

#### IN THE HIGH COURT OF KERALA AT ERNAKULAM

#### PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE  $4^{TH}$  DAY OF JULY 2025 / 13TH ASHADHA, 1947

### CRL.MC NO. 7523 OF 2024

### PETITIONER/4TH ACCUSED:

T.M.UNNIKRISHNAN NAMBOODIRI,

AGED 50 YEARS,

S/O.VASUDEVAN NAMBOODIRI, THEKKUMPARAMBATHU MANA, KAVUVATTOM, CHERPULASSERY P.O, PALAKKAD - 679 503

BY ADVS.

SRI.BINOY VASUDEVAN

SRI.SREEJITH SREENATH

SMT.RINCY KHADER

SMT.K.V.RAJESWARI

SMT.SUSHAMA DEVI M.

#### RESPONDENTS/STATE & DE FACTO COMPLAINANT:

- 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031
- 2 THE VIGILANCE AND ANTI-CORRUPTION BUREAU
  PALAKKAD, REPRESENTED BY ITS SUPERINTENDENT OF POLICE,
  PIN 678001
- 3 ARUN KUMAR V.V., S/O.ACHUKUTTA WARRIER, CHIRANKARA WARRIAM, KAVUVATTOM, CHERUPULASSERY P.O., PALAKKAD, PIN - 679503
  - R1 & R2 BY SRI.RAJESH A., SPL.PUBLIC PROSECUTOR, VACB SMT.REKHA.S., SR.PUBLIC PROSECUTOR, VACB

R3 BY ADV.SRI.K.RAVI (PARIYARATH)

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 24.06.2025 ALONG WITH CRL.MC.10540/2024 AND CRL.M.C.929/2025, THE COURT ON 04.07.2025, PASSED THE FOLLOWING:

CRL.M.C.NO.929 OF 2025

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#### THE HIGH COURT OF KERALA AT ERNAKULAM

#### PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 4<sup>TH</sup> DAY OF JULY 2025 / 13TH ASHADHA, 1947

CRL.MC NO. 10540 OF 2024

CRIME NO.3/2024 OF VACB, PALAKKAD, Palakkad

#### PETITIONER/2ND ACCUSED:

DEVI DASAN,

AGED 71 YEARS,

S/O.APPUKUTTAN ERADI, ILLARAKOVILAKAM HEREDITARY
TRUSTEE OF SREE CHERPULASSERY DEVASWOM

CHERPULASSERY, OTTAPPALAM TALUK, PALAKKAD DISTRICT, PIN - 679503

BY ADVS.

SRI.K.MOHANAKANNAN

SHRI.ADARSH MOHAN K.

## RESPONDENTS/STATE & DE FACTO COMPLAINANT:

- 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031
- THE DEPUTY SUPERINTENDENT OF POLICE,
  VIGILANCE AND ANTI CORRUPTION BUREAU, G B ROAD
  PALAKKAD, PIN 678001
- 3 STATION HOUSE OFFICER,
  PALAKKAD POLICE STATION, TOWN NORTH, BIG BAZAR,
  CITY POST, PALAKKAD, PIN 678004

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\*ADDL.R4 ARUNKUMAR V.V.,

S/O.ACHUTHA WARRIER, CHIRANKARA VARYAM, KARUVATTAM, CHERUPPULLASSERY P.O., PALAKKAD, PIN - 679203

IS IMPLEADED AS ADDITIONAL RESPONDENT NO:4 AS PER ORDER DATED 3.3.2025 IN CRL.M.A.1/2025 IN CRL.M.C. 10540/2024

R1 TO R3 BY SMT.REKHA.S., SR.PUBLIC PROSECUTOR, VACB SRI.RAJESH A., SPL.PUBLIC PROSECUTOR, VACB

ADDL.R4 BY ADVS.

SRI.K.RAVI (PARIYARATH) SRI.ROHITH C.

THIS CRIMINAL MISC.CASE HAVING BEEN FINALLY HEARD ON 24.06.2025 ALONG WITH CRL.MC.929/2025, CRL.MC.7523/2024, THE COURT ON 04.07.2025 PASSED THE FOLLOWING:

CRL.M.C.NO.10540 OF 2024 &

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#### IN THE HIGH COURT OF KERALA AT ERNAKULAM

#### PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 4<sup>TH</sup> DAY OF JULY 2025 / 13TH ASHADHA, 1947

CRL.MC NO. 929 OF 2025

CRIME NO.3/2024 OF VACB, PALAKKAD

# PETITIONERS/ACCUSED 1, 3 AND 5:

- 1 K.K.REGHUNATHAN,
  AGED 53 YEARS
  S/O.PADMINI AMMA, RESIDING AT VRINDAVANAM HOUSE,
  NEAR SREE PARIYANAMPATTA BHAGAVATHI KSHETHRAM,
  KATTUKULAM P.O., MANGALAMKUNNU, OTTAPPALAM,
  PALAKKAD DISTRICT, PIN 679503
- 2 C.RADHAKRISHNAN,
  AGED 69 YEARS,
  S/O.LATE C PANKUNNY, NON HEREDITARY TRUSTEE,
  AYYAPPANKAVU DEVASWOM, CHERUPLASSERY, PALAKKAD
  RESIDING AT CHANGARATTIL HOUSE, CHERUPLASSERY,
  PALAKKAD DISTRICT, PIN 679503
- 3 E.M.VASUDEVAN NAMBOODIRI, AGED 60 YEARS, S/O.LATE PARAMESWARAN NAMBOOIRI, CLERK, SREE AYYAPPANKAVU DEVASWOM, CHERUPLASSERY, PALAKKAD DISTRICT RESIDING AT MOOTHEDATH MANA, TOOTHA P.O, AANAMANGADU, MALAPPURAM DISTRICT, PIN - 679357 BY ADVS.

SRI.K.MOHANAKANNAN SRI.H.PRAVEEN (KOTTARAKARA) CRL.M.C.NO.929 OF 2025

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### RESPONDENTS/STATE:

- 1 STATE OF KERALA

  REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF

  KERALA, ERNAKULAM, PIN 682031
- THE DEPUTY SUPERINTENDENT OF POLICE,
  VIGILANCE AND ANTI-CORRUPTION BUREAU, G B ROAD
  PALAKKAD, PIN 678001
- 3 STATION HOUSE OFFICER,
  PALAKKAD POLICE STATION, TOWN NORTH, BIG BAZAR, CITY
  POST, PALAKKAD, PIN 678004

### \*ADDL.R4 ARUNKUMAR V.V.,

S/O.ACHUTHA WARRIER, CHIRANKARA VARYAM KARUVATTAM CHERUPPULLASSERY P.O., PALAKKAD, PIN-679203. IS IMPLEADED AS 4TH ADDITIONAL RESPONDENT AS PER THE ORDER DATED 03/03/2025 IN CRL.M.A.NO.2/2025 IN CRL.M.C.NO.929/2025

R1 TO R3 BY SPL.PUBLIC PROSECUTOR SRI.RAJESH.A. VACB

SR.PUBLIC PROSECUTOR SMT.REKHA.S., VACB ADDL.R4 BY ADVS.SRI.K.RAVI (PARIYARATH)
SRI.ROHITH C.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 24.6.2025, ALONG WITH CRL.MC.NO.10540/2024 AND CRL.MC NO. 7523/2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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**CR** 

# **COMMON ORDER**

Dated this the 4<sup>th</sup> day of July, 2025

These Criminal Miscellaneous Cases have been filed by accused Nos.1, 2, 3, 4 and 5 seeking quashment of FIR in Crime No.3/2024 of Vigilance and Anti-Corruption Bureau, Palakkad and FIR in V.C.No.3/2024/PKD of Vigilance and Anti-Corruption Bureau, Palakkad, registered alleging commission of offences punishable under Sections 7, 13(1)(a) r/w Section 13(2) of the Prevention of Corruption Act, 1988 as amended by the Prevention of Corruption (Amendment) Act, 2018 (for short, 'the PC Act, 2018' hereinafter) as well as under Sections 406, 408, 420, 468, 471 and 120B of the Indian Penal Code (for short, 'the IPC' hereinafter), by

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the petitioners.

- 2. Heard the learned counsel for the petitioners, the learned counsel appearing for the de facto complainant and the learned Public Prosecutor in detail. Perused the legal provisions and the decisions cited.
- 3. The contention raised by the learned counsel for the petitioners is that none of the offences under the PC Act, 2018 would attract the present case, since none of the petitioners herein are public servants within the meaning of Section 2(c)(i) to (xii) of the PC Act, 2018.
- 4. The learned counsel for the petitioners stressed the definition of 'public servant' under Section 2(c)(xii) which provides that any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any

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financial assistance from the Central Government or any State Government, or local or other public authority. The learned counsel for the petitioners would submit that in the instant case, Sree Ayyappan Kavu Temple, Cherupulassery is under the Malabar Devaswom Board governed by the provisions of the Madras Hindu Religious and Charitable Endowments Act, 1951 and Rules (for short, 'the Act, 1951' hereinafter) thereof and therefore, the administration of the temple is under the control of the Commissioner and any discrepancies or malpractices, in any form, can vehemently addressed by the Commissioner Commissioner has power to deal with the situation. It is also pointed out that the Hereditary Trustee, the Melsanthi and the other petitioners who are arrayed as accused being the Managing Trustee, the Non-Hereditary Trustee and the Head Clerk also do not come within the purview of the definition 'public servant'

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under Section 2(c) of the provisions of the PC Act, 2018. The learned counsel pointed out Section 45 of the Act, 1951 to emphasis his argument regarding the powers of the Commissioner and pointed out that the Commissioner has wide power to address illegalities, if any, by appropriate means. Section 45 of the Act, 1951 reads as under:

- **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 non-hereditary 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 State Government, the Commissioner or Deputy Commissioner, the Area Committee or the Assistant Commissioner, or
  - (c) for any malfeasance, misfeasance, breach of



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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 sub-section (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 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 sub-section (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

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the functions of the trustee.

- (4) It shall be open to an Assistant Commissioner to move the Deputy Commissioner to take action under sub-section (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 sub-section (3).
- (5) A trustee who is suspended, removed or dismissed under sub-section (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 State Government if it was passed by the Commissioner.
- 5. Zealously opposing the contention raised by the petitioners disputing their status as that of public servants, the learned counsel appearing for the de facto complainant taken this Court's attention to the definition of 'public servant' as per Section 2(c)(viii) where it is provided that any person who holds an office by virtue of which he is authorised or required to perform any

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public duty is a public servant. He also pointed out that as per Section 2(b) of the PC Act, 2018, 'public duty' means a duty in the discharge of which the State, the public or the community at large He also brought attention of this Court to has an interest. Explanation 1 to Section 2 of the PC Act, 2018 by asserting that persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not. In support of his contention, he has placed Division Bench decision of this Court in Satheesh v. Enquiry Commissioner And Special Judge reported in [2003 KHC 1143] wherein this Court considered the definition of public servant when considering whether Commissioner of Guruvayoor Devaswom as well as the Administrator of the Guruvayoor Devaswom are persons who hold the respective officers and in that capacity are public servants within the meaning of Section 2(c)(viii) of the PC Act, 2018. While

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answering the said question, this Court in paragraph No.10 held that the Commissioner, the Administrator and the members of the managing committee are public servants, as defined in Section 2(c) (viii) of the PC Act, 2018.

- 6. Countering this argument, the learned counsel for the petitioners would submit that the appointment of Commissioner and Administrator in Guruvayoor Devaswom is governed by the Guruvayoor Devaswom Act, 1978 where it has been specifically provided that the appointment to the said post shall be from a Government servant. Therefore, the said decision has no application in the present crime.
- 7. Apart from the decision in **Satheesh**'s case (supra), the learned counsel appearing for the de facto complainant placed a three bench decision of the Apex Court in **State of Gujarat** v. **Mansukhbhai Kanjibhai Shah** reported in **[2020**]

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KHC 6358] where also the Apex Court considered the definition of 'public servant' under Section 2(c) of the PC Act, 2018, when considering the officers under a deemed University within the purview of public servant. The learned counsel read out paragraph Nos.22, 26, 29, 34, 46, 60 and 68 of the above judgment to contend that in view of the ratio laid in Mansukhbhai Kanjibhai Shah's case (supra), the petitioners herein, who are deemed public servants as that of a temple under the Malabar Devaswom Board, are public servants.

8. The learned Public Prosecutor supported the argument of the learned counsel appearing for the de facto complainant and pressed for dismissal of these petitions permitting the investigation based on the FIRs already registered to have its logical conclusion, as per law. The learned Public Prosecutor also placed a decision of this Court in W.P.(Crl.)No.791/2022, where this Court addressed

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the definition of the word 'public servant' in relation to an educational institution managed by a society registered under The Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955. In the said decision, in paragraph No.13, this Court found that the duty discharge to them is public duty, hence, they are public servants under the PC Act, 2018.

9. In the instant case, Sree Ayyappan Kavu Temple, Cherupulassery is under the Malabar Devaswom Board governed by the provisions of the Act, 1951. Therefore, while considering the question as to whether the petitioners herein are public servants, the essentials under Section 2(c)(xii) of the PC Act, 2018, is relevant. Section 2(c)(xii) of the PC Act, 2018, an employee of the temple also would become a public servant if the temple is receiving or having received any financial assistance from the Central Government or any State Government, or local or other

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public authority. In fact, as already pointed out, the petitioners herein are the Managing Trustee, the Hereditary Trustee, the Non-Hereditary Trustee, the Melsanthi as well as the Head Clerk and they are getting salary from the fund of the temple or the fund of the Malabar Devaswom Board. If there is some materials to show that there is payment of any financial assistance from the Central Government or any State Government or local or public authority to the temple, the petitioners would definitely come within the purview of 'public servants'. Since no materials available to see payment of any financial assistance from the Central Government or any State Government or local or public authority, it could not be held that the petitioners herein are public servants within the meaning of Section 2(c)(xii) of the PC Act, 2018. If such a wide definition is given, then, even the employees of private temples and charitable associations, which do not receive any financial

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assistance from any Government or public authority would come within the purview of the PC Act, 2018 and the same is never intended by the legislature, while enacting the PC Act, 2018.

10. Coming to Cr.M.C.No.7523/2024, it is discernible that the petitioner therein is the 4<sup>th</sup> accused, who is the Melsanthi of the temple. Going by the prosecution allegations also, he did not have any role in the administration of the temple and his duty is to obey the directions of the temple committee. It is discernible from the report of the inspection submitted by the Inspector, Malabar Devaswom Board as on 12.9.2024, produced as Annexure R4(c) in Crl.M.C.No.929/2025, that the allegation against the Melsanthi is that the Melsanthi kept some gold ornaments belonged to the deity, in his possession and failed to give the same to the trustees. In Annexure R4(c), the Inspector found that the said item was handed over to the Devaswom and the trustee received as receipt

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No.139, dated 6.2.2022. In fact, in the said scenario, no offence would lie against the Melsanthi. It is true that there is allegation regarding falsification of records, use of the same as genuine and carrying out construction without the sanction etc., are found in Annexure R4(c) report also, for which, investigation is required.

11. Since none of the offences under the PC Act, 2018 would attract in the facts of this case, as against the petitioners, the prosecution as against them for the said offences would not lie and the same would require quashment. However, as far as the IPC offences in relation to the petitioners in Crl.M.C.Nos.929 of 2025 and 10540 of 2024 are concerned, the investigation is liable to be continued by transferring the FIR to the local limit of the Police Station where crime was committed.

In the result, Crl.M.C.No.7523 of 2024 stands allowed. The FIR as against the petitioner therein, who is arrayed as the 4<sup>th</sup>

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accused, in its entirety, is quashed.

Crl.M.C.Nos.929 of 2025 and 10540 of 2024 are allowed in part. Thereby, offences under the PC Act, 2018, alleged against the petitioners herein, as per the impugned FIR, stand quashed with direction to the Investigating Officer to hand over the FIR and connected records to the Station House Officer of the Police Station where the crime was committed to continue the investigation as regards to the other offences under the IPC, as per law, to have a logical conclusion of the same.

Sd/-**A. BADHARUDEEN JUDG**E

Bb

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# APPENDIX OF CRL.MC 7523/2024

# PETITIONER'S ANNEXURES

Annexure 1	TRUE COPY OF THE FIR IN V.C.NO.3/2024 OF VACB, PALAKKAD DATED 12-04-2024						
Annexure 2	TRUE COPY OF THE PRIVILEGE CARD ISSUED TO THE PETITIONER BY THE GURUVAYUR DEVASOM						
Annexure 3	TRUE COPY OF THE IDENTITY CARD ISSUED BY THE TRAVANCORE DEVASWOM BOARD WHICH DISCLOSES THAT THE PETITIONER HAD BEEN THE MELSANTHI OF SREE SABRAIMALA DEVASWOM FROM 16-11-2016 TO 15-11-2017						
Annexure 4	TRUE COPY OF THE COMPLAINT PREFERRED BY THE 3RD RESPONDENT DATED 24-01-2023						
Annexure 5	TRUE COPY OF THE JUDGMENT DATED 08-01-2024 IN W.P. (CRL) NO.1273 OF 2023						
Annexure 6	TRUE COPY OF THE APPLICATION WHICH PRESCRIBES THE QUALIFICATION ISSUED BY THE GURUVAYUR DEVASWOM FOR THE PERIOD FROM 01-10-2024, DATED 1-8-2024						
Annexure 7	TRUE COPY OF THE LETTER DATED 26-06-2024						
Annexure 8	TRUE COPY OF THE JUDGMENT DATED 05-07-2024 IN W.P. (C) NO.11875 OF 2024						
RESPONDENTS' ANNEXURES							
ANNEXURE- R3(a)	TRUE COPY OF THE LETTER ISSUED AT THE INSTANCE OF THE PETITIONER TO THE SREE AYAPPANKAVAU DEVASWOM MANAGING TRUSTEE, DATED 16.03.24.						

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# APPENDIX OF CRL.MC 10540/2024

# PETITIONER'S ANNEXURES

Annexure A1	TRUE COPY OF THE PROCEEDINGS NO.
	A2/1310/2000(I) DATED 07.12.2000 OF THE
	DEPUTY COMMISSIONER, HR & CE DEPARTMENT
	ALONG WITH RETYPED COPY
Annexure A2	TRUE COPY PROCEEDINGS NO.A1/2279/2005
	DATED 20.06.2006 OF THE DEPUTY
	COMMISSIONER ALONG WITH RETYPED COPY
Annexure A3	TRUE COPY OF THE PROCEEDINGS NO.J5-
	2014/2024-MDB(KDIS) OF THE COMMISSIONER,
	DATED 9-10-2024
Annexure A4	TRUE COPY OF THE JUDGMENT IN WRIT
	PETITION (CRL) 1273/2023 OF THIS HONOURABLE
	COURT DATED 08.01.2024
Annexure A5	TRUE COPY OF THE FIR IN CRIME NO.3/2024
	OF VIGILANCE AND ANTI-CORRUPTION BUREAU,
	PALAKKAD
Annexure A6	TRUE COPY OF THE INTERIM ORDER IN
	CRL.M.C.NO.7523/2024 DATED 9-9-2024 OF
	THIS HON'BLE COURT
Annexure A7	TRUE COPY OF THE INTERIM ORDER DATED
	25.11.2024 IN CRL.M.C.7523/2024 OF THIS
	HONOURABLE COURT

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# APPENDIX OF CRL.MC 929/2025

# PETITIONERS' ANNEXURES

Annexure	A1	_			_	THE	_
		•	910/2019 NT COMM	•		31-3-20	)20 OF
Annexure	A2	TRUE	COPY	PROC	-	NO.J! 2022	5/3336/
Annexure	<b>A</b> 3		_	_	RDER DA	TED 17-1 ER	11-1994
Annexure	A4					MENT IN D: 8.1.2	
Annexure	<b>A</b> 5	OF VIG		AND AI	NTI-CORR	RIME NO UPTION 1	
Annexure	<b>A</b> 6		7523/202			ORDER I 0-2024 O	
Annexure	A7				INTERII C.7523/	M ORDER 2024	DATED
Annexure	A8					TED 11-1 C.10540/	
RESPONDEN	ITS' ANNEXU	RES					
ANNEXURE-	R4 (A)	HON'BLE BOARD,	COMMI	SSIONE RDER	ER, MAI	PASSED : ABAR DI 4302/202:	EVASWOM
ANNEXURE-	R4 (B)	HON'BLE BOARD,	COMMI	SSIONE ORDER	ER, MAI	PASSED LABAR DI /168/2024	EVASWOM

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ANNEXURE- R4(C) TRUE COPY OF THE REPORT FILED BY THE INSPECTOR, MALABAR DEVASWOM BOARD, OTTAPALAM DIVISION, BEFORE THE ASSISTANT COMMISSIONER, MALABAR DEVASWOM BOARD, PALAKKAD, DATED 12.09.24.