

**Madras Hindu Religious And Charitable Endowments Act,  
1951**

**19 of 1951**

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**Madras Hindu Religious And Charitable Endowments Act,  
1951**

**19 of 1951**

An Act to provide for the better administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Madras Whereas it is expedient to amend and consolidate the law relating to the administration and governance of Hindu religious and Charitable Institutions and Endowments in the State

of Madras; It is hereby enacted as follows:-

## **CHAPTER 1 PRELIMINARY**

### **1. Short Title, Extent, Application And Commencement :-**

(1) This Act may be called the Madras Hindu Religious and Charitable Endowments Act, 1951.

(2) It extends to the whole of the State of Madras and applies to all Hindu public religious institutions and endowments, including the Tirumalai Tirupati Devasthanams and the endowments thereof.

Explanation.-In this sub-section, Hindu public religious institutions and endowments do not include Jain religious institutions and endowments.

(3) It shall come into force on such date as the Government may, by notification in the Fort St. George Gazette appoint.

### **2. Power To Extend Act To Jain Religious Institutions And Endowments :-**

The Government may, by notification in the Fort St. George Gazette, extend to Jain public religious institutions and endowments, all or any of the provisions of this Act and of any rules made thereunder and thereupon the provisions so extended shall apply to such institutions and endowments as if the expressions Hindu and Hindus therein included Jain and Jains respectively:

Provided that before issuing such a notification, the Government shall publish in the Fort St. George Gazette, a notice of their intention to do so, fix a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the institutions, and endowments concerned to show cause against the issue of the notification, and consider their objections, if any.

### **3. Power To Extend Act To Charitable Endowments :-**

Where the Government have reason to believe that any Hindu or Jain public charitable endowment is being mismanaged and are satisfied that in the interest of the administration of such charitable

endowment it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder, they may, by notification in the Fort St. George Gazette, extend to such charitable endowment the said provisions and thereupon the provisions so extended shall apply to such charitable endowment as if it were a specific endowment;

Provided that before issuing such a notification, the Government shall publish in the Fort St. George Gazette, a notice of their intention to do so, specifying the reasons for the action proposed to be taken by them and fixing a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the endowment concerned to show cause against the issue of the notification, and consider their objections, if any.

#### **4. Exemptions :-**

The Government may, by notification in the Fort St. George Gazette,-

[2][(a) exempt from the operation of any of the provisions of this Act or of any rules made thereunder any religious or charitable institution or endowment, the administration of which is, for the time being vested in-

(i) the Official Trustee or in the Administrator General, or  
(ii) any body corporate entrusted by law with the administration of religious institutions; or]

(b) vary or cancel such exemption.

#### **5. Repeals :-**

(1) The Madras Hindu Religious Endowments Act, 1926, is hereby repealed.

(2) The Tirumalai-Tirupati Devasthanams Act, 1932, is hereby repealed, but the repeal shall not revive the arrangement made by the Government in 1843 for the management of the Tirumalai-Tirupati Devasthanams or the scheme settled by the Privy Council in Appeal No.6 of 1906 or the rules framed under such scheme.

(3) The following enactments shall cease to apply to Hindu religious institutions and endowments, namely:-

- (a) the Madras Endowments and Escheats Regulation, 1817;
- (b) the Religious Endowments Act, 1863;
- (c) the Charitable Endowments Act, 1890;
- (d) the Charitable and Religious Trusts Act, 1920; and
- (e) sections 92 and 93 and Code of Civil Procedure, 1908

**6. Definition :-**

In this Act, unless there is anything repugnant in the subject or context-

(1) "Area Committee" means, in relation to any temple or specific endowment, the Area Committee constituted under this Act and having jurisdiction over such temple or endowment;

(2) "Assistant Commissioner" means an Assistant Commissioner appointed under section 8;

(3) "Board" means the Board constituted under section 10 of the Madras Hindu Religious Endowments Act, 1926;

(4) "Charitable endowment" means all property given or endowed for the benefit of, or used as of right by, the Hindu or the Jain Community or any section thereof, for the support or maintenance of objects of utility to the aid community or section, such as rest-houses, choultries, patasalas, schools and colleges, houses for feeding the poor and institutions for the advancement of education, medical relief and public health or other subjects of a like nature; and includes the institution concerned;

(5) "Commissioner" means the Commissioner appointed under section 8;

(6) "Court" means-

(i) in relation to a math or temple situated in the Presidency-town, the Madras City Civil Court;

(ii) in relation to a math or temple situated elsewhere, the

Subordinate Judges Court having jurisdiction over the area in which the math or temple is situated, or if there is no such court, the District Court having such jurisdiction;

(iii) in relation to a specific endowment attached to a math or temple, the Court which would have jurisdiction as aforesaid in relation to the math for temple;

(iv) in relation to a specific endowment attached to two or more maths or temples, any court which would have jurisdiction as aforesaid in relation to either or any of such maths or temples;

(7) "Deputy Commissioner" means a Deputy Commissioner appointed under section 8;

(8) "Government" means the State Government;

(9) "hereditary trustee" means the trustee of religious institution succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force;

(10) "Math" means a Hindu religious institution with properties attached thereto and presided over by a person whose duty it is to engage himself in imparting religious instruction or rendering spiritual service to a body of disciples or who exercises or claims to exercise spiritual headship over such a body; and includes places of religious worship or instruction which are appurtenant to the institution;

Explanation.-Where the headquarters of a math are outside the State but the math has properties situated within it, control shall be exercised over the math in accordance with the provisions of this Act, in so far as the properties of the math situated within the State are concerned.

(11) "person having interest" means-

(a) in the case of math, a disciple of the math or a person of the religious persuasion to which the math belongs;

(b) in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in



the temple, or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat;

(c) in the case of a specific endowment, a person who is entitled to attend at or is in the habit of attending the performance of the service or charity, or who is entitled to partake or is in the habit of partaking in the benefit of the charity;

(12) "prescribed" means prescribed by rules made by the Government under this Act;

(13) "religious charity" means a public charity associated with a Hindu festival or observance of a religious character, whether it be connected with a math or temple or not;

"religious endowment" or "endowment" means all property belonging to or given or endowed for the support of maths or temples or given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity; and includes the institution concerned and also the premises thereof, but does not include gifts of property made as personal gifts to the archaka, service -holder or other employee of a religious institution;

Explanation (1).-Any inam granted to a archaka, service-holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the archaka, service-holder or employee but shall be deemed to be religious endowment.

Explanation (2).-All property which belonged to, or was given or endowed for the support of a religious institution, or which was given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity shall be deemed to be a "religious endowment" or "endowment" within the meaning of this definition, notwithstanding that, before or after the commencement of this Act, the religious institution has ceased to exist or ceased to be used as a place of religious worship or instruction or the service or charity has ceased to be performed:

Provided that this Explanation shall not be deemed to apply in respect of any property which vested in any person before the

commencement of this act, by the operation of the law of limitation.

(15) "religious institution" means a math, temple or specific endowment;

(16) "Specific endowment" means any property or money endowed for the performance of any specific service or charity in a math or temple, or for the performance of any other religious charity, but does not include an inam of the nature described in Explanation (1) to clause (14);

(17) "temple" means a place by whatever designation known, used as a place of public religious worship and dedicated to, or for the benefit of or used as of right by the Hindu community or any section thereof, as a place of public religious worship;.

(18)xxx

(19) "tustee" means any person or body by whatever designation known in whom or in which the administration of a religious institution is vested, and includes any person or body who or which is liable as if such person or body were a trustee.

## **CHAPTER 2** THE COMMISSIONER AND OTHER CONTROLLING AUTHORITIES

### **7. Authorities Under Act :-**

There shall be the following classes of authorities under this Act, namely :-

- (a) The Commissioner
- (b) Deputy commissioners;
- (c) Assistant Commissioners; and
- (d) Area Committees.

### **8. Government To Appoint Commissioner, Etc :-**

The Government shall appoint the Commissioner and such number of Deputy and Assistant Commissioners as they think fit.

### **9. Commissioner, Etc., To Be Hindus :-**

The Commissioner, every Deputy or Assistant Commissioner and every other officer or servant appointed to carry out the purposes of this Act, by whomsoever appointed, shall be a person professing the Hindu religion, and shall cease to hold office as such when he ceases to profess that religion.

#### **10. Delegation To Deputy Commissioners :-**

1) The Commissioner shall, with the previous approval of the Government, specify the area within which each Deputy Commissioner, if there is more than one, shall exercise the powers and discharge the duties assigned by or under this Act to a Deputy commissioner as such.

(2) The Commissioner may delegate any of the powers conferred or duties imposed on him by or under this Act [including the powers and duties of an Assistant Commissioner which may be exercised by the Commissioner under the proviso to section 11, sub-section (2), but not including the powers and duties of the Commissioner under sections 18, 19, 38, 39, 52 [3][\*\*\*] 61, 64 or 76 (2)] in respect of any area or of any class or group of institutions in the State or any area therein to a Deputy commissioner subject to such restrictions and control as the Government, may be general or special order, lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

#### **11. Territorial Jurisdiction And Powers And Duties Of Assistant Commissioners :-**

(1) The Commissioner shall, with the previous approval of the Government divide the State into divisions, each of which shall be in the charge of an Assistant Commissioner.

(2) An Assistant Commissioner shall exercise such powers and discharge such duties as are assigned to him by or under this Act in respect of his division:

Provided that the Commissioner may, by order in writing, declare that the exercise and discharge of all or any of such powers and duties shall be subject to such exceptions, limitations and conditions as may be specified in the order, and may himself exercise or discharge any power or duty so excepted.

(3) The Commissioner may delegate to an Assistant Commissioner

any of the powers conferred or duties imposed on the Commissioner by or under this Act [other than the powers and duties referred to in sections 18, 19, 38, 39, 52 [4][\*\*\*] 61, 64 or 76 (2)] in respect of the division of the Assistant Commissioner or of any institutions or any class or group of institutions in that division, subject to such restrictions and control as the Government may, by general or special order, lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

## **12. Area Committees :-**

(1) The Government-

(a) shall, as soon as may be after the commencement of this Act, by notification in the Fort St. George Gazette, constitute an Area Committee for all temples situated in an Assistant Commissioner's division or part thereof other than temples included in the list published under section 38; and

(b) may likewise abolish any Area Committee constituted under clause (a), provided that before doing so, a reasonable opportunity shall be given to the Committee to show cause against its abolition

(2) An area Committee shall have jurisdiction over specific endowment attached to the temples for which it is constituted, other than specific endowments included in the list published under section 38;

Provided that where a specific endowment is attached to two or more temples comprised within the jurisdiction of two or more Area Committees, the Commissioner shall decide as to which of the area Committees shall have jurisdiction over the specific endowment:

Provided further that where a specific endowment is attached partly to one or more temples included in the list published under section 38 and partly to one or more temples not so included, only the Commissioner shall have jurisdiction over the specific endowment and no Area Committee shall have such jurisdiction.

## **13. Strength Of Area Committees And Term Of Office And Disqualifications Of Members :-**

(1) Every Area Committee shall consist of such number of members

as may be appointed by the Government, not being less than three nor more than five.

(2) Save as otherwise expressly provided in this section, a member of an area Committee shall be entitled to hold office for three years from the date on which his appointment is notified in the Fort. St. George Gazette.

(3) A person shall be disqualified for being appointed as, or for being, a member of an area Committee-

(a) if he does not profess the Hindu religion;

(b) if he has applied or applies to be, or has been, or is, adjudicated an insolvent;

(c) if he is of unsound mind, a deaf-mute or suffering from contagious leprosy;

(d) if he is a trustee of, or an office-holder or a servant attached to, or a person in receipt of any emolument or perquisite from, any temple or specific endowment over which the Area Committee has jurisdiction, or if he belongs to a Joint Hindu Family a member of which is such a trustee, office holder or servant or a person in receipt of any such emolument or perquisite;

(e) if he has been sentenced by a criminal court to transportation or to imprisonment for a period of more than six months, for any offence other than an offence not involving moral turpitude such sentence not having been cancelled or reduced to a period of six months or less or the offence not having been pardoned, provided that the Government may direct that such sentence shall not operate as a disqualification.

(4) A person shall also be disqualified for being appointed as a member of an Area Committee if he is already a member of some other Area Committee.

(5) A member of an Area Committee shall also cease to hold office-

(a) if he absents himself from three consecutive meetings of the Committee:

Provided that when a person who ceased to be a member by reason of such absence, applies for restoration within one month from the date of the last of the three meetings, the Committee may, at the meeting next after the receipt of such application, restore him to his office of member but a member shall not be so restored more than twice during his term of office or

(b) If he resigns his office by giving notice in writing to the Government.

#### **14. Chairman Of Area Committee :-**

(1) The Assistant Commissioner of the division for which or part of which an Area Committee is constituted shall be its Chairman and shall be entitled to preside over its meetings and take part in its proceedings, but shall not be entitled to vote.

(2) He shall forward to the Commissioner a copy of the minutes of the proceedings at every meeting of the Area Committee within a week from the date of the meeting.

#### **15. Power Of Government To Make Rules :-**

The Government may make rules regarding the convening of meetings of Area Committees, the quorum for, and the conduct of business at, such meetings, and all matters relating to the transaction of their business.

#### **16. Act Of Area Committee Not To Be Invalidated By Informality :-**

No act of an Area Committee shall be deemed to be invalid by reason only of a defect in its constitution or on the ground that the Chairman or any member thereof was disqualified for, or had ceased to hold his office, or by reason of such act having been done during the period of any vacancy in the office of the Chairman or any member of such Committee.

#### **17. Performance Of Functions Of Area Committee On Abolition :-**

Where an Area Committee has been abolished under clause (b) of sub-section (1) of section 12, a new Area Committee shall be

constituted within six months of its abolition and till then its powers and? duties shall be exercised and discharged by the Assistant Commissioner concerned.

**18. Power Of Commissioner To Call For Records And Pass Orders :-**

(1) The Commissioner may call for and examine the record of any Deputy or Assistant Commissioner, of any Area Committee, or of any trustee not being the trustee of a math or of a specific endowment attached to a math, in respect of any proceeding under this Act (not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act), to satisfy himself as to the regularity of such proceeding, or the correctness, legality or propriety of any decision or order passed therein.

(2) If any such decision or order has been passed by any Deputy or Assistant Commissioner, or by the trustee of any religious institution other than one included in the list published under section 38, and it appears to the Commissioner that the decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly.

(3) (a) If any such decision or order has been passed any Area Committee or by the trustee of any religious institution included in the list published under section 38, the Commissioner may, if he thinks fit remit the matter together with his observations in regard thereto, to the Committee or trustee for reconsideration of the decision or order and report to the Commissioner within a time to be specified by him in this behalf.

(b) On receipt of, and after considering, such report, it shall be open to the Commissioner to modify, annul or reverse the decision or order, or the decision or order as revised after such reconsideration, as the case may be.

(c) If the report is not received by the Commissioner within the time specified or such further time as may be granted by him, the Commissioner may modify, annul or reverse the decision or order of the Area Committee or trustee, as the case may be.

(4) The Commissioner shall not pass any order prejudicial to any

party under sub-section (2) or clause (b) or clause (c) of sub-section (3), without hearing him or giving him a reasonable opportunity of being heard.

(5) The Commissioner may stay the execution of any decision or order of the nature referred to in sub-section (1), pending the exercise of his powers under sub-section (2) or sub-section (3) in respect thereof.

**19. Other Powers Of Commissioner In Relation To Deputy And Assistant Commissioners And Area Committee :-**

(1)The Commissioner shall have power at any stage.-

(a) to transfer any proceeding pending before a Deputy or an Assistant Commissioner to his own file and dispose of it himself, or

(b) to transfer it to another Deputy or Assistant Commissioner for disposal.

(2) If the Commissioner is satisfied that a Deputy or an Assistant Commissioner has failed to exercise any power or discharge any duty which he ought to have exercised or discharged, the Commissioner may himself exercise such power or discharge such duty.

(3) If the Commissioner is satisfied that an Area Committee --

(a) has failed to exercise any power or discharge any duty which it ought to have exercised or discharged, or

(b) is unable for any reason to exercise any power or discharge any duty, the Commissioner may himself exercise such power or discharge such duty or authorize the Assistant Commissioner to do so:

Provided that in cases falling under clause (a), the Commissioner shall first fix a period for the exercise of the power or the performance of the duty by the Area Committee and shall exercise the right conferred on him by this sub-section only if the power is not exercised or the duty is not performed by the Area Committee within the period so fixed.



(4) Notwithstanding anything contained in this Act, where the office of a Deputy or an Assistant Commissioner is vacant, the Commissioner may, until the vacancy is filled-

(a) himself exercise the powers and discharge the duties assigned by or under this Act to the Deputy or Assistant Commissioner, or

(b) authorize another Deputy or Assistant Commissioner to exercise the said powers and discharge the said duties.

(5) Any party aggrieved by an order of the Commissioner under sub-section (1) (a), (2), (3) or (4) (a) not being an order against which a suit or an appeal to a Court is provided in this Act, may appeal to the Government within three months from the date of the receipt of the order by him:

Provided that the Government shall not pass any order prejudicial to any party without hearing him or giving him a reasonable opportunity of being heard.

### **CHAPTER 3 RELIGIOUS INSTITUTIONS**

#### **20. Powers And Duties Of The Commissioner In Respect Of Religious Endowments :-**

Subject to the provisions of this Act, the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner; and such superintendence and control shall include the power to pass any orders which may be deemed necessary to ensure that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist.

#### **21. Power To Enter Religious Institution :-**

(1) The Commissioner, Deputy Commissioner, Assistant Commissioner or such officers or servants of a religious institution as may be authorised by the Commissioner, Deputy Commissioner, or Assistant Commissioner in this behalf, shall have power to enter the premises of any religious institution or any place of worship for the purpose of exercising any power conferred, or discharging any

duty imposed by or under this Act.

(2) If any such officer or servant is resisted in the exercise of such power or discharge of such duty, the Magistrate having jurisdiction shall, on a written requisition from such officer or servant, direct any police officer not below the rank of Sub- Inspector to render such help as may be necessary to enable the officer or servant to exercise such power or discharge such duty.

(3) In entering the premises of a religious institution or place of worship, the person authorised by, or under sub-section (2) or the police officer referred to in sub-section (2) shall, if practicable, give notice to the trustee and shall have due regard to the practices and usages of the institution.

**21A.** Commissioner, Etc., To Observe Appropriate Forms And Ceremonies :-

The commissioner, Deputy Commissioner, Assistant Commissioner, every member of an Area Committee and every other person exercising powers of superintendence or control under this Act, shall so far as may be, observe forms and ceremonies appropriate to the religious institution in respect of which such powers are exercised and in the case of a math, act in conformity with the usage of a math in his dealings with the head of the math.

**22.** Trustees To Be Hindus And Within Certain Limits Of Age :-

No person may succeed or be appointed to, or hold, the office of the trustee of a religious institution-

(a) unless he professes the Hindu religion, and

(b) except in the case of a hereditary trustee, unless he is not less than twenty-five and not more than seventy years of age.

**23.** Trustee Bound To Obey Orders Issued Under Act :-

The trustee of a religious institution shall be bound to obey all lawful orders issued under the provisions of this Act by the Government, the Commissioner, the Deputy Commissioner, the

Area Committee or the Assistant Commissioner.

#### **24. Care Required Of Trustee And His Powers :-**

(1) Subject to the provisions of the Madras Temple Entry Authorization Act, 1947, 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 with 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.

(2) A trustee shall, subject to the provisions of this Act; be entitled to exercise all powers incidental to the provident and beneficial administration of the religious institution and to do all things necessary for the due performance of the duties imposed on him.

(3) A trustee shall not be entitled to spend the funds of the religious institution for meeting any costs, charges or expenses incurred by him in any suit, appeal or application or other proceeding for, or incidental to, his removal from office or the taking of any disciplinary action against him:

Provided that the trustee may reimburse himself in respect of such costs, charges or expenses if he is specifically permitted to do so by an order passed under section 88.

#### **25. Preparation Of Register For All Institutions :-**

(1) For every religious institution, there shall be prepared and maintained a register showing-

(a) the names of past and present trustees and particulars as to the custom, if any, regarding succession to the office of trustee;

(b) Particulars of the scheme of administration and of the dittam or scale of expenditure;

(c) the names of all offices to which any salary, emolument or perquisite is attached and the nature, time and conditions of service in each case;

(d) the jewels, gold, silver, precious stones, vessels and utensils and other movables belonging to the institution, with their estimated value;

(e) particulars of all other endowments of the institution and of all title-deeds and other documents;

(f) particulars of the idols and other images in or connected with the institutions, whether intended for worship or for being carried in processions;

(g) such other particulars as may be required by the Commissioner.

(2) The register shall be prepared, signed and verified by the trustee of the institution concerned or by his authorized agent and submitted by him to the commissioner, directly in the case of a math, through the Area Committee, in case the institution is subject to the jurisdiction of an Area Committee, and through the Assistant Commissioner in other cases, within three months from the commencement of this Act or from the founding of the institution, as the case may be, or within such further period as may be allowed by the Commissioner, the Area Committee or the Assistant Commissioner:

Provided that this sub-section shall not apply where a register so signed and verified has been submitted to the Board before the commencement of this Act.

(3) The Area Committee or the Assistant Commissioner, if the register is submitted through it or him, may, after such inquiry as it or he may consider necessary, recommend such alterations, omissions or additions in the register as it or he may think fit.

(4) The Commissioner may, after receiving the register and recommendations of the Area Committee or of the Assistant Commissioner with respect thereto and making such further inquiry as he may consider necessary direct the trustee to make such alterations, omissions or additions in the register as the Commissioner may deem fit.

(5) The trustee shall carry out the orders of the Commissioner and then submit three copies of the register as corrected to the Commissioner for approval.

(6) One copy of the register as approved by the Commissioner shall be furnished to the trustee and one to the Area Committee or the Assistant Commissioner concerned, if any.

### **26. Annual Verification Of The Register :-**

The trustee or his authorised agent shall scrutinize the entries in the register every year and submit to the Commissioner for his approval, directly or through the Area Committee or through the Assistant Commissioner as the case may require, a verified statement showing the alterations, omissions or additions required in the register; and the provisions of sub-sections (3) to (6) of section 25 shall apply in relation to such statement as they apply in relation to a register.

### **27. Trustee To Furnish Accounts, Returns Etc :-**

(1) The trustee of every religious institution shall furnish to the Commissioner such accounts, returns, reports or other information relating to the administration of the institution it funds, property or income, or moneys connected therewith, or the appropriation thereof, as the Commissioner may require and at such time and in such form as he may direct.

(2) The powers conferred by sub-section (1) may also be exercised by the Assistant Commissioner in the case of religious institutions other than maths, and by the Area Committee in the case of institutions subject to its jurisdiction.

### **28. Inspection Of Property And Documents :-**

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

(2) The powers conferred by sub-section (1) may also be exercised, in the case of religious institutions other than maths, by the Assistant Commissioner and in the case of institutions over which an Area Committee has jurisdiction, by any member of the Committee authorised by it in this behalf.

(3) It shall be the duty of the trustee of the institution concerned and all officers and servants working under him, his agent and any person having concern in the administration of the institution, to afford all such assistance and facilities as may be necessary or reasonably required in regard to any inspection made in pursuance of sub-section (1) or sub-section (2), and also to produce for inspection any movable property or document referred to in sub-section (1) if so required.

## **29. Alienation Of Immovable Trust Property :-**

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

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

[7][Provided further that the Commissioner, if he is satisfied that owing to any emergency or for some other reason to be specified in the order according sanction, it is not reasonably practicable to follow the procedure prescribed in the foregoing proviso, may, with the previous sanction of the Government dispense with such procedure.

(2) When according such sanction, the Commissioner may impose such conditions and give such directions as he may deem necessary regarding the utilization of the amount raised by the transaction, the investment thereof and in the case of mortgage, regarding the discharge of the same within reasonable period.

(3) A copy of the order made by the Commissioner under this section shall be communicated to the Government and to the trustee and shall be published in such manner as may be prescribed.

(4) The trustee may within three months from the date of this receipt of a copy of the order, and any person having interest may within three months from the date of the publication of the order, appeal to the Government to modify the order or set it aside.

(5) Nothing contained in this section shall apply to the inams referred to in section 35.

**30. Authority Of Trustee To Incur Expenditure For Securing The Health Etc. Of Pilgrims And Worshippers And For The Training Of Archakas Etc :-**

(1) The trustee of religious institution may, after making adequate provision for the purposes referred to in sub-section (2) of section 70--

(i) incur expenditure out of the funds in his charge-

(a) on arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution; and

(b) for the training of archakas, adhyapakas, Vedaparayanikas and othuvars; and

(ii) make contributions in cash or in gold or in silver from the assets of the institution for purposes of national defence.]

(2) In incurring such expenditure [9][or making such contributions] [10][the trustee shall have due regard to]such general or special instuctions as may be given by the Commissioner or in the case of an institution over which an Area Committee has jurisdiction, also by such Committee.

**31. Cypres Application Of Surplus Funds Of Endowments :-**

(1) The Commissioner may, after holding an enquiry in such manner as may be prescribed by order, declare that, after satisfying adequately the purposes of the religious institution and after setting apart a sufficient sum for the repair and renovation of the buildings connected with the math or temple or the endowments attached thereto, there is a surplus which is not required for any such purpose, and may, by such order, director

that such surplus as is declared to be available, be appropriated to religious, educational or charitable purposes:

Provided that, in the case of a temple founded and maintained by a section of the Hindu Community, the surplus shall, as far as possible, be utilized for the benefit of the said section for the purposes mentioned above.

(2) It shall be competent to the Commissioner when giving a direction under sub-section (1) to determine what portion of such surplus shall be retained as a reserve fund for the math or temple and to direct the remainder to be appropriated to the purposes specified in that sub-section.

(3) The Commissioner may, at any time, by order and in the manner provided in subsection (1) modify or cancel an order passed under that sub-section.

(4) The order of the Commissioner under this section shall be published in the prescribed manner. The trustee or any other person having interest may, within six months of the date of such publication, institute a suit in the Court to modify or set aside such order.

Subject to the result of such suit, and of the appeal, if any, under section 31-B, the order of the Commissioner shall be final and binding on the trustee and all persons having interest.

(5) Any decision of the Court under this section may, at any time for sufficient cause, be modified or cancelled by the Court in a suit instituted by the Commissioner or the trustee or any person having interest but not otherwise.]

**31A.** Validation Of Past Appropriation Of Surplus Funds :-

(1) Where before the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954, an appropriation of funds belonging to a religious institution to any of the purposes specified in section 59, sub-section (1) has been made in exercise of the powers purported to be conferred by section 31, such appropriation shall be deemed to be an appropriation made under section 31 as amended by the said



Amendment Act.

(2) Any person having interest may, within six months from the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954 institute a suit in the Court to modify or set aside the appropriation referred to in sub-section (1) and for such further or other relief in relation to funds appropriated.

**31B.** Appeals :-

Any person aggrieved by a decision of the Court, under section 31 or 31-A may, within ninety days from the date of the decision appeal to the High Court.

**32. Enforcement Of Service Or Charity In Certain Cases :-**

(1) Whereas a specific endowment attached to a math or temple consists merely of a charge on property and there is failure in the due performance of the service or charity, the trustee of the math or temple concerned may require the person in possession of the property on which the endowment is a charge, to pay the expenses incurred or likely to be incurred in causing the service or charity to be performed otherwise. In default of such person making payments as required, the Deputy commissioner may, on the application of the trustee and after giving the person in possession a reasonable opportunity of stating his objections in regard thereto, by order, determine the amount payable to the trustee.

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

(3) Against an order of the Deputy Commissioner under sub-section (1) or sub-section (2), the trustee or the person affected may, within two months from the date of the receipt of the order

by him, appeal to the Commissioner.

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

### **33. Power Of Trustee Of Math Or Temple Over Trustees Of Specific Endowments :-**

The trustee of a specific endowment made for the performance of any service or charity connected with a math or temple shall perform such service or charity subject to the general superintendence of the trustee of the math or temple and shall obey all lawful orders issued by him.

### **34. Enfranchisement Of Freeing Of Lands, Etc., Held By A Devadasi On Condition Of Service In A Temple :-**

(1) (a) (i) Where the remuneration for any service to be performed by a devadasi in a temple consists of lands granted or continued in respect of, or annexed to, such service by the Government, the Government shall enfranchise the said lands from the condition of service, by the imposition of quit-rent.

(ii) Where the remuneration for such service consists of an assignment of land revenue so granted or continued, the Government shall enfranchise such assignment of revenue from the condition of service:

Provided that were, at the time when proceedings are taken under this sub-clause, the devadasi is herself the owner of the lands in respect of which the assignment of revenue has been made, enfranchisement shall be effected and quit-rent imposed in the manner laid down in sub-clause (i).

(iii) Where the remuneration of such service consists in part of lands and in part of an assignment of land revenue, enfranchisement of the lands shall be effected in the manner laid down in sub-clause (i) and of the assignment of the land revenue in the manner laid down in sub-clause (ii).

Explanation.-For the purposes of this clause a grant shall be deemed to consist of an assignment of land revenue in all cases in which the devadasi herself is not, at the time specified in the proviso to sub-clause (ii), the owner of the lands in question.

(b) Enfranchisement under clause (a) shall be effected in accordance with such rules as the Government may make in this behalf and shall take effect as and from such date as they may fix.

(2) Where the remuneration for such service consists, in whole or in part, of lands or of produce of lands not falling under subsection (1), the Government shall direct the Collector to determine the amount of rent payable on the lands or the produce in question. The Collector shall thereupon, after giving notice to the party concerned and holding such enquiry as may be prescribed by the Government, by an order, determine the amount of rent, and in doing so, he shall have due regard to-

(a) the rent payable by the tenant for lands of a similar description and with similar advantages in the same village or neighbouring villages; and

(b) the improvements, if any, effected by the devadasi in respect of the lands.

Such order shall be communicated to the parties concerned and also published in the manner prescribed.

(3) The amount of rent fixed by the Collector under sub section (2) may be questioned by petition presented to the Board of Revenue within three months of the date of the publication of the order under the said sub section but subject to the result of such petition, the order of the Collector fixing the amount of rent under sub section (2) shall be final and shall not be liable to be questioned in any court of law:

Provided, however, that the Board of Revenue shall have power on sufficient grounds to entertain a petition presented after expiration of the period of three months.

(4) While determining the rent under sub section (2), the Collector shall fix a date from which the order shall take effect and such lands or produce shall be deemed to have been freed from the condition of service on and from the date so fixed.

(5) No obligation to render any service relating to any temple to which any devadasi may be subject by reason of any grant of land or assignment of land revenue or produce derived from land, shall be enforceable when such land assignment or produce is enfranchised or freed, as the case may be, in the manner herein before provided.

(6) No order passed under sub section (1), (2) or (3) shall operate as a bar to the trial of any suit or issue relating to the right to enjoy the land, or assignment of land revenue or produce derived from land, as the case may be.

(7) (a) The quit-rent imposed under sub section (1) shall be payable to the temple concerned.

(b) The assignment of land revenue enfranchised under sub section (1), or the rent fixed under sub section (2) and (3), as the case may be, shall be payable to the devadasi concerned during her lifetime and after her death to the temple concerned.

(8) For the purpose of this section, "devadasi" shall mean any Hindu unmarried female, [13][who is dedicated for service in a temple.]

(9) Where any inam is granted for a service which is auxiliary to the service to be performed by a devadasi in a temple, such inam shall be enfranchised or freed from the condition of service, as if it were a devadasi inam; and the provisions of sub sections (1) to (8) shall apply accordingly.

### **35. Resumption And Re-Grant Of Inam Granted For The Performance Of Any Charity Or Service :-**

(1) any exchange, gift, sale or mortgage and any lease for a term

exceeding five years, of the whole or any portion of any inam granted for the support or maintenance of a religious institution or for the performance of a charity or service connected therewith or of any other religious charity and made, confirmed or recognized by the Government shall be null and void:

Provided that any transaction of the nature aforesaid (not being a gift) may be sanctioned by the Government as being necessary or beneficial to the institution.

Explanation.-Nothing contained in this sub section shall affect or derogate from the rights and obligations of the landholder and tenant in respect of any land which is ryoti land as defined in the Madras Estates Land Act, 1908.

(2) (a) The Collector may, on his own motion, or on the application of the trustee of the religious institution or of the Commissioner or of any person having interest in the institution who has obtained the consent of such trustee or the Commissioner, by order, resume the whole or any part of any such inam, on one or more of the following grounds, namely:-

(i) that except in the case referred to in the proviso to sub section (1), the holder of such inam or part or the trustee of the institution has made an exchange, gift, sale or mortgage of such inam or part or any portion thereof or has granted a lease of the same or any portion thereof for a term exceeding five years, or

(ii) that the religious institution has ceased to exist or the charity or service in question has in any way become impossible of performance, or

(iii) that the holder of such inam or part has failed to perform or make the necessary arrangements for performing, in accordance with the custom or usage of the institution, the charity or service for performing which the inam had been made, confirmed or recognized as aforesaid, or any part of the said charity or service, as the case may be.

When passing an order under this clause, the Collector shall determine whether such inam or the inam comprising such part, as the case may be, is a grant of both the melvaram and the

kudivaram or only of the melvaram:

Provided that, in the absence of evidence to the contrary, the Collector shall presume that any minor inam is a grant of both the melvaram and the kudivaram.

(c) Before passing an order under clause (a), the Collector shall give notice to the trustee, to the Commissioner, to the inamdar concerned, to the person in possession of the inam where he is not the inamdar and to the alienee, if any, of the inam; the Collector shall also publish a copy of such notice in such manner as may be prescribed and such publication shall be deemed to be sufficient notice to every other person likely to be affected by such order; and the Collector shall hear the objections, if any, of the persons to whom such notice is given or deemed to be given and hold such inquiry as may be prescribed.

Explanation.-Where only a part of the inam is affected, notice shall be given under this clause to the holder of such part as well as to the holder or holders of the other part or parts, to the person in possession of every such part where he is not the holder thereof, and to the alienee, if any, of every such part; and the objections of all such person shall be heard by the Collector.

(c) A copy of every order passed under clause (a) shall be communicated to each of the persons mentioned in clause (b), and shall also be published in the manner prescribed.

(d) (i) Any party aggrieved by an order of the Collector under clause (a) may appeal to the District Collector within such time as may be prescribed, and on such appeal the District Collector may, after giving notice to the Commissioner and each of the persons mentioned in clause (b) and after holding such inquiry as may be prescribed, pass an order confirming, modifying or cancelling the order of the Collector.

(ii) The order of the District Collector on such appeal, or the order of the Collector under clause (a) where no appeal is preferred under sub-clause (i) to the District Collector within the time prescribed, shall be final:

Provided that where there has been an appeal under sub clause (i)

and it has been decided by the District Collector or where there has been no appeal to the District Collector and the time for preferring an appeal has expired any party aggrieved by the final order of the District Collector or the Collector, as the case may be, may file a suit in a civil court for determining whether the inam comprises both the melvaram and the kudivaram or only the melvaram. Such a suit shall be instituted within six months from the date of the order of the District Collector on appeal where there has been an appeal under subclause (i), or from the date of the expiry of the period prescribed under subclause (i) for an appeal to the District Collector where there has been no such appeal..

(e) Except as otherwise provided in clause (d), an order of resumption passed under this section shall not be liable to be questioned in any Court of Law.

(f) Where any inam of part of any inam is resumed under this section, the Collector or the District Collector, as the case may be, shall, by order re-grant such inam or part--

(i) as an endowment to the religious institution concerned, or

(ii) in case of resumption on the ground that the religious institution has ceased to exist or that the charity or service in question has in any way become impossible of performance, as an endowment for such religious, educational or charitable institution as the Commissioner may recommend.

(g) The order of re-grant made under clause (f) shall, on application made to the Collector within the time prescribed, be executed by him in the manner prescribed.

(h) Nothing in this section shall affect the operation of Section 34.

**36. Office Holders And Servants Of Religious Institutions Not To Be In Possession Of Jewels, Etc., Except Under Conditions :-**

Notwithstanding anything contained in any scheme settled or deemed to be settled under this Act or in any decree or order of a Court, or any custom or usage to the contrary, no office- holder or servant of a religious institution shall have the right to be

inpossession of the jewels or other valuables belonging to the religious institution except under such conditions and safeguards as the Commissioner may, by general, or special order, direct.

## RELIGIOUS INSTITUTIONS OTHER THAN MATHS OR SPECIFIC ENDOWMENTS ATTACHED THERETO

### **37. Sections 38 To 51 Not To Apply To Maths Or Specific Endowments Attached To Maths :-**

The provisions of section 38 to 51 shall not apply to maths or specific endowments attached to maths.

### **38. Commissioner To Publish List Of Certain Institutions :-**

The Commissioner shall publish in the prescribed manner a list of the religious institutions whose annual income as calculated for the purposes of the levy of contribution under section 76 is not less than twenty thousand rupees, and may from time to time modify such list in the prescribed manner:

Provided that the Commissioner shall not be bound to remove any institution from such list unless its annual income calculated as aforesaid has fallen below twenty thousand rupees for three consecutive years.

### **39. Trustees And Their Number And Term Of Office :-**

(1) Where a religious institution included in the list published under section 38 or over which no Area Committee has jurisdiction, has no hereditary trustee, the Commissioner shall constitute a Board of Trustees consisting of not less than three and not more than five persons appointed by him.

[14][(2) Where, in the case of any such institution having a hereditary trustee or trustees; the Commissioner after notice to such trustee or trustees and after such enquiry as he deems adequate, considers for reasons to be recorded, that the affairs of the institution are not, and are not likely to be, properly managed by the hereditary trustee or trustees, the Commissioner may , by order appoint such number of non- hereditary trustees as he thinks necessary, so however that the total number of trustees does not



exceed five]

(3) [15][Every trustee appointed under subsection (1) and, subject to the result of an application, if any filed under subsection (4) every non-hereditary trustee appointed under subsection (2)] shall hold office for a term of five years, unless in the meanwhile the trustee is removed or dismissed or his resignation is accepted by the Commissioner or he otherwise cease to be a trustee.

[16] [(4) Where the Commissioner by order appoints a non-hereditary trustee or trustees the hereditary trustee or trustees may, within thirty days of the receipt of the order, file an application to the court to set aside or modify such order.

(5) Where a vacancy arises in the office of a non-hereditary trustee appointed under subsection (2) the commissioner shall not fill up such a vacancy unless, for reasons to be recorded, he considers it necessary to do so. A non hereditary trustee appointed in the vacancy shall be deemed to have been appointed under subsection (2) and the provisions of subsections (3) and (4) shall apply accordingly.

#### **40. Chairman :-**

(1) In the case of a religious institution for which a Board of Trustee is constituted under section 39, subsection (1), the Board shall elect one of its number to be its Chairman.

(2) In the case of any other religious institution having more than one trustee, the trustees of such institution shall elect one of thier number to be the Chairman.

(3) A Chairman elected under subsection (1) or subsection (2) shall hold office for such period as may be prescribed.

#### **41. Power Of Areas Committee To Appoint Trustees :-**

(1) In the case of any religious institution over which an Area Committee has jurisdiction, the Area Committee shall have the same power to appoint trustees as is vested in the Commissioner in the case of a religious institution referred to in section 39:

Provided that the Area Committee may, in the case of any

institution which has no hereditary trustee, appoint a single trustee.

(2) The provisions of section 39, subsection (3), and section 40, shall apply to the trustee or trustees appointed, or the Board of Trustees constituted, by the Area Committee as they apply in relation to the trustee or trustees appointed, or the Board of Trustees constituted, by the Commissioner.

**42. Power Under Sections 39 And 41 To Be Exercisable Notwithstanding Provision In Scheme :-**

The power to appoint trustees under section 39 or section 41 shall be exercisable notwithstanding that the scheme, if any, settled, or deemed under this Act to have been settled for the institution contains provision to the contrary.

**43. Claims Of Certain Persons To Be Trustees :-**

In making appointments of trustees under section 39 or 41, the Commissioner or the Area Committee, as the case may be, shall have due regard to the claims of persons belonging to religious denomination for whose benefit the institution concerned is chiefly maintained.

**44. Non-Hereditary Trustees Holding Office At Commencement Of The Act :-**

Every non-hereditary trustee lawfully holding office at the Commencement of this Act, shall be deemed to have been duly appointed trustee under this Act for the residue of his term of office at such commencement.

**45. Power To Suspend, Remove Or Dismiss Trustees :-**

( 1 ) The Deputy Commissioner in the case of any religious institution over which an Area Committee has jurisdiction, and the Commissioner in the case of any other religious institution, may suspend, remove or dismiss any hereditary or nonhereditary trustee or trustees thereof-

(a) for persistent default in the submission of budgets, accounts, reports or returns, or

(b) for wilful disobedience of any lawful order issued under the provisions of this Act by the Government, the Commissioner or Deputy Commissioner, the Area Committee or the Assistant Commissioner, or

(c) for any malfeasance, misfeasance, breach of trust or neglect of duty in respect of the trust, or

(d) for any misappropriation of, or improper dealing with, the properties of the institution, or

(e) for unsoundness of mind or other mental or physical defect or infirmity which unfits him for discharging the functions of the trustee.

(2) When it is proposed to take action under subsection (1), the Commissioner or the Deputy Commissioner, as the case may be, shall frame charges against the trustee concerned and give him an opportunity of meeting such charges, of testing the evidence adduced against him and of adducing evidence in his favour; and the order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding on each charge with the reasons therefor:

Provided that the Deputy Commissioner shall also consult the Area Committee before passing the final order under subsection (1).

(3) Pending the disposal of the charges framed against the trustee, the Commissioner or the Deputy Commissioner may place the trustee under suspension and appoint a fit person to discharge the functions of the trustee.

(4) It shall be open to an Assistant Commissioner to move the Deputy Commissioner to take action under subsection (1) in respect of any trustee of an institution over which an Area Committee has jurisdiction, and to place the trustee under suspension pending the orders of the Deputy Commissioner under subsection (3).

(5) A trustee who is suspended, removed or dismissed under subsection (1), may, within one month from the date of the receipt of the order of suspension, removal or dismissal; appeal against the

order to the Commissioner if it was passed by a Deputy Commissioner, and to the Government if it was passed by the Commissioner.

#### **46. Disqualification Of Trustees :-**

(1) A non-hereditary trustee shall cease to hold his office if he-

(a) is sentenced by a criminal court to transportation or to imprisonment for a period of more than six months, for any offence other than an offence not involving moral turpitude, such sentence not having been cancelled or reduced to a period of six months or less, or the offence not having been pardoned, provided that the Government may direct that such sentence shall not operate as a disqualification; or

(b) applies to be adjudicated or is adjudicated an insolvent.

(2) In case of doubt or dispute, the Deputy Commissioner shall determine whether a trustee is disqualified under subsection (1) or not.

(3) If a hereditary trustee becomes subject to any of the disqualifications described in subsection (1), the Deputy Commissioner may supersede the trustee.

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

#### **47. Filling Up Of Vacancies In The Office Of Hereditary Trustee :-**

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

(2) When a temporary vacancy occurs in such an office by reason of the suspension of the hereditary trustee under section 45, subsection (1), or by reason of his supersession under section 46, subsection (3), the next in the line of succession shall be entitled to succeed and discharge the functions of the trustee until his

disability ceases.

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

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

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

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

Explanation.-In making any appointment under this subsection, the Deputy Commissioner shall have due regard to the claims of members of the family, if any, entitled to the succession.

(4) Any person affected by an order of the Deputy Commissioner under subsection (3) may, within one month from the date of the receipt of the order by him, appeal against the order, to the Commissioner.

(5) Nothing in this section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902.

#### **48. Appointment Of Office-Holders And Servants In Religious Institutions :-**

(1) Vacancies, whether permanent or temporary, amongst the office-holders or servants of a religious institution shall be filled up by the trustee in cases where the office or service is not hereditary.

(2) In cases where the office or service is hereditary, the next in the line of succession shall be entitled to succeed.

(3) Where however there is a dispute respecting the right of succession, or

Where such vacancy cannot be filled up immediately, or

where the person entitled to succeed is a minor without a guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or

Where the hereditary office holder or servant is suspended from his office under section 49 sub section (1) the trustee may appoint a fit person to discharge the functions of the office or perform the service until the disability of the office holder or servant ceases or another person succeeds to the office or service as the case may be,

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

(4) Any person affected by an order of the trustee under subsection (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Deputy Commissioner.

#### **49. Punishment Of Office-Holders And Servants In Religious Institutions :-**

(1) 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.

(2) Any office-holder or servant punished by a trustee under sub section (1) may, within one month from the date of the receipt of the order by him, appeal against the order to the Deputy Commissioner.

(3) A hereditary office-holder or servant may, within one month

from the date of the receipt by him of the order of the Deputy Commissioner under sub section (2), prefer an appeal to the Commissioner against such order.

**50. Power To Fix Fees For Archanais And Determine Their Apportionment :-**

Notwithstanding anything contained in any scheme settled or deemed to be settled under this Act, or any decree or usage to the contrary, the trustee of a temple shall have power, subject to such conditions as the Commissioner may, by general or special order, direct, to fix fees for the performance of archanais and to determine what portion, if any, of such fees shall be paid to the archakas or other office- holders or servants of the temple

**51. Fixing Of Standard Scales Of Expenditure :-**

(1) The trustee of a religious insitution may, from time to time, submit to the Area Committee if the institution is subject to the jurisdiction of such a Committee, and to the Commissioner in other ceases, proposals for fixing the dittam or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with such institution or the proportions in which the income or other property of the institution may be applied to such objects.

(2) The trustee shall publish such proposals at the premises of the institution and in such other manner as may be required by the Area Committee or the Commissioner, as the case may be, together with a notice stating that, within one month from the date of such publication, any person having interest may submit his objections or suggestions to the Area Committee or the Commissioner.

(3) After the expiry of the said period, the Area Committee or the Commissioner shall, after considering any objections and suggestions received, pass such order as it or he may think fit on such proposals, having regard to the established usage of the institution and its financial position; and a copy of the order shall be communicated to the trustee.

(4) Against an order made by the Area Committee under sub-section (3), the trustee or any person having interest may, within one month from the date of the receipt of the order by the trustee,

appeal to the Deputy Commissioner.

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

#### **CHAPTER 4 MATHS**

#### **52. Suit For The Removal Of Trustee Of Math Or Specific Endowment Attached Threto :-**

(1) The Commissioner, or any two or more persons having interest and having obtained the consent in writing of the Commissioner, may institute a suit in the Court to obtain a decree for removing the trustee of a math or a specific endowment attached to a math, for any one or more of the following reasons, namely:-

(a) the trustee being of unsound mind;

(b) his suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee;

(c) his having ceased to profess the Hindu religion or the tenets of the math;

(d) his conviction for any offence involving moral turpitude;

(e) breach by him of any trust created in respect of any of the properties of the religious institution;

[17][ (f) waste of the funds or properties of the institution or the application of such funds or properties for purposes unconnected with the institution;

(g) the adoption of devises to convert the income of the institution or of the funds or properties thereof into pathakanika;

(h) leading an immoral life or otherwise leading a life which is likely to bring the office of head of the math into contempt;]

(i) persistent and wilful default by him in discharging his duties or functions under this Act or any other law.



(2) Where the Commissioner refuses to give consent under subsection (1), the party aggrieved may, within three months from the date of the receipt of the order by him, appeal to the Government who may, after making such inquiry as they may consider necessary, confirm the order of the Commissioner or direct the Commissioner to give his consent in writing.

### **53. Filling Of Vacancies :-**

(1) When a vacancy occurs in the office of the trustee of a math or specific endowment attached to a math and there is a dispute respecting the right of succession to such office, or

when such vacancy cannot be filled up immediately; or

when the trustee is minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or

when the trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unable to discharge the functions of the trustee, the Assistant Commissioner may take such steps and pass such order as he thinks proper for the temporary custody and protection of the endowments of the math or of the specific endowment, as the case may be, and shall report the matter forthwith to the Commissioner.

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

(3) In making any such arrangement, the Commissioner shall have due regard to the claims of the disciples of the math, if any.

(4) Nothing in this section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902.

#### **54. Fixing Of Standard Scales Of Expenditure :-**

(1) The trustee of every math or specific endowment attached to a math may, from time to time, submit to the Commissioner proposals for fixing the dittam or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with the institution or the proportions in which the income or other property of the institution may be applied to such objects.

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

(3) If on a scrutiny of such proposals, and any suggestions made by persons having interest, it appears to the Commissioner that the scale of expenditure or any item in the scale of expenditure is at variance with the established usage of the institution, or is not justified by its financial position, the Commissioner may call for the remarks of the trustee and if after considering the same, the Commissioner is of opinion that any modification is required in the scale of expenditure or any item in the scale of expenditure he shall submit the case to the Government who shall pass orders thereon, and such order shall be final.

#### **55. Power To Spend Pathakanika :-**

The trustee of a math shall keep regular accounts of receipts of Pathakanika that is to say, any gift or properties made to him as the head of the math and shall be entitled to spend the said pathakanika in accordance with the customs and usage of the institution.

#### **56. Omitted :-**

### **CHAPTER 5 INQUIRIES**

#### **57. Deputy Commissioner To Decide Certain Disputes And Matters :-**

Subject to the rights of suit or appeal hereinafter provided, the Deputy Commissioner shall have power to inquire into and decide

the following disputes and matters-

- (a) whether an institution is a religious institution;
- (b) whether a trustee holds or held office as a hereditary trustee;
- (c) whether any property or money is a religious endowment;
- (d) whether any property or money is a specific endowment;
- (e) whether any person is entitled by custom or otherwise, to any honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter;
- (f) whether any institution or endowment is wholly or partly of a religious or secular character; and whether any property or money has been given wholly or partly for religious or secular uses; and
- (g) where any property or money has been given for the support of an institution which is partly of a religious and partly of a secular character, or the performance of any service or charity connected with such an institution or the performance of a charity which is partly of a religious and partly of a secular character or where any property or money given is appropriated partly to religious and partly to secular uses, as to what portion of such property or money shall be allocated to religious uses.

**58. Power Of Deputy Commissioner To Frame Scheme :-**

(1) When the Deputy Commissioner has reason to believe that in the interests of the proper administration of a religious institution, a scheme should be settled for the institution, or when not less than five persons having interest make an application writing, stating that in the interests of the proper administration of religious institution a scheme should be settled for it, the Deputy Commissioner shall consult in the prescribed manner the trustee and the persons having interest and the Area Committee, if any, having jurisdiction over the institution; and if, after such consultation, he is satisfied that it is necessary or desirable to do so, he shall, by order, frame a scheme of administration for the institution.

(2) A scheme settled under sub-section (1) for a temple or for a specific endowment other than one attached to a math may contain provision for-

(a) removing any existing trustee, whether hereditary or non - hereditary:

Provided that where provision is made in the scheme for the removal of a hereditary trustee, provision shall also be made therein for the appointment as trustee of the person next in succession who is qualified;

(b) appointing a new trustee or trustees in the place of or in addition to any existing trustee or trustees;

(c) defining the powers and duties of the trustee or trustees

(d) appointing or directing the appointment of, a paid executive officer, who shall be a person professing the Hindu religion on such salary and allowance as may be fixed, to be paid out of the funds of the institution; and defining the powers and duties of such officer:

Provided that in making any provision of the nature specified in clause (b) due regard shall be had to the claims of persons belonging to the religious denomination for whose benefit the institution is chiefly maintained.

(3) A scheme settled under sub-section (1) for a math or for a specific endowment attached to a math may contain provision for-

(a) associating one or more persons with the trustee or constituting a separate body for the purpose of participating or assisting in the whole or any part of the administration of the endowments of such math or of the specific endowment; provided that such person or persons or the members of such body shall be chosen from persons having interest in such math or endowment;

(b) appointing or directing the appointment of a paid executive officer, who shall be a person professing the Hindu religion, on such salary and allowances as may be fixed by the Deputy

commissioner, to be paid out of the trust funds, and defining the powers and duties of such officer;

(c) defining the powers and duties of the trustee;

(4) The Deputy Commissioner may determine what the properties of the religious institution are and append to the scheme a schedule containing a list of such properties:

Provided that such determination shall not affect the rights of persons who are the hostile possession of any of the said properties.

(5) Pending the framing of a scheme for a temple or for a specific endowment other than one attached to a math, the Deputy Commissioner may appoint a fit person to discharge all or any of the functions of the trustee thereof and define his powers and duties.

(6) The Deputy Commissioner may, at any time, after consulting the trustee and the persons having interest and the Area Committee, if any, having jurisdiction over the institution, by order, modify or cancel any scheme settled under sub-section (1) or a scheme settled by the Board under the Madras Hindu Religious Endowments Act, 1926.

(7) Every order of the Deputy Commissioner setting, modifying or cancelling a scheme under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of section 61 and 62, be binding on the trustee, the executive officer and all persons having interest.

(8) The powers conferred by this section shall, in respect or maths, be exercised by the Commissioner or by a Deputy Commissioner to whom powers in this behalf have been delegated by the Commissioner under section 10, sub-section (2).

### **59. Appropriation Of Endowments :-**

(1) The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become impossible for realization, by order, direct

that the endowments of the institution be appropriated to all or any of the following purposes, namely:-

- (a) the propagation of the religious tenets of the institution;
- (b) the establishment and maintenance of a university or college or other institution in which special provision is made for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture;
- (c) the establishment and maintenance of educational institutions where instruction in the Hindu religion is also imparted to Hindu students thereof;
- (d) promoting the study of Indian languages including Sanskrit;
- (e) promotion of the cultivation of Indian arts and architecture;
- (f) the establishment and maintenance of orphanages for Hindu children;
- (g) the establishment and maintenance of asylums for Hindus suffering from leprosy;
- (h) the establishment and maintenance of poor homes for destitute Hindus who are physically disabled and helpless;
- ( i ) the establishment and maintenance of hospitals and dispensaries; or the benefit of Hindus; and
- (j) the grant of aid to any other religious institution which is poor or in needy circumstances:

Provided that in the case of a religious institution founded and maintained by a religious denomination or any section thereof the endowments shall, as far as possible be utilized for the benefit of the denomination or section concerned for the purposes mentioned above.

(2) The Deputy commissioner may at any time by order modify or cancel any order passed under sub section (1).

(3) The order of the Deputy Commissioner under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of section 61, be binding on the trustee, the executive officer and all persons having interest.

**60. Determination And Application Of Properties And Funds Of Defunct Religious Institutions :-**

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

(a) specifying the properties and funds of the institution;

(b) appointing a trustee therefor;

(c) directing the recovery of any such properties or funds from any person who may be in possession thereof; and

(d) laying down that the properties and funds so specified shall be applied or utilized for renovating the institution or if such renovation is not possible, be appropriated to any one or more of the purposes specified in section 59, sub-section (1).

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

(a) directing the recovery of such building or place from any person who may be in possession thereof; and

(b) laying down that it shall be used for religious worship or instruction as before, or if such use is not possible, be utilized for any one or more of the purposes specified in section 59, sub-section (1).

(3) Nothing contained in sub-section (1) or sub-section (2) shall be

deemed to authorise the Deputy Commissioner to pass an order in respect of any property or funds which vested in any person before the commencement of this Act by the operation of the law of limitation.

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

### **61. Appeal To The Commissioner :-**

(1) Any person aggrieved by any order passed by the Deputy Commissioner under any of the foregoing provisions of this Chapter may, within one month from the date of the publication of the order or of the receipt thereof by the party concerned, as the case may be appeal to the Commissioner.

(2) Any order passed by the Commissioner on such appeal against which no suit lies to the Court under the next succeeding section, or in which no suit has been instituted in the Court within the time specified in section 62, sub-section (1), may be modified or cancelled by the Commissioner if the order has settled or modified a scheme for the administration of a religious institution or relates to any of the matter specified in section 59.

### **62. Suits And Appeals :-**

(1) Any party aggrieved by an order passed by the Commissioner-

(i) under section 61, sub-section (1) or sub-section (2), and relating to any of the matters specified in section 57, section 58 or section 60; or

(ii) under section 57, section 58 or section 60 read with sub-section (1) (a), (2) or 4 (a) of section 19 may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order; and the Court may modify or cancel such order, but it shall power to stay the Commissioners have no order pending the disposal of the suit.

(2) Any party aggrieved by a decree of the Court under sub section (1) may, within ninety days from the date of the decree, appeal to the High Court.



(3) (a) any scheme for the administration of a religious institution settled or modified by the court in a suit under sub- section (1) or on an appeal under sub-section (2) or any scheme deemed under section 103, clause (d), to have been settled or modified by the Court may, at any time be modified or cancelled by the Court on an application made to it by the Commissioner, the trustee or any person having interest.

(b) Any party aggrieved by an order of the Court under clause (a) may, within ninety days from the date of the order, appeal to the High Court.

## **CHAPTER 6 NOTIFIED RELIGIOUS INSTITUTIONS**

### **63. Issue Of Notice To Show Cause Why Institution Should Not Be Notified :-**

Notwithstanding that a religious institution is governed by a scheme settled or deemed to have been settled under this Act, where the Commissioner has reason to believe that such institution is being mismanaged and is satisfied that in the interests of its administration, it is necessary to take proceedings under this Chapter, the Commissioner may, by notice published in the prescribed manner, call upon the trustee and all other persons having interest to show cause why such institution should not be notified to be subject to the provisions of this Chapter.

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

(3) The trustee or any person having interest may thereupon prefer any objection he may wish to make to the issue of a notification as proposed.

(4) Such objection shall be in writing and shall reach the commissioner before the expiry of the time specified in the notice aforesaid or within such further time as may be granted by the Commissioner.

### **64. Consideration Of Objections, If Any, And Notification Of Institution :-**

(1) Where no such objection has been received within the time so specified or granted, the Government may, on receipt of a report from the Commissioner to that effect, by notification published in the Fort. St. George Gazette, declare the religious institution to be subject to the provisions of this Chapter.

(2) Where any such objections have been received within the time so specified or granted, the Commissioner shall hold an inquiry into the objections in the manner prescribed, and decide whether the institution should be notified to be subject to the provisions of this Chapter or not.

(3) If the Commissioner decides that the institution should be notified as aforesaid, he shall make a report to that effect to the Government who may thereupon, by notification published in the Fort St. George Gazette declare the religious institution to be subject to the provisions of this Chapter.

[20][4) Every notification published or deemed to be published under this section shall remain in force for a period of five years, but it may by notification, be cancelled at any time or continued from time to time for a further period or periods not exceeding five years at a time as the Government may by notification, in each case, think fit to direct.

#### **65. Scheme To Lapse On Notification :-**

On the publication of the notification, the scheme of administration, if any, settled for the religious institution, whether before or after the commencement of this Act, and all rules, if any framed under such scheme shall cease to apply to the institution; and such scheme and rules shall not be deemed to be revived by reason of the cancellation of the notification or by reason of its having ceased to be in force by efflux of time.

#### **66. Appointment Of Salaried Executive Officer :-**

(1) For every institution notified under this Chapter, the Commissioner shall as soon as may be appoint a salaried executive officer, who shall be a person professing the Hindu religion.

(2) The salary and allowance of the executive officer, as determined by the Commissioner, shall be paid from the funds of

the religious institution.

**67. Term Of Office And Duties Of Executive Officer :-**

(1) The executive officer shall hold office for such period as may be fixed by the Commissioner and he shall exercise such powers and perform such duties as may be assigned to him by the Commissioner:

Provided that only such powers and duties as appertain to the administration of the endowments of the religious institution shall be assigned to the executive officer.

(2) The Commissioner shall define the powers and duties which may be exercised and performed respectively by the executive officer and the trustee, if any, of the religious institution.

(3) The executive officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860)

(4) The Commissioner may, for good and sufficient cause, suspend, remove or dismiss the executive officer.

**68. Section 58 Not To Apply To Notified Institutions :-**

(1) Section 58 shall not apply to, and no Area Committee shall have jurisdiction over, any religious institution notified under this Chapter or under Chapter VI-A of the Madras Hindu Religious Endowments Act, 1926, Madras Act II of 1927 so long as the notification remains in force.

(2) Nothing in sub-section (1) shall be construed as prohibiting the framing of a scheme under section 58 during the period when a notification is in force, to take effect immediately on the notification ceasing to be in force.

**69. Saving :-**

Nothing in this chapter shall apply to maths or other religious institution having hereditary trustees who have a beneficial interest in the income of the institutions.

**CHAPTER 7 BUDGETS, ACCOUNTS AND AUDIT**

## **70. Budgets Of Religious Institutions :-**

(1) The trustee of every religious institution shall, before the end of March in each year, submit, in such form as may be fixed by the Commissioner, a budget showing the probable receipts and disbursements of the institution during the following fasli year-

(a) to the Area Committee, if the institution is subject to the jurisdiction of such a Committee; and

(b) to the Commissioner, in other cases.

(2) Every such budget shall make adequate provision for-

(a) the limit or scale of expenditure for the time being in force;

(b) the due discharge of all liabilities binding on the institution;

(c) the repair and renovation of the buildings connected with the institution, the provision made under this clause not being less than ten per centum of its income in the case of an institution assessed to contribution under section 76 for the previous fasli year on an income not exceeding three thousand rupees, and not being less than twenty-five per centum of its income, or ten per centum of its income up to three thousand rupees and the whole of the excess of its income over that amount, whichever is less, in the case of any other institution:

Provided that any institution the income of which does not exceed or does not sufficiently exceed the expenditure referred to in clauses (a) and (b) may be exempted by the commissioner, in whole or in part, as the case may be, from the requirement of this clause;

(b) the maintenance of a working balance.

(3) The Area Committee or the Commissioner, as the case may be, may, after giving notice to the trustee in the prescribed manner and after considering his representations if any, make such alterations, omissions or additions in the budget as the Area Committee or the Commissioner may deem fit.

(4) Against an order made by the Area Committee under sub section (3) a trustee may within one month from the date of the receipt by him of the order, appeal to the Deputy Commissioner.

### **71. Accounts And Audit :-**

(1) The trustee of the every religious institution shall keep regular accounts of all receipts and disbursements.

(2) The accounts of every religious institution the annual income of which as calculated for the purposes of section 76 for the fasli year immediately preceding is not less than sixty thousand rupees shall be subject to concurrent audit, that is to say, the audit shall take place as and when expenditure is incurred.

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

(4) The audit shall be made-

(a) in the case of a religious institution the annual income of which calculated as aforesaid for the fasli year immediately preceding is not less than one thousand rupees, by auditors appointed in the prescribed manner, who shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code;

(b) in the case of any other religious institution, by an officer or servant subordinate to the Commissioner and deputed by him for the purpose.

### **72. Authority To Whom Audit Report Is To Be Submitted :-**

After completing the audit for any year for shorter period, or for any transaction or series of transactions, as the case may be, the auditor shall send a report-

(a) to the Area Committee, if the institution is subject to the jurisdiction of such a Committee; and

(b) to the Commissioner, in order cases.

### **73. Contents Of Audit Report :-**

(1) The auditor shall specify in his report all cases of irregular, illegal or improper expenditure, or of failure to recover moneys or other property due to the religious institution, or of loss or waste of money or other property thereof, caused by neglect or misconduct.

(2) The auditor shall also report on such other matter relating to the account as may be prescribed, or on which the Commissioner or the Area Committee concerned as the case may be, may require him to report.

**74. Rectification Of Defects Disclosed In Audit And Order Of Surcharge Against, Trustee Etc :-**

(1) The Area Committee or the Commissioner, as the case may be, shall send a copy of every audit report relating to the accounts of a religious institution to the trustee thereof, and it shall be the duty of such trustee to remedy any defects or irregularities pointed out by the auditor and report the same to the Area Committee or the Commissioner, as the case may be.

(2) The Area Committee shall forward to the Commissioner a copy of, every audit report received by it under clause (a) of section 72 and the report if any, of the trustee made under sub-section (1), together with such remarks as the Area Committee may wish to make thereon.

(3) If, on a consideration of the report of the auditor along with the report, if any, of the trustee and the remarks, if any, of the Area Committee, the Commissioner thinks that the trustee or any other persons, was guilty of misappropriation or wilful waste of the funds of the institution or of gross neglect resulting in a loss to the institution, the Commissioner may, after giving notice to the trustee or such person to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, by order, certify the amount so lost and direct the trustee or such person to pay within a specified time such amount personally and not from the funds of the religious institution.

Provided that if in respect of any expenditure or dealing with trust property, the trustee or such person had obtained the directions of

the Area Committee or of the Commissioner and had acted in accordance with such directions, he shall not be held responsible.

(4) The Commissioner shall forward a copy of the order under subsection (3) with the reason for the same, by registered post to the trustee or person concerned.

(5) The trustee or other person aggrieved by such order may, within thirty days of the receipt by him of the order, either-

(a) apply to the Court to modify or set aside the order and the Court, after taking such evidence as is necessary, may confirm, modify or remit the surcharge with such orders as to costs as it may think appropriate in the circumstances, or

(b) in lieu of such application may appeal to the Government who shall pass such orders as they think fit.

(6) Neither the Court nor the Government to which or to whom an application or appeal is made under subsection (5) shall have power to stay the operation of the order pending the disposal of the application or appeal.

(7) An order of surcharge under this section against a trustee shall not bar a suit for accounts against him except in respect of the matter finally dealt with by such order.

(8) The Collector of the district in which is situated any property of the trustee or other person from whom an amount is recoverable by way of surcharge shall, on a requisition made by the Commissioner, recover such amount as if it were an arrear of land revenue and pay the same to the religious institution concerned.

## **75. Chapter To Apply Notwithstanding Provision In Scheme**

:-

The provisions of this Chapter shall apply to every religious institution, notwithstanding anything to the contrary contained in any scheme settled or deemed to be settled under this Act.

## **CHAPTER 8 FINANCE**

### **76. Religious Institutions To Pay An Annual Contribution To**

## **The Government :-**

[23][1] In respect of the services rendered by the Government and their officers and for defraying the expenses incurred on account of such services every religious institution shall from the income derived by it, pay to the Commissioner annually such contribution not exceeding five per centum of its income as may be prescribed.

(2) Every religious institution, the annual income of which, for the fasli year immediately preceding as calculated for the purposes of the levy of contribution under sub-section (1), is not less than one thousand rupees shall pay to the Commissioner annually, for meeting the cost of auditing its accounts such further sum not exceeding one and a half per centum of its income as the Commissioner may determine.]

(3) The annual payments referred to in subsection (1) and (2) shall be made, notwithstanding anything to the contrary contained in any scheme settled or deemed to be settled under this Act for the religious institution concerned.

(4). The Government shall pay the salaries, allowances, pensions and other beneficial remuneration of the Commissioner, Deputy Commissioners, Assistant Commissioners and other officers and servants (other than executive officers of religious institutions) employed for the purposes of the Act and the other expenses incurred for such purposes, including the expenses of Area Committees and the cost of auditing the accounts of religious institutions.

[24][5] Wherever there is any surplus after meeting all the charges referred to in the foregoing subsection it shall be lawful for the Commissioner acting suo motu or on an application to make grants to poor and needy religious institutions for carrying out repairs and renovation subject to such rules as may be framed by Government in this regard;]

[25][Explanation.-Any religious institution, the annual income of which is less than two hundred rupees, shall not be liable to pay contribution to the Commissioner as required by sub section (1).]



## **77. Recovery Of Costs And Expenses Incurred On Legal Proceedings :-**

All costs, charges and expenses incurred by the Government, the Commissioner, a Deputy Commissioner, an Area Committee, or an Assistant Commissioner as a party to, or in connection with, any legal proceeding in respect of any religious institution shall be payable out of the funds of such institution, except in cases where a liability to pay the same has been laid on any party or other person personally, and the right to reimbursement under this section has been negated in express terms.

## **78. Assessment And Recovery Of Contributions And Costs And Expenses :-**

(1) The contributions, cost and expenses payable under sections 76 and 77 shall be assessed on and notified to the trustee of the religious institution concerned in the prescribed manner.

(2) (a) Such trustee may, within fifteen days from the date of the receipt of such notice or within such further time as may be granted by the Commissioner, prefer his objection thereto if any, to the Commissioner in writing. Such objection may relate either to his liability to pay or to the amount specified in the notice. The Commissioner shall consider such objection and give his decision confirming, withdrawing or modifying his original notice.

(b) Within one month from the date of receipt of the notice of assessment, or from the date of the decision of the Commissioner, or within such further time as may be granted by him, such trustee shall pay the amount specified in the original notice or the amount as fixed by the Commissioner on objection.

(3) If the trustee fails to pay the amount aforesaid within the time allowed, the Collector of the District in which any property of the religious institution is situated shall, on requisition made to him in the prescribed manner by the Commissioner and subject to the provisions of this section recover such amount as if it were an arrear of land revenue.

(4) (a) On receipt of a requisition under subsection (3), the

Collector shall issue a notice to the trustee concerned-

(j) requiring him, within fifteen days from the service thereof, to pay the amount mentioned in the requisition and specified in the notice; and

(ii) stating that on default, such amount will be recovered as if it were an arrear of land revenue.

(b) If, within the period of fifteen days aforesaid, the amount demanded is not paid, the Collector shall proceed to recover the amount specified in the notice (with the charges of collection) as if it were an arrear of land revenue.

(5). The Collector shall, on receipt of a requisition under subsection (3), withhold the amount mentioned therein out of the tasdik or any other allowance payable by the Government to the religious institution concerned, but where the tasdik or other allowance is insufficient for the purpose, the Collector shall withhold the amount available, and recover the balance as if it were an arrear of land revenue.

(6) Places of worship, including temples and tanks and places where utsavam are performed, idols, vahanams, jewels and such vessels and other articles of the religious institution as may be necessary in accordance with the usage of the institution for purposes of worship or processions shall not be liable to be proceeded against in pursuance of subsections (3), (4) and (5).

(7) Instead of seelling the property after attachment thereof under the provisions of the Madras Revenue Recovery Act, 1864, it shall be open to the Collector at the instance of the Commissioner to appoint a Receiver to take possession of the property or such portion thereof as may be necessary and collect the income thereof until the amount sought to be recovered is realized. The remuneration, if any, paid to the Receiver, and the other expenses incurred by him shall be paid out of the income of the institution concerned.

(8) No suit, prosecution or other legal proceeding shall be entertained in any Court of law against the Government or any officer or servant of the Government for anything done or intended

to be done in good faith in pursuance of this section.

**79. Contribution Not To Be Levied For More Than Three Faslis Immediately Precedin The Fasli In Which A Notice Of Assessment Is Issued :-**

(1) It shall not be competent for the Commissioner to levy any contribution for more than three faslis immediately preceding the fasli in which a notice of assessment is issued under section 78.

(2) Nothing in this section shall affect any levy of contribution made or moneys collected by the Board before the commencement of the Madras Hindu Religious Endowments (Amendment) Act, 1946.

**CHAPTER 9 ENDOWMENTS ADMINISTRATION FUND**

**80. Commissioner To Be Corporation Sole :-**

The Commissioner shall be a Corporation sole and shall have perpetual succession and a common seal and may sue and be sued in his corporate name.

**81. Religious And Charitable Endowments Administration Fund :-**

(1) There shall be established a Fund to be called the Madras Hindu Religious and Charitable Endowments Administration Fund. The Fund shall vest in the Commissioner.

(2) The contribution payable under section 76 (1) and the further sums payable under section 76 (2) shall, when realised be credited to the said Fund. It shall be lawful for the Commissioner to accept to the credit of the said fund, grants or loans from the Government and grants from any private person. The Commissioner shall, out of the said Fund repay to the Government sums paid by the Government under section 76 (4) and loans received from the Government.

**82. Validation Of Contribution Levied :-**

(1) Contribution under section 76 (1) and further sums under section 76 (2) shall be payable with effect from the commencement of this Act. For the period from the commencement of this Act until

the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954, the rate prescribed by the Government under section 76 (1) or determined by the Commissioner under section 76 (2) shall be deemed to be the rate prescribed or determined under section 76 (1) or section 76 (2) as the case may be, as amended by the Madras Hindu Religious and Charitable endowments (Amendment) Act, 1954 and contributions and further sums paid to the Government shall be deemed to be contributions and further sums as the case may be, paid to the Commissioner under section 76 (1) and 76 (2) as amended by the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954.

(2) The Government shall pay to the commissioner the balance, if any, remaining out of the aggregate of the contributions and furthers sums paid or realised before the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954, in pursuance of section 76 (1) and section 76 (2) after deducting therefrom sums paid by the Government under section 76.(4).

**83. Omitted :-**

**84. Omitted :-**

**85. Omitted :-**

## **CHAPTER 10 MISCELLANEOUS**

**86. Public Officers To Furnish Copies Of Or Extracts From Certain Documents :-**

All public officers having custody of any record, register, report or other document relating to a religious institution or any movable or immovable property thereof shall furnish such copies of or extracts from the same as may be required by the Commissioner, a Deputy commissioner, an Area Committee, or an Assistant Commissioner.

**87. Putting Trustee Or Executive Officer In Possession :-**

Where a person has been appointed--

(a) as trustee or executive officer of a religious institution, or

(b) to discharge the functions of a trustee of a religious institution

in accordance with the provisions of this Act, or

(c) [27][xx] in any scheme framed by the Board before the commencement of this Act, and such person is resisted in, or prevented from, obtaining possession of the religious institution or of the records, accounts and properties thereof, by a trustee, office-holder or servant of the religious institution who has been dismissed or suspended from his office or is otherwise not entitled to be in possession or by any person claiming or deriving title from such trustee, office-holder or servant, not being a person claiming in good faith to be in possession on his own account or on account of some person not being such trustee office-holder or servant [28] [any Presidency Magistrate or any Magistrate of the first class]? in whose jurisdiction such institution or property is situated shall, on application by the person so appointed, and on the production of the order of appointment, and where the application is for possession of property, of a certificate by the Commissioner in the prescribed form setting forth that the property in question belongs to the religious institution, direct delivery to the person appointed as aforesaid of the possession of such religious institution, or the records, accounts and properties thereof as the case may be:

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

Provided also that for the purpose of proceedings under this section, the certificate aforesaid shall be conclusive evidence that the properties to which it relates belong to the religious institution:

Provided further that nothing contained in this section shall bar the institution of a suit by any person aggrieved by an order under this section for establishing his title to the said property.

Explanation.-A person claiming under an alienation contrary to the provisions of section 29 or 35 shall not be regarded as a person claiming in good faith within the meaning of this section.

**88. Cost Of Proceedings, Etc :-**

(1) The costs, charges and expenses of and incidental to any suit, appeal or application to a Court under this Act shall be in the discretion of the Court, which may, subject to the provisions of section 77, direct the whole or any part of such costs, charges and expenses to be met from the property or income of the religious institution or endowment concerned or to be borne and paid in such manner and by such persons as it thinks fit.

(2) The costs, charges and expenses of and incidental to any appeal application or other proceedings before the Commissioner or a Deputy Commissioner shall be in his discretion and he shall have full power to determine by whom or out of what funds and to what extent such costs, charges and expenses are to be paid; and the order passed in this regard may be transferred for execution to the Court and shall be executed by the Court as if the order had been passed by itself if and in so far as the Court considers the order to be a reasonable one.

**89. Penalty For Refusal By Trustee To Comply With Provisions Of Act :-**

(1) If any trustee (including the executive officer or other person in whom the administration of a religious institution is vested) or any agent of, or person working under, the trustee--

(a) refuses, neglects or fails to comply with the provisions of section 25 or section 26, or

(b) refuses, neglects or fails to furnish such accounts, returns, report or other information relating to the administration of the religious institution or its funds, property or income or the application thereof, at such time and in such manner as the Commissioner, Deputy Commissioner, Area Committee or Assistant Commissioner may require, or

(c) refuses to permit, or causes obstruction to, inspection by the Commissioner, a Deputy Commissioner, a member of an Area Committee duly authorised in this behalf or an Assistant Commissioner, of any movable or immovable property belonging to, or of any records, correspondence, plans, accounts and other documents relating to the religious institution, or neglects or fails to produce them for inspection, the trustee, or where there is more than one trustee, each of the trustees shall be punishable with fine

which may extend to two hundred rupees; and in case the act or default complained of continues for more than one month with a further fine which may extend to one hundred rupees for every week or part thereof during which the act or default so continues.

(2) No Court shall take cognizance of an offence punishable under sub-section (1) except on the complaint in writing of the Commissioner.

(3) No offence punishable under sub section (1) shall be inquired into or tried by any Court inferior to that of a Magistrate of the first class.

(4) The Commissioner may accept from any trustee who has committed or is reasonably suspected of having committed any of the offences referred to in sub-section (1), by way of composition of such offence, a sum of money not exceeding one thousand rupees [29][The Commissioner shall pay to the Government any sum so accepted.]

(5) Any fine imposed under sub-section (1) or any money payable by way of composition under sub-section (4) shall be paid by the trustee from his own funds and not from the funds of the religious institution concerned.

#### **90. Court Fees To Be Paid As Prescribed By Schedule I :-**

Notwithstanding anything contained in the First or the Second Schedule to the Court fees Act, 1870, the proper fees for the documents described in columns (1) and (2) of Schedule shall be the fees indicated in column (3) thereof.

#### **91. Saving :-**

Nothing contained in this Act shall-

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

(b) authorise any interference with the religious and spiritual functions of the head of a math including those relating to the imparting of religious instruction or the rendering of spiritual

service.

**92. Act Not To Affect Rights Under Article, 26, Clauses (A) To (C) Of The Constitution :-**

Nothing contained in this Act shall be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by clauses (a), (b) and (c) of Article 26 of the Constitution.

**93. Bar Of Suits In Respect Of Administration Or Management Of Religious Institutions Etc :-**

No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of Law, except under, and in conformity with, the provisions of this Act.

**94. Property Of Religious Institutions Not To Vest Under The Law Of Limitation After Commencement Of This Act :-**

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

**95. Procedure And Powers At Inquiries Under Chapters V And Vi :-**

(1) Where a Commissioner or a Deputy Commissioner makes an inquiry or hears an appeal under Chapter V or Chapter VI, the inquiry shall be made and the appeal shall be heard, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits or the hearing of appeals, as the case may be

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

(3) The Commissioner or a Deputy Commissioner holding such an inquiry or hearing such an appeal shall be deemed to be a person, acting judicially within the meaning of the Judicial Officers Protection Act, 1850.



**96. Notifications, Orders Etc., Under Act Not Be Questioned In Court Of Law :-**

Save as otherwise expressly provided in this Act, no notification or certificate issued, order, passed, decision made, proceedings or action taken, scheme settled, or other thing done under the provisions of this Act by the Government, the Commissioner or a Deputy Commissioner, an Area Committee, or an Assistant Commissioner, shall be liable to be questioned in any Court of Law.

**97. Budget, Audit Report, Etc., To Be Submitted To Area Committee Though Assistant Commissioner :-**

Any budget, audit report, accounts returns, reports or other documents and any information required to be submitted to, or called for by, an Area Committee in respect of an institution subject to its jurisdiction, and all communications intended for an Area Committee shall be sent to the Assistant Commissioner concerned and shall be placed by him before the Committee at its next meeting, together with his remarks or recommendations thereon, if any.

**98. Power Of Assistant Commissioner To Act For Area Committee In An Emergency :-**

The Assistant Commissioner may, in cases of emergency, direct the doing of any act which would ordinarily have to be done by the Area Committee, if the immediate doing of such act is, in his opinion, necessary in the interest of a religious institution:

Provided that the Assistant Commissioner shall not act under this section in contravention of any order of the Area Committee prohibiting the doing of any particular act:

Provided further that he shall report the action taken under this section and the reasons therefor to the Committee at its next meeting; and the Committee may annul, modify or reverse the order passed by the Assistant Commissioner.

**99. Power Of Government To Call For Records And Pass Orders :-**

(1) The Government may call for and examine the record of the

Commissioner or any Deputy or Assistant Commissioner, of any Area Committee or of any trustee in respect of any proceeding, not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act, to satisfy themselves as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein and, if, in any case, it appears to the Government that any such decision or order should be modified annulled reverse or remitted for reconsideration, they may pass orders accordingly:

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

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

**100. Power To Make Rules :-**

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

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

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the form and manner in which applications and appeals should be submitted to the Government, the Commissioner, or a Deputy or an Assistant Commissioner;

(c) the powers of the Government, the Commissioner, or a Deputy or an Assistant Commissioner to hold inquiries, to summon and examine witnesses and to compel the production of documents;

(d) the inspection of documents and the fees to be levied for such inspection;

(e) the fees to be levied for the issue and service of processes and

notices;

(f) the grant of certified copies and the fees to be levied therefor;

(g) the budgets, reports, accounts, returns or other information to be submitted by trustees;

(h) the convening of meetings of trustees and the quorum for, and the conduct of business at, such meetings;

(i) the manner in which the opinions of trustees shall be ascertained otherwise than at meetings;

(j) the proper collection of the income of, and the incurring of expenditure by, religious institutions;

(k) the custody of the moneys of religious institutions, their deposit in, and withdrawal from, banks, and the investment of such moneys;

(l) the custody of jewels and other valuables and documents or religious institutions;

(m) the manner in which and the period for which leases of properties of religious institutions shall be made;

(n) the manner in which the accounts of religious institutions shall be audited and published, the time and place of audit and form and contents of the auditors report;

(o) the method of calculating the income of a religious institution for the purpose of levying contribution and the rate at which it shall be levied;

(p) the security, if any, to be furnished by officers and servants employed for the purposes of this, Act ;

(q) the preservation, maintenance, management and improvement of the properties and buildings of religious institutions;

(r) the inspection and supervision of the properties and buildings of religious institutions, the reports to be submitted by persons making such inspection and supervision and the fees leviable for

such inspection, supervision and report;

(s) the preservation of the images in temples;

(t) the grant of travelling and halting allowances to the members of the Area Committees or to the trustees;

(u) the preparation and sanction of the estimates and acceptance of tenders, in respect of public works and for supplies in religious institutions;

(v) xxx

(w) xxx

(x) the qualifications, method of recruitment, pay, grant of leave leave allowance and travelling allowance, personal conduct and punishment of-

(i) xxx

(ii) executive officers appointed for religious institutions under any provision of this Act or in pursuance of any scheme settled or deemed to be settled thereunder;

(y) the qualifications to be possessed by the officers and servants for appointment to non-hereditary offices in religious institutions, the qualifications to be possessed by hereditary servants for succession to office and the conditions of service of all such officers and servants;

(z) the grant of pensions of gratuities to officers and servants of the Board who retired before the commencement of this Act; and

(aa) the grant of gratuities to the heirs of deceased officers and servants of the Board including those who had retired before the commencement of this Act.

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

## **CHAPTER 11 TRANSITIONAL**

### **101. Abolition Of Board And Devolution Of Its Assets And Liabilities :-**

On and from the date on which this Act comes into force, the Board shall cease to exist, and all its assets and liabilities shall devolve on the Government.

### **102. Construction Of Reference To The Board, President Or Commissioner :-**

Any reference to the Board or its President or a Commissioner thereof contained in any enactment in force in the State of Kerala or in any notification, order scheme, rule, form or bye-law issued or made under any such enactment and in force in the State, shall be construed.-

(a) in the case of a religious institution included in the list published under section 38 or over which no Area Committee has jurisdiction as a reference to the Deputy Commissioner appointed under this Act;

(b) in the case of a religious institution over which an Area Committee has jurisdiction, as a reference to the Area Committee.

### **103. Effect Of Repeal Of The Madras Hindu Religious Endowments Act, 1926 :-**

Notwithstanding the repeal of the Madras Hindu Religious Endowments Act, 1926 (hereinafter in this section referred to as the said Act)-

(c) all rules made, notifications or certificates issued, orders passed, decisions made, proceedings or action taken, schemes settled and things done by the Government, the Board or its President or by an Assistant Commissioner under the said Act, shall, in so far as they are not inconsistent with this Act, be deemed to have been made, issued, passed, taken settled or done by the appropriate authority under the corresponding provisions of this Act and shall, subject to the provisions of clause (b), have effect accordingly;

Explanation.-Certificates issued by the Board under section 78 of

the said Act shall be deemed to have been validity issued under that section, notwithstanding that the certificates were issued before the making of rules prescribing the manner of their issue.

(b) if the Government are satisfied that any such rule, notification certificate, order, decision, proceeding, action, scheme or thing, although not inconsistent with this Act would not have been made, issued, passed, taken, settled or done, or would not have been made, issued, passed, taken settled or done in the form adopted, if this Act had been in force at the time they shall have power, by order made at any time within one year from the commencement of this Act, to cancel or to modify in such manner as may be specified in the order, the said rule, notification, certificate, order, decision proceeding, action, scheme or thing, and thereupon, the same shall stand cancelled or modified as directed in the said order, with effect from the date on which it was made or from such later date as may be specified therein:

Provided that before making any such order, the Government shall publish in the Fort St. George Gazette a notice of thir intention to do so, fix a period which shall not be less than two months from the date of the publication of the notice for the persons affected by the order to show cause against the making thereof and consider their representations, if any;

(c) a notification published in respect of any religious institution under section 65-A, sub section (3), or sub-section (5), of the said Act and in force immediately before the commencement of this Act shall be deemed to be a notification published under Section 64 of this Act.

Explanation.-The scheme of administration, if any, settled for the religious institution and the rules, if any, framed under such scheme which ceased to apply to the institution under section 65-B of the said Act shall not be deemed to be revived by reason of the cancellation of the notification under section 64, sub-section (4), or by reason of its having ceased to be in force by efflux of time.

(d) all schemes settled or modified by a Court of law under the said Act or under section 92 of the Code of Civil Procedure, 1908, shall be deemed to have been, settled or modified by the Court under this Act and shall have effect accoordingly;

(e) in any scheme settled or deemed to have been settled under the said Act (including a scheme settled under section 92 of the Code of Civil Procedure, 1908) and in force immediately before the commencement of this Act-

(i) all powers conferred and all duties imposed by such scheme on one or more trustees, whether hereditary or non-hereditary, shall be exercised, subject to the restrictions and conditions, if any, specified in the scheme by the trustee or trustees appointed for the religious institution under this Act.

(ii) all powers conferred and all duties imposed by such scheme on any Court or Judge or any other person or body of persons not being a trustee or trustees or a paid or an honorary officer or servant of the religious institution, shall be deemed to have been conferred or imposed on the Area Committee if the institution is subject to the jurisdiction of such a Committee and on the Commissioner, in other cases; and the Area Committee or the Commissioner, as the case may be, shall exercise such powers and discharge such duties in accordance with the provisions of the scheme subject to such restrictions and conditions, if any, specified in the Scheme;

(f) all orders made under section 67 of the said Act shall, notwithstanding that they are inconsistent with this Act, continue in force, but any such order may at any time be modified or cancelled by the Deputy Commissioner if it is an order made under sub-section (1) or sub-section (3) of that section and by the Commissioner if it is an order made under sub-section (4) or sub-section (5) of that section; and any person aggrieved by any modification or cancellation made by the Deputy Commissioner may appeal to the Commissioner within such time as may be prescribed;

g) All bylaws made by the Board under the said Act shall in so far as they are not inconsistent with this Act, be deemed to be orders issued by, the Commissioner under this Act;

(h) all proceedings pending before the Government or the Board or its President or an Assistant Commissioner under the provisions of the said Act at the commencement of this Act, may, in so far as they are not inconsistent with the provisions of this Act, be continued by the appropriate authority under this Act;

(i) all costs, expenses, charges, penalties, and contributions payable to the Board under the said Act, immediately before the commencement of this Act, shall be [31][payable to the Commissioner]? instead; and any assessment, levy or demand of such sums made before the commencement of this Act shall be deemed to be valid and may be continued and shall be enforceable under this Act;

(j) all suits, application or proceedings taken by, or on behalf of, or against, the Board under the provisions of the said Act and pending at the commencement of this Act, may be continued by, or on behalf of, or against, the Commissioner subject to the provisions of, and in so far as they are not inconsistent with this Act;

Explanation.-All suits and applications instituted under the said Act in the High Court in respect of religious institutions situated within the presidency town and pending on the date of the commencement of this Act, which would have been instituted in the Madras City Civil Court of this Act had been in force at the time when such suits or applications were instituted shall be continued in, and disposed of, by the High Court.

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

#### **104. Position Of The President, Commissioner, Etc., Of Board After Commencement Of This Act :-**

(1) On the coming into force of this Act, such members of the Board including the President and such of its subordinate as the Government may consider suitable, may be appointed by the Government in their discretion to any offices provided for in this Act to which they may be deemed qualified; and the services of the rest shall be deemed to have been terminated.

(2) The conditions of service of persons so appointed shall be regulated by rules made by the Government from time to time as if they had entered the service of the Government on the date of their first entertainment as a member of the Board or as its



subordinate, as the case may be.

(3) To those not so appointed, the Government may accord such relief by way of pension, gratuity, provident fund or leave with allowances as they may in their discretion deem fit.

(4) No Court shall entertain any suit or application for damages or compensation by any member of the Board or any of its subordinates affected by sub-section (1) or for the variation of the relief, if any granted under sub-section (3).

**105. Section 150 :-**

**106. Power To Remove Difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act, the Government may as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.