hereditary trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office.

(2) When a temporary vacancy occurs in such an office by reason of the suspension of the hereditary trustee under sub-section (1) of section 47, or by reason of his supersession under sub-section (3) of section 48, the next in the line of succession shall be entitled to succeed and discharge the functions of the trustee until his disability ceases.

(3) When a permanent or temporary vacancy occurs in such an office and there is a dispute regarding the right of succession to the office, or

When such vacancy cannot be filled up immediately, or when a hereditary trustee is a minor and has no guardian fit and willing to act as such or there is a dispute regarding the person who is entitled to act as guardian, or

When a hereditary trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unfit for discharging the functions of the trustee,-

the Board may appoint a fit person to discharge the functions of the trustee of the institution until the disability of the hereditary trustee ceases or another hereditary trustee succeeds to the office or for such shorter term as the Board may direct.

Explanation.- In making any appointment under this sub-section, the Board shall have due regard to the claims of members of the family, if any, entitled to the succession.

(4) Any person affected by an order of the Board under sub-section (3) may ***prefer an*** appeal against the order to the Government within one month from the date of receipt of order.

(5) Nothing in this section shall be deemed to affect anything contained in the *Guardians and Wards Act, 1890*.

50. Power to fix fees for archanas or vazhipadu.- (1) Notwithstanding anything contained in any scheme, decree or usage to the contrary, the trustees shall have power for fixation or revision of the fees for performance of archanas or vazhipadu after obtaining the sanction from the Board as may be prescribed.

(2) Notwithstanding anything contained in any contract, decree, judgment, order or usage to the contrary, right for apportionment of vazhipadu share to the employees as per the vazhipadu schedule by agreement, or usage in force prior to the commencement of this Act, stands extinguished on the date of commencement of this Act.

Explanation.- The Archakas who are continuing in service without any salary by accepting only vazhipadu share shall be eligible for salary in the scale of pay admissible to that grade.

(3) Notwithstanding any custom, usage or otherwise, the employees of the religious institutions shall not be eligible or entitled to take or accept any money or things placed anywhere in the temple premises, including the 'sopanam' or dedicated or offered by the devotees, other than 'dakshina' from the devotees.

51. Fixing dittam or scale of expenditure:- (1) The trustee of a religious institution may from time to time submit proposals to Assistant Commissioner for fixing the dittam and the amounts which is necessary and to be provided for various such objects connected with the rites, rituals and ceremonies of the institution for fixing the scale of expenditure in respect of the institution.

(2) The Assistant Commissioner shall publish such proposals at the premises of the religious institution, as may be prescribed, together with notice stating that, within one

month from the date of such publication, any person having interest, may submit objections or suggestions to the Assistant Commissioner.

(3) After the expiry of the said period the Assistant Commissioner shall, after considering the objections and suggestions, if any received, submit a report, as he may think fit on such proposals, having regard to the established usage of the institution and its financial position, to the Board for approval. After approval a copy of the dittam and scale of expenditure shall be communicated to the trustee.

(4) The dittam or scale of expenditure for the time being in force in an institution shall not be altered by the trustee except in accordance with the procedure laid down in this section.

CHAPTER IX

MUTT AND SPECIFIC ENDOWMENTS ATTACHED TO MUTT

52. Suit for the removal of a trustee of Mutt or specific endowment attached thereto.- (1) The Commissioner or two or more persons having interest, with permission of the Board, may institute a suit in a District Court in which the Mutt is situated, for removing the trustee of a Mutt or a specific endowment attached to a Mutt, for any one or more of the following reasons, namely:-

- (a) the trustee being of unsound mind;
- (b) being suffering from any physical or mental defects or infirmity which renders him unfit to be a trustee;
- (c) having ceased to profess the Hindu religion or the tenets of the Mutt;
- (d) conviction for any offence involving moral turpitude;
- (e) breach of trust in respect of any of the properties of the religious institution;
- (f) waste of funds or properties for purposes unconnected with the institution;
- (g) the adoption of devices to convert the income of the institution, funds or properties thereof into 'padakanikka';
- (h) leading an immoral life or otherwise leading a life which is likely to bring the office of head of the Mutt into contempt;
- (i) persistent and wilful default by him in discharging his duties or functions under this Act or any other law for the time being in force.

(2) Where the Board refuses to give consent under sub section (1) the party aggrieved may, within 60 days from the date of receipt of the order by him, with the leave of the Court, prefer a suit before the District Court having jurisdiction, the area in which the Mutt or endowment attached to the Mutt.

53. Filling of vacancies:- (1) When a vacancy occurs in the office of the trustee of a Mutt or specific endowment attached to a Mutt and there is a dispute regarding the right of succession to such office,-

when such vacancy cannot be filled up immediately: or

when the trustee is a minor and has no guardian fit and willing to act as such or there is a dispute in respect of the person who is entitled to act as guardian; or

when a trustee, is by reason of unsoundness of mind or other mental or physical defect or infirmity is unable to discharge the functions of the trustee;

the Assistant Commissioner shall take necessary steps and pass such orders as he thinks proper for the temporary custody and protection of the mutt, endowments attached to the Mutt or of the specific endowment, as the case may be, and shall report the matter forthwith to the Commissioner.

(2) Upon receipt of such report, if the Commissioner, after making such inquiry as deems necessary, is satisfied that an arrangement for the administration of the Mutt and its endowments or of the specific endowment, as the case may be, is necessary the Commissioner with the approval of the Board shall make such arrangements, until the dispute is dissolved or the disability of the trustee ceases or another trustee succeeds to the office, as the case may be.

(3) In making such arrangement, the Commissioner shall have due regard to the claims of the disciples of the Mutt and its endowments or of the specific endowment, if any.

54. Fixing standard scales of expenditure.- (1) The trustee of every Mutt or specific endowment attached to a Mutt, from time to time submit to the Board, proposals for fixing the dittam or scales of expenditure in the institution and the amounts which should be allotted to the various objects pertaining to the institution or the proportions in which the income or other property of the institution may be applied to such objects.

(2) The trustee shall publish such proposals at the premises of the Mutt and in such other manner as may be prescribed together with a notice stating that, within one month from the date of such publication, any person having interest may submit suggestions to the Board.

(3) If on scrutiny of such proposals and any suggestions made by persons having interest, it appears to the Board that, the scale of expenditure or any item in the scale of expenditure is at variance with the established usage of the institution, or is not justified by its financial position, the Board may call remarks of the trustee and after considering the same, the Board is of opinion that any modification is required in the scales of expenditure or any item in the scales of expenditure, Board shall pass orders thereon.

55. Power to spend “padakanikka” :- The trustee of a Mutt shall keep regular accounts of receipts of “Padakanikka” that is to say, any gift or properties made to trustee as the head of the Mutt, and shall be entitled to spend the said “Padakanikka” in accordance with the customs and usage of the institution.

CHAPTER X

NOTIFIED RELIGIOUS INSTITUTIONS

56. Notice of show cause why institution should not be notified.- (1) Notwithstanding anything contained in this Act, where the Board has reason to believe that such institution is being mismanaged and is satisfied that in the interests of its administration, it is necessary to initiate proceedings under this chapter, the Commissioner may under authorisation from the Board, by notice in the prescribed manner, call upon the trustee and all other persons having interest to show cause why such institution should not be notified and subjected to the provisions of this chapter.

(2) Such notice shall state the reasons for the action proposed and specify a reasonable time, not being less than one month from the date of issue of notice for showing such cause.

(3) The trustee or any person having interest may thereupon prefer any objection to the notice as proposed.

(4) such objection shall be filed before the expiry of the time specified by the Commissioner in the notice or within such further time as may be granted by the Commissioner.

57. Consideration of objections if any and notification of institution.-(1) where no such objection has been received within the time so specified or granted, the Board, if satisfied, by notification declare such institution to be subjected to the provisions of this Chapter, as may be prescribed.

(2) where any such objections have been received within the time so specified or granted, the Board shall hold an inquiry in to the objections in the manner as may be prescribed and enter a finding as to whether the institution should be notified or not.

(3) If the Board decides that the institution should be notified, the Board may issue the order and thereupon by notification declare that the religious institution is to be subjected to the provisions of this Chapter.

(4) Every notification published under this section shall remain in force for a period of five years and the Board may review the proceedings after a thorough assessment of the administration and development of the institution during the period of notification and the Board may by notification cancel the notification or continue the same from time to time for a further period not exceeding five years in each case, as it thinks fit.

58. Scheme to lapse on notification.- On publication of the notification, the scheme of administration, if any settled for the religious institution, after the commencement of this Act and Rules framed under such scheme shall cease to apply to the institution and such scheme and Rules shall not be deemed to be revived by reason of the cancellation of the notification or by reason of its having ceased to be in force by efflux of time.

59. Appointment of Executive Officer.- For every institution notified under this Chapter, the Board shall, as soon as, appoint an Executive Officer to administer the institution.

60. Term and duties of the Executive Officer.- The Executive Officer shall hold office for such period as may be fixed by the Board and exercise such powers and perform such duties as may be fixed by the Board.

61. Savings.- Nothing in this Chapter shall apply to Mutt and endowments attached to Mutt.

CHAPTER XI

FUNDS, ACCOUNTS AND AUDIT OF THE BOARD

62. Funds of the Board.- (1) Subject to the provisions of this Act, the Board shall constitute a fund called the "Malabar Devaswom Fund".

(2) the Board shall account the following items of receipt under their respective accounts, namely:-

- (a) grants and loans received from the Government;
- (b) all income transferred under section 71;
- (c) grants and donations received from the public and other bodies and institutions;
- (d) profits and interests received from investments of the funds of the Board;
- (f) all other money or income from all sources received by the Board;
- (g) the money realised from time to time by the disposal of movable or immovable properties belonging to the Board;

(3) Subject to the provisions of this Act, the Board may deposit its fund in any Nationalised Bank, Co-operative Bank or Government Treasury or invest the same in any Security of the State Government.

63. Audit.-(1) The Board shall keep regular accounts of all receipts and expenditure of the fund as may be prescribed.

(2) The accounts of the Board shall be audited annually.

(3) The audit shall be conducted by the Director of Local Fund Audit in accordance with the provisions contained in the Kerala Local Fund Audit Act, 1994 (14 of 1994).

64. Budget and Administration Report.-(1) The Board shall, in each year prepare a budget for the next financial year before the expiry of 3 months of the preceding financial year showing the probable receipts and expenditure of the temples, institutions, endowments and mutts under the management of the Board during the financial year.

(2) The Board shall within two months after the expiry of each financial year, prepare an annual Administration Report for that year and submit within one month thereafter to the Government such number of copies thereof as the Government may direct.

(3)The Government shall place the administration report along with the Audit report before the Legislative Assembly within one month from the date of its receipt.

65. The Devaswom Surplus Fund and Its Administration.-(1)The unutilised fund of each year and such portion of it as may be determined by the Board shall be added into the Malabar Devaswom Surplus Fund and the same shall be administered by the Board as may be prescribed.

(2) Subject to the Rules as may be prescribed in this behalf the Board shall have power, if found necessary, to purchase movable or immovable property, for construction of commercial buildings, convention centres, halls etc. in the properties owned by the religious institutions under the Board and do all other acts incidental to the management of such property by using the said surplus fund.

CHAPTER XII

BUDGET, ACCOUNTS AND AUDIT OF RELIGIOUS INSTITUTIONS

66. Budget of religious institutions.-(1)The Executive Officer or the Trustee, as the case may be, of every religious institution shall, before the end of December in each year, submit in such form as may be prescribed, a budget showing the probable receipts and expenditure of the institution during the following financial year to the Board.

(2)Every such budget shall make adequate provisions for,-

- (a) the dittam and the scale of expenditure for the time being in force;
- (b) the due discharge of the liabilities binding on the institution;
- (c) the repair and renovation of the building owned by the institution;
- (d) the payment of salary and other expenses of the employees of the institution;and
- (e) the maintenance of working balance.

(3)The Board may after giving notice to the Executive Officer or the Trustee, as the case may be, in the manner as may be prescribed, and after considering representations, if any, make such alterations, omissions or additions in the budget..

67. Accounts and Audit.-(1) The Executive Officer or the Trustee, as the case may be of every religious institution shall keep regular and updated accounts of all receipts and expenditure as may be prescribed.

(2) The Accounts of every religious institution, the annual income of which is not less than 50 lakhs, shall be subjected to concurrent audit by the audit wing of the Board in every six months.

(3) The accounts of every other religious institution shall be audited annually or if the Board so direct in any case or class of cases, at shorter intervals.

(4) The Auditor shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

68. Authority to whom audit report is to be submitted.- After completing the Audit for any year or shorter period or for any transaction or series of transactions, as the case may be, the auditor shall send a report,-

(a) to the Board, if the annual income of the institution is not less than 50 lakhs; and

(b) to the Deputy Commissioner, in all other cases.

69. Contents of Audit Report.-(1) The Auditor shall specify in his audit report, all cases of irregular, illegal or improper expenditure or of failure to recover sums or other property due to the religious institution, or of loss or mismanagement of money or property thereof, caused by neglect, misconduct or misappropriation.

(2) The Auditor shall also report on such other matter relating to the Accounts as may be prescribed or on which the Board, the Commissioner or the Deputy Commissioner, as the case may be, required to report.

70. Rectification of defects disclosed in Audit and the order of surcharge against Executive Officer or Trustee etc.-(1) The Commissioner or the Deputy Commissioner, as the case may be shall send a copy of every audit report relating to the accounts of a religious institution to the Executive Officer or the Trustee, as the case may be, and it shall be the duty of the Executive Officer or the Trustee as the case may be to rectify any defects or irregularities pointed out by the Auditor and furnish an action taken report to the Board, the Commissioner or the Deputy Commissioner, as the case may be.

(2) The Deputy Commissioner shall forward to the Board a copy of every audit report received by him under clause (b) of section 68 and the report, if any, of the Executive Officer or Trustee, as the case may be, made under sub-section (1) of

section 67 together with such remarks as the Deputy Commissioner may wish to make thereon.

(3) If on consideration of the report of the Auditor along with the report, if any, of the Executive Officer or Trustee, and the remarks if any, of the Deputy Commissioner or the Commissioner, the Board thinks that the Executive Officer, Trustee or any other person was found guilty of misappropriation or wilful mismanagement of the funds of the institution or of gross neglect resulting in a loss to the institution, the Board may after giving notice to the Executive Officer or trustee or such person to show cause why an order of surcharge should not be passed against the person and after considering the explanation of such person, if any, by order, certify the amount so lost and direct the trustee or Executive Officer or such other person to pay within a specified time, such amount personally and not from the funds of the religious institution:

Provided that if in respect of any expenditure or dealing with trust property, the Executive Officer, Trustee or such person had obtained the written directions of the Assistant Commissioner or the Commissioner and had acted in accordance with such directions, such person shall not be held responsible.

(4) The Board shall forward a copy of the order under sub-section (3) with the reasons for the same, by registered post to the Executive Officer, Trustee or person concerned.

(5) The Executive Officer, Trustee or other person aggrieved by such order may within thirty days of receipt of the order may, apply to the District Court having jurisdiction to modify or set aside the order and the Court after taking such evidence, as necessary, may confirm, modify or remit the surcharge with orders as to costs as it may think appropriate in the circumstances.

(6) An order of surcharge under this section against a trustee or Executive Officer as the case may be, shall not be a bar for a suit against such person except in respect of the matter finally dealt with by such orders.

(7) If any amount was found to be recovered from the person held to be responsible, and if such sum was not remitted or recovered from the person liable, it shall be recovered as public revenue due on land as per the provisions of Kerala Revenue Recovery Act, 1968.

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CHAPTER-XIII

FINANCE

71. Religious Institutions to transfer all the income derived thereat from all sources to the Board.- (1)The right of administration of all the religious institutions, endowments, temples, mutts and specific endowments attached to the institutions having been vested with the Board all the income derived in the institutions under the Act and Rules shall be transferred to the Malabar Devaswom Fund of the Board.

(2) All the expenditure with respect to all those institutions shall be met from the said fund as may be prescribed.

(3)The Board shall pay the salaries, allowances and other beneficial remuneration of the Commissioner, other employees in the administrative service of the Board, and religious institutions, Executive Officers appointed under this Act, all expenses for the audit and accounts of the religious institutions and all other expenses of the Board, as may be prescribed.

CHAPTER-XIV

MISCELLANEOUS

72. Immunity of the Officers under the Board.- No suit, prosecution or other legal proceedings shall be entertained in any civil court against the Board, Officers or servants for anything done in his official capacity and in good faith.

73. Prosecution against misuse of properties, its premises etc.- (1) The religious institutions its premises and precincts shall not be utilised or misuse for any type of training, display, martial arts, armed activities, amateur or professional activities by any person or organisations without the permission of the Board.

(2) If any person, any class of persons or organisations act in violation of sub-section (1) such act shall be treated as injuring or defiling the place of worship with intent to insult the religion and such persons shall be deemed to have committed an offence under section 295 of Indian Penal Code.

74. Public Officers to furnish copies or extract from certain documents.- All Public officers having custody of any record, register, report or other documents relating to religious institution or any movable or immovable property thereof shall

furnish such copies or extracts from the same as may be required by the Board, Commissioner, Deputy Commissioner or Assistant Commissioner or any other officer authorised in this behalf.

75. *Appointing an Executive Officer in possession of administration of a religious institution.*- Where a person has been appointed as Executive Officer to carry out the administration of a religious institution in accordance with the provisions of this Act and such person is resisted, or prevented from obtaining the possession of the administration of a religious institution or of the records, accounts and properties thereof, by any persons or body of persons, a trustee, office holder or servant of the institution who has been dismissed or suspended from office or is otherwise not entitled to be in possession or by any person claiming or deriving title from such trustee, office holder or servant not being a person claiming in good faith to be in possession of his own account or on account of some person not being such trustee, office holder or servant a Judicial Magistrate of the First Class in whose jurisdiction such institution or property is situated shall on application by the person so appointed and on the production of the order of appointment and where the application is for possession of property a certificate by the Commissioner in the form as may be prescribed, setting forth that the property in question belongs to the religious institution, direct delivery to the person appointed as aforesaid of the possession of such religious institution, or the records, accounts, money and properties thereof, as the case may be:

Provided that before issuing any such certificate, the Commissioner shall give notice to the trustee, office holder or servant of the religious institution, as the case may be, of his intention to issue the certificate and consider the objections, if any, of such trustee, office holder or servant.

Provided also that for the purpose of proceeding under this section a certificate shall be a conclusive evidence that the properties to which it relates belonged to the religious institution.

Explanation: A person claiming under any document contrary to the provisions under section 78 of this Act shall not be regarded as a person claiming in good faith within the meaning of this section.

76. *Cost of Proceedings.*- (1) No funds of the religious institution shall be appropriated by the trustee or the Executive Officer, as the case may be, for the cost, charges and expenses incidental to any suit, appeal or application to a Court unless sanction has been obtained from the Board.

(2) If any amount has been expended without obtaining sanction as provided in sub section (1) the person who do so shall personally be liable to make good the loss.

77. Constitution of Committee.- (1) Where the Board is satisfied that in the interest of the religious institution, a Committee of devotees is required for any developmental activities or for proper conduct of festivals, the Board may direct the Executive Officer to convene a meeting of devotees in the temple premises and constitute a Committee with prior approval of the Board, as may be prescribed.

(2) The term of the Committee shall be one year or completion of the purpose, whichever is earlier.

(3) The constitution and functioning of the Committee shall be as may be prescribed.

(4) Any person acts in violation of any provisions in this section shall be deemed to have committed criminal breach of trust under section 405 of Indian Penal Code, 1860

78. Alienation of immovable property of religious institution.- (1) Any exchange, sale, mortgage or lease of any immovable property belonging to or given or endowed for the purposes of any religious institution shall be null and void unless it is sanctioned by the Board as it is necessary or beneficial to the religious institution:

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions with respect thereto and all objections and suggestions received from the trustee or other persons having interest shall be duly considered by the Board.

Provided further that if it is satisfied to the Board that owing to any emergency or for some other reason to be specified in the order according sanction, it is not reasonably practicable to follow the procedure prescribed in the foregoing proviso, may dispense with such procedure, by a decision of the Board, imposing condition, regarding utilisation of the sale proceeds, investment thereof, and in the case of mortgage regarding the discharge of the same within a reasonable short period, to the extent possible.

(2) Any person aggrieved by an order under sub section (1) may file a suit before the competent Civil Court having jurisdiction.

79. Bar of suit in respect of administration and management of religious institution etc.- No suit or other legal proceedings in respect of the administration or management of a religious institution or any other matter or dispute for

determining or deciding for which provision is made in this Act shall be instituted in any Court of Law, except under, and in conformity with, the provisions of this Act.

80. Property of religious institution not to vest under the law of Limitation.-

Nothing contained in any law of Limitation for the time being in force shall be deemed to vest in any person the property or funds of any religious institution which had not vested in such person or his predecessor in title after the commencement of this Act.

81. Applicability of the Kerala Land Conservancy Act, 1957.- All lands belonging to the Board and religious institutions shall be deemed to be the property of the Government for the purpose of Kerala Land Conservancy Act, 1957 (8 of 1958) and all the provisions of that Act shall, so far as they are applicable, apply to such lands.

82. Notifications, orders etc., under this Act not to be questioned in a Court of Law.- Save as otherwise, expressly provided in this Act, no notification or certificate issued, orders passed, decisions made, proceedings or action taken, schemes settled, or other things done under the provisions of this Act by the Board, Commissioner, Deputy Commissioner or Assistant Commissioner, shall be liable to be questioned in any Court of law.

83. Powers of the Government to call for records and pass orders.- (1) The Government may call for the records of the Board, not being a proceeding in respect of which a suit or appeal to Court is provided by this Act, to satisfy as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein and if in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, the Government may pass orders accordingly:

Provided that the Government shall not pass any order prejudicial to any party, without affording to such party a reasonable opportunity of being heard.

(2) The Government may stay the execution of any such decision or order, pending the exercise of powers under sub-section (1) in respect thereof.

84. Court Fees to be paid as specified in Schedule-I.- Notwithstanding anything contained in the first and second schedule to the Kerala Court Fees and Suits Valuation Act, 1956, the proper fees chargeable in respect of the documents described in columns (1) and (2) of the schedule I shall be the fees indicated in column (3) thereof.

85. Act not to affect rights under Article 26, Clauses (a) to (c) of the Constitution.- Nothing contained in this Act shall be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by clauses (a),(b) and (c) of Article 26 of the Constitution.

86. Saving.- Nothing contained in this Act shall.-

(a) Save as otherwise expressly provided in or under this Act affect any honour emolument or perquisite to which any person is entitled by custom or otherwise in any religious institution or its established usages in regard to any other matter; or

(b) authorise any interference with the religious and spiritual functions of the head of the mutt including those relating to the imparting of religious instructions or the rendering of spiritual service.

87. Power to make Rules.- (1) The Government may make rules to carry out all or any of the purposes of this Act not inconsistent there with.

(2) In particular, and without prejudice to the generality of the foregoing powers they shall have power to make rules with reference to the following matters:-

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) the form and manner in which applications and appeals should be submitted to the State Government, the Commissioner, or a Deputy or an Assistant Commissioner;
- (c) the powers of the State Government, the Commissioner, or a Deputy or an Assistant Commissioner to hold inquiries, to summon and examine witnesses and to compel the production of documents;
- (d) the inspection of documents and the fees to be levied for such inspection;
- (e) the fees to be levied for the issue and service of processes and notices;
- (f) the grant of certified copies and the fees to be levied therefor;
- (g) the budgets, reports, accounts, balance sheets returns or other information to be submitted by trustees;
- (h) the convening of meetings of trustees and the quorum for, and the conduct of business at, such meetings;
- (i) the manner in which the opinions of trustees shall be ascertained otherwise than at meetings;

- (j) the proper collection of the income of, and incurring expenditure by religious institutions;
- (k) the custody of moneys of religious institutions, their deposits, and withdrawal from banks, and investment of such money;
- (l) the custody of jewels and other valuables and documents of religious institutions;
- (m) the manner in which and the period for which leases of properties of religious institutions shall be made;
- (n) the manner in which the accounts of religious institutions shall be audited and published, the time and place of audit and the form and contents of the auditor's report;
- (o) the method of calculating the income of a religious institution for the purpose of levying contribution and the rate at which it shall be levied and preparation of publication of List of Religious Institutions on the basis of income;
- (p) the security, if any, to be furnished by officers and servants employed for the purposes of this Act;
- (q) the preservation, maintenance, management and improvement of the properties and buildings of religious institutions including renovation of temples.
- (r) the inspection and supervision of the properties and buildings of religious institutions, the reports to be submitted by persons making such inspection and supervision and the fees leviable for such inspection supervision and report;
- (s) duties and responsibilities of Standing Committee;
- (t) the preparation and sanction of the estimates and acceptance of tenders, in respect of public works and for supplies in religious institutions;
- (u) the qualifications, method of recruitment, pay, grant of leave, leave allowance and travelling allowance, personal conduct and punishment, of executive officers and other employees appointed for religious institutions under any provision of this Act or in pursuance of any scheme settled or deemed to be settled thereunder;

- (v) the qualifications to be possessed by the officers and servants for appointment to non-hereditary offices in religious institutions, the qualifications to be possessed by hereditary servants for succession to office and the conditions of service of all such officers and servants;
- (w) the grant of pension or gratuities to officers and servants of the Board who retired before the commencement of this Act; and
- (x) the grant of gratuities to the heirs of deceased officers and servants of the Board including those who had retired before the commencement of this Act;
- (y) publication of orders, decisions, schemes etc;
- (z) any other matter as may be required.

(3) The power to make rules under this section shall be subject to the condition of previous publications.

(4) Every Rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of 14 days, which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the Rule or decides that the Rule should not be made, the Rule shall therefore have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule.

88. Power of the Board to make bye-laws.- (1) The Board, with prior concurrence of the Government, may make bye laws not inconsistent with this Act and the Rules framed there under for any matters necessary for carrying into effect the object of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Board may make bye-laws with respect to:

- (a) the preservation of order and the conduct of proceedings of the Board and its implementation;
- (b) the functions and procedure of the Standing Committees;

- (c) the fee to be levied on applications under this Act, before it or any of its committees or before the President or any of the officers or servants of the Board and on applications for copies of proceedings or other record of the Board;
- (d) the form of the register to be prepared and maintained by the Board and the religious institutions, endowments, and trusts;
- (e) the manner in which the books and accounts to be kept in the office of the religious institutions, endowments and trusts;
- (f) the manner in which the accounts, reports and returns to be submitted by the institutions under the Act;
- (g) fixing of dittam, scale of expenditure etc.;
- (h) constitution of various Committees;
- (i) the Security to be furnished by the officers and servants of the Board and the religious institutions;
- (j) the designated employees by whom receipt may be issued for money received;
- (k) the custody of the common seal, registers and records, stock and stores etc.;
- (l) the manner in which the decision of the Board may be ascertained otherwise than at meetings;
- (m) the form of particulars to be contained in the Budget of the Board and the religious institutions;
- (n) the manner in which the business of various standing committees shall be conducted, the staff required for such committees, the travelling allowances to be paid to the members of such committees for attending meetings and undertaking journeys in connection with the affairs of such committee, and the publication of notices, decisions and orders of the Board.

(3) Such bye-laws shall be made after previous publication in the Gazette.

89. Repeal.- (1) The Madras Hindu Religious and Charitable Endowments Act 1951(Madras Act XIX of 1951) is hereby repealed.

90. Effect of repeal of the Madras Hindu Religious and Charitable Endowments Act 1951.- Notwithstanding the repeal of the Madras Hindu Religious and Charitable Endowments Act, 1951 (hereinafter referred to as the said Act)

- (a) all Rules made, notifications or certificate issued, orders passed, decisions made, proceedings or action taken shall, in so far as they are not inconsistent with this Act, be deemed to have been made, issued, passed, taken by the appropriate authority under the corresponding provisions of this Act and shall subject to the provisions of Clause (b) have effect accordingly.
- (b) if the Board is satisfied that any such rule, notification, certificate, order, decision, proceedings, action, although not inconsistent, with this Act, would not have been made issued, passed, taken or in the form adopted, if this Act had been force at the time, the Board shall have power with the concurrence of the Government by order at any time within one year from the commencement of this Act, to cancel or modify in such manner as may be specified in the order, the said rule, notification, certificate, order, decision, proceeding, action, and thereupon the same shall stand cancelled, or modified, as specified in the said order, with effect from the date on which it was made or from such later date as may be specified therein:

Provided that before making any such order, the Board shall publish a notice in the manner as may be prescribed of their intention to do so, fix a period, which shall not be less than two months from the date of publication of the notice, for the persons affected by the order to show cause against the making thereof and consider their representations if any.

- (c) all bye-laws made by the Board under the said Act shall in so far as they are not inconsistent with this Act be deemed to be orders issued by the Board under this Act;
- (d) all proceedings pending before the Government, Board, Commissioner, Deputy Commissioner or Assistant Commissioner under the provisions of the said Act, may in so far as they are not inconsistent with the provisions of this Act, be continued by the appropriate authority under this Act;
- (e) all suits, cases, applications or proceedings taken by, or on behalf of or against, the Board under the provisions of the said Act immediately before the commencement of this Act, may be continued by, or on

behalf of, or against the Board, subject to the provisions of,
and in so far as they are not inconsistent with this Act;

- (f) any remedy by way of application, suit or appeal which is provided by this Act shall be available in respect of proceedings under the said Act pending at the commencement of this Act as if the proceedings in respect of which the remedy is sought had been instituted under this Act.

91. Procedure and Powers of inquiry.- (1) Where the Board, Commissioner or the Deputy Commissioner makes an inquiry in an appeal or revision, the inquiry shall be conducted and appeal shall be heard in accordance with the procedures provided in the Code of Civil Procedure, 1908.

(2) The provisions of Indian Evidence Act ,1872 and the Indian Oaths Act, 1873 shall apply to such inquiries, appeal etc.

92. Power to remove difficulties.- (1) Where any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification in the Official Gazette, as occasion may require, by order, do anything lawfully which appears to the Government necessary for the purpose of removing difficulty:

Provided that no such order shall be passed after the expiry of two years from the date of commencement of this Act.

(2) Every order passed under sub-section(1) shall be placed before the Legislative Assembly.

SCHEDULE-I
SUITS
(See Section - 84)
COURT FEE PAYABLE

Section	Description	Amount
32(2)	Appeal to the Board against the Order of the Executive Commissioner	Rs.250.00
32(3)	Suit before the Sub Court against the Order of the Board	Rs.500.00
33(2)	Appeal to the Board against the Order of the Deputy Commissioner	Rs.250.00
34(5)	Appeal before the Board against the order of the Deputy Commissioner	Rs.250.00
35(1)	Application before the Commissioner by any person to settle a scheme	Rs.100.00
35(5)	Appeal before the Government against the order of the Commissioner	Rs.250.00
36(1)(a)	Application before the Board for assumption of management	Rs.250.00
37(3)	Suit before the District Court against the Order of assumption	Rs.500.00
39(1)	Appeal to the Board	Rs.250.00
40(5)	Appeal before the Government against the Order of the Board	Rs.250.00
44(3)	Appeal to the Board against the Order of the Deputy Commissioner	Rs.250.00
46(5)	Suit before the Sub Court against the Order of the Board	Rs.500.00
47(3)	Appeal before the Government against the Order of the Board	Rs.250.00
48(4)	Appeal to the Board against the Order of the Deputy Commissioner	Rs.250.00
49(4)	Appeal to the Government against the order of the Board	Rs.250.00
52(2)	Suit before the District Court against the Order of the Commissioner	Rs.500.00
70(5)	Suit before the District Court against the order of the Authority	Rs.500.00
75	Application before the Commissioner for certificate	Rs.100.00
78(2)	Suit before the Civil Court against alienation of property	Rs.500.00
	Any other miscellaneous application	Rs.100.00

SCHEDULE - II

LIST OF RELIGIOUS INSTITUTIONS

(To be Attached)

NOTE

The draft of the Malabar Hindu Religious and Charitable Institution and Endowments Bill forwarded by the Secretary to Government Revenue (Devaswom) Department has been examined by the Commission thoroughly and following suggestions are made herewith for favour of consideration.

Making provisions relating to Government control over the administration of religious institutions and its endowments and appointment of non hereditary trustees into the institutions now controlled and managed by hereditary trustees and its endowments included in the proposed draft Bill may be inconsistent with the provisions of the Constitution.

As per clause (b) of Article 26 of the Constitution, every religious denomination or any section thereof shall have the right to manage its own affairs in matters of religion. This is a fundamental right guaranteed under Part III of the Constitution. Certain clauses of the draft Bill, particularly the provisions to vest the administration, control etc. of the religious denominations with Government and taking over of the properties of such institutions are against the provisions of the Constitution. Therefore modifications have been suggested in such a way to entrust the administration ,control, guidance etc. to the Board constituted under this Act.

Taking over of any private temple and its properties may also attract Article 31A of the Constitution. If such provisions relating to the acquisition of property belonging to religious denominations are incorporated in the Bill, the assent of the

President would be necessary. For that purpose the Bill as passed by the Legislative Assembly has to be reserved for obtaining the assent of the President of India. No Government control can directly be imposed upon the religious denominations and its properties.

It is also not legal to appoint non hereditary trustees as proposed in clause 59 of the draft Bill into the institutions and its endowments now controlled and managed by hereditary trustees. Therefore such provisions are modified accordingly.

The non obstante provision provided as sub clause (2) of Clause 123 in the proposed draft Bill is omitted as there is no age limit is provided in the draft Bill for the President and Members of the Board and hereditary and non hereditary trustees.

For the participation of the Hindu devotees of a religious institutions, provisions for constituting Temple Advisory Committees and Special Committee have been included in the draft Bill.

Incorporating provision for extending the applicability of the Act to the area outside Malabar Area may be against section 5 of States Re-organisation Act, 1956. Hence changes are proposed accordingly .

As per the Amendment made in the Madras Hindu Religious and Charitable Endowments Act , 1951 , vide Amendment Act 31 of 2008, the Hindu Religious and Charitable Endowments (Administration Department) has been abolished and all its assets and liabilities had been transferred and vested in the Board constituted under that Act. The employees of that Department has been treated as a vanishing category in the Board. Hence it is not proper to incorporate same provisions in the

proposed Bill. Hence necessary changes has also been made to the draft Bill. Proposal to incorporate Deputy Commissioner (Law) as an Authority in the Bill has also been omitted and his powers are entrusted to the general category of the Deputy Commissioner.

The Government may consider the following aspects also while finalising the Bill, namely:-

- (1) Whether provision need to be incorporated for Public Religious Institutions and Charitable Endowments belongs to the Jains in the State.
- (2) The Income limit proposed for making a list of religious institutions in the Malabar Area.
- (3) The vesting of administrative power to the Executive Officers in the religious institution.
- (4) Entrusting the audit of accounts to the Local Fund Audit Department.
- (5) Power to make bye laws by the Board.
- (6) Delegation of powers and functions of the Board, Commissioner etc.
- (7) The provision regarding conduct of election and election procedure have been modified so as to simplify the same. Hence schedule II of the proposed draft Bill has been omitted and the election Rules may be provided in the Rules which may be framed under the Act.
- (8) It is better to incorporate the provision relating to the rate of court fees proposed as Schedule I in the draft Bill to the Rules framed under the Act rather than incorporating in the Bill so as to make further changes only by amending the Rules rather than making amendments in the Act.

As there is provision for taking over the entire employees and officers of all the religious institutions in the Malabar area under the control of the Board, it is obvious that Government will have a substantial financial obligation with respect to the salary, pension and other expenses of the employees and other staff. Administrative Department may also consider the extent of expenditure that may incur in this behalf.

Considering the above and other connected aspects a modified draft Bill for the better administration and governance of the Hindu Religious And Charitable Institutions and Endowments in the Malabar area of the State of Kerala by repealing the Madras Hindu Religious and Charitable Endowment Act, 1951 is forwarded herewith for the consideration of the Government.

Justice.K.T.THOMAS
CHAIRMAN

