IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

WEDNESDAY, THE 22ND DAY OF OCTOBER 2025 / 30TH ASWINA, 1947

WP(C) NO. 3994 OF 2024

PETITIONERS:

1 AKHILA KERALA THANTHRI SAMAJAM (REG NO E.R. 289/81), REPRESENTED BY ITS GENERAL SECRETARY JAYANARAYANAN NAMBOOTHIRI, S/O EDAVALATHU PUDAYUR KUBERAN NAMBOOTHIRI, AGED 43 YEARS, KOOTTALAKKAT MEKKATTU MANA, PULIYANAM P.O., ANGAMALI, ERNAKULAM DISTRICT, PIN - 683572

2 THE PRESIDENT SHRI EASANAN NAMBOOTHIRIPAD, S/O VEZHAPARAMBU PARAMESWARAN NAMBOOTHIRIPAD, AGED 58 YEARS, AKHILA KERALA THANTHRI SAMAJAM (REG NO E.R. 289/81) KOOTTALAKKAT MEKKATTU MANA, PULIYANAM P.O., ANGAMALY, ERNAKULAM DISTRICT, PIN - 683572

BY ADVS.
SRI.K.R.RAJKUMAR
SHRI.JAGADEESH LAKSHMAN
SRI.R.K.RAKESH
SMT.NANDANA BABU T.

RESPONDENTS:

1 THE STATE OF KERALA
REPRESENTED BY THE SECRETARY, DEPARTMENT OF REVENUE (DEVASWOM), GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM GPO, THIRUVANANTHAPURAM, PIN - 695001

2 TRAVANCORE DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, DEVASWOM HEAD QUARTERS, NANTHANCODE, KAWDIAR P.O., THIRUVANANTHAPURAM, PIN - 695003

3 THE DEVASWOM COMMISSIONER
TRAVANCORE DEVASWOM BOARD, DEVASWOM HEAD QUARTERS, NANTHANCODE, KAWDIAR P.O., THIRUVANANTHAPURAM, PIN - 695003

4 KERALA DEVASWOM RECRUITMENT BOARD
REPRESENTED BY ITS SECRETARY, II FLOOR, DEVASWOM BOARD BUILDINGS, M G ROAD, OPP. GOVT. AYURVEDA COLLEGE, THIRUVANANTHAPURAM GPO, THIRUVANANTHAPURAM, PIN - 695001

5 THANTHRIKA VIDYA PATANA KENDRAM
REPRESENTED BY ITS SECRETARY PIRAPPENCODE, PIRAPPENCODE P.O. THIRUVANANTHAPURAM, PIN - 695607

6 BRAHMASREE KORU ASAN SMARAKA VAIDIKA SANGHAM
REPRESENTED BY ITS SECRETARY AALA P.O., KOTHAPARAMBU, KODUNGALLORE, THRISSUR DISTRICT, PIN - 680668

7 THANTHRI MANDALA VIDYAPEETOM
REPRESENTED BY ITS GENERAL SECRETARY, VAZHYIL MADOM, HOUSE NO. 16/424, SARKARA, CHIRAYINKEEZHU P.O., THIRUVANANTHAPURAM, PIN - 695304

8 SREESANKARA THANTHRA VIDYAPEEDOM TRUST
REPRESENTED BY ITS MANAGING TRUSTEE, KANDIYOOR, THATTARAMANGALAM, MAVELIKKARA, ALAPPUZHA DISTRICT,

PIN - 690103

9 THANTHRA VIDYA PEETOM
REPRESENTED BY ITS SECRETARY, U.C. COLLEGE P.O., ALUVA, ERNAKULAM DISTRICT, PIN - 683102

10 YOGAKSHEMA INSTITUTE OF VEDIK, TANTHRIC AND HERITAGE RESEARCH CENTRE
REPRESENTED BY ITS SECRETARY, MULLARAMCODE THAMPURAM KSHETHRAM, MANAMBUR P.O., KALLAMBALAM, THIRUVANANTHAPURAM, PIN - 695611

11 AARJITHA BRAHMANA SEENA THANTHRA VIDYA PEEDOM
REPRESENTED BY ITS SECRETARY, MANGALAM KURIYIKKAL DEVI KSHETHRAM, MANGALAM P.O., THUKKUNNAPUZHA, ALAPPUZHA DISTRICT, PIN - 690515

12 MANTHRA VIDYA PEETOM
REPRESENTED BY ITS SECRETARY, CHENGANOOR P.O., ALAPPUZHA DISTRICT, PIN - 689121

13 SREE GURUDEVA VAIDIKA THANTHRA VIDYA PEEDOM
REPRESENTED BY ITS SECRETARY, MADAPALATHURUTHU, MOOTHAKUNNAM, NORTH PARAVOOR, ERNAKULAM DISTRICT, PIN - 683516

14 MRITHYUNJAYAN THANTHRI SMARAKA THANTHRA VIDYA PEETOM
REPRESENTED BY ITS SECRETARY, KUMARAKOM, KUMARAKOM P.O., KOTTAYAM DISTRICT, PIN - 686563

15 VAIDIKA VIJANAN KENDRAM
REPRESENTED BY ITS SECRETARY,VEDAVADIKA, PERUMANPURA, PERUMANNA P.O., KOZHIKODE DISTRICT, PIN - 673019

16 POOJA PATANA KENDRAM
YOGAKSHEMA SABHA, REPRESENTED BY ITS SECRETARY, ARUVUKKARA UPASABHA, MUNDELA P.O., VELLANADU, THIRUVANANTHAPURAM DISTRICT, PIN - 695543

17 BHARATHEEYA BRAHMANA SABHA
REPRESENTED BY ITS SECRETARY, NEYYU NELLOOR MADOM, VANDANOOR, PERUMPUZHUTHUR P.O., THIRUVANANTHAPURAM DISTRICT, PIN - 695126

18 SARADAMBA THANTHRAVIDYA PEETOM
REPRESENTED BY ITS SECRETARY, SAVIVOTHAMAPURAM P.O., KURICHI KOTTAYAM DISTRICT, PIN - 686532

19 SREE MAHADEVA THANTHRA VIDYALAYAM
REPRESENTED BY ITS SECRETARY, ASWATHAM TRUST, SIVAMANGALAM, POOOTHODU SHM P.O., KOTTAYAM DISTRICT, PIN - 686006

20 CHAKRAKSHALANAPURAM BRAHMASWOM VEDAPADASALA
REPRESENTED BY ITS SECRETARY, MATHIL BHAGOM, THIRUVALLA P.O., PATHANAMATHITTA DISTRICT, PIN - 689101

21 SREE PADMANABHA NSS THANTHRA VIDYA PEETOM
REPRESENTED BY ITS SECRETARY, PERUNNA WEST, PANACHIKAVU P.O., CHANGANASSERY, KOTTAYAM DISTRICT, PIN - 686102

22 SREEPADOM THANTHRA VIDYA PEETOM
REPRESENTED BY ITS SECRETARY, BUILDING NO. 484-A, VAZAYIL, CHINGAVANOM P.O., KOTTAYAM DISTRICT, PIN - 686531

23 SREESARADA THANTHRA VIDYA PEETOM
REPRESENTED BY ITS SECRETARY, THRIKODITHANAM P.O., CHNAGANASSERY, KOTTAYAM DISTRICT, PIN - 686105

24 SANATHANA DHARMA VIDYAPEETOM
REPRESENTED BY ITS SECRETARY, VISWAKARMA BHAVAN, CHALAKKUDI P.O., THRISSUR DISTRICT, PIN - 680307

25 SIVAGIRI SREENARAYANA VAIDIKA SANGHOM TRUST
REPRESENTED BY ITS SECRETARY, SIVAGIRI MADOM, VARKALA

P.O., THIRUVANANTHAPURAM DISTRICT, PIN - 695141

26 SREEPADUVAN MADOM THANTHRA VIDYA PEETOM
REPRESENTED BY ITS SECRETARY, KATTUKULAM P.O.,
MANGALAMKUNNU, PALAKKAD DISTRICT, PIN - 679514

27 PUTHUMANA THANTHRA VIDYALAYAM
REPRESENTED BY ITS SECRETARY, THURUTHI P.O.,
CHANGANASSERY, KOTTAYAM DISTRICT, PIN - 686535

28 GURUKRIPA THANTHRA VIDYALAYAM
REPRESENTED BY ITS SECRETARY, GURUKRIPA CHEMBAKA
MANGALAM, KORANI P.O., THIRUVANANTHAPURAM DISTRICT,
PIN - 695104

29 SREE NARAYAN SMRITHI THANTHRA VIDYA PATANA KENDRAM
REPRESENTED BY ITS SECRETARY, SL PURAM P.O.,
MARARIKULAM, ALAPPUZHA DISTRICT, PIN - 688523

30 VISWAMITHRA THANTHRA VIDYA PEETOM TRUST
REPRESENTED BY ITS MANAGING TRUSTEE, THOPPIL, KIZHAKKE
KADUNGALLORE, NEAR BHUVANESWARI MAHADEVI KSHETHRAM, UC
COLLEGE P.O., ALUVA, ERNAKULAM DISTRICT, PIN - 683102

31 SREEBHAGAVATH POOJA PATANA KENDRAM
CHITTEDATH MEETHAL, KANNADIKKAL P.O., VENGERI,
KOZHIKODE DISTRICT, PIN - 673010

32 GURUPADAM
REPRESENTED BY ITS SECRETARY, KONOTHUKUNNU P.O.,
THRISSUR DISTRICT, PIN - 680123

33 KOZHIKOTTIRI EAKKATTUMANA THANTHRA VIDYA PEETOM
REPRESENTED BY ITS SECRETARY, EAKKATTUMANA,
MUTHUTHALA P.O., PATTAMBI, PALAKKAD DISTRICT,
PIN - 679303

34 INDIAN ASTROLOGICAL RESEARCH DEVELOPMENT STUDIES CENTRE

REPRESENTED BY ITS SECRETARY, KERALA GANAKA SAMUDAYA SABHA KENDRAM KENDRA OFFICE, ROOM NO. 53, MUNICIPAL NEW PRIVATE BUS STAND BUILDING SHOPPING COMPLEX, PERUMBAVOOR, ERNAKULAM DISTRICT, PIN - 683542

35 SREEJAGATH MATHA MADOM
REPRESENTED BY ITS SECRETARY, PAYIKKUZHI, OCHIRA P.O., KOLLAM DISTRICT, PIN - 690526

36 SREENARAYAN VAIDIKA THANTHRAVIDYALAYAM
REPRESENTED BY ITS SECRETARY, SNDP YOGAM, SAKHA NO. 26, MARIYAPPALLI P.O., KOTTAYAM DISTRICT, PIN - 686103

37 VEDAVYASA VAIDIKA SANGHADANA
REPRESENTED BY ITS SECRETARY, PANDARATHURUTHU, MUKKAMPUZHA CHERIYAAZHEEKAL, P.O., KARUNAGAPALLI, KOLLAM DISTRICT, PIN - 690573

38 AKHILA KERALA THANTHRI SABHA
REPRESENTED BY ITS SECRETARY, VERUVALLIBHAGOM, KAYAMKULAM P.O., ALAPPUZHA DISTRICT, PIN - 690502

39 VEDAVYASA VAIDHIKA PADANAKENDRAM
REPRESENTED BY ITS SECRETARY, A V SABHA, NJARAKKAL P.O., ERNAKULAM DISTRICT, PIN - 682502

40 GURUKRIPA EDUCATIONAL AND CHARITABLE TRUST
REPRESENTED BY ITS MANAGING TRUSTEE, BHARATHEEYA JYOTHISHA THANTHRIKA KARYALAYAM, GURUKRIPA ANANDASRAMAM, CHANGANASSERY P.O., KOTTAYAM DISTRICT, PIN - 686101

41 SREENARAYANA DHARMA SANGOM TRUST VAIDIKA PADHANA VIBHAGOM, SREENARAYANA DHARMA SANGOM TRUST,
REPRESENTED BY ITS MANAGING TRUSTEE, SIVAGIRI MADOM, VARKALA , THIRUVANANTHAPURAM DISTRICT, PIN - 695141

42 SAMBHAVI INSTITUTE OF THANTHRIC, VEDIC, ASTROLOGICAL RESEARCH AND TRAINING
MOHANAVILASOM, MARU, SOUTH, ALAMKADAVU P.O., KARUNAGAPALLI, KOLLAM DISTRICT, PIN - 690573

43 VEZHPARAMBU MANA TRUST
REPRESENTED BY ITS MANAGING TRUSTEE, VEZHAPARAMBU MANA, MANAKKAPADI, KARUMALLOORE, ALANGADU, ERNAKULAM DISTRICT, PIN - 683511

44 KANDASCHANASHAN, SMARAKA VAIDIKA SANGHAM
REPRESENTED BY ITS SECRETARY, AYYAMBILLI P.O., ERNAKULAM DISTRICT, PIN - 682501

45 SUDHANANDA SWAMI SMARAKA SREENARAYANA THANTHRA VIDYA PEEDOM
REPRESENTED BY ITS SECRETARY, ROOM NO. -7, SHIFA BUILDING, ADOOR P.O., PATHANAMATHITTA DISTRICT, PIN - 691523

ADDL 46 ADDL.R46. SREERAJ MURALEEDHRAN
AGED 26 YEARS, S/O.MURALEEDHARAN, MUDIKKAL HOUSE, PERUVANAM,PARIYARAM P.O, THRISSUR DISTRICT - 680721

ADDL 47 ADDL.R47. ABHIJITH. R
AGED 32, S/O REGHUVARAN V, MANGALASSERIL THEKKETHIL, MANCHALLOOR, PATHANAPURAM P.O, KOLLAM DIST 689695

ADDL 48 ADDL.R48. HARIPRASAD A B
AGED 33 YEARS, S/O BHASKARAN, KARAMBRA (H), NUDUVANNUR KAVIL P.O, KOZHIKODE 673614

ADDL 49 ADDL.R49. KRISHNALA I S
AGED 28, SREEKUMAR, KRISHNAVILASAM, SWAENACODE, MYPAKKARA P.O, KALLIKAD, THIRUVANATHAPURAM - 695572

ADDL 50 ADDL.R50. SREERAG KRISHNAN R
AGED 33 YEARS, AMMA VEEDU, PANDITHITTA, AMBALANIRAPU P.O, KOLLAM 691 508
[ADDL.R46 TO ADDL.R50 ARE IMPLEADED AS PER ORDER DATED 05.12.2024 IN I.A.2/2024 IN WP(C)3994/2024]

BY ADVS.
SHRI.G.BIJU,SC,TRAVANCORE DEVASWOM BOARD,
SHRI. S. RAJMOHAN, SR. GP.
SHRI.V.V.NANDAGOPAL NAMBIAR, SC, KERALA DEVASWOM RECRUITMENT BOARD
SRI.T.R.RAJESH
SRI.MANU VYASAN PETER
SHRI.C.R.REGHUNATHAN
SHRI. HRITHWIK D. NAMBOOTHIRI
SHRI.BEPIN VIJAYAN
SHRI.JOHN VARGHESE
SRI.V.T.MADHAVANUNNI
SHRI.V.VIJULAL
SMT.K.V.RASHMI
SRI.K.MOHAMMED RAFEEQ
SRI.SREEKANTH S.NAIR
SRI.V.MADHUSUDHANAN
SRI.C.P.UDAYABHANU
SHRI.ABESH ALOSIOUS
SRI.P.HARIDAS
SMT.LAKSHMI
SMT.AYISHA T.S.
SMT.NANDANA SASI
SRI.R.BALAKRISHNAN
SHRI.ARJUN C.A.
SHRI.B.HARRYLAL
SRI.AMARNATH R LAL
SHRI.M.SREEBHADRAN
SRI.M.G.ASHOKAN
SMT.DEEPA SREENIVASAN
SHRI.SANUJU R.
SRI.NAVANEETH.N.NATH

SHRI.P.B.KRISHNAN (SR.)
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE
SMT.B.ANUSREE
SRI.CHRISTINE MATHEW
SRI.ANIL THOMAS(T)
SHRI.RAHUL ANIL
SHRI.G.KRISHNAKUMAR
SRI.P.VISWANATHAN (SR.)
SHRI.BIJU HARIHARAN
SMT.SHIJIMOL M.MATHEW
SRI.P.C.SHIJIN
SMT.ROSHIN MARIAM JACOB
SMT.PRAJISHA O.K.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR FINAL HEARING ON 22.10.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Raja Vijayaraghavan, J.

The 1st petitioner is the Akhila Kerala Thanthri Samajam, a Society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955. The 2nd petitioner is the President of the said Society. The present Writ Petition has been filed challenging Qualification No. 2(ii) of Rule 6(1)(b) of the Travancore Devaswom Board Officers' and Servants' Service Rules, 2022. The petitioners are deeply aggrieved by the accreditation and recognition granted to certain institutions described as Thanthra Vidyalayas by the Travancore Devaswom Board (TDB) and the Kerala Devaswom Recruitment Board (KDRB). Their contention is that KDRB lacks both the requisite expertise and the statutory authority to evaluate, recognise, or approve institutions engaged in imparting Thanthric education. The petitioners claim that such actions are arbitrary, without jurisdiction, and have the effect of undermining the sanctity, authenticity, and traditional rigour associated with Thanthric education in Kerala's temple traditions.

Contentions of the petitioners:

2. The petitioners contend that the members of the 1st petitioner Society comprise approximately 300 traditional Thanthri families in the State of Kerala. It is stated that the Samajam was constituted in accordance with

Ext.P1 bye-laws with the primary objective of fostering cordial relations among Thanthris and promoting their collective welfare and livelihood. The Samajam has, for over a decade, been imparting systematic education and training in temple rituals to the younger generation of priests. The said training is conducted under the guidance of eminent Acharyas in the State, and more than 100 students have successfully completed the course. It is further contended that the Travancore Devaswom Board (TDB) and the Akhila Kerala Thanthri Samajam (AKTS) have, in collaboration, organized several refresher courses for Shanthi serving under the Devaswom Boards. These courses, conducted by the AKTS, extended over a period of more than three months and were offered free of cost. The petitioners assert that both the TDB and the Cochin Devaswom Board (CDB) had earlier granted approval to certain institutions engaged in imparting education in temple pooja and rituals. However, upon finding that such institutions were not adhering to a uniform syllabus or curriculum, the Boards sought the opinion and guidance of the 1st petitioner Society. It is further contended that an expert panel was constituted to frame a standardized syllabus and to devise modalities for the proper functioning of such institutions, and that a representative of the Samajam was included as a member of the said panel.

2.1. It is contended that thereafter, over a period of time, the TDB and the KDRB approved certain institutions that had submitted applications claiming to be conducting courses in accordance with the prescribed syllabus.

However, such approvals were allegedly granted without conducting any independent or meaningful enquiry. As a result of this irregular and arbitrary exercise, several institutions that existed merely on paper managed to obtain formal approval from both the TDB and the KDRB.

2.2. The petitioners further contend that the TDB and the KDRB, without undertaking any physical verification or consulting experts in the field, proceeded to issue certificates of approval to such institutions solely on the basis of self-declarations made by the institutions themselves. The petitioners allege that the procedure adopted by the Devaswom Boards and the KDRB for granting such approvals is incomplete, perfunctory, and contrary to established norms. It is submitted that on the strength of these approvals, numerous spurious institutions began publishing advertisements to attract candidates and thereby secure financial gain.

2.3 According to the petitioners, in the traditional Thanthric system, the Thanthri of a temple is regarded as the spiritual father of the deity. This concept arises from the principle that the Thanthri imparts his own life force (Prana) to the idol and determines the unique nature and identity of the deity in accordance with the doctrines of Agama, Nigama, Veda, and Thanthra Shastra. From time immemorial, the approval and certification of a Thanthri have been regarded as the fundamental and indispensable qualification for one to be appointed as a Shanti (priest) of a temple.

2.4. The petitioners assert that this long-standing practice was consistently followed by the various Devaswom Boards until recently. Certificates issued by Thanthris were treated as essential documents for the selection of Shantis. Initially, the Boards accepted certificates issued only by a limited number of recognised Thanthris. However, as the demand for Shantis increased over time, the Boards gradually began to accept certificates from all Thanthris of temples under their administration, thereby diluting the sanctity and authenticity of the process.

2.5. The petitioner asserts that Ext.P3 notification No. 97/R1/2023/KDRB dated 11.10.2023 was issued by the KDRB calling for interested and qualified candidates to apply for the post of part time Shanthi under the TDB is illegal. The petitioners assert that there are students under the tutelage of the members of the Society who are very much qualified to be appointed as Shanthies in the temple. However, they were not allowed to participate in the selection process conducted by KDRB. This was because, the qualification mentioned is a pass in SSLC, a certificate from Thanthra Vidya Peedam and the accredited institutions by the TDB/KDRB. The petitioner contends that by deviating from the time honoured practice of accepting the certificate issued by the Thanthris and by promulgating new rules, the TDB and the KDRB have created a situation wherein the students who are undergoing tutelage under the Thanthris who are recognised even by the Travancore Devaswom Board will not be able to apply to the post of Shanthis.

2.6. According to the petitioners, the aforesaid issue was brought to the attention of the Travancore Devaswom Board (TDB), whereupon the Board considered the matter and issued Ext.P4 decision. By the said decision, the Board resolved to continue with the existing practice of accepting certificates issued by Thanthris who are duly recognised by the Travancore Devaswom Board.

2.7. The petitioners assert that the Travancore Devaswom Board Officers' and Servants' Service Rules, 2022 was framed and promulgated without adequate consultation with the relevant stakeholders, including the traditional Thanthri community. The petitioners contend that the said Rules fail to recognise or provide due weight to certificates issued by Thanthris for the purpose of considering applications for appointment to the post of Shanthis. It is stated that if the Rules in their present form are permitted to stand, numerous candidates who have undergone rigorous training in Pooja Paddhati under the tutelage of eminent Thanthris, including members of the 1st petitioner Society, will be unjustly excluded from consideration merely because they are not affiliated with the newly approved institutions issuing such certificates.

2.8. The petitioners further contend that such an exclusionary approach strikes at the very root of ancient temple traditions and undermines the sanctity of the Thanthric system. It is argued that this will result in the proliferation of unregulated institutions and organisations issuing certificates solely for monetary gain, thereby commercialising and diluting the spiritual and

ritualistic foundations of temple worship. The petitioners aver that the impugned process amounts to a mockery of the time-honoured Hindu Pooja Paddhati, and if allowed to continue, will deeply wound the religious sentiments and faith of the devotees. It is on these assertions that the petitioner has approached this Court seeking the following reliefs:

i) issue a writ, order or declaration that Qualification No: 2 [ii] of Rule 6 [1] [b] of Travancore Devaswom Board Officers and Servants Service Rules, 2022 is ultra vires the Constitution of India and void.

ii) issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents 2 and 4 to compulsorily follow the traditions and customary practices followed hitherto for the appointment to the post of Shanthi in Travancore Devaswom Board.

iii) issue a writ or order to declare that the second qualification prescribed in Exhibit P3 Notification for the post of Part Time Shanthi in as far as "the certificates issued by the accredited Thanthra Vidyalayas by the Travancore Devaswom Board or Kerala Devaswom Recruitment Board" is unconstitutional.

iv) issue a writ or order to declare that the Travancore Devaswom Board should strictly adhere to the Agama/Nigama/Tantra concept in following the respective rituals, traditions and customary practices within the precincts of the temples under them.

v) issue a writ or order to declare that the fourth respondent has no expertise or authority to recognise and approve 'the reputed institutions" under No:2 [ii] of Rule 6 [1] [b] of Travancore Devaswom Board Officers' and Servants' Service Rules, 2022.

vi) issue a writ of Certiorari or any other order or direction calling for the records leading to Exhibit P2 and P3 and quash the same.

3. In the Writ Petition, in addition to the Travancore Devaswom Board and Kerala Devaswom Recruitment Board, the petitioners have arrayed as respondents various accredited organisations, which conducts courses and issues certificates, and which are reckoned as eligible by the TDB and the KDRB.

Assertions in the Counter affidavits filed by the respondents:

4. In the counter affidavit filed by the 1st respondent, it is stated that the KDRB had issued notifications for the post of Part-time Shanti on the basis of the requisition received from the TDB and the further clarifications which were obtained from the Board. The qualifications for the post of Part-time Shanthi were fixed on the basis of the Special Rules issued by the Travancore Devaswom Board. Ext.P2 is the list of accredited agencies dated 19.12.2022, and the same was issued on the basis of Section 9(5) of the Kerala Devaswom Recruitment Board Act. The said provision provides that the Board may issue general directions to the Devaswom Boards incidental to the function of the KDRB and as are necessary for the conduct of examinations.

4.1. On 23.01.2023, the Travancore Devaswom Board forwarded a requisition for 75 vacancies of Part-time Shanthi under the Travancore Devaswom Board to the KDRB. In the requisition, the qualifications fixed for

the post of Part-time Shanthi are as follows:

(a) pass in SSLC or equivalent certificate;

(b) eligibility certificate from Thanthra Vidya Peedam or any Thanthra Vidya Peedam approved by Travancore Devaswom Board, and;

(c) One year of experience.

4.2. On receipt of the requisition, the Kerala Devaswom Recruitment Board sought certain clarifications regarding qualification and experience for the post of Part-time Shanthi, and the Travancore Devaswom Board clarified that the certificate from Thanthra Vidyalayams approved by Kerala Devaswom Recruitment Board can be accepted and that the applicants should have experience from temples, where poojas were held thrice a day.

4.3. Pursuant to the same, the Kerala Devaswom Recruitment Board has issued notification on 11.10.2023, inviting applications for appointment to 75 posts of Part-time Shanthi under the Travancore Devaswom Board as Category No.1/2023. The qualifications for the post were specified on the basis of the requisition and subsequent clarification received from the Travancore Devaswom Board. It is further stated that the Travancore Devaswom Board accepts only the certificates issued by the reputed institutions approved by it, for appointment to the post of Part-time Shanthi, as provided in the Rules. It is contended that the petitioners are not entitled to insist or demand that individual certificates issued by the members of the petitioner organization

should also be accepted as sufficient qualification, as they do not have any right of say in the matter of fixing the qualification for appointment of employees of the Travancore Devaswom Board.

4.4. It is stated that hereditary certification of priests undermines the democratic aspect of the basic structure of the Constitution by restricting priestly duties to a select few. Restricting certification to hereditary Thanthri families stifles the expression of religious beliefs and practices by those persons who are outside the families. It is contended that Rule 6(1)(b) of Travancore Devaswom Board Officers' and Servants' Service Rules, 2022, is not ultra vires to the Constitution or any other enactment.

5. In the counter affidavit filed by the 2nd respondent, it is stated that this Writ Petition cannot be maintained as the nature of the dispute raised is a service matter and the attempt is to couch a public interest litigation as a private interest litigation. The petitioners have not suffered any legal injury, and on that count also this Writ Petition is liable to be dismissed. It is further stated that the petitioner organisation, which was one registered under the Act of 1955 has no role in framing the statutory rules governing the appointment and service conditions of the employees of the Travancore Devaswom Board. The role of Thanthris is enunciated in Chapter VI of the Devaswom Manual. Thanthris are Chief Priests of Devaswoms, and the right to perform Thanthram in a temple is ordinarily hereditary or "Karanma" to a particular family. The duties and responsibilities of the Thanthris are stated in Chapter VI, Clauses 4

to 13, of the Devaswom Manual. The Thanthris are remunerated not by fixed monthly rates of pay, but by “dakshina” and other requisites for each ceremony to be conducted by them and cannot therefore be treated at par with Shanthikar or similar employees. So long as they hold “Thanthram” in a departmental Devaswom, they are as much subject to the control of the Department as any other subordinate, so far as that work is concerned and they are bound by the rules pertaining to their position, which the Board may lay down. According to the Travancore Devaswom Board, the Board has been constituted under the Travancore-Cochin Hindu Religious Institutions Act, 1950 and the administration of the unincorporated Devaswoms and of Hindu religious endowments and all their properties in funds as well as the fund constituted under the Devaswom (Amendment) Proclamation of 1122 ME, which were under the management of ruler of Travancore, prior to the first day of July 1949, and the management of all institutions which were under the Devaswom Department, vests in the Board. As per Section 35(2)(e) of the Travancore-Cochin Hindu Religious Institutions Act, the Board has power to make rules in respect of the method of recruitment and qualifications, the grant of salaries and allowances, the discipline and conduct of officers and servants of the Board and the Devaswom Department and generally the conditions of their service with prior approval of the Government.

5.1. The Travancore Devaswom Board Officers’ and Servants’ Service Rules, 2022, was framed by the Board in terms of the above Rules. The rules

were framed after obtaining concurrence from the Government. The preliminary publication was published after inviting objections and it was after considering the objection received that the rules were finally published in the Official Gazette on 20.6.2022. The petitioners, at no point of time, had filed any objection or had made any representation before final publications of the Rules. It is as per the rules that the qualifications prescribed for the post of Part-time Shanthi was stipulated.

5.2. The Travancore Devaswom Board had made a requisition to KDRB for the recruitment of Part-time Shanthies and has reported 75 vacancies. On receipt of the requisition, KDRB had sought certain clarifications regarding age limit, qualification and experience for the post. The TDB decided to accept the certificates issued by the institutions approved by the KDRB for appointment to the post of Part-time Shanthis. It was accordingly that the Devaswom Commissioner as per ROC16207/14/S dated 30.05.2023, had informed the Recruitment Board that the certificates issued by the institutions approved by the KDRB for appointment to the post of Part-time Shanthi can be accepted. Ext.R2(a) is the copy of the letter vide ROC16207/14/S dated 30.05.2023, and it is on its basis that the 4th respondent proceeded to issue Ext.P3 notification dated 11.10.2023. The certificate issued by the Thanthra Vidyalayas approved by the KDRB is recognised as a sufficient qualification by the Travancore Devaswom Board before publication of Ext.P3 notification for appointment to the post of Part-time Shanthi. It is

stated that the institutions approved by the KDRB are in turn recognised by the Travancore Devaswom Board as competent to issue certificates prescribed by the Devaswom Boards. It is stated that the Travancore Devaswom Board accepts only certificates issued by reputed institutions approved by it for appointment to the post of Part-time Shanthi as provided in the Rules.

5.3. In the counter affidavit filed by the 4th respondent it is stated that on 23/1/2023, the Travancore Devaswom Board forwarded a requisition for 75 vacancies of Part-time Shanthi under the Travancore Devaswom Board to the KDRB along with the qualification fixed for the post. On receipt of the requisition, the Kerala Devaswom Recruitment Board sought certain clarifications regarding qualification and experience for the post of Part-time Shanthi, and the Travancore Devaswom Board clarified that the Certificate from the Thanthra Vidyalayams approved by Kerala Devaswom Recruitment Board can be accepted and that the applicants should have experience from temples, where poojas were held thrice a day. Pursuant to the same, the KDRB issued notification on 11/10/2023 inviting applications for appointment to 75 posts of Part-time Shanthi under the TDB as category No.1/2023. The qualifications for the post were specified on the basis of the requisition and subsequent clarification received from the TDB. The last date of receipt of application was 9.11.2023 which was later extended up to 15.11.2023. The qualification and experience for the post given in the notification are as under:

(1) pass in SSLC or equivalent;

(2) eligibility certificate from Thanthra Vidya Peedam or any Thanthra Vidyalayam approved by Travancore Devaswom Board/KDRB.

(3) not less than one year experience in the relevant field (Shanthi) (from temples where pooja is conducted thrice a day)

Note- only male candidates are eligible to apply for this post.

5.4. The OMR test for the post of Part-Time Shanthi was conducted on 28.01.2024 at various centres in Trivandrum District. A total of 1,268 candidates had applied for the said post. A shortlist of candidates found provisionally eligible to be called for interview for selection to the post of Part-Time Shanthi in the TDB was published on 19.03.2024. It was specifically mentioned in the shortlist that the publication of the said list was subject to the outcome of the final verdict of the High Court of Kerala in W.A. No. 1956 of 2023 and W.P.(C) No. 3994 of 2024. It is stated that W.A. No. 1956 of 2023 was filed by one Sri.Srikanth T.S., praying for a direction to the KDRB to accept his application along with the certificate issued by the Thanthri of Vaikom Mahadeva Temple, Sri. Kizhakkinedath Mekkad Narayanan Namboodiri. By virtue of the interim order dated 09.11.2023, a direction was issued to the KDRB to permit the appellant in the said writ appeal to submit an application pursuant to the notification issued by the KDRB and to participate in the selection process, subject to further orders of the Court.

5.5. In compliance with the said directions, candidates who had studied under the tutelage of Thanthris were also permitted by the KDRB to apply for the post and appear for the examination. It is further stated that, at the time when the KDRB approved or recognised a few institutions imparting education and training to aspirants of the Pooja profession, there were no institutions approved by any Government agency, except a few approved by the TDB. The TDB had not defined any standard for conducting the course or running such institutions while approving the names of certain Thanthris and institutions. Consequently, the KDRB constituted an expert committee of reputed Thanthris and formulated a one-year syllabus for acquiring qualifications to work as Poojari in a temple. While granting recognition to institutions under Ext.P2, it was made clear that the standards of such institutions would be reviewed every three years. With a view to ensure quality and uniform standards, the KDRB formed an Expert Committee in 2023, which inspected all institutions between 29.12.2023 and 10.01.2024. It is relevant to note that, in 2016, while preparing the ranked list for the post of Part-Time Shanthi, the then Board had noticed that there were not enough candidates from Scheduled Castes, Scheduled Tribes, and other communities eligible for reservation, presumably because most students trained under Thanthris belonged to the Brahmin community and the number of TDB approved institutions was limited. It is imperative to state that candidates from all communities are necessary for complying with communal reservation and rotation principles envisaged in the KDRB Rules, 2015.

5.6. At the time of interview, it was also observed that there was no unified system for the conduct of Shanthi courses by Thanthris or institutions. Furthermore, several institutions imparting Shanthi training complained that the TDB had refused to recognise them. In such circumstances, and with a view to ensuring equal opportunity to all Hindu communities to enter the Shanthi profession, as well as to guarantee the selection of only well-qualified candidates, the KDRB, exercising powers under Section 9(5) of the Kerala Devaswom Recruitment Board Act, 2015, decided to expand the approved list of institutions imparting Shanthi training. It is pertinent to note that there was no government approved syllabus or examination for Shanthi courses, and in the absence of Government control, the quality of such institutions varied considerably. To rectify this, the KDRB resolved to recognise institutions imparting Shanthi training by inviting applications from them.

5.7. Accordingly, through an advertisement published in Mathrubhumi daily on 16.12.2017, the KDRB invited applications from eligible institutions conducting Shanthi courses. An Expert Committee was constituted under the chairmanship of the then Chairman, KDRB, with members including Sri.Paravur Rakesh Thanthrikal, to scrutinise the applications. Based on their recommendations, 21 institutions were included in the approved list, with a stipulation that the list would be reviewed every three years. Upon expiry of the three-year period on 01.03.2021, the KDRB issued a press release on 01.06.2022 inviting fresh applications, both from existing approved institutions and from

new eligible institutions. Another Expert Committee was constituted under the chairmanship of the then Chairman, KDRB, with members including Sri.Vezhapparambu Eesanam Namboodiripad (the 2nd petitioner). Acting on its recommendations, the KDRB renewed the approval of 22 institutions and granted approval to 19 more, issuing Ext.P2 proceedings.

5.8. After the present Board assumed charge on 09.02.2023, the KDRB received several complaints alleging that many Pooja Padana Kendras approved by the KDRB were not functioning regularly, were not imparting proper training, and were issuing certificates based on extraneous considerations. To safeguard quality and standards, the KDRB, in its meeting held on 01.08.2023, resolved to form an Expert Committee consisting of the Chairman, Sri. Sankaranarayana Pramod Namboodiri (former Melshanthi of Guruvayur Temple), Sri. Prashanth G Namboodiri (a reputed Thanthri from Mavelikara), and Sri. Sarath A. Haridasan (a reputed religious propagandist known for discourses on the Ramayana, Mahabharata, Bhagavad Gita, Vedas, and Upanishads). The Committee was tasked with inspecting 41 recognised institutions and 2 institutions seeking fresh recognition, between 29.12.2023 and 10.01.2024. Notices were duly issued. Two recognised institutions reported themselves as non-functioning and opted out. The Expert Committee inspected 39 recognised institutions and 2 new applicants. The findings were as follows: 11 institutions maintained a reasonable standard, 16 institutions maintained only average standards requiring improvement, and 14 institutions failed to meet the

requisite standard. The Committee recommended appropriate action: institutions requiring improvement were directed to rectify shortcomings within six months, failing which recognition would be withdrawn, and recognition of the 14 substandard institutions was suspended, with liberty to reapply after compliance.

5.9. With respect to Ext.P6, it is submitted that the KDRB had renewed the recognition of Thanthri Mandala Vidya Peedam as per Ext.P2. The Expert Committee inspected the said institution on 08.01.2024 and found serious deficiencies. Instead of the approved course, they were conducting a one-year "Pooja Visharad" course, compressed into 10 months, consisting of 12 online and 10 offline classes. Moreover, the course was being conducted exclusively for members of the Brahmin community. This was held to be a clear violation of Article 14 of the Constitution of India. Accordingly, the Expert Committee recommended withdrawal of recognition unless such discriminatory conditions were removed. However, before action could be taken, an interim order from this Court necessitated suspension of further proceedings. It is further submitted that Thanthri Mandala Vidya Peedam had no authority to issue notices like Ext.P6. The intent of KDRB in issuing Ext.P2 was to ensure transparency and meritocracy in the selection process. It is further stated that the Special Rules framed by the TDB were aimed at eliminating hereditary priesthood, aligning with constitutional principles of secularism, and ensuring that temple administration remained free from caste-based discrimination. It is further stated that the Special Rules framed by the TDB were directed towards eliminating

hereditary priesthood, in alignment with the constitutional principles of secularism, thereby ensuring that temple administration is free from caste-based and hereditary discrimination. This framework emphasises merit-based selection, whereby only qualified and competent individuals are appointed as Shanthis. Such an approach fosters professionalism, enhances the quality of temple services, and eliminates arbitrariness in appointments.

5.10. By recognising specific institutions for issuing certificates, the TDB has instituted a standardised and uniform process for the training and certification of Shanthis. This ensures that all candidates meet uniform educational and practical benchmarks, reducing discrepancies and eliminating any undue advantage. The Rules do not abolish traditional practices; rather, they ensure that the selection of Shanthis is based on objective criteria. Traditional knowledge and ritual practices can continue to be preserved through recognised institutions and standardised training programmes.

5.11. The qualifications prescribed in the Special Rules are intended to create a more inclusive environment in which all eligible candidates, regardless of family background, have an equal opportunity to serve as Shanthis. This measure promotes social justice and is in consonance with the constitutional mandate of equality. It is contended that hereditary appointments have, at times, led to exploitation and lack of accountability. The new Rules address this by ensuring that appointments are made strictly on the basis of qualifications and performance, thereby improving the management and accountability of temple

services. Recognition of specific institutions further ensures that Shanthis are professionally trained and equipped to discharge their duties effectively. The new certification process mandates that all candidates are evaluated on an equal footing based on uniform standards, preventing favouritism and arbitrary practices. The TDB is empowered to conduct regular audits and inspections of recognised institutions to ensure adherence to prescribed religious texts, traditions, and training standards. This oversight ensures high standards of education and prevents dilution of quality. Furthermore, standardisation of curriculum across recognised institutions ensures that Shanthis are uniformly trained in essential rituals and practices. This preserves the sanctity of core customs while simultaneously permitting necessary modernisation. The TDB may also establish stringent accreditation standards and implement robust auditing mechanisms to ensure that only reputable institutions are permitted to certify Shanthis. By maintaining a centralized database of certified Shanthis and their certifying institutions, the TDB guarantees transparency, accountability, and ease of verification. Educating both the public and temple authorities about this certification process further prevents unauthorised or unqualified persons from being appointed. These reforms, introducing standardised certification, widening eligibility, and recognising diverse institutions, represent a progressive step by the TDB towards ensuring equality, transparency, professionalism, and inclusivity in temple administration, while keeping temple practices relevant to the contemporary socio-cultural context.

6. In the counter affidavit filed by respondents 6, 18, 19, 23, 25, 29, 30, 36, 37, 39, and 40, it is stated that the petitioner-organisation is a Society registered exclusively for members of the Brahmin community and restricted to those belonging to the Thanthri families who have practiced Thanthric Pooja in temples for at least seven generations. They specifically deny that the object of the Samajam is to propagate the knowledge of Thanthric rituals and temple worship among the general devotees. It is submitted that the Kerala Devaswom Recruitment Board Act, 2015, the Rules framed thereunder, as well as Ext.P5 notifications were issued in exercise of powers under Sections 29(5) and 35(2)(e) of the Travancore-Cochin Hindu Religious Institutions Act, 1956. Without challenging the provisions of the parent Act, the present writ petition is not maintainable. The petitioners contend that Thanthric Granthas, written centuries ago, cannot be placed above the constitutional provisions. The contention that only traditional families imparting Thanthric knowledge and Pooja Vidhis are eligible to perform Poojas in Devaswom Board temples is in essence the contention of the petitioners, which cannot be countenanced. It is contended that Ext.P2 order was issued precisely to ensure the quality and standard of recognised institutions. Mechanisms are in place for the 4th respondent Board to verify whether institutions are functioning in accordance with guidelines. Further, the petitioners are admittedly not candidates eligible to apply pursuant to Ext.P3 notification. They have neither pleaded nor produced any material to show that students under their tutelage were unable to apply under Ext.P3. Hence, the present petition amounts, at best, to a public interest

litigation in respect of a service matter, which is not maintainable. The petitioners, being third parties, lack locus standi in service matters. Since Ext.P5 notification was issued by invoking statutory powers under Sections 29 and 35 of the Travancore-Cochin Hindu Religious Institutions Act,1950, it is well within the authority of the 2nd respondent. The allegation of violation of Articles 16(5), 25, and 26 of the Constitution cannot be sustained. Article 16 safeguards the rights of religious denominations or denominational institutions, and the petitioners have neither pleaded nor proved that they represent a denominational group, nor that the temples in question constitute denominational institutions. In line with the law declared by the Apex Court, constitutional morality requires that Courts deny protection to practices which detract from the constitutional vision of justice, liberty, dignity, and equality, regardless of their claimed religious origin. It is further contended that appointment to the post of Shanthi is a secular activity, and respondents 2 and 4 are fully competent to prescribe qualifications for the same. If petitioners seek recognition, they may approach respondents 2 and 4 for approval, subject to compliance with prescribed parameters.

7. In the counter affidavit filed by the 7th respondent, it is stated that prior to the notification of Ext.P5 Service Rules, the draft Rules had been published in the Kerala Gazette on 08.01.2019, inviting objections and suggestions from the public. Ext.P5 Rules were finalised only after due consideration of the same. The 7th respondent further states that it is an

institution registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955, in the year 2010. It is also an institution recognised by both the TDB and the KDRB. The respondent has framed a detailed curriculum, covering the entire syllabus prescribed by the KDRB along with additional modules. Examinations are invigilated by officials of the Recruitment Board, which deputes its staff to ensure efficiency and transparency. Only those students who successfully complete the course and secure a minimum of 60% marks in the examination are awarded certificates, enabling them to participate in the recruitment process. It is further stated that the petitioner-Samajam does not run any authorised institution for imparting Poojas or temple rituals. While it is open to the petitioner-Samajam to apply for accreditation before the TDB/KDRB after complying with prescribed parameters, no such application has been made. The contention that all traditional Thanthris in the State are registered with the petitioner-Samajam is specifically denied. Membership in the Samajam is strictly restricted, as per Clause 6 of Ext.P1 Bye-law, to Brahmin community members belonging to Thanthri families who have performed Thanthric Pooja in a temple for at least seven years.

8. In the counter affidavit filed by the 10th respondent, it is submitted that the “Yoga Kshema Institute of Vedic and Thanthric Heritage Research Centre” is conducted by the Attingal Upa Sabha of “Attingal Thanthra Vidya Kendram,” registered under the Travancore-Cochin Act (Registration No.

3/2017) with its office at Attingal. It is contended that, prior to the amendment introducing Ext.P5 Rules, appointments of Melshanthis were made from among students trained under established Thanthris with recognised expertise and deep knowledge in Thanthric practices. The 10th respondent states that appointment of Melshanthis must be based on the recommendation and approval of the respective Thanthris of each temple, since every temple has unique mantras, rituals, and practices, and no generalised or universal approval is possible. The Institute is conducting courses ranging from one to two years in duration. Upon successful completion, certificates are issued to students, enabling them to apply for appointment as Shanthis or other temple posts. As the Institute follows the syllabus approved by the KDRB, its certificates are valid and recognised.

9. In the counter affidavit filed by the 11th respondent, it is stated that the respondent is an accredited institution duly recognised by the TDB and KDRB. Classes in temple Poojas and Thanthric Karmas are conducted by qualified teachers. The curriculum is approved by the KDRB, and the subjects of study are fixed by it. The institution has been functioning since 2016. The Mangalam Kurichikal Mahadeva Temple, situated adjacent to the institution, facilitates students in practising various Poojas and Thanthric rituals. The course duration ranges from one to three years. Examinations are supervised by KDRB officers, and periodical inspections are conducted by expert committees appointed by the 2nd respondent.

10. In the counter affidavit filed by the 12th respondent, it is stated

that the said respondent, Mantra Vidya Peedam, is an institution recognised by the Travancore Devaswom Board. Since 18.05.2016, the institution has been conducting classes in temple poojas and thanthric karmas under qualified teachers. The courses, syllabus, and curriculum are approved by the Kerala Devaswom Recruitment Board. The 12th respondent institution is registered with the Ala Grama Panchayat as a tutorial institution and has been functioning since 2003. A temple situated adjacent to the institution enables students to gain hands-on training in poojas and thanthric karmas. The faculty members are duly qualified, and the courses, ranging from one to three years, are evaluated through examinations supervised by officers of the Devaswom Recruitment Board, with periodic inspections by the Expert Committee. It is the stand of the 12th respondent that the Travancore Devaswom Board Officers' and Servants' Service Rules, 2022, are not ultra vires the Constitution of India. On the contrary, they are in full conformity with the provisions of the Travancore-Cochin Hindu Religious Institutions Act, 1950, as well as its constitution, having been framed by the 2nd respondent with the approval of the State Government. The Rules, it is asserted, fall squarely within the scope and authority of the rule-making power and do not transgress the enabling Act.

11. In the counter affidavit filed by the 16th respondent, the very same contentions as has been raised by the 10th respondent have been advanced.

12. The contention taken by the 20th respondent is same as that of the 10th respondent. The counter affidavit by the 22nd respondent follows the same

line as that of the respondent No. 6. Very same contentions are raised by the 21st respondent as well. In the counter affidavit filed by the 26th respondent, it is stated that "Sree Paduvan Madam Thanthra Vidya Peedam" is an institution duly recognised by the Kerala Devaswom Recruitment Board (KDRB), imparting Thanthric education and Pooja Paddhati to all eligible candidates, irrespective of caste or creed, in accordance with the syllabus issued by the 4th respondent. Though the Vidya Peedam was founded by the predecessors of the respondent and originally imparted teachings in a hereditary manner, since 2013 its activities have been restructured to provide Vedic and Tantric education in a systematic and institutionalised form under the guidance of the Paramacharya. The 4th respondent has confirmed the institution as an authorised centre for imparting Thanthric education under the prescribed syllabus, with the authority to issue certificates to eligible candidates for appointment as Part-Time Shanthis in accordance with the applicable Rules and Regulations. It is contended that the present Writ Petition is driven by vested interests seeking to undermine constitutional norms and judicial precedents governing the appointment of Shanthis. The underlying intent is to restrict such appointments exclusively to the so-called upper-caste communities, thereby perpetuating hereditary privilege and caste oligarchy. The petitioners' objective, according to the respondents, is to revive regressive practices of untouchability and caste monopoly, directly contravening the constitutional ethos. It is further stated that the statutory framework made significant strides in ensuring inclusivity and merit-based appointments, and that the apprehension of the petitioners is rooted in the reality

that qualified individuals from non-Brahmin communities have also begun to be appointed as Part-Time Shanthis. The petitioners' attempt is to reinstate hereditary rights in favour of a Brahmanical elite, a claim wholly antithetical to Articles 14, 15(1), 16(2), 17, 19(1)(g), and 21 of the Constitution of India. The respondents assert that such hereditary claims cannot and should not override constitutional guarantees. It is further submitted that a combined reading of the Preamble and the provisions relating to the functions and powers of the Devaswom Board makes it abundantly clear that the Kerala Devaswom Recruitment Board Act, 2015 (Act No. XVI of 2015), which begins with a non obstante clause, entrusts the Board with wide-ranging powers to conduct examinations, prepare select lists of candidates arranged in order of merit, and undertake all connected or ancillary matters. These powers necessarily include the authority to issue Exts.P2 and P3. Accordingly, it is contended that Exts.P2, P3 and P5 are perfectly valid in the eyes of law, being supported both by the Act and the Rules. It is also submitted that the Board, in its fairness, had considered the petitioners' request to recognise certificates issued by Traditional Thanthris, as reflected in Ext.P4.

13. In the counter affidavit filed by the 35th respondent, it is stated that the said respondent is a spiritual and Thanthric training institution functioning under traditional principles, with particular emphasis on practical training in temple rituals and Thanthric procedures. The institution is one of those duly recognised by the Travancore Devaswom Board. It is stated that the

institution conducts courses of one to three years' duration, with examinations supervised by officers of the Devaswom Recruitment Board, and periodic inspections undertaken by the Expert Committee appointed by the 2nd respondent. The respondent further states that no certificate is issued unless a student has undergone rigorous theoretical and practical training under the guidance of experienced Thanthris and Acharyas. The institution has been in existence for over two decades and has trained several competent Shanthis currently serving in various temples under the Travancore Devaswom Board. Insofar as Rule 6(1)(b) of Travancore Devaswom Board Officers' and Servants' Service Rules, 2022 is concerned, the respondent contends that the framing of eligibility criteria falls squarely within the legislative and administrative domain of the 2nd respondent Devaswom Board.

14. In the counter affidavit filed by the 38th respondent, the Akhila Kerala Thanthri Sabha, it is stated that the said respondent is a Society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955. The objects of the Society include, inter alia, imparting Vedic education, providing training in pooja and other rituals, and striving for spiritual upliftment. The Sabha contends that the rule under challenge is neither beyond the scope of the Act nor contrary to its provisions. The Service Rules, it is submitted, have been validly enacted with the authority vested in the Travancore Devaswom Board to regulate service conditions, prescribe qualifications, and oversee recruitment. Furthermore, the Kerala Devaswom

Recruitment Rules, 2015, framed under Section 18 of the Kerala Devaswom Recruitment Board Act, 2015, expressly confer upon the Government the power to make rules to carry out the purposes of the Act. These Rules, it is asserted, ensure a structured, transparent, and merit-based mechanism for prescribing qualifications, making appointments, and regulating service conditions.

Arguments advanced by the Counsel for the petitioners:

15. Sri. Raj Kumar, the learned counsel appearing for the petitioners, submitted that though the Kerala Devaswom Recruitment Board Act, 2015, empowers the Recruitment Board to conduct recruitment and advise appointments to posts under the Devaswom Boards the provisions would not empower the Recruitment Board to authorise, prescribe, or recognise specific institutions for issuing experience certificates, or to curtail eligibility based on institutional affiliation. The provisions of the Act also do not override customary or traditional modes of priestly training. The learned counsel submits that if the Recruitment Board endeavour to carry out such acts, the same would amount to legislative overreach, infringing upon the domain of the Devaswom Boards and violating the rights of the candidates trained under traditional Thanthris. According to the learned counsel, the rules framed in terms of the provisions of the Act are inconsistent with its parent statute and exceed the powers granted under the same. The learned counsel submits that as the KDRB**,** by the promulgation of the rules, has gone outside the confines of the legislative intent, the same has to be considered ultra vires. Reliance is placed on the judgment

rendered by the Apex Court in **M/s Shri Sitaram Sugar Co. Ltd. v. Union of India**[1], **State of T.N. and another v. P.Krishnamurthy & Ors.**[2] and **Indian Express Newspapers v. Union of India**[3]. The learned counsel would then submit that the Devaswoms are not secular private institutions, but are religious endowments created and sustained for the performance of Hindu religious worship and rituals. The faith system has certain expectations and requirements, and therefore, the authority is not empowered to make the process a secular one. It is further submitted that the administration is inherently tied to the belief system, customs, and expectations of the Hindu faith, and any deviation from this character undermines the very purpose of their existence. It is urged that the Devaswom Board is not a secular recruitment agency, but is a faith-bound statutory trustee obligated to uphold the sanctity, customs, and expectations of the Hindu religious system. Any attempt to secularise its processes, as mentioned in the counter filed by the State as well as the KDRB and the Devaswom Board, especially in the prescription as to who has the right to issue the certificate for appointment to the Shanthi post, does violate both the statutory mandate and the constitutional rights of the Hindu community. It is submitted that the action of the respondents has transgressed into the realm and is violative of Articles 25 and 26(b) of the Constitution of India. The KDRB, as well as the TDB, have disregarded the hereditary and spiritual authority of the Thanthri and imposed secular administrative preferences on matters that are inherently

[1] [(1990) 3 SCC 223]
[2] [2006 KHC 618]
[3] [(1985) 1 SCC 641]

religious. According to the learned counsel, the action of recognizing institutions for applying to the post of Part-time Shanthi is done without following any procedure.

Arguments advanced by the counsel for the respondents:

16. The contention advanced by the respondents are multifarious and we shall summarize the same as under.

a) The 1st petitioner is a Society and the 2nd petitioner is its President. Relying on the law laid down in **Indian Young Lawyers Association and Ors. v. The State of Kerala and Ors.**[4], it is submitted that Article 25(1) of the Constitution, which uses the expression "all persons", demonstrates that the freedom of conscience and the right to freely profess, practise and propagate religion are available only to natural persons. It is further submitted that the petitioners' contention that they are entitled to the benefit of Article 26 of the Constitution of India cannot be sustained as the expression "religious denomination" within the meaning of Article 26 of the Constitution must satisfy three requirements, viz., (i) it must be a collection of individuals, who have a system or doctrine which they regard as conducive to their spiritual well-being, i.e., a common faith, (ii) a common organization and (iii) designation of a distinctive name. It would necessarily follow that the common faith of the community should be

[4] [(2019) 11 SCC 1]

based on religion and that they should have common religious tenets and the basic cord which connects them, should be religion and not merely considerations of caste or community or societal status. The petitioners are just Hindus and do not constitute a separate religious denomination. It needs to be understood that the kernel of Article 26 is "establishment of a religious institution", so as to claim the status of religious denomination.

b) Even otherwise, insofar as Articles 25 and 26 are concerned, the right to profess, practise, and propagate religion is always subject to public order, morality and health and the other constitutional provisions contained in Part-III of the Constitution of India. If the contention of the petitioners to have vested rights in the appointment of Thanthris by limiting the privilege of such appointments to the members of the 1st petitioner is accepted, it would detract from the constitutional vision of justice, liberty, dignity and equality. The claim raised by the petitioners is against morality occurring in Article 25(1) of the Constitution. All the three words, i.e., order, morality and health are qualified by the word 'public'. Neither public order nor public health will be at peril by permitting Recruitment Board in appointing Shanthis to the post in accordance with the provisions of the Act and the Rules.

c) The appointment to the post of Shanthi in a temple is a secular activity and hence, the TDB and the KDRB are fully competent to prescribe the qualifications. According to the counsel, in view of the law laid down in

N.Adithayan v. Travancore Devaswom Board and Ors.[5] as long as anyone well versed and properly trained and qualified to perform the Pooja in a matter conducive and appropriate to the worship of the particular deity, is appointed as Shanthi de hors his pedigree based on caste, no valid or legally justifiable grievance can be raised in a court of law.

d) The learned counsel has relied on the law laid down in **Commissioner, Hindu Religious Endowments, Madras v. Sree Lakshmindran Thirtha Swamiyar of Sree Shirur Mutt**[6] and **Seshammal and Ors. etc. v. State of Tamil Nadu**[7], it was argued that pedigree based on caste is an unconstitutional parameter.

e) The Service Rules formulated by the 2nd respondent is well within the powers of the Board and the said power has been exercised to abolish hereditary rights for the appointment of Shanthis and to promote equality. The appointment of Shanthis being a purely secular activity will not interfere with any essential religious practice.

f) Under Section 29 (5) of the Travancore Cochin Hindu Religious Institutions Act, 1950, appointments in the Administrative Service in the Devaswom Department shall be made by the Board in accordance with

[5] [(2002) 8 SCC 106]
[6] [AIR 1954 SC 282]
[7] [(1972) 2 SCC 11]

such Rules as may be prescribed. Under Section 35(2)(e), the Devaswom Board is empowered to make rules to carry out the method of recruitment and qualifications, the grant of salaries and allowances, the discipline and conduct of the officers and servants of the Board and the Devaswom Department and generally the conditions of their service. It is in exercise of powers conferred by sub section (5) of Section 29 and clause (e) of Sub Section (2) of Section 35 of the Travancore Cochin Hindu Religious Institutions Act, 1950 that the Travancore Devaswom Board had published the draft rules. The TDB had come up with the Travancore Devaswom Board Officers' and Servants' Service Rules, 2022 after calling for objections and considering the suggestions.

g) The Kerala Devaswom Board Recruitment Act, 2015 was enacted to provide for the constitution of an autonomous Devaswom Recruitment Board for preparing select list of candidates for the appointments in various posts other than hereditary posts and the posts in aided educational institutions in Devaswom Boards of the State of Kerala and for matters connected therewith or incidental thereto. Section 9 of the Act starts with a non obstanti clause and says that the Board shall have the functions stated therein in respect of the appointment of candidates to the posts in the Devaswom Board. The provision also provides for the procedure to be followed by the Recruitment Board and also empowers the Board to issue general directions to the Devaswom Boards incidental

to the functions of the Board and as are necessary for the conduct of the examinations. Reliance is placed to the judgment in **Ajitha K. v. Guruvayoor Devaswom Managing Committee**[8] and it is argued that after the commencement of the Act of 2015, recruitment to various Devaswoms in Kerala can be effected only through the missionary under the Kerala Devaswom Recruitment Act, 2015.

h) A perusal of Ext.P1 bye-laws of the 1st petitioner would amply reveal that they can accommodate only the traditional Brahmin Thanthri families who have conducted "Thanthric rites" for seven generations at the least. The exclusionary claim raised by the petitioners would fall under the teeth of the Protection of Civil Rights Act, 1955 and Article 17 of the Constitution of India. No student of any other community let alone a member of a Scheduled Caste of or a Scheduled Tribe will be admitted to the tutelage of the 1st petitioner for imparting education in thanthric practices. According to the learned counsel, the attempt is exclusionary and the objective is to limit the privilege of such appointment to the upper caste community.

i) The President of the 1st petitioner Samajam, Sri.Vezhapparambil Eesanam Namboodirippad, was appointed as a Member of the Sub Committee chaired by the Chairman of the KDRB for scrutinizing the applications of eligible institutions to be included in the

[8] [2017 KHC 815]

approved list. It was on the basis of the recommendation by the expert committee that the KDRB decided to renew the approval of 22 institutions and to give approval to 19 more institutions, consequent to which Ext.P2 proceedings were issued. After having partaken in the scrutiny of the applications, the petitioners cannot turn around and raise challenges upon the same.

17. We have carefully considered the submissions advanced and have gone through the entire records.

18. In the light of the pleadings raised, the questions for determination are as under:

a) Whether the Kerala Devaswom Recruitment Board possesses the requisite authority, expertise, and jurisdiction to recognise and approve institutions under Clause (ii) of Rule 6(1)(b) of the Travancore Devaswom Board Officers' and Servants' Rules, 2022; and whether such recognition amounts to an impermissible encroachment into the domain of religious and denominational autonomy protected under Articles 25 and 26 of the Constitution of India?

b) Whether Qualification No. 2(ii) under Rule 6(1)(b) of the Travancore Devaswom Board Officers' and Servants' Rules, 2022 is ultra vires the Constitution of India, being violative of the fundamental freedoms guaranteed to the petitioners under Articles 25 and 26 of the Constitution

of India?

c) Whether the appointment of Shanthis in accordance with the religious texts and authorities such as the Agamas and Thanthrasamuchayam constitutes an essential religious practice, which cannot be interfered with or diluted through the enactment of subordinate legislation or executive regulation?

d) Whether the issuance of a notification inviting applications for the post of Part-time Shanthi by accepting certificates issued by Thanthra Vidyalayas accredited by the Travancore Devaswom Board or the Kerala Devaswom Recruitment Board is unconstitutional, being contrary to established religious tenets and beyond the competence of the said authorities?

19. We shall now deal with the provisions of the enactments governing the subject and consider the issue raised by the petitioners as to whether the Kerala Devaswom Recruitment Board possesses the requisite authority, expertise, and jurisdiction to recognise and approve institutions under Clause (ii) of Rule 6(1)(b) of the Travancore Devaswom Board Officers' and Servants' Rules, 2022.

20. We find from the pleadings that the challenge raised in this Writ Petition is directed against Ext.P3 notification dated 11.10.2023, insofar as it concerns the qualifications fixed for the post of Part-time Shanthi. For ease and clarity, we shall extract the same for easy reference.

(b) Temple employees

	Category	Method of appointment	Qualification
1	xxx	xxx	xxxx
2	Part-time Santhi	By direct recruitment	(i) Pass in SSLC or its equivalent (ii) A certificate in Santhi Course from any Thantic Vidya Peedams or any such reputed institutions approved by TDB/KDRB. (iii) One year experience in Santhi Profession.

It can be seen that the Travancore Devaswom Board Officers' and Servants' Rules, 2022 were framed in exercise of the powers conferred by sub section (5) of Section 29 and clause (e) of Sub section (2) of Section 35 of the Travancore Cochin Hindu Religious Institutions Act, 1950. Ext.P5 will also reveal that the draft rules were published in the Kerala Gazette on 08.01.2019 and objections and suggestions were called for. It was after considering the suggestions and objections that the TDB had framed the Travancore Devaswom Board Officers' and Servants' Service Rules, 2022.

21. It would be appropriate at this juncture to refer to Section 29 of the Travancore Cochin Hindu Religious Institutions Act, 1950, which provision reads as under:

Board's control over the Devaswom Department.--

(1) The Devaswom Department constituted in 1097 shall

continue and shall consist of such number of Hindu officers and other servants as may be determined from time to time by the Board.

(2) The Devaswom Department shall, subject to the supervision, direction, and control of the Board, be under the Devaswom Commissioner.

(3) The Devaswom Commissioner shall be the Chief Executive Officer of the Department of Devaswoms and Hindu Religious Endowments.

(3A) The Devaswom Commissioner shall submit reports to the Government, once in three months, with respect to the working of the Board.

(4) The expenditure in connection with the said Department shall be met out of the Devaswom Fund mentioned in Section 25.

(5) Appointments in the administrative service in the Devaswom Department shall be made by the Board in accordance with such rules as may be prescribed. (emphasis supplied)

22. As is evident, the appointments in the Administrative Service in the Devaswom can be made by the Board in accordance with the Rules. It would also be apposite to refer to Section 35(2)(e) of the Act, which reads as under:

35: Rules.

(1) The Board may make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

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

xxxx xxxxx xxxxx

(e) the method of recruitment and qualifications, the grant of salaries and allowances, the discipline and conduct of officers and servants of the Board and the Devaswom Department and generally the conditions of their service; (emphasis supplied)

xxxx xxxxx xxxxx

23. It would also be profitable to refer to the provisions of the Kerala Devaswom Recruitment Board Act, 2015 ('Act of 2015' for the sake of brevity) at this juncture. The Act of 2015 was enacted to provide for the constitution of an autonomous Devaswom Recruitment Board for preparing select list of candidates for the appointments in various posts other than hereditary posts and the posts in aided educational institutions in Devaswom Boards of the State of Kerala and for matters connected therewith or incidental thereto. The preamble of the Act makes it clear that the KDRB is bestowed with wide powers to enable the Board to carry out the recruitment of its employees and to exercise powers for matters connected therewith and incidental thereto. Section 9(5) of the Kerala Devaswom Recruitment Board Act, 2015 empowers the Recruitment Board to issue general directions to the Devaswom Boards incidental to the functions of the Recruitment Board and as are necessary for the conduct of examinations.

24. Section 9 of the Act reads as under:

Functions of the Board.--

(1) The Board shall have the following functions, namely:--

(i) notwithstanding anything contained in any other existing Act or Rules or Regulations or orders or judgment or decree in respect of the appointment of candidates to the posts in the Devaswom Board, the Board shall prepare select list for the appointment of candidates to various posts other than the hereditary posts and posts in the aided educational institutions in the Devaswom Boards as per the provisions of this Act, Rules and Regulations;

(ii) to invite applications, to conduct written examination or interview or written examination and interview and to prepare select list for selection to the various posts other than the hereditary posts under the Devaswom Board, as may be prescribed, as and when the requisition for such examination is received from the concerned Devaswom Board;

(iii) to make all required arrangements in connection with the examination including the preparation of question papers, supervision of examinations and valuation, conduct of interview and preparation of the select list;

(iv) to conduct any other examination relating to Devaswom Board as entrusted by the Government;

(v) to call for and obtain details regarding the examination from the concerned Devaswom Board.

(2) The Board shall be responsible for the proper conduct of the examination, to maintain the secrecy in the preparation of question paper, valuation, preparation of the list of candidates to be interviewed and preparation of the final select list to be furnished to the Devaswom Board and other connected matters and for the safe custody of the records pertaining to the examinations.

(3) (i) The Board shall conduct written examination to the candidates who had submitted applications and prepare lists, after

conducting interview or written examination and interview;

(ii) Examination may be conducted for any Devaswom Board or for all the Devaswom Boards in suitable manner for the said purpose;

(iii) An applicant, who applies for more than one post or to more than one Devaswom Boards, shall not be denied the right to appear in more than one examination:

Provided that, if the candidate applies for examinations to various posts being conducted by the Board and in the circumstance of conducting examinations to more than one post by the Board on the same day the right referred in 3 (iii) shall not be available to such candidate.

(4) The procedure to be followed by the Board, in respect of the invitation of applications, conduct of written examination, preparation of list of candidates to be interviewed, conduct of interview and preparation of the select list to various posts in the Devaswom Board, shall be such as may be prescribed.

(5) The Board may issue general directions to the Devaswom Boards incidental to the functions of the Board and as are necessary for the conduct of the examinations. (emphasis Supplied)

Section 9(5) of the Kerala Devaswom Recruitment Board Act, 2015 as can be seen above confers power to the Board to issue directions to the Devaswom Boards incidental to the functions of the Board as are necessary for the conduct of the examinations.

25. Section 18 confers on the Recruitment Board, the power to make rules. The said provision reads as follows:

18. Power to make rules.--

(1) The Government may, by notification in the Gazette, make rules, either prospectively or retrospectively, for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the (foregoing powers, such rules may provide for all or any of the following matters, namely:--

(a) The hereditary posts under Clause (e) of Section 2;

(b) salaries and allowances payable to the Chairperson and Members under sub-section (7) of Section 5, and the officers and other employees under Clause (c) of sub-section (1) and sub-section (5) of Section 6 and other terms and conditions in respect of their service;

(c) the procedure for the proper conduct of examination under sub-section (4) of Section 9;

(d) the form in which the annual statement of accounts shall be prepared under sub-section (1) of Section 13;

(e) the form in which, and the time at which the annual report shall be prepared under Section 14;

(f) regarding the reservation to be followed at the time of preparation of select list for various posts in Devaswom Board;

26. It is in terms of the provisions of the Kerala Devaswom Recruitment Board Act, 2015, the Kerala Devaswom Recruitment Board Rules, 2015 have been framed. Rule 7 provides for the procedure for conduct of examination. The said provision reads under:

Rule 7

Procedure for conduct of examination.--

(1) The Board may conduct all the following examinations to assess the merits of candidates considered for recruitment to a service or post:

(i) Written Examination (except for the posts of Driver and Part time Sweeper);

(ii) Practical Test;

(iii) Physical Efficiency Test;

(iv) Oral Test (interview) (marks shall be as fixed by the Board but shall not exceed 10 percentage of the total marks)

(v) Any other test or examination which the Board may deem fit to hold.

(2) Where a written examination and/or a practical test is conducted by the Board for recruitment to a service or post, the Board shall--

(i) announce--

(a) the qualifications required for the candidates for the examination;

(b) the conditions of admission to the examination including the fees;

(c) the subjects, scheme or syllabus of the examination; and

(d) the number of vacancies to be filled from among the

candidates for the examination:

Provided that where the exact number of vacancies to be filled is not ascertainable, the Board may either announce the approximate number of vacancies to be filled or state that the number of vacancies has not been estimated.

(ii) invite applications and consider all the applications so received;

(iii) make all arrangements for the conduct of the examination for the candidates whose applications are found to be in order; and

(iv) prepare a list in the order of merit of such number of candidates as the Board may determine from time to time:

Provided that the Board may also prepare separate select lists in the order of merit of candidates coming under separate groups in accordance with the qualifications or other conditions as stipulated in the notification:

Provided further that for the purpose of satisfying the rules of reservation of appointment to 9[economically weaker sections of Hindu unreserved communities,] Scheduled Castes, Hindu Scheduled Tribes and Other Backward Classes also the Board may prepare such supplementary lists as found necessary from time to time in the order of merit of the candidates belonging to such classes.

(3) Where an oral test (interview) alone is to be conducted by the Board for recruitment to a service or post the Board shall--

(i) announce the qualification and other conditions including fee required from candidates and the number of vacancies to be filled up:

Provided that when the exact number of vacancies to be

filled is not ascertainable the Board may either announce the approximate number of vacancies to be filled or state that the number of vacancies has not been estimated;

(ii) invite applications, consider all applications so received and interview the candidates whose applications are found to be in order:

Provided that where the number of qualified applicants is unduly large having regard to the number of vacancies, the Board may restrict the number of candidates to be called for the oral test (interview) to such extent as they may decide after conducting any examination as they deem fit:

Provided further that the Board may also restrict the number of candidates to be called for oral test (interview) on the basis of any one or more of the following criteria:--

(a) Higher qualification; .

(b) Higher marks.

(4) Where the oral test (interview) is conducted by the Board, the Board shall invite the Devaswom Board concerned to appoint a representative to be present and the representative so present may take part in the deliberations of the Board but shall not be entitled to award marks:

Provided that the Board shall invite, wherever they consider it necessary, any person or persons with expert knowledge in particular subjects to be present at the interview to assist the Board but such person or persons shall not be entitled to award marks.

(5) The deliberations of the Board at the interview of candidates including award of marks to the candidates shall be kept secret and this rule shall be binding on the Heads of Devaswom Boards or their representatives or other experts who are present

at the interview.

(6) It shall be the duty of the Devaswom Boards, their nominees and other experts to be present at the interview at the appointed time in response to the invitation of the Board and to co-operate with the Board in the fair conduct of selection.

(7) The Heads of Devaswom Boards/their representatives and other experts who violate sub-rules (5) and (6) above or misbehave or act in any manner so as to affect the fair conduct of selection, shall be deemed to be guilty of misconduct and shall be liable for disciplinary action and/or other penal action as per law.

(8) Notwithstanding anything contained in these rules the Board may in consultation with the Government adopt for purposes of recruitment in any particular cases or class of cases a special procedure as more appropriate than the one prescribed in any of these rules.

(9) A decision as to the following shall be taken by the Board in respect of all selections made by them--

(i) whether any candidate possesses the prescribed qualifications for the post;

(ii) the basis on which the marks shall be awarded;

(iii) the minimum of marks for inclusion in the select list;

(iv) the manner in which the practical examination, physical efficiency test or any other test or examination is to be conducted.

(v) any other matter incidental to the selection.

(10) All the candidates interviewed and who obtained not less than the minimum marks fixed by the Board shall be included in the

select list prepared in the order of merit:

Provided where the candidates have been called for interview for the purpose of satisfying the rules of reservation alone such candidates who have got not less than the prescribed minimum marks in the interview shall be included in the supplementary list or lists arranged in the order of merit among the candidates belonging to each class:

Provided further that the Board may also prepare list or lists of such categories of candidates who have got not less than the prescribed minimum marks in the interview and who are entitled to priority according to the terms of the notification inviting applications.

(11) Where preferential qualification is prescribed for a post, the select list relating to it shall be prepared in the manner stated below:--

(i) In cases where minimum qualification is prescribed with the condition that candidates with certain additional qualification will be preferred, the Board shall prepare only one select list. Separate marks shall not be awarded for the preferential qualification. Between two candidates scoring the same number of marks at the written test/practical test or interview or both the candidates possessing the preferential qualifications shall be ranked above the candidate securing the same number of marks and not having the preferential qualification.

27. As is discernible from the provisions of Section 29(5) of the Travancore-Cochin Hindu Religious Institutions Act, 1950 (“TCHRI Act, 1950”), any appointment to the administrative service in the Devaswom Department shall be made by the Board only in accordance with such rules as

may be prescribed. Further, under Section 35 of the Act of 2015 , the Board is empowered to frame rules to carry out all or any of the purposes of the Act, provided that such rules are not inconsistent with its provisions. These rule-making powers extend to matters relating to the method of recruitment and qualifications, the grant of salaries and allowances, the discipline and conduct of officers and servants of the Board and of the Devaswom Department, and, in general, to the conditions of their service.

28. The Act of 2015 provides for the constitution of an autonomous Devaswom Recruitment Board for preparing select lists of candidates for appointment to various posts, other than hereditary posts and posts in aided educational institutions, under the Devaswom Boards of the State of Kerala, and for all matters connected therewith or incidental thereto. Under Section 9 of the Act of 2015, the Recruitment Board is vested with the responsibility of inviting applications, conducting written examinations and interviews, preparing select lists, and recommending candidates for appointment to various non-hereditary posts in the Devaswom Boards. The Board is required to ensure fairness, transparency, confidentiality, and proper record-keeping throughout the recruitment process. It may conduct examinations for one or more Boards as necessary and is further empowered to issue appropriate directions and guidelines to ensure the smooth and uniform conduct of all recruitment-related activities. It is thus clear that powers have been expressly conferred on the Recruitment Board, under the provisions of the Act and the Rules framed

thereunder, to prescribe the qualifications required for various posts in the Devaswom Boards. The Board is competent to determine the educational, technical, and other eligibility criteria for each category of post, thereby ensuring that appointments are made only from among qualified and competent candidates. These prescribed qualifications must, however, remain consistent with the statutory framework and the approved service rules applicable to the respective Devaswom Boards. Additionally, the KDRB is empowered to issue general directions or instructions to the Devaswom Boards in matters incidental or necessary to the conduct of examinations and recruitment. Such directions may pertain to procedural aspects, such as the manner of inviting applications, conducting examinations or interviews, finalizing select lists, and communicating results. The Devaswom Boards are expected to comply with these directions, as they are intended to ensure uniformity, transparency, and proper administrative discipline in the recruitment process across all Devaswom Boards in the State.

29. Section 18 of Act of 2015, confers upon the Government the rule-making authority necessary for implementing and giving effect to the provisions of the Act. The power extends both prospectively and retrospectively, thereby enabling the Government to regulate matters relating to the constitution, administration, and functioning of the Recruitment Board and the selection process under its purview. The provision ensures that all procedural, administrative, and service-related aspects, such as defining

hereditary posts, prescribing salaries and service conditions of Board members and staff, laying down the procedure for conducting examinations, determining the form and timing of accounts and annual reports, and specifying the reservation norms for select lists, are formally governed by Rules notified in the Gazette.

30. This delegated legislative power operates in harmony with Section 35 of the Travancore-Cochin Hindu Religious Institutions Act, 1950, which empowers the Devaswom Board to frame rules for matters within its administrative domain. Together, these provisions establish a comprehensive regulatory framework ensuring that appointments and related functions within the Devaswom Boards are carried out in a transparent, uniform, and legally consistent manner, subject always to the overarching control of the Government under the parent statute.

31. It is in terms of the provisions of the Act of 2015, that the Kerala Devaswom Recruitment Board Rules, 2015 have been framed. Rule 7 provides a complete code for recruitment procedure, ensuring merit-based selection through fair examinations, adherence to reservation principles, and preservation of confidentiality. Rule 7 enables the Board to chart out the procedure for the conduct of the examination. The Rules also confer power to the KDRB to announce the qualifications required for the candidates and also announce the subjects, schemes or syllabus for the examination. Rule 7(8) starts with a non obstante clause and states that the Board may in consultation

with the Government adopt for purposes of recruitment in any particular cases or class of cases a special procedure as more appropriate than the one prescribed in any of these rules. The provisions entrusts the Kerala Devaswom Recruitment Board with wide powers and corresponding responsibilities to uphold transparency, integrity, and uniformity in all Devaswom appointments across the State.

32. In **Ajitha K** (supra), after noticing the provisions of Section 9(1) of the Act and its apparent conflict with the Guruvayoor Devaswom Employees Recruitment Act of Regulations, it was observed as under by a Division Bench of this Court:

> 60. From the above, it is quite clear that there is a 'non - obstante clause' in the said provision and as such, whatever may be the contents of the Guruvayoor Devaswom Act or Guruvayoor Devaswom Employees Recruitment Act of Regulations; after commencement of the Kerala Devaswom Recruitment Board Act, 2015, recruitment to various Devaswoms in Kerala can be effected only through the machinery under the Kerala Devaswom Recruitment Act, 2015. This is more so, since the Guruvayoor Devaswom is also one of the Devaswoms, who comes under S.2(b) of the Kerala Devaswom Recruitment Board Act, 2015, which defines the term 'Devaswom'. That apart, as per S.9(6) of the Guruvayoor Devaswom Board Recruitment Act, it shall be the duty of the Recruitment Board to furnish select list to the Devaswom Board and advise candidates prepared from the list in the manner as may be prescribed. In the above circumstances, this Court finds that the regular recruitment has to be made by the Kerala Devaswom Recruitment Board and no exception can be drawn by the Guruvayoor Devaswom.

33. We shall now deal with the sequence of events in this case. On 18.05.2016, by Order No. ROC No. 245/09/Est.1, the Travancore Devaswom Board (TDB) recorded that the Kerala Devaswom Recruitment Board (KDRB) had, on 23.03.2016, issued a notification inviting applications to the post of Part-Time Shanthi. Although the TDB subsequently fixed the requisite qualifications and experience by order dated 05.04.2016, that prescription generated several complaints. In these circumstances, and with a view to ensuring a credible and uniform basis for certifying competence, the TDB decided to accredit institutions conducting Thantram courses and, to that end, invited applications from competent Thanthris. Pursuant thereto, several applications were received. Accreditation was granted to seven organisations and twelve individuals for the limited purpose of issuing certificates evidencing competence/experience to discharge the duties of a Shanthi.

34. Thereafter, by a public notice dated 16.12.2017, the KDRB invited institutions conducting courses in Pooja and Thanthric Vidya to apply for accreditation. Numerous applications were received in response. For verification of these applications, the TDB, by order dated 06.01.2018 and based on the Board decision dated 13.12.2017, constituted an expert committee comprising Sri. S. Radhakrishnan Potty, Sri. Balamurali, and Sri. Paravur Rakesh Thanthri, with the Chairman, TDB, as Chair. Following evaluation, accreditation was granted to twenty-one institutions conducting courses in Temple Pooja and Thanthric Vidya. The order expressly stipulates that

institutions performing below the prescribed standards would be liable to removal from the accredited list and that the list would be reconsidered every three years. It is also stated that institutions accredited by the TDB should, in any event, be recognised by the KDRB.

35. Subsequently, the Draft Travancore Devaswom Board Officers' and Servants' Service Rules, 2022, were published in the Kerala Gazette (Extraordinary) No. 45 dated 08.01.2019, inviting objections and suggestions. After considering the representations received, and in supersession of all existing rules and orders, the Travancore Devaswom Board Officers' and Servants' Service Rules, 2022, were brought into force.

36. By the time the three-year period stipulated in the order dated 06.01.2018 expired. The TDB authorised the KDRB to undertake a fresh exercise. Accordingly, on 01.06.2022, the KDRB issued a press release inviting applications both from institutions already on the approved list and from other eligible institutions seeking inclusion. For scrutiny, a committee was constituted under the Chairmanship of the Chairman, KDRB, with members Sri. S. Radhakrishnan Potty, Sri. Prasanth G. Namboodiri, and Sri. Vezhapparambil Easanan Namboodirippad (who is the President of the 1st petitioner) as members. The Expert Committee considered applications from 22 institutions seeking reaccreditation, 3 TDB-accredited institutions seeking KDRB accreditation, and 34 new institutions. By order dated 20.10.2022, the Secretary and Assistant Secretary, KDRB, were deputed to inspect

approximately eleven institutions identified on a preliminary assessment as warranting site inspection. Upon an elaborate evaluation, Ext.P2 order dated 19.12.2022 was issued, granting renewal of accreditation to 21 institutions and fresh accreditation to 19 institutions (total 41). Ext.P2 mandates that accredited institutions complete their ongoing courses within six months and intimate the results to the KDRB, and that they notify the KDRB of the proposed time and place of examinations. It is further clarified that institutions found deficient or below the prescribed standards would be removed from the accredited list, and that the list would be reconsidered every three years.

37. While matters stood so, the TDB decided to fill 75 vacancies of Part-Time Shanthis in temples under its control and informed the KDRB, requesting the criteria and qualifications for issuance of the recruitment notification. In response, by letter dated 14.03.2023, the KDRB sought particulars regarding upper and lower age limits, experience, and the eligibility of institutions approved by the KDRB. By letter dated 30.05.2023, the TDB specified that candidates must be between 18 and 36 years of age, possess experience in a temple where pooja is conducted thrice daily, and that certificates issued by institutions included in the KDRB-approved list could be accepted. It was also stated that, since a list of KDRB-approved institutions already exists, certificates from those institutions would suffice.

38. Thereafter, on 05.08.2023, the KDRB issued an order initiating a unification exercise regarding course structure, duration, syllabus, mode of

examination, valuation, and related matters. A Committee comprising three Thanthris together with the Chairman and Secretary of the KDRB was constituted. The Committee's report, inter alia, prescribed minimum teacher qualifications for Thanthric Vidya Peedams, stipulated a minimum educational qualification of X Standard for students, required furnishing student details to the KDRB upon registration, and mandated half-yearly examinations of enrolled students under KDRB supervision. Following these measures, a notification dated 11.10.2023 was issued to fill the 75 Part-Time Shanthi vacancies. In the interregnum, the 1st petitioner lodged a complaint dated 16.10.2023 alleging that the notification omitted certificates issued by Thanthris approved by the Devaswom Board. In response, the TDB issued Ext.P4**,** clarifying that certificates issued by Thanthris whose names have been approved by the Devaswom Board shall also be considered.

39. Having considered the provisions of the Act and the Rules, we are not in a position to accede to the contention of the petitioners that the KDRB has exceeded in its powers in suggesting the minimum qualification which has since been ratified by the TDB.

40. The next contention is that the issuance of the notification encroaches upon the domain of religious and denominational autonomy protected under Articles 25 and 26 of the Constitution of India. It is also contended that neither the TDB or the KDRB has the expertise to prescribe the qualification for the post of Shanthi, as it is a non secular and religious activity.

41. It has to be immediately noticed that the 1st petitioner is a Society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Act, 1955, and the 2nd petitioner is the President of the Society. Though the Writ Petition is filed espousing the rights of 300 families, who are stated to be members of the Society, the court fees as provided under Schedule II, Article 11(l)(iii) of the Kerala Court Fees and Suits Valuation Act, 1959, at the rate of Rs.100/- per person has not been paid. Under R.147A of the Rules of the High Court of Kerala, 1971, more persons than one may join in one Writ Petition as petitioners in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where, if such persons present separate Writ Petitions, any common question of law or fact would arise provided that each person joining in such Writ Petition shall pay the court - fee payable under Art.11(r) of Schedule II of the Kerala Court Fees and Suits Valuation Act, as if each of them had filed a separate Writ Petition. In **Maradu Market Traders' Association v. State of Kerala and Others**[9], it was held that in a petition filed jointly, all the petitioners are interested persons; court fee has to be paid at the rate of Rs.100/- per person under the provisions of the Schedule II Art.11(l) (iii) of the Kerala Court Fees and Suits Valuation Act. In the case on hand, the court fee paid is Rs.200/-.

42. The incidental question is whether a registered society, instead of

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the members comprised therein, can claim the right under Article 25 of the Constitution of India.

43. Article 25 of the Constitution reads as under:

> 25. Freedom of conscience and free profession, practice and propagation of religion.—(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.
>
> (2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—
>
> (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
>
> (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.
>
> Explanation I.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.
>
> Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

44. Article 25(1) of the Constitution guarantees to every person freedom of conscience and right to freely profess, practice and propagate religion subject to restrictions imposed by the State. Restrictions can be

imposed on the grounds of public order, morality and health, other provisions of the Part-III of the Constitution, regulation of non religious activity associated with religious practice, social welfare and reform and the throwing of Hindu Religious institutions of a public character to all categories of Hindus. In the case on hand, none of the members of the 1st petitioner has approached this Court claiming violation of his rights under Article 25 of the Constitution of India, and in that view of the matter, it is doubtful whether the Society and its President in its official capacity can espouse the rights of its members particularly in view of the observations in **Maradu Marke**t (supra).

45. Now with regard to the denomination of rights claimed by the petitioners. Article 26 of the Constitution reads as under:

> 26. Freedom to manage religious affairs.—Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—
>
> (a) to establish and maintain institutions for religious and charitable purposes;
>
> (b) to manage its own affairs in matters of religion;
>
> (c) to own and acquire movable and immovable property; and
>
> (d) to administer such property in accordance with law.

46. Article 26 of the Constitution guarantees to every religious denomination the right (a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c)

to own and acquire movable and immovable property; and (d) to administer such property in accordance with law. However, these rights are subject to public order, morality and health. However, the more pertinent question is whether the members of the petitioners, being members of a particular family of Hindus, can claim that they are a denomination entitled to protection of rights under Article 26 of the Constitution of India.

47. The Apex Court in **S.P. Mittal v. Union of India**[10] had occasion to delve into the concept of religious denomination. In the said judgment, the Apex Court reiterated and concurred with the definition of 'religious denomination'as laid down and accepted in **Commissioner, Hindu Religious Endowments, Madras v. Shri Lakshmindra Thritha Swaminar of Sri Shirur Mutt**[11]. It was observed as under:

> The words 'religious denomination' in Article 26 of the Constitution must take their colour from the word 'religion' and if this be so, the expression 'religious denomination' must also satisfy three conditions:
>
> (1) It must be a collection of individuals who have a system of beliefs or doctrines which they regard as conducive to their spiritual well-being, that is, a common faith;
>
> (2) common organisation, and
>
> (3) designation by a distinctive name."

[10] [(1983) 1 SCC 51]
[11] [AIR 1954 SC 282]

48. In **Indian Young Lawyers Association** (supra), after surveying all the past precedents, it was observed that for any religious mutt, sect, body, sub-sect or any section thereof to be designated as a religious denomination, it must be a collection of individuals having a collective common faith, a common organization which adheres to the said common faith, and last but not the least, the said collection of individuals must be labeled, branded and identified by a distinct name.

49. As held in **Indian Young Lawyers** (supra), the first and the most important condition for a religious denomination, i.e., the collection of individuals ought to have a system of beliefs or doctrines which they regard as conducive to their spiritual well-being. There is nothing on record to show that the members of the petitioner Society have any common religious tenets peculiar to themselves, which they regard as conducive to their spiritual well-being, other than those which are common to the Hindu religion. Therefore, the petitioners are merely Hindus and do not constitute a separate religious denomination. For a religious denomination, there must be new methodology provided for a religion. Mere observance of certain practices, even though from a long time, does not make it a distinct religion on that account. In the above judgment, it was held that the devotees of Lord Ayyappa are just Hindus and do not constitute a separate religious denomination. In that view of the matter, the contention advanced by the petitioner alleging the infringement of the rights guaranteed under Articles 25 and 26 of the

Constitution of India cannot be accepted.

50. The next question is whether the Act and the Rules are unconstitutional for the grounds raised in the writ petition. It is by now settled beyond any doubt that the court, considering the validity of a subordinate legislation, will have to consider the nature, object and scheme of the enabling Act, and also the area over which power has been delegated under the Act and then decide whether the subordinate legislation conforms to the parent statute. Where a rule is directly inconsistent with a mandatory provision of the statute, then, of course, the task of the court is simple and easy. But where the contention is that the inconsistency or non-conformity of the rule is not with reference to any specific provision of the enabling Act, but with the object and scheme of the parent Act, the Court should proceed with caution before declaring invalidity. (See: **State of T.N v. P. Krishnamurthy[12])**. In the above judgment, it was observed as under in paragraph 15 of the judgment:

> "15. There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognised that a subordinate legislation can be challenged under any of the following grounds:
>
> (a) Lack of legislative competence to make the subordinate legislation.
>
> (b) Violation of fundamental rights guaranteed under the Constitution of India.

[12] (2006) 4 SCC 517)

(c) Violation of any provision of the Constitution of India.

(d) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act.

(e) Repugnancy to the laws of the land, that is, any enactment.

(f) Manifest arbitrariness/unreasonableness (to an extent where the court might well say that the legislature never intended to give authority to make such rules.

51. In **R.S. Joshi v. Ajith Mills Ltd.**[13], the Apex Court held as under:

> 2. A prefatory caveat. When examining a legislation from the angle of its vires, the Court has to be resilient, not rigid, forward looking, not static, liberal, not verbal in interpreting the organic law of the nation. We must also remember the constitutional proposition enunciated by the U. S. Supreme Court in Munn v. Illinois, 1876 (94) US 113 (quoted in Labor Board v. Jones and Laughlin, 1936 (301) US 1, 33-34 - Corwin, Constitution of the U. S. A., Introduction, p. xxxi) viz., 'that courts do not substitute their social and economic beliefs for the judgment of legislative bodies'. Moreover, while trespasses will not be forgiven, a presumption of constitutionality must colour judicial construction. These factors, recognised by our Court, are essential to the modus vivendi between the judicial and legislative branches of the State, both working beneath the canopy of the Constitution.
>
> xxxx xxxxx xxxxx xxxxx
>
> 47. The principle in construing words conferring legislative power is that the most liberal construction should be put on the

[13] [1977 KHC 682]

words so that they may have effect n (sic) their widest amplitude. None of the items in the List is to be read in a narrow restricted sense. Each general word should be held to extend to all ancillary or subsidiary matters which can fairly and reasonably be said to be comprehended in it. All powers necessary, for the levy and collection of the tax concerned and for seeing that the tax is not evaded are comprised within the legislative ambit of the Entry as ancillary or incidental. It is also permissible to levy penalties for attempted evasion of taxes or default in the payment of taxes properly levied."

52. In **Maharashtra S.B.O.S. and H.S. Education and Another v. Paritosh**[14], it was held that as under:

18. In the light of what we have stated above, the constitutionality of the impugned regulations has to be adjudged only by a three-fold test, namely, (1) whether the provisions of such regulations fall within the scope and ambit of the power conferred by the statute on the delegate; (2) whether the rules/regulations framed by the delegate are to any extent inconsistent with the provisions of the parent enactment and lastly (3) whether they infringe any of the fundamental rights or other restrictions or limitations imposed by the Constitution. We have already held that the High Court was in error in holding that the provisions of Cl.(3) of Regn. 104 do not serve the purpose of carrying into effect the provisions of the Act and are ultra vires on the ground of their being in excess, of the regulation-making power conferred by S.36. The Writ Petitioners had no case before the High Court that the impugned clauses of the regulations were liable to be invalidated on the application of second and third tests. Besides the contention that the impugned regulations were ultra vires the power conferred under S.36 (1), the only other point urged was that they were in the nature of bye-laws and were liable to be struck

[14] 1985 SCC (1) 29

down on the ground of unreasonableness.

53. In **St. Johns Teachers Training Institute v. NCTE**[15], it was held as under:-

> 10. A regulation is a rule or order prescribed by a superior for the management of some business and implies a rule for general course of action. Rules and regulations are all comprised in delegated legislations. The power to make subordinate legislation is derived from the enabling Act and it is fundamental that the delegate on whom such a power is conferred has to act within the limits of authority conferred by the Act. Rules cannot be made to supplant the provisions of the enabling Act but to supplement it. What is permitted is the delegation of ancillary or subordinate legislative functions, or, what is fictionally called, a power to fill up details. The legislature may, after laying down the legislative policy, confer discretion on an administrative agency as to the execution of the policy and leave it to the agency to work out the details within the framework of policy. The need for delegated legislation is that they are framed with care and minuteness when the statutory authority making the rule, after coming into force of the Act, is in a better position to adapt the Act to special circumstances. Delegated legislation permits utilisation of experience and consultation with interests affected by the practical operation of statutes. Rules and regulations made by reason of the specific power conferred by the statutes to make rules and regulations establish the pattern of conduct to be followed. Regulations are in aid of enforcement of the provisions of the statute. The process of legislation by departmental regulations saves time and is intended to deal with local variations and the power to legislate by statutory instrument in the form of rules and regulations is conferred by Parliament. The main justification for delegated legislation is that the legislature being

[15] [(2003) 3 SCC 321]

> overburdened and the needs of the modern-day society being complex, it cannot possibly foresee every administrative difficulty that may arise after the statute has begun to operate. Delegated legislation fills those needs. The regulations made under power conferred by the statute are supporting legislation and have the force and effect, if validly made, as an Act passed by the competent legislature. (See Sukhdev Singh v. Bhagatram Sardar Singh Raghuvanshi [(1975) 1 SCC 421])
>
> xxxx xxxx xxxx
>
> 12. The question whether any particular legislation suffers from excessive delegation has to be decided having regard to the subject-matter, the scheme, the provisions of the statute including its preamble and the facts and circumstances in the background of which the statute is enacted. (See Registrar of Coop. Societies v. K. Kunjabmu [(1980) 1 SCC 340] and State of Nagaland v. Ratan Singh [AIR 1967 SC 212]). It is also well settled that in considering the vires of subordinate legislation one should start with the presumption that it is intra vires and if it is open to two constructions, one of which would make it valid and the other invalid, the courts must adopt that construction which makes it valid and the legislation can also be read down to avoid its being declared ultra vires.

54. The petitioners have not been able to establish before us that the Rule-making authority is bereft of any legislative competence or that there is a failure to conform to the statute under which the Rule has been made. We have already held that the claim that the Rules would violate the rights guaranteed under Articles 25 and 26 of the Constitution cannot be countenanced.

55. The next contention is that the appointment of Shanthis in accordance with the religious texts and authorities, such as the Agamas and

Thanthrasamuchayam, constitutes an essential religious practice, which cannot be interfered with or diluted through the enactment of subordinate legislation or executive regulation. We are afraid that the said contention cannot be sustained under law.

56. In **Seshammal** (supra), 12 Writ Petitions under Article 32 of the Constitution were filed by hereditary Archakas (temple priests) and Mathadhipatis in respect of several ancient Saivite and Vaishnavite public temples in Tamil Nadu. They challenged the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1970, which came into force on 8 January 1971, as per which the parent Act of 1959 stood amended. The petitioners contended that the amendments, principally the abolition of hereditary succession to the office of Archaka, violated their fundamental right to religious freedom under Articles 25 and 26. The questions raised before the Apex Court were as under:

> (a) Whether abolishing the hereditary principle for the appointment of Archakas under amended Section 55 infringes the petitioners' rights under Articles 25(1) and 26(b) of the Constitution.
>
> (b) Whether empowering government-controlled trustees to appoint Archakas and to prescribe their qualifications permits State intrusion into essential religious practices.
>
> (c) Whether the rule-making power in Section 116(2)(xxiii) authorises the State to frame qualifications that could contravene Agamic ritual requirements.

57. It was contended before the Apex Court that the appointment of a person to a religious office in accordance with the hereditary principle is itself a religious usage and amounted to a vital religious practice and hence falls within Articles 25 and 26. It was also urged that any law which interferes with the aforesaid basis of appointment would violate religious freedom guaranteed by Articles 25 and 26 of the Constitution. A contention was raised that the priest is more important than the ritual, and nothing could be more vital than choosing the priest. While repelling the contentions it was held that the act of his appointment of the Archaka by the trustee is essentially secular. It would be appropriate to refer to the relevant paragraphs, which reads as under:

> "21. It is true that a priest or an Archaka when appointed has to perform some religious functions but the question is whether the appointment of a priest is by itself a secular function or a religious practice. Mr Palkhivala gave the illustration of the spiritual head of a math belonging to a denomination of a Hindu sect like the Shankaracharya and expressed horror at the idea that such a spiritual head could be chosen by a method recommended by the State though in conflict with the usage and the traditions of the particular institution. Where, for example, a successor of a Mathadhipati is chosen by the Mathadhipati by giving him mantra-deeksha or where the Mathadhipati is chosen by his immediate disciples, it would be, he contended, extraordinary for the State to interfere and direct that some other mode of appointment should be followed on the ground of social reform. Indeed this may strike one as an intrusion in the matter of religion. But we are afraid such an illustration is inapt when we are considering the appointment of an Archaka of a temple. The Archaka has never been regarded as a spiritual head of any institution. He may be an accomplished person, well versed in the

Agamas and rituals necessary to be performed in a temple but he does not have the status of a spiritual head. Then again the assumption made that the Archaka may be chosen in a variety of ways is not correct. The Dharam-karta or the Shebait makes the appointment and the Archaka is a servant of the temple. It has been held in K. Seshadri Aiyangar v. Ranga Bhattar [ILR 35 Mad 631] that even the position of the hereditary Archaka of a temple is that of a servant subject to the disciplinary power of the trustee. The trustee can enquire into the conduct of such a servant and dismiss him for misconduct. As a servant he is subject to the discipline and control of the trustee as recognised by the unamended Section 56 of the principal Act which provides "all office-holders and servants attached to a religious institution or in receipt of any emolument or perquisite therefrom shall, whether the office or service is hereditary or not, be controlled by the trustee and the trustee may, after following the prescribed procedure, if any, fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause". That being the position of an Archaka, the act of his appointment by the trustee is essentially secular. He owes his appointment to a secular authority. Any lay founder of a temple may appoint the Archaka. The Shebaits and Managers of temples exercise essentially a secular function in choosing and appointing the Archaka. That the son of an Archaka or the son's son has been continued in the office from generation to generation does not make any difference to the principle of appointment and no such hereditary Archaka can claim any right to the office. See Kali Krishan Ray v. Makhan Lal Mookerjee [ILR 50 Cal 233], Nanabhai Narotamdas v. Trimbak Balwant Bhandare [(1878-80) Vol. 4, Unreported printed Judgments of the Bombay High Court, p. 169] and Maharanee Indurjeet Kooer v. Chundemun Misser [16 WR 99] . Thus the appointment of an Archaka is a secular act and the fact that in some temples the hereditary principle was followed in making the appointment would not make the successive appointments anything but secular. It would only mean that in making the appointment the trustee is limited in

> respect of the sources of recruitment. Instead of casting his net wide for selecting a proper candidate, he appoints the next heir of the last holder of the office. That after his appointment the Archaka performs worship is no ground for holding that the appointment is either a religious practice or a matter of religion.
>
> 22. In view of sub-section (2) of Section 55, as it now stands amended, the choice of the trustee in the matter of appointment of an Archaka is no longer limited by the operation of the rule of next-in-line of succession in temples where the usage was to appoint the Archaka on the hereditary principle. The trustee is not bound to make the appointment on the sole ground that the candidate, is the next-in-line of succession to the last holder of office. To that extent, and to that extent alone, the trustee is released from the obligation imposed on him by Section 28 of the principal Act to administer the affairs in accordance with that part of the usage of a temple which enjoined hereditary appointments. The legislation in this respect, as we have shown, does not interfere with any religious practice or matter of religion and, therefore, is not invalid."

58. The Apex Court accepted that Agamic prescriptions concerning denomination and ritual competence of an Archaka are matters of religion protected by Article 25(1). Their Lordships distinguished the appointment of an Archaka from the performance of worship holding that the Archaka, once appointed, performs sacred functions, but the act of appointing him is carried out by a secular authority (the trustee) and has traditionally been subject to managerial control. It was held that the appointment being secular, legislative alteration of the selection method is permissible as Article 25(2)(a) allows regulation of secular aspects of religious institutions.

59. In **N.Adithayan** (supra), the appellant, a Malayala Brahmin worshipper of Kongorpilly Neerikode Siva Temple, challenged the decision of the Travancore Devaswom Board appointing a non-Brahmin as the permanent Santhikaran. A Full Bench of the Apex Court ultimately upheld the Board's decision. The matter was taken up before the Apex Court. Almost identical questions were raised in the said case. The issues raised were (a) Whether longstanding custom allegedly restricting priesthood in the Temple to Malayala Brahmins constitutes an essential religious practice protected by Articles 25 and 26 of the Constitution, (b) Whether appointment of a qualified non-Brahmin priest violates worshippers' constitutional rights or Section 31 of the Travancore-Cochin Hindu Religious Institutions Act, 1950, (c) Whether caste-based exclusion in priestly appointments is permissible in light of Articles 14, 15, 16 and 17 and the Protection of Civil Rights Act, 1955. While dismissing the Appeal, the Apex Court lucidly laid down the law by holding as under:

> "16. It is now well settled that Article 25 secures to every person, subject of course to public order, health and morality and other provisions of Part III, including Article 17 freedom to entertain and exhibit by outward acts as well as propagate and disseminate such religious belief according to his judgment and conscience for the edification of others. The right of the State to impose such restrictions as are desired or found necessary on grounds of public order, health and morality is inbuilt in Articles 25 and 26 itself. Article 25(2)(b) ensures the right of the State to make a law providing for social welfare and reform besides throwing open of

Hindu religious institutions of a public character to all classes and sections of Hindus and any such rights of the State or of the communities or classes of society were also considered to need due regulation in the process of harmonizing the various rights. The vision of the founding fathers of the Constitution to liberate the society from blind and ritualistic adherence to mere traditional superstitious beliefs sans reason or rational basis has found expression in the form of Article 17. The legal position that the protection under Articles 25 and 26 extends a guarantee for rituals and observances, ceremonies and modes of worship which are integral parts of religion and as to what really constitutes an essential part of religion or religious practice has to be decided by the courts with reference to the doctrine of a particular religion or practices regarded as parts of religion, came to be equally firmly laid down.

17. Where a temple has been constructed and consecrated as per Agamas, it is considered necessary to perform the daily rituals, poojas and recitations as required to maintain the sanctity of the idol and it is not that in respect of any and every temple any such uniform rigour of rituals can be sought to be enforced, dehors its origin, the manner of construction or method of consecration. No doubt only a qualified person well versed and properly trained for the purpose alone can perform poojas in the temple since he has not only to enter into the sanctum sanctorum but also touch the idol installed therein. It therefore goes without saying that what is required and expected of one to perform the rituals and conduct poojas is to know the rituals to be performed and mantras, as necessary, to be recited for the particular deity and the method of worship ordained or fixed therefor. For example, in Saivite temples or Vaishnavite temples, only a person who learnt the necessary rites and mantras conducive to be performed and recited in the respective temples and appropriate to the worship of the particular deity could be engaged as an Archaka. If traditionally or conventionally, in any temple, all along a Brahmin alone was conducting poojas or performing the job of Santhikaran, it may not be because a person other than the Brahmin

is prohibited from doing so because he is not a Brahmin, but those others were not in a position and, as a matter of fact, were prohibited from learning, reciting or mastering Vedic literature, rites or performance of rituals and wearing sacred thread by getting initiated into the order and thereby acquire the right to perform homa and ritualistic forms of worship in public or private temples. Consequently, there is no justification to insist that a Brahmin or Malayala Brahmin in this case, alone can perform the rites and rituals in the temple, as part of the rights and freedom guaranteed under Article 25 of the Constitution and further claim that any deviation would tantamount to violation of any such guarantee under the Constitution. There can be no claim based upon Article 26 so far as the Temple under our consideration is concerned. Apart from this principle enunciated above, as long as anyone well versed and properly trained and qualified to perform the pooja in a manner conducive and appropriate to the worship of the particular deity, is appointed as Santhikaran dehors his pedigree based on caste, no valid or legally justifiable grievance can be made in a court of law. There has been no proper plea or sufficient proof also in this case of any specific custom or usage specially created by the founder of the Temple or those who have the exclusive right to administer the affairs — religious or secular of the Temple in question, leave alone the legality, propriety and validity of the same in the changed legal position brought about by the Constitution and the law enacted by Parliament. The Temple also does not belong to any denominational category with any specialized form of worship peculiar to such denomination or to its credit. For the said reason, it becomes, in a sense, even unnecessary to pronounce upon the invalidity of any such practice being violative of the constitutional mandate contained in Articles 14 to 17 and 21 of the Constitution of India.

18. In the present case, it is on record and to which we have also made specific reference in the details of facts showing that an institution has been started to impart training to students joining the institution in all relevant Vedic texts, rites, religious observances and

modes of worship by engaging reputed scholars and Thanthris and the students, who ultimately pass through the tests, are being initiated by performing the investiture of sacred thread and gayatri. That apart, even among such qualified persons, selections based upon merit are made by the Committee, which includes among other scholars a reputed Thanthri also and the quality of the candidate as well as the eligibility to perform the rites, religious observances and modes of worship are once again tested before appointment. While that be the position, to insist that the person concerned should be a member of a particular caste born of particular parents of his caste can neither be said to be an insistence upon an essential religious practice, rite, ritual, observance or mode of worship nor has any proper or sufficient basis for asserting such a claim been made out either on facts or in law, in the case before us, also. The decision in Shirur Mutt case [AIR 1954 SC 282 : 1954 SCR 1005] and the subsequent decisions rendered by this Court had to deal with the broad principles of law and the scope of the scheme of rights guaranteed under Articles 25 and 26 of the Constitution, in the peculiar context of the issues raised therein. The invalidation of a provision empowering the Commissioner and his subordinates as well as persons authorized by him to enter any religious institution or place of worship in any unregulated manner by even persons who are not connected with spiritual functions as being considered to violate rights secured under Articles 25 and 26 of the Constitution of India, cannot help the appellant to contend that even persons duly qualified can be prohibited on the ground that such person is not a Brahmin by birth or pedigree. None of the earlier decisions rendered before Seshammal case [(1972) 2 SCC 11] related to consideration of any rights based on caste origin and even Seshammal case [(1972) 2 SCC 11] dealt with only the facet of rights claimed on the basis of hereditary succession. The attempted exercise by the learned Senior Counsel for the appellant to read into the decisions of this Court in Shirur Mutt case [AIR 1954 SC 282] and others something more than what it actually purports to lay down as if they lend support to assert or protect any and everything claimed as being part of the

> religious rituals, rites, observances and method of worship and make such claims immutable from any restriction or regulation based on the other provisions of the Constitution or the law enacted to implement such constitutional mandate, deserves only to be rejected as merely a superficial approach by purporting to deride what otherwise has to have really an overriding effect, in the scheme of rights declared and guaranteed under Part III of the Constitution of India. Any custom or usage irrespective of even any proof of their existence in pre-constitutional days cannot be countenanced as a source of law to claim any rights when it is found to violate human rights, dignity, social equality and the specific mandate of the Constitution and law made by Parliament. No usage which is found to be pernicious and considered to be in derogation of the law of the land or opposed to public policy or social decency can be accepted or upheld by courts in the country."

60. The Apex Court affirmed that Article 25 protects only those practices that are essential to religion. A caste-based restriction on priestly office held not proven either by pleadings or evidence to be an indispensable tenet of worship at the Kongorpilly Neerikode Siva Temple. The Court also held that the Temple is not a denominational institution with unique Agamic requirements tied to a specific caste. The Apex Court noted that the Board had been training students of all castes at the Thanthra Vedantha School in Vedic rituals and that numerous non-Brahmin priests have served without any objection. It was held that the eligibility criteria focus on knowledge of mantras, rituals, and Agamas, not pedigree. It was also observed that any custom that contravenes Articles 14 to 17, or the Protection of Civil Rights Act,1955, lacks legal force and that courts cannot uphold practices violative of

human dignity and social equality. It was also held that appointing a competent non-Brahmin priest does not infringe Articles 25 or 26; conversely, prohibiting him would offend the constitutional guarantees of equality.

61. In **M.P Gopalakrishnan Nair and Another v. State Of Kerala And Others**[16], the facts were that the Guruvayoor Devaswom Act, 1978, vested secular administration in a nine-member Managing Committee to be partly nominated by the Hindus among the State Council of Ministers. They filed an original writ petition before this Court, contending that Ministers who do not believe in temple worship are disqualified from nominating members to the Managing Committee under Section 4 of the 1978 Act. A Division Bench referred the matter to a Full Bench, which dismissed the writ petition. The matter reached the Apex Court. While dismissing the writ petition, it was observed as under:

> "36. It is also now trite that although State cannot interfere with the freedom of a person to profess, practise and propagate his religion, the secular matters connected therewith can be the subject-matter of control by the State. The management of the temple is primarily a secular act. The temple authority controls the activities of various servants of the temple. It manages several institutions including educational institutions pertaining to it. The disciplinary power over the servants of the temple, including the priest may vest in a committee. The payment of remuneration to the temple servants was also not a religious act but was of purely secular nature. (See Shri Jagannath Temple Puri Management Committee v. Chintamani Khuntia (1997) 8 SCC 422, Pannalal Bansilal Pitti v. State of A.P (1996) 2 SCC 498 and

[16] [2005 INSC 218]

Bhuri Nath v. State of J&K (1997) 2 SCC 745.)”

62. In view of the discussion above, we are of the view that the contention of the petitioners that the appointment of Santhis shall be made in accordance with the religious texts and authorities, such as the Agamas and Tantrasamuchayam, as it constitutes an essential religious practice, cannot be accepted.

63. In the case on hand, it is evident from the records that Ext. P5 Rules were brought into force by the Travancore Devaswom Board (TDB) in the valid exercise of its powers under Section 35 of the Travancore-Cochin Hindu Religious Institutions Act, 1950, and that the same has received the due approval of the Government. It is also on record that the draft Rules were duly published, and only after inviting objections and suggestions from the public were they finalized and notified in the Official Gazette, thereby satisfying the procedural requirements of law. The qualification prescribed for the post of Part-Time Santhi has been formulated by the TDB after obtaining expert inputs from the Kerala Devaswom Recruitment Board (KDRB), and this prescription has also received Government approval. The materials placed before us further reveal that the TDB and KDRB have established a rigorous institutional mechanism prior to granting accreditation. The second petitioner himself participated in the said process. The syllabus prepared by the KDRB encompasses Vedic texts, rituals, religious observances, and modes of worship, and these are imparted by qualified scholars and Thanthris and the courses

available extend for a period from one year to five years. Students who successfully complete the course are also subjected to initiation ceremonies, signifying their preparedness to undertake temple duties. Moreover, even among such qualified candidates, the final selection is made strictly on merit by a duly constituted Committee which, apart from learned scholars, includes a reputed Thanthri. The competence, merit, and eligibility of each candidate to perform religious rites and observances are thus tested once again before appointment. In such circumstances, to insist that a person must belong to a particular caste or lineage to be eligible for appointment cannot, in our considered view, be construed as an insistence upon an essential religious practice, rite, or mode of worship. No factual or legal foundation has been established to justify such a claim in the present case. The contention that individuals unconnected with spiritual functions are being considered for such posts and that this infringes the fundamental rights of the petitioners guaranteed under Articles 25 and 26 of the Constitution of India is untenable. It is now well settled that no custom or usage, even if traceable to pre-constitutional times, can be recognized as a source of law if it is found to violate human rights, the Protection of Civil Rights Act, 1955, Article 17 of the Constitution, dignity of individual, or the constitutional principles of social equality. Any custom or practice that is oppressive, pernicious, contrary to public policy, or in derogation of the law of the land cannot receive recognition or protection from courts exercising jurisdiction under the Constitution.

64. The observations and principles of law enunciated in the aforementioned binding precedents apply in toto to the facts of the present case. The ratio laid down therein squarely governs the issues that arise for consideration in this petition.

In light of the foregoing discussion and the settled legal position, we are of the considered view that none of the reliefs prayed for by the petitioners merit acceptance. Accordingly, the writ petition fails and is hereby dismissed.

Sd/-

RAJA VIJAYARAGHAVAN V,
JUDGE

Sd/-
K.V. JAYAKUMAR,
JUDGE

PS/22/10/25

APPENDIX OF WP(C) 3994/2024

PETITIONER EXHIBITS

Exhibit P1	**THE TRUE COPY OF THE BYE LAWS AS AMENDED IN 2018 OF THE 1ST PETITIONER SAMAJAM DATED 03-11-2018**
Exhibit P2	**THE TRUE COPY OF THE ORDER NO 64/EA3/2018/KDRB ISSUED BY 4TH RESPONDENT DATED 19-12-2022**
Exhibit P3	**THE TRUE COPY OF THE NOTIFICATION NO. 97/R1/2023/KDRB ISSUED BY THE 4TH RESPONDENT DATED 11-10-2023**
Exhibit P4	**THE TRUE COPY OF THE DECISION NO. ROC NO. 245/09/EST-1 OF THE 2ND RESPONDENT DATED 26-10-2023**
Exhibit P5	**THE TRUE COPY OF THE RELEVANT PAGES OF THE TRAVANCORE DEVASWOM BOARD OFFICERS AND SERVANTS SERVICE RULES, 2022 PUBLISHED IN KERALA GAZETTE DATED 01.04.2022**
Exhibit P6	**THE TRUE COPY OF THE NOTICE ISSUED BY THANTHRI MANDALA VIDYA PEETOM WHICH HAS BEEN APPROVED BY THE 4TH RESPONDENT KDRB**

RESPONDENT EXHIBITS

Exhibit R-12(a)	**TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 18-05-2016**
Exhibit R-12(b)	**TRUE COPY OF THE PAPER SHOWING THE SUBJECT OF STUDY ISSUED BY KERALA DEVASWOM RECRUITMENT BOARD DATED NIL.**
Exhibit R-12(c)	**TRUE COPY OF THE LATEST REGISTRATION CERTIFICATE ISSUED BY THE ALA GRAMA PANCHAYATH DATED 27-05-2024**
Exhibit R-12(d)	**TRUE COPY OF THE LIST OF TEACHERS TEACHING IN THE 12TH RESPONDENT INSTITUTION**
Exhibit R-12(e)	**TRUE COPY OF THE COMMUNICATION DATED**

	16-12-2023 ISSUED BY THE 2ND RESPONDENT
Exhibit R-12(f)	TRUE COPY OF THE LETTER DATED 09-04-2019 AUTHORIZING AN OFFICER OF THE 2ND RESPONDENT TO SUPERVISE THE ANNUAL EXAMINATION
Exhibit R-12(g)	TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P. (C) NO. 22384/2006 DATED 25-08-2008
Exhibit R-12(h)	TRUE COPY OF THE SAID JUDGMENT IN W.P.(C) NO. 37006/2023 DATED 08-11-2023
Exhibit R22(a)	ONE SUCH ORDER ISSUED BY THE 2ND RESPONDENT BOARD VIDE ORDER NO.ROC NO.245/09/EST-I DATED 18.06.2016
Exhibit-R2(a)	TRUE COPY OF LETTER VIDE ROC. 16207/14/S DATED 30/05/2023 ISSUED BY THE 3RD RESPONDENT TO THE 4TH RESPONDENT
Exhibit R7(A)	A TRUE COPY OF THE SYLLABUS FOLLOWED BY THE THANTHRI MANDALA VIDYAPEEDOM
Exhibit R7(B)	A TRUE COPY OF THE CERTIFICATE ISSUED TO THANTHRI MANDALAM KOLLAM WITH SERIAL NO. Q700 IN THE YEAR 2010 BY THE REGISTRAR OF SOCIETIES ALONG WITH TYPED COPY
Exhibit R7(C)	A TRUE COPY OF THE ORDER NO.EA1-64/KDRB/2018 DATED 01.03.2018 ISSUED BY THE KDRB
Exhibit R7(D)	A TRUE COPY OF THE SYLLABUS APPROVED BY THE KDRB
Exhibit R7(E)	A TRUE COPY OF THE ORDER NO. EA 1-64/KDRB/2018 DATED 19.09.2018 ISSUED BY THE KDRB
Exhibit R7(F)	A TRUE COPY OF THE ORDER NO. EA 1-64/KDRB/2018 DATED 18.09.2019 ISSUED BY THE KDRB
EXHIBIT R7(G)	A TRUE COPY OF THE DETAILS OF THE TEACHERS ALONG WITH THEIR EDUCATIONAL QUALIFICATIONS
Exhibit R7(H)	A TRUE COPY OF THE CERTIFICATE ISSUED TO PUTHENMADATHIL MARANGATTU ELLATHU V SANKARAN NAMBOOTHIRI BY THE DEVASWOM COMMISSIONER DATED 28.09.1950

Exhibit R21(a)	**TRUE COPY OF SYLLABUS OF THANTHRA BHOOSHANAM POOJARI CERTIFICATE COURSE**
Exhibit R21(b)	**TRUE COPY OF ROC NO. 2181/16/EST-1 DATED 18.03.2016**
Exhibit R21(c)	**TRUE COPY OF ORDER NO. EA1-64/K.D.R.B./2018 DATED 01.03.2018 ISSUED BY THE 4TH RESPONDENT**
Exhibit R21(d)	**TRUE COPY OF COMMUNICATION NO. EA1-64/K.D.R.B./2018 DATED 20.3.2019 ISSUED BY THE 4TH RESPONDENT**
Exhibit R21(e)	**TRUE COPY OF COMMUNICATION NO. 1325/EA3/2022/K.D.R.B. DATED 21.6.2023 ISSUED BY THE 4TH RESPONDENT**
Exhibit R11(a)	**A TRUE COPY OF THE ORDER ISSUED BY THE 4TH RESPONDENT DATED 01-03-2018**
Exhibit R11(b)	**A TRUE COPY OF THE PAPER SHOWING THE SUBJECT OF STUDY ISSUED BY KERALA DEVASWOM RECRUITMENT BOARD DATED NIL**
Exhibit R11(c)	**A TRUE COPY OF THE COMMUNICATION DATED 16-12-2023 ISSUED BY THE 2ND RESPONDENT**
Exhibit-R26A	**A TRUE COPY OF THE COMMUNICATION RECEIVED TO THIS EFFECT FROM THE 2ND RESPONDENT DATED 18.05.2016**
Exhibit-R26B	**A TRUE COPY OF THE COMMUNICATION RECEIVED FROM THE OFFICE OF THE COCHIN DEVASWOM BOARD DATED 13.12.2017**
Exhibit-R26C	**A TRUE COPY OF CERTIFICATE DATED 17.08.2021**
Exhibit-R26D	**A TRUE COPY OF THE OFFICIAL COMMUNICATION DATED 19.04.2018 ISSUED BY THE 4TH RESPONDENT DULY INCLUDING THE; VIDYAPEEDOM' IN THE ELIGIBILITY LIST**
Exhibit-R26E	**A TRUE COPY OF THE SYLLABUS PRESCRIBED BY THE 4TH RESPONDENT**
Exhibit-R26F	**A TRUE COPY OF THE SYLLABUS FOLLOWED BY THE'VIDYA PEEDOM' (WHICH INCLUDES THE SYLLABUS PRESCRIBED BY THE 4TH RESPONDENT)**
Exhibit R 38	**A TRUE COPY OF THE LIST CONTAINING THE NAMES OF THE TEACHERS AND THE SUBJECTS THEY TEACH**

Exhibit-R 19(a)	**TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT BOARD VIDE NO.EA1-64/KDRB /2018 DATED 01.03.2018**
Exhibit-R 19(b)	**TRUE COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT BOARD AND ADDRESSED TO THIS RESPONDENT VIDE NO.1325/EA3/2022/KDRB DATED 31.10.2023**
Exhibit-R 19(c)	**TRUE COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT BOARD VIDE NO.64/EA3/2018/KDRB DATED 16.12.2023**
Exhibit R -35 (a)	**TRUE COPY OF ORDER ISSUED BY THE 4TH RESPONDENT DATED 19.12.2022**