

**(2002) 03 MAD CK 0220**

**In the Madras High Court**

**Case No :** Original Side Appeal No's. 115 and 144 of 1999 and 14 of 2001

S. Subramaniam, Vanniya Career Development Foundation  
and L. Madhavan

**APPELLANT**

**Vs**

Dr. S. Ramadoss, K. Mohan, A.K. Natarajan, L. Madhavan,  
State of Tamilnadu, The Committee of Management of  
Pachaiyappa's Trust and Scheduled Public Trusts and  
Endowment and P.T. Lee Chengalvaroya Naicker Trust and  
Scheduled Public Trust and Endowment, Chennai,  
Administration Member, Committee of Management of  
Pachaiyappa's Trust and Scheduled Public Trusts and  
Endowments, Chetput, Chennai, Finance Member, Committee  
of Management of Pachaiyappa's Trust and Scheduled Public  
Trusts and Endowments, Harrington Road, Chetput, Chennai,  
Law Member, Committee of Management of Pachaiyappa's  
Trust and Scheduled Public Trusts and Endowments,  
Harrington Road, Harrington Road, Chetput, Chennai,  
Education Member, Committee of Management of  
Pachaiyappa's Trust and Scheduled Public Trusts and  
Endowments, Harrington Road, Chetput, Chennai, Advocate-  
General High Court, Chennai and Administrator General and  
Official Trustees, Chennai

**RESPONDENT**

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**Date of Decision :** 12-03-2002

**Acts Referred:**

**Citation :** (2002) 2 LW 733

**Hon'ble Judges :** S. Jagadeesan, J;P.D. Dinakaran, J

**Bench :** Division Bench

**Advocate :** R. Muthappan, for the Appellant; K. Venkatakrishnan, for the  
Respondent

**Final Decision :** Partly Allowed

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## **Judgement**

1. The appeals, viz. OSA No.115 of 1999 and 14 of 2001 are filed by the plaintiffs 4 and 5 respectively in C.S.No.242 of 1986 and OSA No.144 of 1999 is filed by a third party to the proceedings against the Scheme in C.S.No.242 of 1986. The

said suit was filed for framing of the Scheme in respect of P.T.Lee Chengalvaraya Naicker Trust. The Scheme is in respect of the management of the Trust, which is running educational institutions and also owning immovable properties. Originally, this was also attached with the Pachaiyappa Trust and subsequently, there was a bifurcation bifurcating the present trust. Hence the necessity for framing the Scheme arose and the plaintiffs filed the suit for the same.

2. It is unnecessary for us to discuss in detail with regard to the Scheme framed by the learned Judge, by his order dated 1.4.1999, since the learned counsel for the appellants challenged the Scheme only in respect of the following clauses.

(a) Sub clause (iv) of Clause (2) prescribing the qualifications of the maximum age, which is as follows:

"He or she shall have completed 40 years of age and shall not be more than 75 years of age."

(b) Clause (4) deals with the composition of the Board of Trustees, which is as follows:

" (i) Of the nine Trustees one shall be from among the members of the Founder P.T.Lee Chengalvaraya Naicker's Family.

(ii) If no qualified or suitable person from the Founder's family is available for the appointment as Trustee, the said vacancy shall be filled up in the manner as provided in Clause-5 or by nomination by the Court from among the persons belonging to Vanniya Community.

(iii) Three other Trustees to be selected and appointed from among the members of the Vanniya Community, as indicated already, shall be, as far as possible, from among lawyers, Doctors, Engineers and retired officials of the State and Central Government service.

(iv) Of the remaining five members, one shall be a retired Judge of the High Court, who shall be nominated by this Court. One shall be a retired member of the Indian Administrative Service, and one from teaching faculty. Two shall be from public personalities.

(v) The retired Judge of the High Court to be nominated by this Court shall be the Ex Officio Chairman of the Board."

(c) Clause (16) deals with the requirement of the Board to obtain approval of the Court in case of expense exceeding one lakh, which is as follows:

"Any expenditure exceeding Re.1 lakh excepting statutory charges and salaries of the staff shall be incurred by the Board only after approval of the Court."

(d) Clause (33) requires the approval of the Court regarding the appointment of the Principal etc., which is as follows:

"The appointment of Principal or the Head of Institution of the Colleges, Schools

and Institutions run by and under the Management of the Trust shall be made by the Board, however, subject to the approval of the Court."

3. Barring these Clauses, the counsel appearing for either side accept the scheme by and large, in the interest of the institution as well as the trust.

4. Coming to the question raised by the learned counsel for the appellant with regard to the maximum age limit to become the member of the Trust, it has been determined as 75. In our view, fixing of the maximum age limit as 75 to be the member of the Trust Board cannot be, in any way, affect any one's right. When the Scheme is framed to manage the Trust, always it is better to have somebody who is able to discharge their functions in a better manner with some effort and efficiency. When the learned Judge has taken into consideration all these factor and the ability of the member to discharge his functions and determined the maximum age limit, we do not think that there is any need to interfere with the same. Hence, we reject the contention of the learned counsel for the appellant.

5. Coming to the next objection with regard to the composition of the Board of Trustees is concerned, it was contended that the Trust has been created for the welfare of the Vanniya Community and as such, the members of the Trust Board should be from the said community in more, i.e. the majority should be from out of the Vanniya community. From Clause (4) of the Scheme, it could be seen that Sub clause (ii) empowers a family member of the Founder to become the Trust Board member. Sub clause (iii) contemplates three other trustees from Vanniya Community. Out of 9, only 4 are from the Vanniya Community and hence, the purpose for which the Trust has been created is lost. Here again, we are unable to accept the contention of the learned counsel for the appellant. There is nothing on record to show that the Trust has been created only for the welfare and benefit of the Vanniya Community. When the Trust runs the educational institutions aided by the Government, it is for the Trust to take into consideration the entire community at large and cannot restrict for a particular community alone. The trust is to be headed by a retired Judge, Clause (4) also contemplates a retired IAS Officer and a member from teaching faculty and two from public personalities are to be the members of the Trust. When a highly responsible and respectable people in the Society are placed in the Trust Board to manage the Trust, a particular Community alone cannot be taken note of for giving majority. If such importance is given, then, there is no purpose in placing the retired Judge of the High Court as the Chairman of the Trust and IAS Officer and other public personalities to be the members of the Trust Board. Virtually they will lose their importance, if the Community people join together and the interest of the institution will also be lost. If all these aspects are taken into consideration, we are of the view that the contention of the counsel for the appellant cannot be countenanced, in any manner.

6. Coming to the objection raised by the learned counsel for the appellant with regard to Clause (16), which requires the approval of the Court by the Board to

incur expenditure exceeding one lakh, we find there is some force in the contention of the counsel for the appellant. When the Trust Board is to incur the expenses to meet out the necessities of the Trust, and when the Board is consisting of such respectable persons headed by the retired High Court Judge, we are of the view that it is unnecessary for the Board to get the approval of the Court when ever any expense is to be incurred exceeding one lakh. Sometimes, if they need any amount with regard to the purchase of furniture or the building maintenance, the expenses have to be incurred and in such circumstances, they cannot be compelled to get the approval of the Court, on each occasion. Hence, this clause shall stand deleted.

7. Similarly, so far as Clause (33) which requires the approval of the Court for the appointment of the Principal and other teaching staff of the institution is concerned, here again, we find some force in the contention of the learned counsel for the appellant. Since the institution being aided by the Government, every appointment made by the Board has to be sent for the approval of the educational authority, i.e. the Governmental authorities including the Director of School Education and Collegiate Education. Even the unaided private institution also should get the approval of the officials regarding the appointments. When such restriction is imposed by the Government in respect of the appointments of teaching staff, it is unnecessary for the Board to get the approval of their appointment of teaching staff from the Court and the Court also need not be burdened with such obligation. Hence, this clause is also stand deleted.

8. Now that the Scheme has been finalised, the adhoc Committee is directed to complete the election formalities as contemplated under Clause 5 of the Scheme within three months from the date of receipt of a copy of this order. The appeals are partly allowed. No costs.