2025:KER:25284

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 25TH DAY OF MARCH 2025 / 4TH CHAITHRA, 1947

WP(C) NO. 45280 OF 2024

PETITIONER:

P.P. VINODKUMAR
AGED 60 YEARS
S/O ACHUTHAN, RESIDING AT KUDIYIRIKKAL HOUSE,
HS ROAD, CHERUPULACHERRY, PALAKKAD DISTRICT,
PIN - 679503

BY ADV C.DINESH

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY ITS SECRETARY, REVENUE (DEVASWOM)
DEPARTMENT, SECRETARIAT, GOVT. PRESS P.O,
THIRUVANANTHAPURAM, PIN - 695001

2 **MALABAR DEVASWOM BOARD**
REPRESENTED BY ITS SECRETARY,
HOUSEFED COMPLEX, ERANHIPALAM P.O.,
KOZHIKODE, PIN - 673006

3 **THE COMMISSIONER**
MALABAR DEVASWAM BOARD,
MALABAR DEVASWAM BOARD OFFICE,
ERANJIPPALAM, KOZHIKODE, PIN - 673006

4 **THE ASSISTANT COMMISSIONER**
MALABAR DEVASWAM BOARD,
THE ASSISTANT COMMISSIONER OFFICE,
PALAKKAD DISTRICT, PIN - 679513

5 THE EXECUTIVE OFFICER
PUTHANALKKAL BHAGAVATHY TEMPLE,
CHERPULASSERY PO, PALAKKAD DISTRICT,
PIN - 679503

6 INSPECTOR
MALABAR DEVASWAM BOARD,
OTTAPPALAM DIVISION, INSPECTOR'S OFFICE,
CHERPULASSERY PO, PALAKKAD DISTRICT, PIN - 679503

7 HEREDITARY TRUSTEE
PUTHANALKKAL BHAGAVATHY TEMPLE,
CHERPULASSERY, PO, PALAKKAD DISTRICT, PIN - 679503

8 MANIKANDHAN K
AGED 50 YEARS
S/O KRISHNAN, KOTTACHALIL HOUSE,
CHERPULASSERY, PO, PALAKKAD DISTRICT, PIN - 679503

9 V.K VIJAKAKRISHNAN
AGED 54 YEARS
S/O BHASKARANKUTTY, RESIDING AT PULAKKATKUZHIYIL,
CHERPULASSERY, PO,
PALAKKAD DISTRICT, PIN - 679503

0 V. KRISHNADASAN
AGED 56 YEARS
S/O V. APPU, RESIDING AT VATTAPAARMBIL,
CHERPULASSERY, PO, PALAKKAD DISTRICT, PIN - 679503

11 M.P AYYAPPANKUTTY
AGED 62 YEARS
S/O, MV KUNJIRAMAN, RESIDING AT
MANDAKKARIPARAMBIL, CHERPULASSERY, PO,
PALAKKAD DISTRICT, PIN - 679503

12 AJITH SANKAR K
AGED 47 YEARS
S/O VASUDEVAN K, RESIDING AT ATHULYAM,
KAIRALI NAGAR, CHERPULASSERY, PO,
PALAKKAD DISTRICT, PIN - 679503

BY ADVS.
R.RANJANIE
MAHESH V RAMAKRISHNAN
PRAVEEN K.S.(K/2191/2021)
SARATH SANKAR S.(K/002418/2023)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Anil K. Narendran, J.

The petitioner, who is a devotee of Puthanalkkal Bhagavathy Temple, Cherpulassery, which is a controlled institution under the 2nd respondent Malabar Devaswom Board, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of mandamus commanding the 3rd respondent Commissioner, Malabar Devaswom Board, to proceed with the appointment of non-hereditary trustees of Puthanalkkal Bhagavathy Temple, strictly in terms of disqualification and eligibility clauses provided in Ext.P1 notification dated 28.06.2024 issued by the 3rd respondent Commissioner and also the law laid down by this Court in **Muraleedharan M. and another v. Malabar Devaswom Board and others [2024 (6) KHC SN 20]**, **Chathu Achan K. v. State of Kerala and others [2022 (6) KLT 388]** and **Anantha Narayanan and another v. Malabar Devaswom Board and others [2023 KLT OnLine 1195]**. The petitioner has also sought for a writ of mandamus commanding respondents 3 to 6 to consider Ext.P3 representation dated 26.10.2024 and Ext.P6 representation dated 04.12.2024 raising objections, in accordance with the

directions contained in the judgment of this Court in **Muraleedharan M. [2024 (6) KHC SN 20]** before proceeding with the process of appointment of respondents 8 to 12 as non-hereditary trustees of Puthanalkkal Bhagavathy Temple.

2. On 19.12.2024, when this writ petition came up for admission, this Court passed the following order;

> "The petitioner, who is a devotee of Puthanalkkal Bhagavathy Temple, Cherpulassery, which is a controlled institution under the 2nd respondent Malabar Devaswom Board, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of mandamus commanding the 3rd respondent Commissioner, Malabar Devaswom Board, to proceed with the appointment of non-hereditary trustees of Puthanalkkal Bhagavathy Temple, strictly in terms of the disqualification and eligibility clauses provided in Ext.P1 notification dated 28.06.2024 issued by the 3rd respondent Commissioner and also the law laid down by this Court in **Muraleedharan M. v. Malabar Devaswom Board and others [2024 (6) KHC SN 20]**, **Chathu Achan K. v. State of Kerala [2022 (6) KLT 388]** and **Anantha Narayanan and another v. Malabar Devaswom Board and others [2023 KLT OnLine 1195]**. The petitioner has also sought for a writ of mandamus commanding the 3rd respondent Commissioner and the 6th respondent Inspector, Malabar Devaswom Board, Ottapalam, Division, to consider Ext.P3 objection dated 26.10.2024 and Ext.P6 objection dated 04.12.2024, in

accordance with the directions contained in the decision of this Court in **Muraleedharan M. [2024 (6) KHC SN 20]**, before proceeding with the process of appointment of respondents 8 to 12 as non-hereditary trustees of Puthanalkkal Bhagavathy Temple, Cherpulassery. In the writ petition, it is alleged that respondents 8 to 12, who are going to be appointed as non-hereditary trustees of Puthanalkkal Bhagavathy Temple are active politicians and as such they are having the disqualifications provided in Ext.P1 notification.

2. The decision of this Court in **Muraleedharan M. [2024 (6) KHC SN 20]** was under challenge before the Apex Court in SLP(C)No.2911 of 2024, which ended in dismissal by the order dated 13.12.2024.

3. Admit.

4. The learned Senior Government Pleader takes notice for the 1st respondent. The learned Standing Counsel for Malabar Devaswom Board takes notice for respondents 2 to 4 and 6.

5. Issue urgent notice by speed post to respondents 5 and 7 to 12, returnable by 13.01.2025.

6. The learned Standing Counsel for Malabar Devaswom Board seeks time to get instructions as to whether the 3rd respondent Commissioner, has issued any circular in the matter of appointment of non-hereditary trustees in temples which are controlled institutions under the Board, taking note of the directions contained in the decision of this Court in **Muraleedharan M. [2024 (6) KHC SN 20]**.

7. The selection process for the appointment of non-hereditary trustees of Puthanalkkal Bhagavathy Temple,

Cherpulassery, pursuant to Ext.P1 notification dated 28.06.2024 issued by the 3rd respondent Commissioner, shall be proceeded strictly in terms of the directions contained in Paragraph 154 of the decision of this Court in **Muraleedharan M. [2024 (6) KHC SN 20]**. However, the consideration of the report of the Committee constituted for a comparative assessment of the applicants with specific reference to the eligibilities and disqualifications provided in the guidelines dated 18.05.2004 issued by the Commissioner of the erstwhile Hindu Religious Charitable and Endowments (Administration) Department, by the competent authority in the 1st respondent Malabar Devaswom Board shall be deferred for the time being. The files relating to Ext.P1 notification dated 28.06.2024 along with the report of the said Committee shall be made available for the perusal of this Court, in a sealed cover, on the next posting date."

3. The order dated 19.12.2024 was followed by the order dated 13.01.2025 which reads thus;

"In paragraph 2 of the order dated 19.12.2024, "SLP(C)No.2911 of 2024" is *suo motu* corrected as "SLP(C)No.29188 of 2024".

2. Pursuant to the order of this Court dated 19.12.2024 the learned Standing Counsel for Malabar Devaswom Board has made available for perusal of this Court the files relating to Ext.P1 notification dated 28.06.2024 for appointment of non-hereditary trustees of Puthanalkkal Bhagavathy Temple, Cherpulassery. Page No.53 of that file contains a report dated 26.12.2024 of the 4th respondent Assistant Commissioner,

addressed to the 3rd respondent Commissioner, after taking note of the report dated 21.12.2024 of the 6th respondent Inspector, Ottappalam Division, wherein it is stated that among the applicants, respondents 8 to 11 are active politicians, who are disqualified from being appointed as non-hereditary trustees of the temple in question. As per the said report, the applications of respondents 8 to 11, which are supported by false affidavits, need not be considered in the process of selection pursuant to Ext.P1 notification.

3. The learned counsel for respondents 8 to 12 seeks time to file counter affidavit and three weeks' time granted.

4. The learned Standing Counsel to retain the files.

5. The learned Standing Counsel for the Malabar Devaswom Board would submit that though the Commissioner, Malabar Devaswom Board has not issued any circular taking note of the directions contained in the judgment of this Court in **Muraleedharan M. v. Malabar Devaswom Board and others [2024 (6) KHC SN 20]**, after the dismissal of SLP(C)No.29188 of 2024 by the order dated 13.12.2024, the directions contained in the said judgment are being complied with, in letter and spirit, in all appointments to the post of non-hereditary trustees to the temples which are controlled institutions under Malabar Devaswom Board. Said submission made by the learned Standing Counsel for the Board is recorded."

4. On 07.02.2025, when this writ petition came up for consideration, along with a connected matter, the learned Standing Counsel for Malabar Devaswom Board pointed out the order of the

Apex Court dated 20.01.2025 in SLP(C) Diary No.60879 of 2024, arising out of the judgment of this Court in **Muraleedharan M. [2024 (6) KHC SN 20]**. The said SLP is one filed by the Malabar Devaswom Board and its officials, after the dismissal of SLP(C)No.29188 of 2024. In SLP(C) Diary No.60879 of 2024, while issuing notice to the respondents, the Apex Court confined the scope of consideration only with respect to clauses (iii) and (iv) in paragraph 154 of the judgment in **Muraleedharan M. [2024 (6) KHC SN 20]** and the order of stay is also confined to that extent alone.

5. In the order dated 07.02.2025, this Court noticed the submission made by the learned Standing Counsel for Malabar Devaswom Board, after referring to the aforesaid order of the Apex Court that, after complying with the procedure contemplated in clauses (i) and (ii) of paragraph 154 of the judgment in **Muraleedharan M. [2024 (6) KHC SN 20]**, i.e., consideration of the objections after obtaining individual reports from the concerned Divisional Inspector and comparative assessment of the applicants with specific reference to the eligibilities and disqualifications provided in the guidelines dated 18.05.2004 issued by the

Commissioner erstwhile Hindu Religious and Charitable Endowments (Administration) Department shall be made by the Commissioner, Malabar Devaswom Board or the concerned Area Committee, as the case may be. The learned Standing Counsel sought time to place on record an affidavit of the Commissioner, Malabar Devaswom Board, in this writ petition as well as in the connected matter.

6. Pursuant to the directions contained in the order of this Court dated 07.02.2025, the 3rd respondent Commissioner, Malabar Devaswom Board has filed a counter affidavit dated 19.02.2025. Paragraph 3 of that counter affidavit reads thus;

> "3. It is submitted that, in obedience to the directions in the judgment in Muraleedharan's case, Commissioner will place a draft of the guidelines, before the 2nd respondent Board. The guidelines will be framed by the Board, as supplementary to the relevant provisions governing the appointment of Non Hereditary Trustees, as envisaged in the HRCE Act and Rules. By absorbing the spirit of the judgment and the objectives to be fulfilled, the Board will be incorporating fresh guidelines, for the process of selection of Non Hereditary Trustes to be carried out by the Commissioner/Area Committee, or the Board. It will be done only after consideration of the objections and after obtaining individual reports from the concerned Divisional Inspector and comparative Assessment

of the applicants, with specific reference to the eligibilities and the disqualifications provided in the guidelines dated 18.05.2004, issued by the Commissioner of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department. It is submitted that this respondent will take all endeavours to see that the procedure for appointing the Non Hereditary Trustees is made, more fair and transparent. It is submitted that depending upon the final outcome of the above referred SLP, pending before the Hon'ble Apex Court, further guidelines will be formulated."

7. Heard the learned counsel for the petitioner, the learned Senior Government pleader for the 1st respondent and the learned Standing Counsel for Malabar Devaswom Board for respondents 2 to 4 and also the learned counsel for respondents 8 to 12.

8. In the writ petition it is contended that though the disqualifications and ineligibilities of respondents 8 to 12, in terms of Ext.P1 notification dated 28.06.2024 issued by the 3rd respondent Commissioner, Malabar Devaswom Board, for being appointed as non-hereditary trustees of Puthanalkkal Bhagavathy Temple, were brought to the notice of the 6th respondent Divisional Inspector by submitting Ext.P3 objection dated 26.10.2024, which was followed by Ext.P6 statement dated 04.12.2024, along with supporting materials like Ext.P7 leaflet, which was followed by

Ext.P8 objection dated 06.12.2024 submitted by the 4th respondent Assistant Commissioner, supported by Ext.P9 photographs of respondents 8 to 12 attending political party meetings, the Board and its officials are proceeding with the matter, ignoring the objections raised by the petitioner, in violation of the law laid down by this Court in the decisions referred to supra.

9. In **Suresh K. v. State of Kerala and others [2021 (2) KLT 885]**, a Division Bench of this Court observed that temple or its precincts cannot be made a place where political parties should look forward to give political asylum to their workers. The Division Bench noticed that ours being a highly politically sensitive State, hardly any person can be traced, who is completely apolitical or who may not have his own independent political views. There may be persons having permanent political ideologies or views whereas there may be equal number of persons who hold views according to the issues involved. Perhaps that may be the reason why Kerala has become a State of political swinging. The Division Bench made it clear that holding political views or sympathizing with a political denomination cannot be held a disqualification for nominating anyone to such a post. On the facts of the case on hand,

the Division Bench held that even assuming that respondents 7 to 9 have some political leaning or rather they are sympathizers of a political party, that fact will not disentitle them to be considered for appointment as non-hereditary trustees. There is clear distinction between sympathizing with a political party and indulging in active participation in the activities of the party. The taboo under sub-clause (g) of clause 3 of the notification issued by the Commissioner will be attracted only if respondents 7 to 9 are active politicians or are office bearers of a political party, for which absolutely no evidence is forthcoming.

10. In **Chathu Achan K. v. State of Kerala [2022 (6) KLT 388]** a Division Bench of this Court in which one among us [Anil K. Narendran, J] was a party noticed that the provisions of Clauses 3 and 4 of the notification issued by the Commissioner make it explicitly clear that, for appointment as non-hereditary trustee of the temple, the applicant should be a regular worshipper of the temple, who is prepared to actively work for the betterment of the temple. He should be a permanent resident of the Taluk in which the temple situates, who believe in idolatry. Persons who are busy with their employment, office bearers of political parties,

active politicians or those indulging in active participation in the activities of a political party cannot aspire appointment as non-hereditary trustee of the temple. Therefore, it is for the Commissioner to take necessary steps to ensure that any appointment made as non-hereditary trustee of the temples under the control of Malabar Devaswom Board is strictly in terms of the disqualification and eligibility clauses provided in similar notifications. If found necessary, the format of the application for appointment as a non-hereditary trustee in the temple under the control of Malabar Devaswom Board has to be modified in an appropriate manner, by requiring the applicant to furnish particulars in terms of the disqualification and eligibility clauses in similar notifications. The Commissioner was directed to take necessary steps in this regard, if found necessary, after placing before the Malabar Devaswom Board, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a certified copy of that judgment.

11. In **N.K.E. Chandrashekharan Nampoodiripad v. Commissioner, Malabar Devaswom Board and others [2023:KER:55922]** - judgment dated 08.09.2023 in

W.P.(C)No.29279 of 2023 - a Division Bench of this Court in which one among us [Anil K. Narendran, J] was a party held that, in view of the law laid down by this Court in **Chathu Achan K. [2022 (6) KLT 388]**, for appointment as non-hereditary trustee in TTK Devaswom, which are controlled institutions under the Malabar Devaswom Board, the applicant should be a regular worshipper of the temple, who is prepared to actively work for the betterment of the temple. He should be a permanent resident of the Taluk in which the temple situates, who believe in idolatry. Persons who are busy with their employment, office bearers of political parties, active politicians or those indulging in active participation in the activities of a political party cannot aspire to appointment as non-hereditary trustees of TTK Devaswom. Therefore, the Commissioner has to ensure that any appointments made as non-hereditary trustee in TTK Devaswom, which is a controlled institution under the Malabar Devaswom Board, are strictly in terms of the disqualification and eligibility clauses provided in the notification dated 10.07.2023.

12. In **Anantha Narayanan and another v. Malabar Devaswom Board and others [2023 KLT OnLine 1195 : 2023**

SCC OnLine Ker 1022], a Division Bench of this Court in which one among us [Anil K. Narendran, J] was a party, held that when clause 3(7) of the notification issued by the Commissioner for appointment as non-hereditary trustees in the temples, which are controlled institutions under the Malabar Devaswom Board, is considered in the light of the interpretation given by this Court in **Chathu Achan K. [2022 (6) KLT 388]**, no person actively involved in politics is eligible to be appointed as a non-hereditary trustee in a temple.

13. In **Anantha Narayanan [2023 KLT OnLine 1195]** the Division Bench noticed that the *Oxford Advanced Learners Dictionary* defines 'politician' as "a person whose job is concerned with politics, especially as an elected member of the Parliament, etc." Such a technical meaning of the word 'politician' cannot be accepted to understand clause 3(7) in the notification which says that active politicians or persons holding official posts in any political party are ineligible. The terms are used disjunctively. So persons who are actively involved in politics, whether or not they hold any post in a political party, are ineligible. On the facts of the case on hand, the Division Bench noticed that respondents 6 to 8

therein have no case that they have any other profession. It is a matter of common knowledge that the functioning of a political party and selection/election of its office bearers is not similar to public employment. Whichever be the political party, one who is actively involved in the activities of that political party alone is ordinarily selected/elected as an office bearer. Having been selected as office bearers of the political party/DYFI before or soon after the appointment as non-hereditary trustees, respondents 6 to 8 cannot contend that they were not active politicians. In the constitution of DYFI, it is stated that a member of the DYFI can work in any political party. That does not mean that the DYFI does not have any political colour. Whether or not it has any affiliation to any particular political party, what is evident from the constitution is that the area of activities of DYFI is politics and related activities. As such it cannot be said that the activities of DYFI are non-political.

14. In **Anantha Narayanan [2023 KLT OnLine 1195]** the Division Bench noticed that, going by the parameters prescribed in notification, persons who are convicted for more than six months for offences involving moral turpitude are alone

ineligible to be non-hereditary trustees. It is, however, specifically prescribed in the notification that persons who apply to be appointed as non-hereditary trustees shall be idol worshippers and persons having an interest in the advancement of the temple. They should also be persons used to be involved in the affairs of the temple. A person having reverence and adoration for a deity can alone be treated as a worshipper. A person facing criminal prosecution for an offence involving moral turpitude cannot be considered a true worshipper of that standard required for a person to be appointed as a trustee in a temple. A trustee is a person obligated to conduct temple affairs in accordance with custom or usage. In **A.A. Gopalakrishnan v. Cochin Devaswom Board [(2007) 7 SCC 482]** a Three-Judge Bench of the Apex Court explained the diligence and devotion a trustee of a temple should have. When those are the necessary qualifications required for a person to be appointed as a non-hereditary trustee, and the danger of appointing unqualified and untrustworthy persons as trustees, the Malabar Devaswom Board shall stipulate the eligibility criteria in consonance with that. Therefore, the Malabar Devaswom Board was directed to take a decision in that regard before proceeding

with any new appointment of non-hereditary trustees in the temples under it.

15. In **Muraleedharan M. v. Malabar Devaswom Board and others [2024 (6) KHC SN 20]**, a Division Bench of this Court in which one among us [Anil K. Narendran, J] was a party, in view of the provisions contained in Chapter II of the Madras Hindu Religious and Charitable Endowments Act of 1951, as amended by the Amendment Act of 2008, the Malabar Devaswom Board and the authorities under the Board, including the Commissioner, have essentially the duty and obligation to act in trust. In view of the provisions contained in Section 24 of the Act, the trustee of every religious institution is bound to administer its affairs and to apply its funds and properties in accordance with the terms of the trust, the usage of the institution and all lawful directions which a competent authority may issue in respect thereof and as carefully as a man of ordinary prudence would deal with such affairs, funds and properties if they were his own. Therefore, in the matter of the appointment of non-hereditary trustees in religious institutions, the competent authority in the Board has a duty to act fairly, and the fairness in the action must be demonstrable from the records and

also the decision. The decision taken by the competent authority should disclose an assessment of the comparative merits and demerits of the applicants, with specific reference to the disqualification and eligibility clauses provided in the guidelines dated 18.05.2004 issued by the Commissioner of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department, and the files should disclose the manner in which such an assessment has been made by the competent authority. It is after the decision of the Division Bench in **K.P. Vasudevan Namboothiri v. K.C. Vasudevan Namboothiri** - judgment dated 01.04.2004 in O.P. No. 6131 of 2003 - that the Commissioner of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department issued guidelines dated 18.05.2004 for the selection of non-hereditary trustees in the Malabar area under the control of that Department. That guidelines were issued by the Commissioner of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department, who was exercising the powers under the Act of 1951, presently exercised by the Malabar Devaswom Board, after its constitution by the Amendment Act of 2008. Till the framing of statutory rules in the

exercise of the powers under the Act, the aforesaid guidelines issued by the Commissioner of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department, would govern the field.

16. In **Muraleedharan M. [2024 (6) KHC SN 20]** this Court held that, in view of the provisions contained in clause (a) of the guidelines dated 18.05.2004, a person appointed as a non-hereditary trustee shall be ordinarily a resident in the Taluk in which the temple is situated. As per clause (b), he shall be a person who is in the habit of visiting the temple usually. As per clause (c), he shall be a person believing in idol worship, and persons who are actively working for the welfare of the temple/temples may be given preference. In view of the provisions contained in clause (d) of the guidelines, the following category of persons need not be considered for appointment ordinarily (i) busy professionals; (ii) active politicians and office bearers of political parties; (iii) persons who had encroached Devaswom lands or against whom Devaswom has filed cases in a court of law; and (iv) persons who had filed litigations against the Devaswom. As per clause (e) of the guidelines, when the comparative merits and demerits are difficult

to decide as above, the educational qualification shall be taken as a determinant factor. As per clause (f) of the guidelines dated 18.05.2004, while making an appointment, as far as possible, persons who can work as a team for the welfare and development activities of the temple shall be appointed. As per clause (i) of the guidelines, in case appointments are made, not in accordance with these guidelines, the reason therefor shall be recorded. The report of the officer conducting an enquiry as to the suitability of the applicants shall contain specific remarks with regard to the above points. Therefore, any appointments made by the 2nd respondent Commissioner, Malabar Devaswom Board or the concerned Area Committee, as the case may be, as non-hereditary trustees of Devaswoms/Temples which are controlled institutions under the Malabar Devaswom Board, shall be strictly in terms of the disqualification and eligibility clauses in the guidelines dated 18.05.2004 issued by the Commissioner of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department and the law laid down by this Court in **Chathu Achan [(2022) 6 KLT 388]** and **Anantha Narayanan [2023 KLT OnLine 1195]**, after eliminating active politicians and office bearers of political

parties, busy professionals, etc. from the zone of consideration.

17. In **Muraleedharan M. [2024 (6) KHC SN 20]** this Court considered the question as to whether the eligibility criteria prescribed in the notification dated 19.01.2022 issued by the Commissioner inviting applications for appointment as non-hereditary trustees of Sree Vairamcode Bhagavathi Temple are at variance with the provisions under the Act of 1951. Relying on the judgment of the Apex Court in **Ashish Kumar v. State of Uttar Pradesh [(2018) 3 SCC 55]**, the learned Senior Counsel for Malabar Devaswom Board contended that when the eligibility criteria prescribed in the notification dated 19.01.2022 issued by the Commissioner are in variance with the provisions under Section 46 the Act, that guidelines would not take precedence over the statutory provisions.

18. In **Muraleedharan M. [2024 (6) KHC SN 20]** this Court noticed that in view of the provisions contained in Chapter II of the Act of 1951, as amended by the Amendment Act of 2008, the Malabar Devaswom Board and the authorities of the Board, including the Commissioner, have the duty and obligation to act in trust. In view of the provisions contained in Section 24 of the Act,

the trustee of every religious institution is bound to administer its affairs and to apply its funds and properties in accordance with the terms of the trust, the usage of the institution and all lawful directions which a competent authority may issue in respect thereof and as carefully as a man of ordinary prudence would deal with such affairs, funds and properties if they were his own. The notification dated 19.01.2022 issued by the Commissioner, Malabar Devaswom Board, is one issued in terms of guidelines dated 18.05.2004 issued by the Commissioner of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department. The said guidelines were issued pursuant to the directions contained in the judgment of a Division Bench of this Court in **K.P. Vasudevan Namboothiri** - judgment dated 01.04.2004 in O.P. No. 6131 of 2003 - when it was noticed that the absence of guidelines or rules would lead to arbitrariness in the matter of selection and appointment of non-hereditary trustees, an assessment of the comparative merits and demerits of the applicants has to be undertaken before appointing non-hereditary trustees in a religious institution. In the said decision, the Division Bench noticed that no qualification for non-hereditary trustees had

been prescribed. That guidelines were issued by the Commissioner of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department, who was exercising the powers under the Act of 1951, presently exercised by the Malabar Devaswom Board, after its constitution by the Amendment Act of 2008. Till the framing of statutory rules in the exercise of the powers under the Act, the aforesaid guidelines issued by the Commissioner of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department, would govern the field. Section 46 of the Act deals with disqualifications of trustees. As per sub-section (1) of Section 46, a non-hereditary trustee shall cease to hold his office if he acquires any of the disqualifications enumerated in clauses (a) and (b) thereto. The qualifications contained in the notification therein, which is in terms of guidelines dated 18.05.2004, are not at variance with the provisions contained in the Act of 1951. Therefore, the Division Bench repelled as untenable, the contentions to the contra raised by the learned Senior Counsel for Malabar Devaswom Board.

19. In **Muraleedharan M. [2024 (6) KHC SN 20]** this Court issued certain directions in the matter of appointment of non-

hereditary trustees in Devaswoms/Temples, which are controlled institutions under the Malabar Devaswom Board, in order to ensure a fair and transparent mechanism for such appointment, taking into consideration the requirements of the provisions contained in the Madras Hindu Religious and Charitable Institutions Act, till rules are made for that purpose under the said Act. Paragraph 154 of the said decision reads thus;

> "154. Having considered the submissions made by the learned Senior Counsel for Malabar Devaswom Board on the above aspect, we deem it appropriate to issue the following directions in the matter of appointment of non-hereditary trustees in Devaswoms/Temples, which are controlled institutions under the Malabar Devaswom Board, in order to ensure a fair and transparent mechanism for such appointment, taking into consideration the requirements of the provisions contained in the Madras Hindu Religious and Charitable Institutions Act, till rules are made for that purpose under the said Act.
>
> (i) The notifications issued for the appointment as non-hereditary trustees in Devaswoms/Temples, which are controlled institutions under the Malabar Devaswom Board, shall be published in a local daily having wide circulation. The notification shall also be published in the notice board of the Devaswom/Temple, at a prominent place, for

the information of the devotees, and also in the notice board of the concerned Local Self-Government Institution and the Village Office.

(ii) Once applications are received, the details of the applicants shall be exhibited on the notice board of the Devaswom/Temple, at a prominent place, so as to enable the devotees to point out the disqualifications, if any, of any of the applicants, by submitting written objections before the 2nd respondent Commissioner or the concerned Area Committee, as the case may be, furnishing therewith their name, address and mobile number. Those objections shall also be dealt with appropriately by the 2nd respondent Commissioner or the concerned Area Committee, as the case may be, after obtaining individual reports on those complaints from the concerned Divisional Inspector.

(iii) In the case of Devaswoms/Temples in which appointment of non-hereditary trustees is made by the concerned Area Committee, the evaluation of the applicants with reference to the report of the concerned Divisional Inspector shall be made by a Committee consisting of a member of the Area Committee to be nominated by its Chairman, the concerned Assistant Commissioner and the hereditary trustee of the Devaswom/ Temple. In the absence of a hereditary trustee, the Tantri or Melsanthi of the

Devaswom/Temple shall be a member of that Committee. The said Committee shall have a comparative assessment of the applicants with specific reference to the eligibilities and disqualifications provided in the guidelines dated 18.05.2004 issued by the Commissioner of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department and the said assessment shall be the basis for the appointment of non-hereditary trustees by the concerned Area Committee.

(iv) In the case of Devaswoms/Temples in which appointment of non-hereditary trustees is made by the 2nd respondent Commissioner, Malabar Devaswom Board, the evaluation of the applicants with reference to the report of the concerned Divisional Inspector shall be made by a Committee consisting of a member of the concerned Area Committee to be nominated by the Commissioner, the concerned Assistant Commissioner and the hereditary trustee of the Devaswom/ Temple. In the absence of a hereditary trustee, the Tantri or Melsanthi of the Devaswom/Temple shall be a member of that Committee. The said Committee shall have a comparative assessment of the applicants with specific reference to the eligibilities and disqualifications provided in the guidelines dated 18.05.2004 issued by the Commissioner

> of the erstwhile Hindu Religious and Charitable Endowments (Administration) Department and the said assessment shall be the basis for the appointment of non-hereditary trustees by the Commissioner, Malabar Devaswom Board."

20. As already noticed hereinbefore, on 07.02.2025, the learned Standing Counsel for Malabar Devaswom Board pointed out the order of the Apex Court dated 20.01.2025 in SLP(C) Diary No.60879 of 2024, arising out of the judgment of this Court in **Muraleedharan M. [2024 (6) KHC SN 20]**. The said SLP is one filed by Malabar Devaswom Board and its officials, after the dismissal of SLP(C) No.29188 of 2024. In SLP(C) Diary No.60879 of 2024, while issuing notice to the respondents, the Apex Court confined the scope of consideration only with respect to clauses (iii) and (iv) in paragraph 154 of the judgment in **Muraleedharan M. [2024 (6) KHC SN 20]** and the order of stay is also confined to that extent alone.

21. In the order dated 07.02.2025, this Court noticed the submission made by the learned Standing Counsel for Malabar Devaswom Board, after referring to the aforesaid order of the Apex Court that after complying with the procedure contemplated in clauses (i) and (ii) of paragraph 154 of the judgment of this Court

in **Muraleedharan M. [2024 (6) KHC SN 20]**, i.e., consideration of the objections after obtaining individual reports from the concerned Divisional Inspector and comparative assessment of the applicants with specific reference to the eligibilities and disqualifications provided in the guidelines dated 18.05.2004 issued by the Commissioner of erstwhile Hindu Religious and Charitable Endowments (Administration) Department shall be made by the Commissioner, Malabar Devaswom Board or the concerned Area Committee, as the case may be. After the order of this Court dated 07.02.2025, the 3rd respondent Commissioner has filed a counter affidavit dated 19.02.2025. Paragraph 3 of that counter affidavit has already been extracted hereinbefore at paragraph 6.

22. The learned Standing Counsel for Malabar Devaswom Board would submit that Exts.P4 and P6 objections made by the petitioner pointing out the alleged ineligibility/disqualification of respondents 8 to 12 for being appointed as non-hereditary trustees of Puthanalkkal Bhagavathy Temple, Cherpulassery, in the process of selection pursuant to Ext.P1 notification dated 28.06.2024 shall be considered by the 3rd respondent Commissioner, Malabar

Devaswom Board, taking note of the law laid down by this Court in **Muraleedharan M. [2024 (6) KHC SN 20]**, subject to the interim order of the Apex Court dated 20.01.2025 in SLP(C) Diary No.60879 of 2024.

Having considered the pleadings and materials on record and also the submissions made at the Bar, we deem it appropriate to dispose of this writ petition by directing the 3rd respondent Commissioner, Malabar Devaswom Board to consider Exts.P6 statement and P8 objections made by the petitioner, along with supporting documents like Exts.P7 and P9, pointing out the ineligibility/disqualification of respondents 8 to 12, for being appointed as non-hereditary trustees of Puthanalkkal Bhagavathy Temple, Cherpulassery, in the process of selection pursuant to Ext.P1 notification dated 28.06.2024, with notice to the petitioner, the 5th respondent Executive Officer, the 7th respondent hereditary trustee and also respondents 8 to 12, and after affording them an opportunity of being heard, after taking note of the law laid down by this Court in **Muraleedharan M. [2024 (6) KHC SN 20]**, subject to the interim order of the Apex Court dated 20.01.2025 in SLP(C) Diary No.60879 of 2024. A decision in this regard shall be

taken, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a certified copy of this judgment. In the process, the 3rd respondent Commissioner shall also consider other objections, if any, received against the applicants pursuant to Ext.P1 notification dated 28.06.2024 for appointment as non-hereditary trustees of Puthanalkkal Bhagavathy Temple, Cherpulassery.

Sd/-
ANIL K. NARENDRAN, JUDGE

Sd/-
MURALEE KRISHNA S., JUDGE

MSA

APPENDIX OF WP(C) 45280/2024

PETITIONER EXHIBITS

Exhibit P1	**TRUE COPY OF THE NOTIFICATION BEARING NO. J5-3326/2024/MDB DATED 28.6.2024 INVITING APPLICATION FOR NON- HEREDITARY TRUSTEES FOR PUTHANALKKAL BHAGAVATHY TEMPLE**
Exhibit P2	**TRUE COPY OF THE NOTICE BEARING NO. 121/2024/MDB DATED 14.10.2024 PUBLISHED BY THE 6 TH RESPONDENT**
Exhibit P3	**TRUE COPY OF THE OBJECTION DATED 26.10.2024 SUBMITTED BEFORE THE 6 TH RESPONDENT**
Exhibit P4	**TRUE COPY OF THE NOTICE ISSUED BY THE 6 TH RESPONDENT DATED 16.11.2024**
Exhibit P5	**TRUE COPY OF THE NOTICE DATED 20.11.2024**
Exhibit P6	**TRUE COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER DATED 04.12.2024**
Exhibit P7	**TRUE COPY OF THE LEAFLET THAT CONFIRMS THE 11 TH RESPONDENT'S CANDIDACY**
Exhibit P8	**TRUE COPY OF THE OBJECTION DATED 06.12.2024**
Exhibit P9	**THE PHOTOGRAPHS SHOWING THE RESPONDENT NO. 8 TO 12, ATTENDING THE POLITICAL PARTY MEETINGS**