

**REPORT OF  
THE COMMISSION OF ENQUIRY**

**REGARDING**

**Pandharpur Temples of Shri Vithoba, Shri Rukmini and The  
Pariwar Dewatas and of the Vithal Rukimni Deosthan Committee**

**COMMISSION  
Shri B.D.NADKARNI  
(Retired District Judge)**

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AND THE PARIWAR DEWATAS AND OF THE VIJHAI  
RUKMINI DEOSTHAN COMMITTEE

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PART I  
R E P O R T

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## CHAPTER I

### PROLOGUE

1. As a result of complaints received by the Government regarding mismanagement of the Vithoba and Rukmini Temples, the Parivar Devasas of Vithoba and the Vithal-Rukmini Devasthan Committee, all at Pandharpur and separately registered as Public Trusts under the Bombay Public Trusts Act, XXIX of 1950, the Government of Maharashtra, in the department of Law and Judiciary, Bombay, by its Notification No. 27518-P. dated 21st October 1968, appointed, in exercise of the power conferred by sections 3 and 5 of the Commissions of Inquiry Act, 1952 (LX of 1952), a one man Commission, consisting of Shri B. D. Nadkarni, retired District Judge.

2. The terms of reference to the Commission, consists of :—

(a) the alleged mismanagement of the said public trusts ;

(b) the sources of income of the said public trusts ;

(c) the persons (other than the said public trust) who claim that they are entitled to such income (including any offerings made before the deities or any portion thereof ; and their rights in relation thereto) ;

(d) the manner in which the income of the said public trusts is being utilised or appropriated at present, regard being had to the judgment of the High Court at Bombay in Appeal Nos. 141 and 168 of 1892, reported in the Bombay High Court Judgments, 1896, p. 644.

(e) the manner in which the office bearers for the management of the said public trusts are chosen ;

(f) the rights of all persons having or claiming interest in the said public trusts, such as Badves, Utpats, Sevadharies and Kshetra Upadharyas, in the management of the said public trusts or in the appropriation of the income thereof.

3. The Commission of Inquiry was required to suggest :—

(a) ways and means of proper management of the said public trusts and for the proper utilisation of the income of those trusts ;

(b) ways and means for improving the existing manner of choosing office bearers for management of the said trusts so as to secure effective supervision, regulation, control and management of those trusts ;

(c) whether the existing rights of persons entitled to the management of the said public trusts and appropriation of the income thereof should be abolished and, if so, the quantum of compensation to be paid for such abolition, together with the machinery for the determination and payment of compensation, and the sources from which such compensation shall be paid ; or in the alternative, if such rights are to be preserved, then the manner in which the exercise of such rights may be regulated ;

(d) a scheme of management of the said public trusts (including amalgamation thereof, if necessary), and for the utilisation of any surplus balance of the said public trusts for allied religious objects after making provision for Reserve Fund and the like ;

(e) whether any legislation is necessary and if so, the proposals for legislation ; and

(f) any other relevant or connected matter.

4. The Commission was invested with powers under sub-sections (2), (3), (4) and (5) of section 5 of the Commissions of Inquiry Act and in the first instance a period of four months from the date of the Notification was provided for submission of the Report.

5. The Commission took over at Poona, which was fixed as Headquarters, its duties on 11th November 1968, after having received a copy of the Notification on 2nd November 1968 at Bombay.

6. In order to acquaint itself with the situation of the trusts and the conditions that existed, the Commission visited Pandharpur on 12th November 1968 and after arrangement for accommodation etc. were completed at Poona, the Commission resumed the work on 27th November 1968. The Commission had to acquaint itself with all the material that led to the appointment of the Commission and in this respect the most useful information could be had from the Report submitted in 1965 by Mr. G. V. Huprikar who had made enquiries as a result of persistent complaints received by the Government and the Charity Commissioner from the public regarding the conditions at Pandharpur. The necessary record about the complaints etc. was received from the Charity Commissioner, on 18th November 1968. After going through the Report and having discussions with Mr. Huprikar, who was appointed as Secretary to the Commission, a Questionnaire to be issued to those connected with the Trusts as well as members of the public was formulated and settled. On 29th November 1968 an order was made directing issue of notices to all persons having or claiming interest in the management or in the appropriation of the income of the respective trusts, to file statements of particulars in respect of the rights claimed by them in the management and the appropriation of the income as well as to services and expenses, of Dakshina and to produce documents in their possession in support of the rights claimed by them. Under Rule 2 sub-rule (1)(b) of the Rules framed by the Central Government, in the absence of any separate Rules of the State Government, a public Notification was issued inviting all persons acquainted with the subject matter of the enquiry to furnish to the Commission statements relating to the matters of enquiry. Notices were published in the Newspapers with wide circulation such as the *Indian Express*, the *Maharashtra Times*, both of Bombay, the *Sakal* of Poona, the *Tarun-Bharat* of Nagpur and the *Sancher* of Sholapur. Letters were addressed to Directors of Publicity of Maharashtra as well as Andhra Pradesh, Mysore, Madras, Kerala, Goa, Orissa, U.P., Madhya Pradesh, Rajasthan, and Gujarat, to give wide publicity to the appointment of the Commission, the Terms of Reference, and inviting the public to tender their suggestions, as pilgrims from most of these States were visiting Pandharpur from time to time.

7. The task of the Commission was by no means easy. In addition to the decisions of the Bombay High Court referred to in the Terms of Reference, the Commission found that from time to time there were litigations between Badves on the one hand and different Sevdharis on the other in which their rights inter-se were the subject matter of decisions. The initial task before the Commission was to obtain copies of the various judgments in order to find out what are the rights claimed by the various persons in regard to the various trusts. So far as Badves, who claimed at one time proprietary rights over the Vithoba temple and Utpats who claimed proprietary rights over the Rukmini Temple, were concerned, their claims appeared to have been the subject matter of dispute and decisions before the previous Rulers who exercised sway over the area in which the Temples were situated. As all the old documents concerning their respective rights were not forthcoming from the parties themselves, the Commission had to undertake enquiries in the Institutions in which old record was expected to be available, viz., the Deccan College Research Institute, the Bharat Itihas Sanshodhak Mandal, and the Peshwa Daftar in the Land Alienation Office. In the two latter Institutions some record could be traced which will be referred to in due course and which was found to be useful in the course of the enquiry. In the Deccan College Research Institute, two theses which were submitted for Doctorate after research carried out under the directions of eminent Professors were made available by the courtesy of Dr. S. M. Katre, the Director and Dr. Mrs. Iravati Karve to whom the Commission is grateful.

8. The Commission had fixed 16th December 1968 as the date by which the parties connected with the Trusts and the members of the public were invited to file their statements by 31st December 1968. In deference to the wishes of some of the people time had to be extended to provide the fullest opportunity to the public to give their answers to the Questionnaire.

9. Though notices were issued to those connected with the Trusts to file their Statements regarding their claims, except some, the rest of them did not file their statements in time and obtained extension of time. The Commission, therefore, thought that it was necessary to ascertain the exact rituals taking place in the temple and the claims of various people in respect thereto, and for this purpose directed a preliminary hearing to record the statements of the interested parties on 6th January 1969. On 6th January 1969 Counsel on behalf of the Utpats raised preliminary objections regarding the appointment of the



Commission on several grounds and the Commission by its order (Exhibit 46) over-ruled those objections ordering at the same time access to the parties to the record containing complaints against them. The preliminary hearing was commenced with the statement of Mr. Narayan Dattatraya Badve on behalf of Badves. While his statement was in progress an application was filed on 8th January 1969 on behalf of the Utpats and the Badves requesting for an adjournment to enable the parties to file a writ petition in the High Court against the order (Exhibit 46) passed by the Commission. Though the Commission was not bound to adjourn the hearing, in the interest of a fair opportunity, a week's adjournment till 15th January 1969 was granted. On 15th January 1969 the hearing was resumed as the applicants were unable to obtain an order of Stay from the High Court. In fact it appears that a writ petition was not filed till the 15th January and it is only after the hearing was resumed that the petition appeared to have been filed on 16th January 1969 which happened to be summarily dismissed later on, on 7th February 1969. But in the meanwhile the preliminary hearing went on without interruption and was concluded on 17th January 1969.

10. After recording the statements of the parties the replies which were received from the members of the public to the questionnaire issued by the Commission were processed in preparation for recording evidence of the members of the public. In the meanwhile, since it was complained that those claiming rights in connection with the trusts and against whom there were allegations of mismanagement etc., had not been supplied with details of those complaints which they would be required to answer, on 10th February 1969 a statement of allegations (Exhibit 125) was prepared and was served on the respective parties at Pandharpur on 13th February 1969 which was the day fixed for recording of the evidence. In the course of the enquiry the Commission visited Pandharpur for recording evidence on three different occasions, besides visiting different places in Maharashtra viz., Nagpur, Jalgaon, Nasik, Bombay, Satara, Kolhapur and Aurangabad. Evidence was also recorded at Poona which was the headquarters of the Commission. After conclusion of the evidence of the public an opportunity was given to the parties interested in the trusts and who had given their statements in the course of the preliminary enquiry, to give evidence in answer to the allegations brought out against them in the course of the evidence and also to lead evidence, if they so desired. The Commission offered to give assistance to call them and even pay their expenses if demanded. Among the parties, only the representatives of the Utpats declined to give further evidence though they led evidence of witnesses on their behalf. The Commission examined in all 253 witnesses representing all classes and shades of opinion. It may be noted that the Commission visited the various places because the devotees from the various parts represented to the Commission that their means did not permit them to travel to Poona, though they desired to give evidence.

11. After issue of the Questionnaire by the Commission, the Commission received from time to time sheaves of printed material in which the Questionnaire was printed with replies in favour of the Badves and Utpats. Each of the sheets was accompanied by lists of signatures purporting to be of different villagers. If genuine, the signatories purported to be in thousands. While the Commission was continuing to receive a large number of such forms from different places, it also happened to receive material indicating that it was the result of propaganda. All the forms received appeared to have been printed at an identical press. The envelopes were of an identical type, the slips of the Commission's address also appeared to have been printed in the same press though all these were received from different parts of Maharashtra. In one of such envelopes a letter (Exhibit 269) written by a person from a particular village meant for one of the persons in Pandharpur, who had requested him to take signatures and forward the same to the Commission, happened to be enclosed by mistake in that envelope addressed to the Commission. Another person was found collecting signatures in the precincts of the Office of the Commission. While it was obvious that a signature campaign in favour of the Badves and Utpats was afoot a similar campaign was also apparent on the part of the warkaries which was against the Badves. There were no means for the Commission to know whether the signatures were genuine and whether the statements represented their opinion. But it was quite obvious from all the circumstances that vigorous propaganda was afoot both on behalf of and against the Badves and the Utpats. The Commission, therefore, made an order (Exhibit 24) on 30th December 1968 to the effect that it would not be possible for the Commission to consider the applications received by post presenting features either of propaganda or of a regular signature campaign, unless the signatories themselves or such of them wanting to be heard appeared before the Commission and testified to the correctness of the contents of those applications to enable the Commission

to come to the conclusion that the signatures have not been made either out of ignorance or out of influence or pressure exerted by interested persons. This order was given wide publicity in the Press, with the result that it put a stop to the flood of communications coming by way of propaganda.

12. During the course of hearing the Commission endeavoured to respect not merely the principles of natural justice but even the rules of evidence as far as it could be done regarding admission of documentary evidence. In order to provide opportunities to all sections of the public while refusing permission to individuals not directly connected with the trusts to intervene, the Commission permitted organised bodies such as Warkari Maha Mandal and Wishva Hindu Parshad, Koli community and Kshetra-upadhayas to appear through Counsel and take part in the proceedings. After conclusion of the evidence by all those who offered it, the Commission heard arguments on behalf of all those who put in an appearance, concluding the hearing with the arguments of the Counsel appointed by the Government, with an opportunity to the Badves, Utpats and Sevadharies to reply to the arguments of the Counsel to the Commission. It may be noted here that the Commission had the services of a Counsel to assist it only at the stage of arguments but not in the course of the hearing of the evidence of all the 253 witnesses.

13. Not being content with the experience of the various witnesses as deposed by them, the Commission visited Pandharpur on the Ashdhi Ekadashi day, the peak day of the most important fair, besides on the Chaitra Padwa day on which day, also a considerable number of pilgrims are attracted. The Commission also visited Alandi at Ashadh Vadya Ekadashi on which day also a large number of pilgrims are attracted to the shrine of Shri Dnyandeo, so that it may have an idea of arrangements made by the Alandi trusts.

14. In the course of the enquiry several witnesses had referred to the management of several temples particularly the temple of Shri Vyankateshwar at Tirumalai-Tirupati and of Shri Mangesh and Shanta Durga at Goa commending the management and arrangements. In the course of study of the pertinent articles of the Constitution and the law relating to Religious Endowments the Commission had noted that administration had been imposed by Legislative enactments in Badrinath Temple, the Dargah of Khwaja Muin-Ud-Din Chishti at Ajmer, the Temples at Nathdwara, Jagannath Puri and Tirupati-Tirumalai. In the course of arguments the priestly classes of Pandharpur claimed protection under Article 26 of the Constitution alleging that they constitute a "Religious Denomination" like the Podu Dikshitar of the Chidambaram Temple who have been held to constitute a religious denomination. The Badves, Utpats and Sevadharies concentrated their case on this ground and therefore the Commission found it necessary to visit Chidambaram to study the position of the Podu Dikshitar to see whether there is any thing in common between them and the priestly classes of Pandharpur to enable the latter to claim the status of a "Religious Denomination". Under the terms of reference as this Commission has to propose Legislation, if necessary, and also steps for better management of the Temples and Trusts at Pandharpur, the Commission felt it necessary to acquaint itself with the conditions at all the places where administration has been imposed by Legislation and the difficulties, if any, encountered by the administration in the smooth management of the Temples so that while making proposals the Commission may endeavour to make suggestions as would eliminate as far as practicable the difficulties experienced elsewhere.

15. With this end in view after the hearing of the evidence and arguments was concluded and after obtaining formal approval of the Government, the Commission undertook a tour from 21st October 1969 which was concluded with return to Bombay on 3rd December 1969. In the course of the tour which was both strenuous and hazardous so far as Badrinath was concerned the Commission visited the Temples at Badrinath in the Himalayas, Nathdwara and the Dargah at Ajmer in Rajasthan, the temples of Goa, Jagannath Puri in Orissa, Chidambaram in Tamilnad and Tirupati-Tirumalai in Andhra Pradesh, where after contacting the various Administrative officers at the respective temples the Commission was able to collect vast material which would prove useful in finalising the Report and formulating the proposals.

16. Though in the first instance the Report was required to be submitted within 4 months of the date of the Notification several factors necessitated asking for extension of time. The terms of reference were so wide and comprehensive that voluminous evidence had to be recorded examining as many as 253 witnesses and the Commission had to visit different places to comply with the requests of pilgrims and devotees particularly from agricultural and labour classes from different parts of Maharashtra who desired to give evidence but who had no means to come to Poona. The Commission had also to labour under the difficulty of obtaining assistance of Counsel till the stage of arguments and services of a stenographer

till the stage of arguments commenced. Visits to different temples alone situated in different parts of the country occupied about six weeks. The Commission had therefore to ask for two extensions each of four months and the third of two months. The Commission was anxious to finish and submit the report by the end of December 1969 but after visiting the various temples the Commission found that large amount of information collected needed to be incorporated in the draft involving re-writing of some of the Chapters. Ultimately the Commission is able to conclude the work and submit its report. The Report is submitted in three parts. The first part consists of the main Report together with the recommendations. The second part consists of the Draft of the Legislation proposed and the third part consists of the relevant Appendices.

## CHAPTER II PANDHARPUR, ITS MAIN TEMPLES AND TRUSTS

1. Pandharpur is an ancient town situated on the right bank of the river Bhima having 11 Ghats or landing places with steps, some of them incomplete. The town is known from the earliest times under different names: Pandarg, Pandhari, Pandharpur etc. whose two main presiding deities—Shri Vithoba and Shri Rukmini installed in two different temples close to each other in the same enclosure, of walls, being the constant attraction of thousands of pilgrims from year to year, from parts all over India, not only from Maharashtra, Vidarbha and Karnatak but even from Andhra, Telengana and Gujarat. The reasons why such a large number of pilgrims are attracted to Pandharpur will be discussed in the next chapter. But it would be appropriate to give a brief description of the places and the trusts to which the present Enquiry relates so that the Report may present a picture complete as far as may be necessary. For this purpose the Commission has freely drawn upon the Gazetteer of the Bombay Presidency, Vol. XX, Sholapur District, 1894, pages 416 onwards and the book in Marathi written and published by Shri Ganesh Hari Khare, curator of the Bharat Itihas Sanshodhak Mandal, Poona-30 who is also a guide recognised by the University of Poona for the post-graduate research. These books have provided ample material.

2. Pandharpur is a city 17° 40' north latitude and 75° 23' east longitude, about forty-four miles west of Sholapur with a population of about 45 thousand in the last census of 1961. It is the headquarters of the Revenue Sub-Division having in addition the Office of the Deputy Collector, the Civil Judge, the Resident Magistrate, a dispensary, an orphanage, capable of evoking the feelings of those who visit it. It is situated about 20 miles south-west of Mohol and thirty-one miles south of Barsi Road Station. Mohol is about midway on the road running between Sholapur and Pandharpur. There are several other roads connecting Pandharpur with different places in different directions. One road connects it with Kurduwadi a junction on the Central Railway. A road from Ahmednagar connects Pandharpur via Karmala, Wangi and Sapatne. A road from Poona via Indapur and Tembhurni joins the Ahmednagar road at Sapatne. Another road connecting Poona with Pandharpur is the national high-way meeting at Mohol, joining the road between Sholapur and Pandharpur and the distance from Poona is about 160 miles. The third road from Poona is via Sasvad, Phaltan, and Natepute, the distance to Pandharpur being 110 miles. There is a road from Bijapur to Pandharpur via Borgi, Indi, and Mangalwedha. So also there is a road from Jath reaching Pandharpur via Sangola and Shetphal, joining the road from Miraj running alongside the Railway line of the Miraj-Barsi narrow gauge Railway. There are also other roads one connecting Satara with Pandharpur via Koregaon, Mhasvad, Bhalavani and the other road from Chiplun, Helwak, Malharpeth, Umraj, Masur, Mayani, Dighanchi, etc. The travel by Railway is possible only after a change of train at Kurduwadi Junction on the main line and travelling by a narrow gauge which can rarely provide enough accommodation and facilities during the time of the main fairs when a large number of pilgrims are attracted to Pandharpur. While difficulties of actual travel are considerably mitigated by running the State Transport Buses on all these routes the pilgrims have still to face difficulties of accommodation in Pandharpur particularly during the Ashadhi fair which invariably occurs in the thickest of the rainy season.

3. Main temples at Pandharpur are those of Shri Vithoba, and Shri Rukmini, though there are other temples also. After the Bombay Public Trusts Act (XXIX of 1950) came into force when those in management of the various temples were called upon to register their trusts, several separate trusts have been registered. The fairs relating to four of these are the subject of enquiry by this Commission and they are—Shri Vithoba Trust, Shri Rukmini

Trust, the Trust of Parivar Devatas and the Vithal-Rukmini Devasthan Committee Trust. The last of these has no relation to any separate temple, but is a Committee constituted by the British Government to administer the cash allowance granted in favour of Vithoba and Rukmini by the Raja of Satara and continued by the succeeding Governments. The other trusts which are not included in the subject matter of this enquiry are numerous, the chief among them is the Pundalik temple, Gopalpura etc. A brief reference to these will be made at an appropriate place, but at this stage only three temple trusts viz Vithoba Trusts, Rukmini Trust and the Parivar Devata Trusts will be referred to.

4. Vithoba temple which is the chief temple is in the central part of the Town and its dimensions are roughly 350' east to west and 170' north to south. A paved passage which is narrow the greatest width being about 25' encircles the temple flanked on its side by houses and structures, providing space which is hardly enough for the vast concourse of people seeking entry into the temple. The Commission has reason to think that what was the property belonging to the temple at several places has been encroached upon and built up by different individuals without objection on the part of those who are in management. But it is not within the purview of the enquiry by this Commission to determine about these encroachments.

5. The temple has eight gates : three on the north, three on the east, one on the south and one on the west, though a few more openings recently made appear in the wall. Outside the southern gate there is a tree called a tarti-tree under which the place is consecrated to Kanhopatra one of the devotees who to avoid her capture on account of her beauty by one of the Muslim invaders, is said to have sought refuge of Vithoba and was saved by him. The main entrance is the eastern one known as Mahadwar, which is also called Namdeo Payri because one of the steps known as "Namdeo-Payari" is built up over the places where the remains of the great saint Namdeo are believed to have been interred at his desire, but in regard to which there has been a litigation between Badves on the one hand and the Shimpi community on the other to which sect Namdeo belonged. The Namdeo gate is reached by a flight of 12 steps and on the first step which is carved with a brass plate with certain inscription, a brass bust of Namdeo is placed. To the bust of Namdeo devotees make their offerings which are taken by the Badves, with a claim that this Namdeo-payari is one of the Parivar Devatas of Shri Vithoba. Just in front of the Namdeo Payari there is a shrine of Chokhamela a Harijan devotee-saint of Vithoba. Though sometimes, it is represented that he is buried there, his actual Samadhi is at Mangalwedha 14 miles away, but the place near the Namdeo-payari is consecrated as the place where Chokhamela used to stand to sing and pray Vithoba not being permitted to enter the temple as he was an untouchable. After one climbs the flight of steps beginning with the Namdeo Payari there are three small rooms on either side and on the left side as one enters there is a big niche in which is installed the idol of Ganpathi. This portion is called "Mukti-Mandap" and above it is a room or a place meant for the temple musicians and drums and is known as "Nagarkhana". After crossing the Mukti-Mandap there is a quadrangle about 120' x 60' which has on either side rooms, at least one of which was claimed adversely as of his title by one of the Badves who is an Advocate. Over this quadrangle there is a wooden canopy which is said to have been constructed by the Badves and the quadrangle is let out for marriage and thread ceremonies or community dinners. In this quadrangle there are certain samadhies besides small temples of Garood and Maruti, the Garood temple being in front of Vithoba. After crossing the quadrangle and a few steps one enters a hall known as "Solkhambi" measuring 41½' x 45½' by reason of the fact that its superstructure rests on 16 pillars. One of the pillars is plated with the gold at the base and silver above it and is known as Garood Khamb, claimed and regarded as one of the Parivar Devatas. Facing the north of the Solkhambi Mandap, there is a detached veranda with its seven rooms in which there are installed the lingas of Kashi-Vishvanath, images of Ram and Laxman, a small Kalbhairav riding a dog plated with brass, a small linga called Rameshwar riding a Shalunkha and idols of Dattatraya and Narsoba. Between these rooms and the Solkhambi Hall in the recess in the wall there is a large stone slab 4'-10" long by 2'-9" broad called "Chouryarshi" or 84 bearing inscribed figures and Badves used to tell the pilgrims that they should rub their backs against the slab to escape or avoid 84 millions of rebirth destined, before salvation, for every soul that has not rubbed against the slab. A modern image of the Goddess has been fixed on that slab. The slab bears the figure of "Shake 1194" and the figure '9' not being quite legible and capable of being read as '8' some fertile mind read the figure as '84' and connected it with the belief of 84 million births. Close to the Solkhambi Mandap behind it towards the sanctum is a small hall called Chowkhambi as the superstructure rests on 4 pillars. The hall has dimensions of 22'-2" by

19'-10". In the north-eastern corner of this hall is the Shejghar or the bed-chambers of the deity furnished with silver couch, and has doors plated with silver. From the Chowkhambi Hall one is let into the ante-chamber which is about 9' square and from the ante-Chamber one is let into the shrine or Gabhara, a small room about 8' square. Between the door and the platform on which the deity stands installed there is a wooden bar about 8" thick to prevent over-crowding. The platform or the altar is 3' high with a silver canopy above and on this altar stands the idol of Shri Vithoba which attracts millions every year. This idol is called by different names : Vithoba, Pandurang, Pandhari, Vithal Vithalnath etc.

6. Behind Vithoba temple in the north east corner of the enclosure facing east is the temple of Rukmni or Rukmini the consort of Vithoba. It has a shrine an ante-Chamber, an outer main hall and a sabhamandap. The last one has been pulled down and a new one in its place is under construction. The main hall has six pillars and a door 6' by 3' letting into the ante-Chamber with four pillarsters and with four quarter pillars in the corner. To its right or in the northern wall there is a recess like room meant as bed-Chamber of the Goddess. In the south wall is a gate which leads to shrines of Satyabhama and Rahi or Radhika which are Pariwar Devatas of Rukmini.

7. "Pariwar-Devatas" if literal meaning is to be given to the word "Pariwar" mean those Gods and Goddess which constitute retinue of the main deity. Both in the case of Vithoba as well as in the case of Rukmini several Gods and Goddesses and even pictures in the case of Vithoba are claimed to be Pariwar Devatas of which a separate list is on the record. There is evidence to show that the number of Pariwar Devatas has undergone change from time to time by additions to the list. Some of them are carvings on the pillars, some paintings on the walls and some even photographs. There is no dispute that the devotees visiting Pandharpur are told, even if it is accepted that they are not pressed, to place offerings before each of the Pariwar Devatas including the Garuda Khamb and the several minor idols and carvings, and also Satyabhama and Rahi in the Rukmini temple and all the offerings made to Pariwar Devatas connected with the Vithoba are appropriated by the Badves and those placed before the Pariwar Devatas of Rukmini are appropriated by the Utpats. Pariwar Devatas of Vithoba therefore have been registered as separate trust though under protest on the part of the Badves. Those Pariwar Devatas of Rukmini are included in the Rukmini trust. It may be mentioned that there are Pariwar Devatas both inside the temple as well as outside in the city of Pandharpur and it is one of the claims of Badves that any object in a public place subject of worship is a Pariwar Devata and any offerings placed before it must go to them. The question of offerings by the devotees and the rights thereto which is one of the important points to be considered by the Commission will be referred to and discussed at length in a later chapter.

### CHAPTER III

#### ORIGIN OF THE TEMPLES AND IDOLS

1. Unfortunately the place as well as the temples being ancient, no evidence which can pin point the date of establishment of the temples is available. The Commission is indebted to Shri G. H. Khare for the information in his book on "Sri Viththal and Pandharpur", IIIrd Edition, 1963, and to Dr. G. A. Deleury, S. J. whose thesis is published by the Deccan College Post Graduate Research Institution, in a book for n in 1960, on which the Commission has freely drawn in presenting this Chapter.

2. The oldest piece of evidence about Pandharpur though not about the date of the temple is provided by an inscription found in Kolhapur recently and published in the Annual Report of the Mysore Archaeological Department. The inscription appears to have been carved during the Rule of Avideya a King belonging to Rashtrakuta dynasty, which was founded by Prasana. This dynasty existed during the time of Ashok though there is no evidence of the dynasty being under the Magadha Kingdom. It is however inferred that Rashtrakutas were respecting and were on friendly terms with the Magadha Kings the greatest among them being the Ashoka who was known as a great missionary. The history shows that Rashtrakutas were among the first of the Aryan tribes, who descended into Deccan before the V Century B.C. and their language was "Prakrit" which was akin to "Maharashtri".

3. Magadha supremacy appears to have broken down under the stress of invasion of Shakas and Kushans from the West and Satavahanas who were non-Aryans from the South. Rashtrakutas being situated between Magadha domain on the one side and being attacked by Shakas and Kushan armies and by the Satavahanas on the other, must have found themselves pressed on all sides and lost their independence. From the inscriptions found in the Pandulena cave; of Nasik showing that Shakas came to the help of some Kshatriyas of Aryan clans, it is inferred that Rashtrakutas were facing Kshatriyas for whose help Shakas had descended. A period of three centuries, after Satavahanas were subdued by the Northern forces, is obscure, but it appears that Rashtrakutas taking advantage of the break down of the powerful overlords viz. Satavahanas began to assert and built up their power. In the 4th Century A.D. the presence of the Samudra Gupta in the North was felt around and though his dominion did not extend to the South of the Narmada, he appears to have launched many successful raids.

4. Guptas from whom Samudra Gupta was drawn were devoted to Vishnu and it has been found by Archaeologists that the idol of Vishnu in Udayagiri in the North bears strong likeness to Vithoba of Pandharpur. In course of time local chieftains in the South became powerful and set up small kingdoms, the Ganga Kingdom, in Talkhed, the Kadambas in Banavasi in the North Canara District, and the Tuluva in the Konkan. The fifth century saw a revival of the Rashtrakutas. In 470 A.D. taking advantage of the Hun-invasion and weakening of the Gupta power the Rashtrakutas became independent and extended their Kingdom. In 480 A.D. Mananka extended the territory upto the Bay of Bengal in the East and Bhima River in the South. In 520 A.D. the Rashtrakuta Kingdom was divided into three provinces and the Southern province came to be entrusted to Avideya during whose time the copper plate of 516 A.D. referred to above was carved and recently happened to be found at Kolhapur. This copper plate refers to a donation to Jayad Viththa, a Brahmin, of five villages which include Pandurang Palli. The language of the inscription is Sanskrit but the script is Kannad and the inscription is said to imitate the Gupta's style. Shri Khare in his 3rd Chapter on mediaeval and ancient records has pointed out that the names of four villages in edition to the Pandurang Palli mentioned in the inscription bear similarity to the present names of four villages near by Pandharpur and that the Hill of Mahadeo referred to in the inscription though held to be unidentifiable by Dr. Krishna who edited the inscription there is actually a Hill with the deity of Mahadeo about 25 or 30 miles away from Pandharpur. Mr. Khare has no doubt that the origin of the name Viththal can be definitely traced in the word 'Jayad Viththa', in this inscription and that the said word is connected with Pandharpur. It may be pointed out that Guptas were devotees of Vishnu, that Rashtrakutas, apart from being friendly with the Gupta dynasty, have adopted the style of Guptas in the inscription, and these facts lend strong support to the inference that "Viththa" which was subsequently called as Viththal and Vithoba were "apabhrounsa" or corrupted terms of Vishnu though the later history shows that even Shaivas were devotees of Viththal. Though "Jayad Viththa" in the inscription is described as a Brahmin and consequently a person or a human being, it may be pointed out that the word Viththa bears close similarity to Viththal and the names of donated villages bear resemblance to the names of villages in the proximity of Pandharpur. Further it may be mentioned for whatever it is worth that a temple situated in Humpi built in the time of Krishna Ivaraya a Yadav King in which at present no deity is seen installed, is mainly known as Vijay Vithal temple a name bearing a close similarity to Jayad Viththa.

5. Dr. Deleury in his book on pages 28 and 29 traces the course of the events after 615 A.D. till which time Pandharpur must have been under the Rashtrakutas' domain. The Rashtrakutas appear to have been over-powered by Chalukyas of whom Pulkeshi the Second conquered Maharashtra and the Chalukyas built up their power around Badami and claimed all the area formerly under the sway of Satavahan King. Pulkeshi assigned the Government of his new province to his relatives and Satara and Pandharpur were made over to his brother Vishnuvadhana. An inscription of 756 A.D. shows that Kirtivarman II, a Chalukya King lived in Bhandarga Vattiga—identified to be Pandharpur. But later on Pandharpur appears to have gone under sway of the Rashtrakutas because on the back of the copper plate of the inscription of 516 A.D. there is a confirmation of the earlier grant of five villages to Jayad Viththa. Rashtrakutas appear to have held sway till 973 A.D. when Chalukya King Tailapa II overthrew them. A period of prosperity for the Chalukyas followed from the time of Jaysinha his son Someshwar, and his son Vikramaditya VI. During the Vikramaditya VI's reign his feudatories began to struggle for their independence and the more powerful among them were the Yadavs, the Hoysalas and the Silharas.

6. In 1180 A.D. disruption took place of the Chalukya empire and two Kingdoms mainly of Hoysalas with their capital in Dwarasamudra in the Kannada region and the Yadavas with their capital in Dewagiri in Marathi region sprang up. Both these Hoysalas and Yadavas had helped Chalukyas and there was rivalry between them to succeed to the Chalukya empire. The rivalry ended in a furious battle at Lakkundi in the Dharwar District in 1192 A.D. and Yadavas had to withdraw to the Northern boundary.

7. Both Shri Khare and Dr. Deleury in their respective books have opined that prior to the 12th century no evidence is afforded by any inscription showing the existence of the temple of Vithoba in Pandharpur though references to the place Pandharpur can be identified. Shri Khare has pointed out that there are references to Vithoba and the name Viththal in the stone inscription found in Shimoga Taluka and Sorab Taluka in the Mysore State pertaining to the year 1214 A.D. and 1227 A.D. Similarly he has referred to the evidence showing that the name of Pandurang was invoked though without reference to Pandharpur. Dr. Deleury infers that these inscriptions of the Mysore State evidencing grant by Chalukya Kings in favour of Viththal temples are elsewhere, and not Pandharpur. But one fact is clear that Veer Someshwar whose name finds place in one of the inscriptions in the Vithoba temple itself held Viththal or Pandurang in great devotion. Though the same God is described in different names some scholars are of the view that the word 'Viththal' is derived from Viththu which is an "apabhramsha" of Vishnu. If the history of Pandharpur shows that Gupta who were devotees of Vishnu had exercised their sway over Pandharpur, that the idol of Viththal bears resemblance to the idol of Vishnu in Udayagiri Hills, that Rashtrakuta had donated five villages to Jayad Viththa and that Chalukyas also had made their residence near Pandharpur in 756 A.D. the strong probability is that Viththal deity was in Pandharpur before the 10th or the 11th Century A.D.

8. Positive evidence however is available to show that in the 13th century if not during the latter part of the 12th century there was a temple at Pandharpur venerated and visited by people around. The first direct reference to the existence of the temple is to be found in the inscriptions on three sides of the stone beam resting on the pillars of the Salkhambi (Hall of 16 pillars) in the present temple. Though this is referred to cursorily in the *Gazetteer of Sholapur District*, Mr. Khare has reproduced its relevant portion in his book. The inscription is in the Devanagari script but the language is Sanskrit and Kannada. It starts with the praise and mention of Veer Someshwar having fought against Yadavas and got sway over them. It proceeds to mention that village of Hiriyagaranj in Asandi province is endowed for Anga-Bhog and Rang-Bhog to the deity at Pandharpur which in the Sanskrit portion is described as Pandarge and in Kannada part Pandarange. It may be pointed out with respect that Mr. Khare has mentioned Veer Someshwar as being among Hoysalas Yadavas while Deleury has mentioned Hoysalas and Yadavas as two different clans that Someshwar was a Chalukya who had fought the Yadavas and got sway over the area. Mr. Khare has reproduced the relevant portion of the inscription which described Someshwar and Veer Someshwar as Yadav family of Dwaravatipur (Dwar Samudra?).

9. The most important inscription is of 1248 A.D. found in front of Shri Jambukeshwar temple at Hebballi near Dharwar. It is in Kannada and is to the effect that Kaluwar Singavada has given a vritti for charity (benefit) of the wari of Shri Viththaldeo of Pandarange. Hari-din described therein means Ekadashi and vritti is explained by Shri Khare to mean land having so much income as is sufficient to maintain during one year a family of five persons. This inscription shows that waries at Ekadashi time or visits of pilgrims in groups to Pandharpur were in vogue prior to that date.

10. The next inscription referred to by Shri Khare is of the year 1249 A.D. on a copper plate found at Bendigeri about 11 miles from Belgaum. This refers to Pandharpur as Poundarika Kshetra and Vithoba as Vishnu. A still later inscription referred to is the one mentioned by Dr. R. G. Bhandarkar which is in Sanskrit in his Article on Saivism, Vaishnavism, etc. The inscription is of the year 1270 A.D. and in it Pandharpur is referred to as Pandurange and Vithoba as Pandurang. It is not necessary to go into the enquiry as to how Vithoba acquired the name of Pandurang when there is no doubt that the deity is known and called by both the names.

11. In the Pandharpur temple itself there is a stone inscription known as "Chouryanshi-cha Lekh". It is actually of 1194 (1278 A.D.) but owing to the figure '9' not being clearly legible is believed to be '8' and reading the last two figures

as '84' common belief is exploited and the pilgrims are made to believe that if they rub their backs against that stone they will be emancipated from 84 lacs of rebirths. This inscription is actually a list of donations in different years by different people for renovating the temple, which is described as Faganypur. The earliest donation is of 1273 A.D. which is of Pandit Hemadi who there cannot be any doubt was Hemadri Pant the Finance Minister of Yadav King Ramchandra and the other donation worth noting is of the King Ramchandra in the year 1277 A.D. Hemadripant was a great architect whose style of architecture known as Hemadpanti has become famous and Archaeologists have found evidence of his style in the arch above Namden Payari being the only remnant of the old structure after the damage in the course of Muslim invasions.

12. Hemadripant has also written a Sanskrit work Chaturvarg-Chintamani wherein there is description of a place which can be identified to be Pandharpur as Poundarik Kshetra and Vithoba. The period of Hemadripant was between the last quarter of the 12th and the first quarter of the 13th century. Shri Khare has referred to several other authors, Choundarsa a Kannada author who flourished in 1258 A.D. and who had written in praise of various deities in the temple and of Vithoba describing the idol in detail. There is reference by Mr. Khare to a stone inscription near what is recently called Samadhi of Chokhamela, but which is really a place where Chokhamela used to stand and sing in praise of the deity and his Samadhi is actually in Mangalwedha. It is of the year 1311 A.D. in which the town is described as Pandharipur and Vithoba as Viththal. To the writings of the saints and Ahangas which contain reference to the tenets of the Bhaktimarg, etc., reference will be made in another Chapter. Suffice it to say that by the end of 13th century the Warkar panth had taken shape attracting large number of pilgrims regularly to Pandharpur whose fame had spread far and wide. It must also be stated that the evidence so far discussed contains no reference to the existence of any of the three priestly classes—Badves, Utpats and Sevdharis or any connection of theirs with the temples.

13. None of the inscriptions referred to above mention Rukmini or the Rukmini temple nor had any grants or endowments made to Vithoba or Viththal any reference to Rukmini. Gazetteer mentions on page 424 that originally the temple of Rukmini consisted only of a shrine and ante-chamber whose work could be of a date after the 16th century though Vithoba temple has features and evidence of its construction before the 16th century. The size, appearance and even stones from which the idols of Vithoba and Rukmini are carved are not similar. The image of Rukmini if proportions are compared is much smaller than the image of Vithoba. The surface of Rukmini's image is polished while that of the idol of Vithoba is rough. It is however stated that the old idol of the Rukmini having once suffered damage a new one was installed. Even so, from the absence of any reference to Rukmini Temple or idol in any of the ancient inscriptions till the end of 13th century an inference is possible as a strong probability that Rukmini temple and the idol were of a subsequent date. Rukmini being the consort of Vithoba, if the two deities were installed simultaneously there is no probability of the priests and attendants of the two temples being entirely different with different types of claims and rights. The legend of the Rukmini having come and installed herself in Dindirvan which is at some distance from the Vithoba temple also lends some support to the inference that at the time of the installation of the Vithoba on the place where the deity now stands, Rukmini was not near about any where. It is not necessary for the purpose of this Report to determine the exact date or period of installation of Vithoba and Rukmini in Pandharpur though it is an interesting question for historical research. But the question had to be considered in an attempt to ascertain the origin of the connection of the Badves and Sevdharis with the Vithoba temple and of the Utpats with the Rukmini temple. Though there is nothing to show that their connections start with the establishment of the respective temples and that can be said is that the origin of their respective connection is lost in antiquity and not traceable earlier than the 16th century, while the origin of Vithoba is capable of being traced prior to 11th or 12th century. The Commission has, therefore, desisted from going deeper into the question whether the idol at Pandharpur had been removed to Vijaynagar by the great King Krishnadevaraya and was subsequently brought back and installed by Saint Bhanudas the grand-father of Eknath, though such a legend is commonly accepted.



## CHAPTER IV

## RELIGIOUS TENETS OF SHRI VITHOBA AND THE WARKARI CULT

**Claim of Religious Denominations—What it implies**

1. Having outlined in brief the history of the temples of Vithoba and Rukmini, the next topic of importance is what are the religious tenets of Vithoba and of Rukmini and the cult that has grown round the deities. In approaching this question the Commission has to bear in mind the case made out by the three priestly classes—Badves, Sevadharies and Utpats that they constitute either jointly or severally a "religious denomination" to attract the protection contemplated by Article 26 of the Constitution of India. The question of law regarding religious denomination will be considered later in another chapter. But in this chapter particular attention would be directed to the question of fact viz. whether the temples of Vithoba and Rukmini are denominational temples, so as to provide scope for the priestly classes connected with those temples to claim that their respective connection with the respective temples confers upon them the privileges of a "religious denomination". In this connection it is important to note that a claim of religious denomination may require to be examined from two possible aspects: the first is if the temple itself is a denominational temple whether the properties and the income thereof will be the property of a religious denomination in which case a further question may arise as to who would be entitled to hold it and manage it whether the Badves and Utpats who claim that right. Secondly if the temples themselves cannot be called denominational temples whether the priestly classes connected with those temples have established that they possess attributes so as to constitute them "a religious denomination" or a part thereof.

**Whether Temples Denominational**

2. A religious denomination not having been defined anywhere the second question whether Badves, Sevadharies and Utpats have established attributes for themselves to constitute them into a religious denomination will be discussed and considered in a later Chapter and the discussion in this Chapter will be confined to the question whether any of the two temples viz. Vithoba and Rukmini is a denominational temple so as to provide any scope to any of the classes connected with them for a claim that they are the part and parcel of those temples with a right to manage the property of "denominational temples" vested in them so as to be able to claim protection under Article 26 of the Constitution. For the purposes of determining whether a temple is a "denominational temple" it is of prime importance to determine its tenets and the scope of the religious practices.

**Attributes of Denominational Temple and Denominational Property**

3. In the absence of definition anywhere of a religious denomination when the Commission went through some important rulings of the Supreme Court to which, detailed reference will be made in a later chapter, the Commission could gather certain broad aspects which must be present to call a temple a denominational temple so that the properties belonging to it may acquire the character of properties of a religious denomination. Firstly the temple must have been established by a class or a section of the public who have a common faith and common tenets or by the Head of a religious group for the benefit of his followers, as distinguished from temples established by all the general public propagating tenets common to the entire Hindu Religion and it will have to be seen whether any of the two temples happened to be established by any group or class having any common faith or tenets. In the earlier chapter the Commission has pointed out that there is no evidence of any individual, group or a class having set up the temple. All that can be gathered from the various inscriptions is that Vithal or Pandurang was held in esteem by devotees from different parts of India. The evidence provided by some inscriptions that the temple was either built or renovated from donations from different people from year to year would militate against any theory that the temple was established by an individual or a group or a class having common faith and common tenets. The second aspect that needs careful examination is though not at the time it was founded at least subsequently whether the two temples were either proved or regarded to have propagated a religious faith or tenets to a group or a class as distinguished from the general Hindu public. To be a denominational institution it must either be founded by a group possessing distinct tenets and faith which are exclusively theirs or in the alternative the institution must have its existence to cater to the religious needs of a class possessing tenets and faith of an exclusive nature, as for instance a communal mutt presided over by a mathadhipathi who guides and ministers to the spiritual needs of the community which owes allegiance to it or the devotees for whom it is meant

or established constitute a distinct separate entity or class. If all the evidence that has come before the Commission is examined from these aspects it will be found firstly that Vithoba and Rukmini are deities that attract veneration not from a particular group or a class but from all the classes of the public whatever their religion or whether Shaivait or Vaishnavait or whether they believe in Dwait or Adwait, Vishisthadwait and other philosophies and that the warkari panth or the cult of the warkaries which has grown round the deities has taken in its fold all the classes of the people touchable, untouchable and even people of other faiths not to speak of those belonging to different sects such as Shaivas and Vaishnavas. It is also clear from the evidence that the main and the only tenet which has attracted the entire public to Vithoba is the path of devotion or Bhaktimarg described also as Bhagvat Dharma a tenet prescribing a simple path for realisation of the Supreme being which is not a tenet or path belonging to a particular group nay a particular religion. The Commission proposes to deal with the religious tenets of the temple and the Warkari sampradaya from these aspects because for the purposes of the enquiry it is only these aspects that assume importance in view of the claim of "religious denomination" put forward by Badves, Sevadharies and Utpats.

#### Fame of Vithoba of Spontaneous growth

4. In the absence of evidence about the exact date and agency of the establishment of Vithoba in Pandharpur, there is no escape but to fall back upon the famous and accepted legend of Pundalik and the contemporary history of the Hindu religion, both of which tend to show that Vithoba and his fame which had spread far and wide in all parts of Deccan and Karnatak resulted from spontaneous origin and growth.

#### Legend of Pundalika and the belief based thereon

5. The legend of Pundalik is to this effect : Pundalika was a devotee of Vishnu in the form of Vithoba and was also devoted to his parents to an ideal degree. There is a controversy whether this Pundalik was a Brahmin or a Koli, whether he has a permanent resident of Pandharpur or whether he had come to Pandharpur from Karnatak on his way to Banaras ; but for the purpose of Enquiry of this Commission this controversy is not relevant. The date of Pundalik also is uncertain. However it is put as in or before the 7th century A. D. Prof. Harshe has opined so (*vide* Exhibit 220) and the circumstances which will be referred to regarding the conditions then prevailing, support it. But one fact which is above controversy and accepted by saints and people alike is, that the establishment of Vithoba is intimately connected with Pundalika. It is accepted on all hands Principal Dandekar, Father Deleury and all research scholars that Vithoba or Vithal was supremely pleased with the feeling of devotion of Pundalik to his parents and his own devotion and, therefore, he appeared in Pandharpur which may be that he made his presence felt in Pandharpur to his devotee Pundalik to grant a boon or to show his appreciation. This general belief accepted without question finds expression in the common invocation of the warkaries "पुंडलीक वरदा हरि विठ्ठल" (Pundalika Varad Hari Vithal) Oh! Hari Vithal, who gave a boon to Pundalik. In an *Arati* sung at the time of waving of light to Vithoba the authorship of which is not disputed as that of Saint Namdeo, one of the lines is "पुंडलिकाचे भेटी परब्रह्म आलेगा" meaning the supreme brahma had come to meet Pundalika. In short it is an accepted belief and tradition that Vithoba had come to meet Pundalik, in what year, it is not clear, but must necessarily be before the deity began to be venerated in Pandharpur and that the sole object of the deity making himself felt was in response to the devotion of the devotee and, therefore, Vithoba has been accepted by all as one who satisfies those who have unadulterated devotion for him.

#### Historical Back-ground for the birth and growth of Bhaktimarga

6. While the belief just mentioned must have influenced the devotion evoked in the devotees far and wide the contemporary conditions prior to the 5th and the 6th centuries in the Deccan nay in the whole of India as recorded by history provided a favourable ground for the cult of devotion. In the early part of the Christian era Buddhism held sway over a large part of India if not the whole of it. As observed in the Report of the Hindu Religious Endowments Commission, presided over by Dr. C. P. Ramaswami Aiyar, in Chapter II, paragraph 5 on page 2, Buddhism which originated about the 5th century B. C. was mainly as a protest against some of the rituals and sacrifices of the Vedas. Buddhism questioned the validity of Vedas as source of Hindu religion. It did not believe in image worship though at some later date Buddhism itself recognised worship of the image of Buddha and the sacred relics. The Gupta emperors, according to the Report just cited contributed much towards propagation of the Pauranic panth and construction of temples where Pauranic deities

were worshipped. In the earlier chapter mention is made of the Gupta dynasty having had some influence over the area in which Pandharpur is situated. The Report of the Commission just referred to has mentioned that round about the 6th and 7th centuries temples were being established by Buddhists themselves such as the cave temples. It is, therefore, clear that after the second and the third century A. D. till the advent of Shri Adi Shankaracharya, the Society notwithstanding the influence of Buddhism was acquiring a swing towards worship of images, a worship which implies the path of devotion or Bhaktimarg. In or about the 8th century Adi Shankaracharya appeared on the scene to counteract the effect of the Buddhist teaching on Vaidik Sanatan Dharma. As is well known the great Shankaracharya travelled far and wide and established temples and mutts at the four extremities of India to propagate and preach Sanatan Dharma, the essence of which was to recognise the Vedas as the fountain of the Hindu religion. Evidence has already been referred to show that in 516 A.D. Vithoba or Viththal of Pandurang had been recognised as a potent deity. The doctrines preached by Sri Shankaracharya which include Bhaktimarg as an essential path of realisation was embodied in the Vedas, Upanishads, etc., and consequently the germs of Bhaktimarg were not new or foreign on the Indian soil. M/s. B. P. Bhairat and D. S. Nadkarni—two scholars devoted to research staying in Pandharpur have submitted to the Commission notes on Bhagvat Dharma and Bhaktimarg giving references to Vedas Upanishads and Bhagawat-Geeta. The 12th Chapter of the Bhagawat-Geeta deals with the Bhaktimarg and there can be no doubt that Bhaktimarg which is a way or a path towards achievement of God realisation was already in the soil of India, and, therefore, no wonder that it was slowly gaining momentum notwithstanding the Buddhistic influence even before Shankaracharya appeared on the scene and gave it a strong impetus all over India.

#### Probable seeds of Bhaktimarga

7. In Pandharpur there was the legend of Pundalika which was accepted then and continued to be accepted even by the saints that have brought glory to Pandharpur. It is natural therefore that in the cult of Vithoba the special distinguishing feature was the bhakti or devotion which all the devotees exhibited, strong in the belief that as in the case of Pundalika, Vithoba grants the desires of the devotees who offer Him prayers. Though different schools of philosophy grew up from time to time in different parts of India between the 6th and the 16th centuries this path of Bhaktimarg was not only affected but was recognised and adopted by all the schools. Before referring to these various schools it would be convenient to refer to the cult of warkaries which was a special class of devotees of Vithoba.

#### Cult of Warkaris

8. The stone inscription of 1248 A. D. found in Hebballi in Dharwar District specifically mentioned of the donation to meet the expenses of the "wari". As already mentioned the belief had spread far and wide that Vithoba was a deity capable of granting desires of those who pray or follow the path of bhakti towards Him in the same manner as Pundalika had done. The stone inscription referred to above as well as certain Abhangas of Namdeo indicate that even before Jnaneshwar consolidated the Panth or cult of warkaries waries or pilgrimages had been going on to Pandharpur. The following abhanga of Namdeo shows that his parents after their marriage had gone as bride and bridegroom to Pandharpur to meet the family God :—

कुळदेव स्मरण म्हणती सावधान । उमयताचे मन पांडुरंगी ।  
नाले पाणिग्रहण विधिसी अर्पण । वंदिले चरण शिदोपंती ॥  
पंदरिये क्षेत्रा मिळालीसे यात्रा । आले पंदरपूरा भक्ताराज ॥

राउळा भीतरी प्रवेशली दोघे । देखिले उभे पांडुरंग ॥

(Abhang 889 of Namdeo Maharaj)

Even after marriage Viththalpant the father of the Dnyandeo used to go for Ashadi and Kantiki waries as is seen from the following abhang :—

नित्य हरिकथा नामसंकीर्तन । संताचे दरुपन सर्वकाळ ॥  
पंदरिची वारी आयाटी कार्तिकी । विठ्ठल एका एकी मुखरुप ॥

नामदेव महाराज १५

It is, therefore, clear that Bhaktimarg which is also known as Bhagwat Sampradaya was being followed by the class of devotees known as warkaries in Pandharpur. What a warkari means has been explained by Principal Dandekar as well as by Father Deleury in their respective books. Warkari means those who perform wari and wari means a regular visit to Pandharpur and one of the tenets of warkari panth or cult was a regular visit to Pandharpur. In fact the warkari panth prescribed a few simple rules of conduct as comprising the Bhaktimarg propagated by Bhagwat Dharma. Those simple tenets, as explained by Mr. Bahirat, are :--

- (1) A warkari is one who visits Pandharpur regularly at least once in a year.
- (2) He should wear a garland of Tulsi beads which is a sign of dedication of his life to Shri Viththal.
- (3) He should always remember the name of God, should read some verses of Dnyaneshwari after bathing and recite Haripath every evening. He should observe the fast of Ekadeshi seeking the company of saints.
- (4) He should speak the truth, regard all women except his wife as his mother and sisters. His feeling of devotion should be sincere and not mere outward affection.
- (5) He should be humble and kind to all. But should be adamant when his ideal principles are at stake.
- (6) He should regard sacred places like Alandi, Dehu, Paithan equally holy like Pandhari as these are associated with the names of great warkaries saints like Dnyandeo, Tukaram, and Eknath.

It may be pointed out that the original practices imperative for the warkaries were a visit to Pandharpur and devotion to Vithoba. The other directions now included in the code of conduct happened to be incorporated when saint Dnyaneshwar organised the warkari panth which were followed by the other saints.

#### Simple tenets of Bhagawat-Dharma

9. It will be seen that excluding the practices adopted by the cult, from time to time the simple tenets preached by the Bhagawat Dharma consisted of prayers with the sole object of God realisation without the devotee forsaking his duties and obligations, flowing from his position in life. It is significant to note that this is the essence preached in the 12th Chapter of Bhagawat-Geeta. It is thus seen that one of the paths for realisation of the eternal prescribed by Vedas, Upanishads, Geeta and Shrimat Bhagwat was a simple path of devotion without a person being required to renounce his worldly life or his obligations. This principle which was presented by the warkari panth in its simplest aspect caught the imagination of the devotees and the warkari panth grew from time to time around Vithoba. While this was the position so far as Pandharpur is concerned the Bhagwat Sampradaya or Bhaktimarg had caught the imagination of all even in other parts of India because all the schools of thought that followed or succeeded the adwait school of Shri Shankaracharya instead of differing from the path subscribed to it. Dr. S. R. Kulkarni in his thesis "Nathancha Bhagwat Dharma" published by Shri Eknath Sanshodhak Mandir Aurangabad has in Chapter VIII page 129 shown how the Bhagwat Sampradaya also known as Vaishnava Panth had been adopted by all the schools of thought propagated respectively by Shri Shankaracharya who propagated Adwait philosophy (8th century), Ramanujacharya who propagated the philosophy of Vishitha-adwaita (in 11th century), Nimbarkacharya who propagated Dwaitadwait philosophy (in 12th century), Madhwacharya who propagated Dwait philosophy (in 13th century) and Vallabhacharya who propagated Shudhadwait in (15th century). It is not necessary for the present purposes to show the distinction between these different schools of thought. But it may be mentioned that though the principles which they wanted to establish as a result, were different in so far as the path of Bhaktimarg was concerned, they subscribed to it. Dr. Kulkarni has pointed out that though the followers of these masters follow the philosophy preached by each, the warkari panth of Maharashtra maintains its distinct individuality and, therefore, the Bhagwat Dharma as understood in Maharashtra began to express and present in its Marathi form distinct features.

#### Bhakti-Marga Common to all Schools of Philosophy

10. It has already been stated above that the warkari cult and the Bhagwat Dharma have grown up around Shri Vithal of Pandharpur and the growth and vicissitudes of Bhaktimarg as understood by His devotees have maintained no distinction between schools of philosophy, caste, creed, religions and even beliefs. It would be appropriate to mention here that the warkari panth already in vogue happened to be put on a solid foundation by saints like Dnyaneshwar who belonged to the 13th century when different

schools of thought were propagating their views in different parts of India. It is this great part played by Dnyaneshwar that has led Bahinabai in one of her abhangas to say 'ज्ञानदेव रचिला पाया' (Dnyandeo laid the foundation) from which some people have inferred Dnyaneshwar to be the founder of the warkari panth, a theory not accepted by scholars like Khare, Prin. Dandekar and others and contrary to the abhangs of Namdeo quoted above. In fact as already pointed out warkari panth was already in existence as is shown by the stone inscription found at Hebballi before the time of Dnyaneshwar and also the fact that Dnyaneshwar's father himself was a warkari as well as the father of the Namdeo. There is ample evidence that the special features presented by the Warkari Panth that had grown around Vithoba had attracted learned men of different schools as well as different castes, creeds and religions. Shri Shankaracharya himself in his Pandurangashatakam consisting of 8 slokas in prayer of Pandurang in the 8th century has referred to Bhima river, to Pundalik and Pandurang. Some doubts at some stage were expressed whether the composition was of Adi Shankaracharya himself but Prin. Dandekar has pointed out in his book that these slokas find place in the authentic copy of the composition of Adi Shankaracharya published by Sringeri Math the seat of the Shankaracharya himself (Pages 19 and 20 of 'Warkari Panthacha Itihas' by Prin. S. V. Dandekar).

#### Warkaris only a section of Devotees of Vithoba

11. The warkari panth was but a branch of the devotees of Vithoba for while all warkaries are necessarily the devotees of Vithoba, all devotees of Vithoba are not necessarily warkaries. Among the warkaries particularly among the saints there were different saints who had taken initiation from different panthas or tenets. Dnyaneshwar who is regarded as having laid the foundation as described by Bahinabai of the warkari sampradaya was himself a nathpanthi. Eknath belonged to Datta Sampradaya. Tukaram was of Chaitanya Sampradaya. Nevertheless Bahinabai has described Dnyaneshwar as the foundation, Namdeo as the servant who spread the tenets of the panth, Eknath hoisted the flag and Tukaram as the pinnacle :—

संतकृपा शाली । इमारत फळा वाली ॥ १ ॥  
 ज्ञानदेव रचिला पाया । रचियेले देवालया । २ ॥  
 नामा त्याचा किंकर । तेणें केला हा विस्तार ॥ ३ ॥  
 जनार्दन एकनाथ । ध्वज उभारिला भागवत ॥ ४ ॥  
 भजन करा सावकाश । तुका ज्ञातासे कळम ॥ ५ ॥

तु. म. ४११८

#### Nature of the Cult Universal

12. The warkari cult did not distinguish between sex, caste and the community. Among the saints who were warkaries as Dr. Deleury has pointed out on page 5 of his book "The Cult of Vithoba" Jnanadeva was an excommunicated Brahmin, Namdeva was a tailor, Gora a potter, Samvata was a Mali or a gardener, Narahari a goldsmith, Chokha a Mahar and Tukaram a Sudra. Even women were among the warkaris for instance, Muktabai the sister of Jnanadeo, who was herself a spiritual teacher of Changdeo, Janabai who calls herself the maid servant of Namdev, Kanhopatra a dancing girl and Bahinabai the wife of a Brahmin, who was the disciple of Tukaram a Sudra. While this much of the warkari sect, among the devotees of Vithoba himself there were people of different communities and panthas. In the Commemorative volume of the Birth Centenary of Swami Vivekananda, in the editorial, special features of Bhakti in Maharashtra have been given. It has been stated on page 2 of the editorial that the saints of Maharashtra have not shown any divergence or difference in the cult of bhakti though originally they belonged to different sampradayas. It has been pointed out that in Maharashtra there were no quarrels between Shaivas and Vaishnavas as were evidenced in Karnatak and the saints of Maharashtra propagated the universality by showing harmony between Hari-Har, i.e., Vishnu and Shiva. The saints have propagated that in the heart of Shiva, Vishnu is remembered constantly and Vishnu wears Shiva on his head. For instance Jnanadeo has stated that Shri Krishna says that Shiva is on His crown. "तयात्ते मायां मुकुटकरी" Nivrittinath in his Abhang has stated :—

पुंडलिकाचं भाग्य वर्णाया भमरी  
 ऐसा चगचरी नाही कोणा  
 विष्णुमहित शिव आणिला पंढरी  
 केले भीमातीरी पेखण जेणे

Vishnu has been brought along with Shiva to Pandharpur for Pundalika and no one can describe the fortune of Pundalik. Even Swami Ramdas who is not a warkari saint and who is a devotee of Rama has stated "विठोने शिरी वाहिला देवराणा" i.e. Vithoba has borne Shiva on his head. It may be pointed out that there is a common belief that the headwear of Shri Vithoba idol at Pandharpur represents a Shivlinga and accordingly on the Shivaratra day at night Abhisheka is performed with Rudra mantras which are exclusively chanted for the Abhishek of Shiva even though Vithoba represents a form of Vishnu. Ordinarily for the daily worship however Purush-sukta meant for Vishnu is chanted at the time of Abhishek of Vithoba.

13. Jnanadeo who is the prime interpreter of the Warkari cult has pointed out in Jnaneshwari the immortal commentary on Geeta that no barrier of caste, creed, sect or religion can stand in the way of devotion of Vithoba. "येय भक्ती या एकसरे जाति अप्रामाण" This enables the females and untouchables to raise the edifice of bhakti. Chokha has exclaimed "चोखा डोंगा परिभार नोहे डोंगा", meaning Chokha may be a Mahar but his devotion is not. Similarly Janajai has exclaimed "स्त्रीजन्म म्हणवुनी न व्हावें उदास संती मज ऐसे कसे अने"; because I belong to the female sect I should not feel disappointed. Jnanadev has said "जे जे देखे भूत ते ते मानिजे भगवंत" Regard whatever you see as God, and as if in chorus with him Ramdas has said :-

भेटे कोणी एका नर । भेटे मार चांभार ।  
त्याचे राख वे अंतर । या नां भजन ।

All this emphasises the universality of devotion in Maharashtra.

14. It is interesting to note in this connection that Vithoba whose form is identical with the form of Vishnu, Govinda or Krishna is held in devotion and reverence even by Muslims. A Muslim saint Shaikh Mahamad has said :

शेख महंमद अविध । त्याचे हृदयी गोविंद

which means Shaikh Mahamad may be Muslim in his heart lives Govind-Vishnu. At page 197 of Dr. Kulkarni's book "Nathanchan-Bhagawat Dharma" the learned writer has observed that it is not that the common peoples of Maharashtra alone were attracted to Pandharpur but the fame of Pandhari had grown much even outside Maharashtra, that for waries large number of people from outside also come and this fact has been noticed by this Commission itself when during the last Ashadhiwari the Commission visited Pandharpur and people gathered were estimated to be 4½ lacs. Kabir was a Muslim and his songs on Vithal are available. He has described :-

सब अलमुका रखनेवाला । विहू उ पंढरपूरवाला ॥  
वही हमारा बहू है । मुराद पीर पैगंबर ॥  
आवटे सकलसंत गाथांतगत  
कबीर गाथा क्र. ३ व ६

Kamal the son of Kabir claims that he and his father are devotees of Vithoba : Awate Sakalsantagathangartak Kamalgatha No. 2 and 4.

15. Narsi Mehta the famous saint of Gujarat has been referred to in Tukaram's Abhangas, and Narsi Mehta has invoked the grace of Viththal in these words : उठ उठावळो चाल्यने विठुला Oh ! Viththal ! arise I am impatient. The same saint has made invocation to the effect 'if you do not uplift your devotee your pledge will disappear. You have emancipated many people. If you delay now you will be a laughing stock.' With this invocation he begs of Viththal that he should have an opportunity of devotion in successive lives. A Butcher Sajan classed himself a devotee of Viththal, and Dadu Pinjari of the North asked people to make devotion to Viththal. Mirabai of Rajasthan claimed to have married Sri Vithoba.

16. While these are instances of attraction of the devotees of different communities to Viththal from different parts, it is common knowledge that Purandardas of Karnatak a saint held in great veneration was an ardent devotee of Vithoba and has sung his praises in the same manner as the Maharashtrian saints. Evidence has come forward before the Commission, that to the devotees from Karnatak Garood Khamb is shown as a place of Purandardas to evoke veneration from them. Among the witnesses examined by the Commission not only were there devotees of different communities and castes, including harijans but also Jain and Lingayat warkaries though owing allegiance to different religions

whose founders were great masters. On going through the relevant literature and the evidence, the conclusion is irresistible that the cult of Vithoba of which the warkari cult is only a branch is in a sense cosmopolitan and therefore a cult, whose tenets or benefits are available to the general public who seek them inspite of the barriers of birth, caste, sex, creed or religion. The Commission noticed that during the time of the last Ashadhi fair on 25th July 1969 a Muslim lady Jaitunbi by name was among the warkaries who it was stated had gone on foot with a Tulshi Vrandavan a pot with a basil plant on her head and singing bhajan in praise of Vithoba. In fact this fact was reported with an Article and photograph of the devotee in the issue of *Sakal*, dated 19th July 1969.

17. The sum total of all this discussion is (1) that the cult of Vithoba which preaches bhaktimarg or the path of devotion irrespective of religion, caste, creed and sex is one meant for all to follow if they choose, (2) that the temple has no special tenets or cult meant for any particular group or a section but for the public as a whole, and (3) that while there is no evidence about its establishment by either an individual or a group, circumstances show that the origin and the growth are spontaneous.

#### Padasparsha Darshan—Indicative of Universal Character

18. There is yet another characteristic which emphasises the fact that the temples of Vithoba and Rukmini and the deities consecrated there do not belong to a particular class or group but to all those who have devotion and consequently to the entire public. This characteristic is what is known as "Padasparsha Darshan" which is unique not found in most of the Hindu Temples elsewhere. In the course of its visits to the various Temples in Northern, Central, Western, Eastern and Southern parts of India the Commission noticed that devotees and pilgrims are not allowed inside the threshold of the sanctum sanctorium. In Chidambaram, Tirupati, Badrinath and Nathadwar none other than the Pujari is allowed entry. In Chidambaram a person wearing any garment above the dhoti is not allowed even upto the threshold. In some temples wearing of dhotis is insisted upon and in some silken or holy clothes. But with all that no devotee is allowed to touch the deity except in Goa and Jagannath Puri. But in the Temples of Vithoba and Rukmini there are no such restrictions. Every devotee cannot only enter the sanctum irrespective of the dress he or she wears but even place his or her head on the feet of the deities actually touching them. And this is a privilege prized and exercised by all devotees of whatever caste or creed.

19. This privilege has been exercised by devotees from time immemorial and could not be stopped inspite of damage done to the idol of Shri Vithoba. It is said that formerly in the last century every devotee embraced the idol and on one occasion some Gosavis either inadvertently or deliberately knocked the idol down causing damage to the leg which is now repaired with a support behind. Since then though embrace is not permitted placing of the head on the feet by the devotee is a privilege conceded to all. It appears to the Commission that this Padasparsha Darshan is a physical and symbolical expression of devotion preached by the "Bhakti-marg". Out of realisation that at the time of the waris when lakhs of people gather it is physically impossible to get Padasparsha Darshan, the Warkari Sampradaya has preached that on Ekadashi day after bath in the Chandrabhaga and Pradakshina of the temples even a darshan of the Shikhar or pinnacle of the Temple would satisfy the requirements of devotee

20. Darshan if not Padasparsha Darshan in the Pandharpur Temples is a ritual of supreme importance for the devotees of all classes taking precedence over poojas, abhisheks or any other types of worship. It is the lack of proper facilities for darshan, the alleged harassment by the priestly class and the complaints of exploitation of the devotees who seek it by the priestly classes that has led to persistent agitation by the public leading to the present enquiry. -The complaint of most of the witnesses that appeared before the Commission relates to the difficulty of obtaining Darshan which means Padasparsha Darshan and reference will be made in detail to this question at the proper place. But at this stage what is necessary to point out is that Padasparsha Darshan takes precedence over all other rituals, that it is a privilege not restricted to any group, class or individuals but a privilege of the general public.

21. Another characteristic common to Hindu religion and not special to the Pandharpur temple is that in the Pooja and Upachars-nitya and Naimittik the rituals followed and the mantras chanted are the same as are being followed in temples and homes. The reason for this might well be that the deity of Pandharpur is a common deity for all and in Pandharpur pujas and upachars are of secondary importance

preference and emphasis being on Darshan—without restrictions. It may be pointed out in passing that it is for this reason that role of the priestly classes in the temple should not assume that importance which is claimed by them.

#### Conclusion on whether Temple Denominational

22. These characteristics in the view of the Commission militate violently against any suggestion that the temple is a denominational temple, much less that it is owned by any religious denomination of which any of the classes connected with it can claim to be a part. The meaning of the word denomination presupposes that the group claiming to be a denomination must be carved out of generality of the public and to be a religious denomination must have been founded by that group which has tenets or panth separate or distinguishable from the generality. No doubt at one time the Badves and Utpats had put forward a claim that the temples as well as the property belonged to them. A quietus has been given to such a claim by the decisions of the High Court which have clearly negated their respective contentions and in the case of Badves their position is described as that of Chief Priests, Managers, Guardians and Overseers, of the deity and a similar position could be ascribed to the Utpats. The Commission has, therefore, no hesitation in coming to the conclusion that none of the two temples viz., Vithoba and Rukmini is a denominational temple. In respect of Rukmini being a consort of Vithoba her position is almost identical as that of Vithoba and needs no separate discussion.

### CHAPTER V

#### PUJAS AND UPCHARS—NITYA AND NAIMITIC : TOGETHER WITH THE PART OF BADVES, SEVADHARIES AND UTPATS

##### Hereditary servants and their duties

1. *Vithoba*.—The daily or nitya services to Shri Vithoba are conducted by Badves, described as Chief Priests, Managers, Guardians and Overseers, of the deity and the class of Sevadharies: (1) Pujaries performing the actual act of worship such as bathing and dressing the idol and waving the Arti, (2) Benaries who chant mantras or hymns from the Vedas or otherwise, (3) Paricharaks who bring water for bathing the idol and assisting the Pujaris by handing over the Arti, (4) Dingres, who show the mirror after the idol is dressed, and spread 'poulghadi' after sweeping the floor when the idol is supposed to go to the Shejghar for the night's rest, (5) Danges who stand with a sceptre, and (6) Diwates who hold the lighted torch the last two being the bearers of the insignia of royalty and the (7) Haridas who sings praises of God. Some of the rituals and the rights to perform them have been the subject matter of litigations which will be referred to at proper time.

2. The services rendered by the different classes constitute hereditary rights and privileges of their respective families and, therefore, for doing the actual work representatives of the Badves and the respective Sevadharies present themselves. All those who have to render services in the morning have to be present clad in silken clothes which are considered to be holy after having their bath. At about 4-00 a.m. the representative of the Badves comes to the temple with the key of the Choukhambi hall in which the bed-chamber is situated and opens the door. Standing with folded hands, the Badve who is known as Divaskari, having purchased in auction the right to officiate on that particular day and collect the income, begs of the deity to awake and arise. After entering the bed-chamber he removes the remnants of the Naivedya offered the previous night, closes the door of that Chamber, enters the sanctum and offers butter and sugar candy to the idol of Vithoba. Except Haridas, Dange and Diwate who stand outside, the rest of the Sevadharies enter the sanctum along with the Divaskari Badve. In the course of the evidence before the Commission a dispute has been raised as to whose is the right to chant the mantras intended to arouse the deity. While Benaries claim the right of saying the hymns to that effect, the Badves dispute and claim that it is the right of the Divaskari Badve.

##### Kakad-Arati

3. Then starts the ritual of Kakad Arti. The paricharak lights a thick wick soaked in ghee or clarified butter and hands it over to the Pujari who waves it before the deity and all those present sing songs in praise of the Lord. When this is over, a Naivedya of butter and sugar candy is offered, the Kakada or the wick is waved again but without accompaniment of songs and the lighted Kakada is brought out and circulated among all the people present who signify with their hands in token of having partaken of the grace carried by the lighted wick.



**Padya-Pooja**

4. After the Kakad Arti over the ritual of Padya Puja starts. After waving lighted incense sticks or Agarbattis, a light Naivedya is offered to the deity after which the deity is unrobed after removal of the garlands of flowers. Then starts the Mahapuja.

**Maha-Pooja**

5. Amidst recitation of Vedic hymns Purushsukta by the Benaries the pujari bathes the deity with the water brought by the Paricharaks followed by a bath with 5 nectars milk, curds, honey, ghee and sugar followed by plain and scented water. Twice a week on Wednesdays and Saturdays the deity is anointed with oil and rubbed with sugar and water to remove the film of oil. After the bath is over the deity is wiped clean by the pujari with a cloth and is dressed for the morning with the clothes brought by the Badva. Scent is applied and the Dingre shows the mirror holding it in front of the deity. This is followed by Naivedya or the offering of eatables and then a light "Ekarti" is waved before the deity. After the light is shown it is taken outside, and waved before several other Devatas called Pariwar Devatas. During the Ekarti, the Haridas sings while the Dange holds the Sceptre, keeps order and the Diwte stands. This ritual ends a little after sunrise and from 7-00 a.m. to 11-00 a.m. after the arati the deity is open to the public for having Darshan.

**Maha-Naivedya**

6. At mid day the Mahanaivedya or the offering of food consisting of Puries, rice, dal, vegetables and five types of sweets, prepared in the special kitchen of the God with the material supplied by the Samasta Badves, is made to the deity. Except the offering of Mahanaivedya there is no ritual but at the time of this Mahanaivedya itself several persons bring food prepared at their houses place it for a few seconds before the deity and take it home. The Commission has reason to think that among these persons are those who are holding the endowments made by different persons in favour of the deity for the purpose of Bhog or naivedya.

**Afternoon change of dress**

7. At about 3 or 4 p.m. the idol is given a change of dress. It is adorned with ornaments only on special occasions ; otherwise only the minimum daily ornaments are placed. The God is dressed, it is suggested, to receive the devotees in the afternoon. The Badve supplies the dress and flowers for decoration of the deity and also brings the ornaments which are in the custody of the Badves whenever necessary. After dressing the idol a naivedya of laddus or sweet balls is offered to the deity presumably as afternoon repast.

**Dhuparti**

8. Between 4 p.m. till evening the deity is open for Darshan of the devotee. In the evening at about sunset the ritual of Dhuparti takes place. The Paricharaks bring an incense burner with incense which is lighted and amidst sounds of bells and cymbals songs are sung. Badves bring flowers and these are offered after washing the feet of the idol. At the Dhuparti time also a light naivedya is offered.

**Shejarti**

9. Between 10 and 11 p.m. the Shejarti ritual takes place and this attracts a large crowd. In this ritual Dingre has to play some part. He sprinkles water on the floor between the throne of the idol and the bed Chamber, sweeps it and spreads a cloth called Paulghadi. The Badve opens the door of the bed Chamber, arranges the bed, lights a lamp, places a bowl of hot milk and a spittoon. He also brings water for washing the God's feet. Dange, Dingre and the Benari stand in the ante-Chamber, while pujari washes the feet of the idol, Benari chants hymns and after Ekarti or a light is waved the deity is undressed. After offering of flowers etc. the God is supposed to enter the ante-Chamber and all leave the place except the Badve.

**Pancharti**

10. Though formerly Shejarti was the last ritual after which the deity was supposed to have gone to bed, an additional ritual was started by the Badves which is called "Pancharti" and which was the subject matter of litigation. This innovated ritual consists of waving of a stand with five lighted wicks, before the deity and offerings are made by the devotees and which are taken by the Badves. In the litigation over this ritual though it was held to be an innovation the Badve's right to conduct it all alone after the departure of all the Sevadharies, but in the presence of the devotees was recognised.

## REMUNERATION FOR SERVICES

### Badves

11. It would be appropriate and convenient at this stage to indicate what remuneration is received by the Badves and the Sevadharies for the respective daily or nitya services rendered by them. While Badves are held entitled to receive all offerings made at the feet of the deity of cash not exceeding Rs. 500, gold ornaments not exceeding in value of Rs. 100 and articles of silver not exceeding Rs. 50 excepting the pujari there is no definite source indicated from which the other sevadharies should get remuneration for their services. Remuneration taken by the Badves which is just mentioned is not the only remuneration nor is it earmarked as remuneration for the daily services alone and this question will be discussed in detail at a later stage.

### Pujaris and other Sevadharies

12. The source of remuneration for the Pujari is somewhat definite because there appears to have developed a practice for a devotee to make a second offering at the feet of the deity. Though supposed to be discretionary devotees are asked to wave an offering equal in value to the first in front of the deity and place it either in the hands of the Pujari or elsewhere and the Pujari takes it as of right. The other Sevadharies do not get any share in it. According to the decisions in the various litigations, the other Sevadharies who render services, viz. Benari who chants the mantras, Paricharaks who supply bath water and Arti material, Dingre, Dange, Diwte and Haridas, are all prohibited from asking for or taking any Dakshina or gift from any of the devotees inside the sanctum. For their maintenance or by way of remuneration for the services they are at liberty to ask for Dakshina from devotees after they come out of the sanctum or the Garbhagrāh.

### Demands of Dakshina

13. It is not the Sevadharies alone who have no other sources of remuneration that beg of the devotees to give Dakshina outside the sanctum. In the halls of the temple there are other points and places where the devotees who come to the temple for peace are pestered for gifts. There are several Pariwar Devatas to which a devotee is conducted and where a plate before each is placed for the devotee to make an offering. A Badve sits with holy water or Tirth which is offered to the devotees who in return for the holy water place some coins. Sevadharies have to perform their part mainly at the Kakadarti, Padyapuja, Mahapuja, Dhuparti and Shejarti. Since they are prohibited as a result of litigations from asking for Dakshina inside the sanctum, what actually happens is that after each ritual the Sevadhari connected with it goes out into the hall moving among the devotees with a pot or his hand spread out so that the devotee may put a coin. The Benari who has chanted the hymns, the Paricharak who has brought the wicks and supplied bath water and each of the other Sevadharies who has rendered service expects and rightly so, some remuneration which is not otherwise provided for. No doubt no pressure is supposed to be exercised on the devotees to pay any Dakshina to any of these Sevadharies who are numerous. But the devotee who comes in search of peace resulting from serenity is allowed no concentration with these constant demands, which are from numerous persons during the progress of the rituals.

### Complaints of the Public

14. The demands for Dakshina having become irksome to devotees there were innumerable complaints that they cannot get the peace of mind to seek which they visit the temple. There was an occasion for the Charity Commissioner in 1964 to have an enquiry made in respect of not only this but several other complaints. The Commission noticed that except in front of Vithoba's shrine boxes are placed and notice boards are hung up mentioning that all are prohibited from asking for Dakshina and the devotees may drop whatever they wish into the box placed for the purpose at different spots. Evidence that has come before the Commission, shows that this is a recent step adopted by the Badves and though it was claimed that the boards have been placed three or four years ago, the bulk of evidence showed that they were placed during the last two years or so. The Commission may mention here that allegations and suggestions have come forward that this step of placing boxes and the notice-boards instead of proving useful to satisfy the sentiments of the devotees has proved more useful to the Badves because while Sevadharies are prohibited from asking for Dakshina any where in the temple premises the collections accumulating in the boxes are entirely appropriated by the Badves leaving the Sevadharies high and dry.

### Upachars on Ekadashis

15. The routine of nitya puja and upchars stated above varies on Ekadashis which occur twice a month being the 11th day of the bright half and 11th day of the dark half of the lunar month. The Naivedya offered on these days is of Articles considered to be permissible to be taken on Ekadashi and as the God is not supposed to sleep on the night of the Ekadashi

no Shejarti and consequently Kakadarti on the following morning take place since the God does not require to be awakened. Of the 24 Ekadashis in the year, four are important when waries or groups of pilgrims who regularly visit, come to Pandharpur. They are Ashadhi, Kartiki, Chaitri and Maghi Ekadashis. The first two attract a large number of pilgrims in lacs. If it is a leap year which occurs in every fourth year by an extra month called Adhik, the Ekadashi of that month also attracts a large number of pilgrims as Adhik is regarded as a holy month.

#### Other festivals observed

16. There are other festivals observed besides the Ekadashi and they are Ramnavami, Narsinha Jayanti, Gokul Ashtami or Janmashami and Mahashivratri. Though Vithoba is considered to be the form of Vishnu and, therefore, the temple a Vaishanava temple, to Bhagawat sampradaya, the Mahashivratri which is a day consecrated to Shiva is also important and is observed and this is an indication to show that in Maharashtra there is not only no quarrel and acrimony as in other several parts of India between Shaivas and Vaishnavas, but the sampradaya emphasises the unique position of the Pandharpur temple showing that it stands for toleration of religions, a facet, distinguishing Bhaktimarg which the temple propagates. After the waries or fairs are over, a Prakshal puja or a purificatory ritual is held because it is believed that pollution of the idol takes place with the visit to the temple of people in large numbers of different classes and communities and from different places.

### NAIMITIC PUJAS OR YAJMAN PUJAS

#### Upachars transferred into Poojas

17. The devotees can offer special services or pujas either themselves with the attendance of the Badva or through priests but on payment to the Badvas amounts agreed to between them. The devotee is called the Yajman and the Badve arranges for it. These are called Naimitic or occasional pujas and the various types of these are Mahapuja, Padya Puja, Tulshi Archan Puja and Kapur Arti. Really speaking the first two appear to have been the original main pujas but to them a long list has come to be added including the Tulshiarchan puja, Kapurarti, Alankarpuja, Savastra puja, Avastra puja, Keshar Archan, etc. It may be observed that presentation of Tulshi along with flowers is one of the common upchars in any puja and so also waving of light with camphor, so also dressing of the idol with clothing or ornaments. But each one of the upchars is emphasised to give it the character of a separate distinctive type of puja to attract the devotee's mind and attention or for that matter to invite him to pay in different ways. Kapurarti and Tulshiarchan pujas were also the subject matter of litigation when Badves wanted to exclude other sevadharis from playing their part in these pujas and these have been held to be innovations.

#### Rates or charges

18. There are no rates fixed for pujas and upchars and what one has to pay is the subject matter of agreement or demand of the Badves and payment by the Yajmans. But the evidence before the Commission shows that Yajman is charged anything between Rs. 100 to Rs. 250 for a Mahapuja, Rs. 11 to Rs. 50 for a Padyapuja and the same amount for the other pujas and upchars. In fact from the evidence of Shri Narayanrao Badve the spokesman on behalf of the Badves it would appear that in his house a schedule has been hung up on the wall showing these rates as those either fixed or charged for the various pujas. The Yajman is required to pay these amounts in addition to whatever he may have to pay to the middle man who follows the profession of Yajmankritya, which profession it may be noted presumably being a profitable one has attracted people, other than the priestly classes, to adopt it. A large number of complaints have come forward with the allegation that as there are no fixed rates, capricious demands are made and impelled by motive of profit, pressures are exercised and pujas performed even at a time during the day when pujas ought not to take place but which time ought to be rightfully available to the devotees for Darshan. One other point necessary to note but which will be dealt with at length at a later stage is that there is a claim of the Badves that for every puja and upchar intervention of the Badves is necessary and that it is not permissible to any outside priest to conduct the rituals for his yajman at the yajman pujas in the temple. The claim has gone even to the extent that the Badves say that while taking Darshan of the deity if a devotee has to make any special prayer or seek prasad such as sandal paste, flowers or a coconut or return of the part of the articles brought by the devotee as an offering to the deity, the mediation and services of the Badves is essential.

#### Darshan and Upachars—Comparative Importance

19. In dealing with the question of Upchars, it is important to repeat that both in Vithoba as well as Rukmini temples Darshan or seeing the deity at close quarters is the most important

and a valued ritual for the devotee and as already mentioned in the earlier chapter Darshan in Pandharpur has a distinctive meaning valued sentimentally by all devotees which does not obtain in any other temples in India. This is presumably because under the Bhagwat Sampradaya or the Bhakti-cult Darshan of the deity and not the puja is of the prime importance. While the Darshan may yield a small coin to the Badves and probably to the pujaries, the pujas for which no rates are fixed are capable of yielding large amounts several times more than the offerings made for Darshan.

#### Feature of Pujas common

20. The next important feature in connection with the pujas and Upachars is that the ritual part is exactly the same as is prescribed by the Shastras or the religious books for pujas at home or elsewhere in other temples there being little or no specialisation in the rituals in the Pandharpur temple. It is also necessary to mention that Badves though called chief priests do not have to physically participate in bathing or dressing the idol or chanting hymns. Their representative only stands and waits acting as a master of ceremonies during the pujas and upchars while the pujari performs the rituals, Benari chants the hymns, Vedic or otherwise, and the rest of the Sevadharies do their respective jobs handed down from the time of their ancestors.

#### No special Poojas for Pariwar Devatas

21. In respect of the Pariwar Devatas both in the precincts of the temple and outside whose number has not been constant but has increased from time to time there are no special upchars like Abhisheka etc. It appears that Paricharaks, after arti is waved before Vithoba, in the morning and evening take it out to wave it before the Pariwar Devatas and when they claim that it was their right there was litigation between them and the Badves. In short there are no special worship or upchars for the Pariwar Devatas. However, there is one item viz. that before each Pariwar Devata there sits a person, who has purchased in auction the right to the offerings subject to the obligation of performing the daily duties to the Pariwar Devata, with a plate or dish inviting the devotees to place money which if put by the devotee is appropriated solely by that person who has paid the bid amount to the Badves.

#### Pooja and Upachars of Rukmini

22. *Rukmini Temple.*—In the temple of Rukmini the consort of Vithoba the same nitya and naimitic rituals take place soon after their performance in the Vithoba temple, presumably to provide an opportunity to the Devotees to attend and witness the rituals in both the temples. The priests in charge of the Rukmini temple are Utpats who have no concern with the rituals in the Vithoba temple and *vice versa*. At one time Utpats were claiming rights in the Vithoba temple but the claim was negated. There are no Sevadharies in the Rukmini temple as in that of Vithoba and though at one time the Benaries claimed rights to chant hymns as they do in Vithoba temple their claim was negated. While there is no substantial difference in the nitya upachars in both the temples on special occasions and for naimetic upachars, those appropriate for the female deity are in vogue in the Rukmini temple such as Navratra celebration which is a special feature of a female deity, kumkum archan puja instead of Tulshi archan puja of Vithoba, and presentation of a khan, coconut, etc., as "ooti" which are all appropriate for the female deity. There are also female Pariwar Devatas for Rukmini—Satyabhama and Rahi or Radhika which deities are looked after by the Utpats in the same manner as the Badves do regarding the Pariwar Devatas of Vithoba.

#### Income of Utpats

23. Income of the Utpats like that of the Badves consists of offerings made before Rukmini and Pariwar Devatas. No scheme has been framed in regard to the Rukmini temple. Utpats were claiming all the surplus after meeting the expenditure for the maintenance of the temple and upchars. However, recently in 1962 in a dispute before the Charity Commissioner arising over the registration of the trust the High Court of Bombay held that the Utpats should spend half of the income for the maintenance and expenses of the temple and may appropriate to themselves the other half of the income.

Question regarding the incomes and rights to it of Badves and Utpats which is an important question will be considered in a separate Chapter.

## CHAPTER VI

## PUBLIC GRIEVANCES IN REGARD TO THE PRESENT MANAGEMENT

## Nature of complaints

1. Before proceeding to deal with the nature of the rights claimed by the respective priestly classes and whether they would require to be abolished, it would be convenient to deal with the nature of the complaints that ultimately led to the appointment of this Commission by the Government. Broadly, the grievances and complaints can be divided into two categories: (1) those with which the public are directly concerned viz. relating to Darshan of the deity and Yajmanpujas performed by or at the instance of the devotees; (2) the management of the temple which includes within its purview the dealings of Badves and their relations with the Devasthan Committee; the relations inter-se between Badves and Sevadharis; action of the Badves and Utpats in relation to endowments; management and custody of the ornaments of Vithoba by Badves and those of Rukmini by Utpats, and lack of attention towards development of the surroundings of the temple. All these points would require to be dealt with separately at length which will be done in this and the next chapter.

## Grievances regarding Darshan

2. Dealing first with the question of Darshan and Pujas, in the earlier Chapter, the Commission has pointed out the importance of Darshan which to the devotees coming to Pandharpur takes precedence over any other Upchars or services to the deity. In fact waiting in queues some times for 8 to 10 hours only for the purpose of obtaining "Darshan" at wari time indicates the importance attached to it, the intensity and the measure of devotion of the pilgrims. Yet it will be pointed out in the course of this Chapter that pujas, capable as they are, of yielding more income to the Badves in practice, yet precedence over darshan in that they are not restricted to fore-noon and take place at any time and this has given rise to complaints from a large number of witnesses.

## Situation in the Temples

3. The situation as it now obtains in both the temples is, that only one queue is possible and that too when the door of the shrine is not closed for the performance of the pujas. Therefore, though in Pandharpur Darshan which means only Padasparsha Darshan has great sentimental value for the pilgrims for whom poojas and other upachars have secondary importance, as stated in the earlier Chapter, it is physically impossible for all the lacs of pilgrims visiting Pandharpur at the wari time to get the "Darshan". At the time of the last Ashadhi fair the Commission visited Pandharpur and an attempt was made to ascertain the number of people per minute who can take Padasparsha Darshan by coming in queue and proceeding further. It was found that allowing the minimum time to a devotee to place his head on the feet of the deity and proceed further the maximum number of people that can take Darshan is about 37 per minute. The number of pilgrims visiting Pandharpur has been on the increase from year to year and what used to be about 2 to 2½ lacs before at the time of Ashadhi Ekadashi which is the largest fair, the Commission found on enquiry that this year at the time of the last Ashadhi there was record crowd of 4½ lacs of people that had visited Pandharpur. Presumably because Darshan is one of the most important items prescribed in Bhaktimarga in the path of realisation, devotees that come to Pandharpur do so with an ardent wish and a desire to have Darshan of the deity. The physical conditions in the temple, which as just stated can permit only one queue, in the course of 24 hours at the rate of about 2,000 per hour it is possible for only 48,000 to get Darshan out of over four lacs that visit it.

## Explanation about the difficulties offered by the Badves

4. When the public have complained about difficulties in the matter of obtaining Darshan of the deity it has been invariably pointed out on behalf of the Badves that it is impossible to provide Darshan to all the devotees and that a large majority of them feel disappointed for no fault of the Badves but due to structural difficulties of the temple. While this aspect will be dealt with presently, in the course of the enquiry, the Commission pointed out to the parties concerned, that grievances of the public are more towards the exploitation of the situation by the Badves granting that it is impossible for all to get Darshan, and the failure on their part over the large number of years to make any serious attempts to ease the difficulties. In fact the evidence before the Commission tends to show that greater the number of difficulties, better was the scope to turn them to good account for the priestly classes as the difficulties provided means to earn more money. The manner in which the barricades are put also suggests it.

### Nature of the evidence heard by the Commission

5. Before proceeding to deal with the evidence alleging exploitation resorted to by the priestly classes, of the difficulties of providing Darshan, a few general observations are necessary regarding the evidence recorded and which will be referred to. Out of the replies received to the Questionnaire issued to the public which were processed, those that referred to specific instances or personal experience were sorted out from the rest which were in general terms and from among the former, representatives from different classes professions and strata of Society were invited to give evidence, providing opportunity to those connected with the temples and whose interest stood to be affected to cross examine them and test the veracity of the allegations. The same rule was applied to call from among those who had sent replies supporting the Badves and Utpats for the purposes of ascertaining whether their replies represent their voluntary views or result from the influence of propaganda or pressure. Those who have participated in the proceedings before the Commission as parties were asked from time to time to suggest names of witnesses whom they wished the Commission to call and examine. The Commission examined in all 253 witnesses camping at different places. The total number is made up of 3 representatives of the priestly classes, 218 called by the Commission *suo motu* including those supporting the priestly classes, 29 called by the Badves and 3 called by the Utpats. Status-wise among 253 witnesses there are five Legislators including the Speaker of the Maharashtra Legislative Assembly, the Chairman of the Maharashtra Legislative Council, three members of the Parliament a former Governor and a Vice-Chancellor, a retired General of the Armed Forces, two social workers, 29 public servants, 17 Advocates, 8 Newspaper Editors, 6 Doctors and Engineers, 5 Presidents of the Municipalities, 24 Pensioners, 13 Professors, 28 Agriculturists, 24 Businessmen, and 45 others including among them ladies and warkaries.

### Complaints not challenged

6. Regarding the vast majority of witnesses who ventilated their complaints and grievances against Badves and Utpats, the complaints against Sevadharies were a few. It must be stated in fairness to the learned advocates who represented the priestly classes that they did not address any arguments on the evidence of the witnesses regarding the complaints of harassment, mal-practices etc. Though in the initial stages the advocates started cross examining the witnesses seriously, that seriousness waned and ultimately dropped when witness after witness appeared, gave his personal experiences and arraigned the Badves and Utpats. Since those who spoke about harassment came from different classes of Society, and from different places in Maharashtra, who had no interest except that of devotion to the deity, it is obvious to the Commission that the advocates must have thought that it was not worthwhile to attempt to challenge the veracity of the charges. Since no argument whatsoever was advanced against the evidence of the witnesses regarding the harassment and mal-practices the Commission thinks it unnecessary to make a detailed discussion of the evidence of the witnesses and would, therefore, confine its reference in the course of this Report to a few witnesses by their exhibits, whose evidence is illustrative of the subject matter of the complaints made by the public.

### Attitude of Warkaris on Wari-days

7. While conceding that it is impossible to provide Darshan to all the laics of pilgrims that come to Pandharpur at Wari time, it may be pointed out that those among the more enlightened and tolerant warkaries are satisfied with bath in the Chandrabhaga, recitation of abhangas—and "Hari-path" taking Pradakshina of the temple and seeing the Shikhar or pinnacle of the temple on the days of rush and are content to wait till the rush cleared after three or four days to have their chance of Darshan. But the grievance of the majority is directed towards the exploitation of the situation by the priestly classes for the purpose of making profits.

### Complaints relate to exploitation of the situation and date back

8. It seems that the vast majority of the pilgrims visiting Pandharpur at Wari time have found it difficult to obtain Darshan not only at the present time but even during the time of Peshwas. It seems that no order could be maintained and, therefore, as would appear from the evidence of the District Superintendent of Police, from 1907 at the intervention of the British Administration the District Police Administration was entrusted with the task of managing the crowd and making suitable arrangements to give Darshan in an orderly manner to the maximum possible number. This arrangement appears to have irked the Badves, Utpats, Sevadharies and Kshetropadyayas, who had their own Yajmans or guests whom they put up during the wari time and to whose needs they had to cater. To satisfy these classes out of the 24 hours of the day during the wari, a period of eight hours from 10 p.m. to 6 a.m. happened to be allotted to the Badves intended solely to provide facilities to them to take their own Yajmans. In a like manner shorter periods of time were allotted to Sevadharies, Kshetropadyayas and even Kolis whose privilege was subsequently withdrawn. A very large number of witnesses have spoken vociferously about the abuse which they make of the privilege given to the Badves.

### Abuse of the privileges

9. It is alleged that during the period of eight hours between 10 p.m. and 6 a.m. when the management regarding the Darshan is given in charge of the Badves, they not only take their Yajmans but members of the waiting public not without charging them fees for Darshan, by printing tickets, and selling them to the public, for a price ranging from Rs. 2 to Rs. 10. It is complained that those waiting in the queue are enticed away with promise of Darshan if money is paid and by these means deny to several lacs of people waiting in the queue for eight to ten hours their turn and privilege of having Darshan. A similar complaint is made against Sevadhari, Utpats and Kshetropadyas.

10. An attempt was made to deny these allegations in the evidence of Shri Narayan D. Badve. One or two tickets or printed slips bearing names of Badves that were on the record of the Enquiry made in 1964 were put to the witness but advantage was taken by him of the fact that beyond bearing the name of the Badve the printed slip did not contain any matter in it to show that they were tickets sold for the purpose of providing Darshan. However, the attempt to evade the truth completely failed when during the Commission's visit at the time of the last Ashadhi Fair the Commission not only saw and made enquiries with those waiting but even collected a number of tickets issued not only by Badves but even by Sevadhari and Kshetropadyas. The Commission noticed the temple peon taking the printed books of these tickets for distribution to the agents for sale. In the face of all this evidence though an attempt was made to suggest that they were printed for the purpose of identification of Yajmans of respective Badves, Shri Narayan Badve had to admit later on that during the time allotted to the Badves many persons other than their Yajmans are taken for Darshan and that they are handed over the printed slips or tickets and that the Badves get in return certain amount which according to Shri Narayan Badve was meant as Dakshina subsequently paid by the people after they got the Darshan. Looking to the crowd and the rush which the Commission saw for itself, it would look improbable that a devotee who has not put up with the Badve or who is not his Yajman would have all the patience to find out the Badve, to pay Dakshina to him after having once obtained Darshan of the deity, even if the Badve could be deemed to have patience to wait for his Dakshina. In fact in the course of its enquiry the Commission found that there were people who complained that the tickets purchased by them became infructuous because larger number of tickets than those who could be provided with the Darshan within the allotted time had been sold by the respective priestly classes with the result that in the hope of getting Darshan at some later time the devotee purchased tickets successively from different classes to whom the time was allotted by turn. The Commission is fully satisfied with the truth of the allegation that tickets are sold for Darshan and the situation is exploited to make money.

11. The Commission would not be doing justice if it omits to make a reference to the complaints against those who are put in charge of the management of the Darshan. While the Commission and the Secretary were sitting along with the Police Officers entrusted with the management, it was noticed that the Police Officers received letters and chits not to speak of messages from others in authority whose behest the officers could omit to comply only at their peril. The Commission does not wish to refer to several such notes or orders which the Police Officers had received to admit and arrange for Darshan not only of a stray individual but of groups brought by those individuals and all these to the cost of thousands of people waiting in the queue. The Commission went round and found that the queues extended beyond half a mile and enquiry with those sitting in them showed that they had been waiting for eight to ten hours. The Commission feels that reservation of time to enable different classes to take their respective Yajmans has not only led to an abuse of the privilege but exploitation of the several devotees and the sentimental value which they attach to the Darshan of the Deity on that day. A typical witness is Ex 239—Nagarkar—a businessman of Poona but who hails from Pandharpur, not to speak of many others.

12. An attempt has been made on behalf of the Badves to claim allotment of time as a right established by custom and usage if not by a judicial decision. The judicial decision referred to was a Resolution passed in a Meeting called by the Collector in 1926 when different people sought allotment of time for their own Yajmans. Obviously it was made by the District Magistrate as a law and order question but not as a decision on a question of right as in a Civil Court. While every little matter is taken to the Civil Court this one has not found its way to the portals of the Court and, therefore, an arrangement made with a view to keep order can hardly ripen into a right established either by law or by custom. No custom which is unreasonable, which has not received recognition from the public and which is contrary to the interest of the general public can be recognised to confer any right.

### Demands and harassment even on ordinary days

13. The complaints about exploitation are not confined only to wari time. It is alleged that right from the time of entering into the temple, a devotee particularly an outsider coming to Pandharpur for Darshan of the deity is subjected to demands which if he concedes well and good for him. (See on this point the evidence of Smt. Radhabai Kolhe Ex. 355, Manjulabai Patil Ex. 356. --Agriculturists and workers of Jalgaon, Ex. 415 --Nerurkar—a retired Government servant, Ex. 215—Mr. A. V. Patil—a Member of the Parliament and Editor of *Vishal Saihyadri*, Ex. 228 Narottamdas a merchant, Ex. 366, Ex. 370, and Ex. 428 . . . . . etc.) A person sitting by the side of the very first step of the Mahadwar the main entrance viz. Namdeo Piyari with a plate with coins in it invites offerings. (See Ex. 242—Zankar and others). After one enters when he reaches near the deity after standing in the queue if he puts an offering at the feet of the deity he is allowed Darshan peacefully. If he does it there is immediately a demand from the pujari by way of ovalni i.e. a second equal offering meant for the pujaries. If he does not concede to any of these he has to experience a little violence, either his head is pressed (*vid.* Ex. 363—V. N. Phadnis Editor of *Prabodh Chandrika*), or he is pushed on the pretext of his having to make room for the next person following him in the queue (See Ex. 136—Fulkarni—Sub-Government Pleader, Pandharpur, Ex. 138—Mulji Parekh, Ex. 348 Kastur, Ex. 357 G. D. Khadake an agriculturist. If the value of the offering is a rupee or so he is allowed to have Darshan to his satisfaction. If there is no offering made or if it is too small, the devotee is asked why he has come all the way to Pandharpur spending money if he has no money to offer to God or is asked whether God has not given him money and so on (See Ex. 261 More).

### Demands by misrepresentations

14. After the deity's darshan when a devotee comes out of the sanctum he meets a stone pedestal with stone Padukas thereon—on most occasion covered with a brass image prepared after Saint Tukaram, to invite offerings from the believing devotees that it is a spot consecrated to the saint when as a matter of fact Tukaram had nothing to do with the actual spot and actually such a representation is made. Shri Narayan Badve in his evidence stoutly denied that nothing is being done towards such representation or that the image of Tukaram was being placed over it. But at the time of Ashadhi Ekadashi when the Commission actually saw the Mukhavata of Tukaram and actually witnessed false representations made to the devotees Shri N. D. Badve had no answer. Then there is a Garood Khamb and other pariwar devatas in the hall of 16 pillars and a person giving holy water—tirth in the lobby of the Chowkhamb hall. At all these points devotees are asked for Dakshina. The evidence of Mr. N. D. Badve shows that while some of the Pariwar Devatas are small idols placed in niches, others are carvings on the walls or on the Garood Khamb or paintings hung up and what not, if only, they can provide means for demand of Dakshina. Then there are Sevadharis, who actually render services during the worship but by virtue of Court's decision are prohibited from asking for Dakshina inside the sanctum. To some devotees who appear to be men of means, in the sanctum, coconuts are offered as Prasad and after they take money to cover the value and something more is demanded. If not paid a servant is sent to the stopping place of these devotees. The net result is that the devotee coming in search of peace and concentration on the deity finds only distractions and feeling of harassment to such an extent that some of them have stated before the Commission that with this experience they have felt that they should not visit Pandharpur again. (See Ex. 341—Vishnu Dhume—an Advocate of Vani—Vidharbha, Ex. 352 Janave Head-Master of Varoda, Ex. 393 Pandurang Chavan running a hair cutting saloon at Nasik; Ex. 399 V. S. Potnis, Editor of *Gavkari* and Ex. 400 V. W. Shirvadkar—Kusamagraj a poet and journalist).

### Mode of harassment in Rukmini Temple

15. In the Rukmini temple the pattern is somewhat different. Being a deity of the females to whom Soubhagya—the life of the husband being a very precious sentiment, they flock to pray for it. Such of them as appear to be of means are offered a "Vayan" or gift of coconut, vermilion and turmeric which no female whose husband is living declines. After she takes it, a demand of Rs. 10/5 is made and if no payment is made a servant is sent after her for recovery. If she refuses to take the gift she has to hear a retort—"do you want to throw away your Soubhagya?". A greater shock to the sentiment is unimaginable. Many a time a coconut or sweets are offered as Prasad to the males and after it is accepted demand is made of the full value thereof with some Dakshina. This was the experience of a retired Deputy Collector who had served as a Mamlatdar at Pandharpur (See Ex. 146 Surnis).

16. In fact Shri N. G. Gore—the Chairman of P. S. P. in the course of his evidence at Ex. 229 mentioned without wishing it to go on record, but yet happened to be published in the Newspapers covering the enquiry, that when he had accompanied the wife of Shri Jayaprakash Narayan a bundle of Pedhas along with a coconut were handed over to her in the



Rukmini temple which she believed to be in token of regard for her position, but which she soon found to be in expectation of a return when immediately money was demanded from her. The unsuspecting devotee believes when Prasad in the shape of sweets or coconut and garlands, etc., are offered that the priests in both the temples are prompted by courtesy only to be disillusioned immediately that the offer is in expectation of a decent money return made in the nature of coercion of a mild type than an act of courtesy to a devotee. Demand of this type works as a sort of pressure on the devotee (See in this connection the evidence of Dr. Athale Ex. 460, Shiralkar a retired Deputy Collector—Ex. 468, Ex. 486—Namdeo Balasaheb Yadava, Municipal Councillor of Kolhapur who have spoken of different modes resorted to for extracting money).

#### Physical violence under garb or order

17. Every situation is exploited by the priestly classes to turn it to good account from the pecuniary point of view. (See the evidence of Mankar a businessman at Ex. 448, Ex. 493 Bapu Govind Jamdar a Kirtankar of Kapshi). Barricades called Dandies or horizontal bars are placed before the deity to regulate the entry of man by man to go close to the shrine and have Darshan. Behind the barricade-dandi stands a man, who not satisfied with oral instructions to the devotee to move forward uses physical force to push them regardless of the sex of the devotee or the part of her or his body to give a push. This has offended a large number of witnesses (See Ex. 138 Parakh, Ex. 322 D. S. Nadkarni, Ex. 361 Ramchandra Khadke, Ex. 364 N. S. Patil, Editor of *Janasavak*, Ex. 435 Tukaram Ghule—retired Superintendent in Finance Department, Ex. 442, S. G. Walawalkar retired Deputy Secretary Finance Department, Ex. 445 Gondkar an employee of the L. I. C., Bombay).

18. Incidents are mentioned by two students Shankar Kirandikar Ex. 443 and Prakash Patil Ex. 444 when on a school excursion they were robbed of all their money in the temple. Mankar Ex. 448 has expressed in his statement at Ex. 449 that with a loose purse one can easily worship. Mrs. Sohoni Ex. 481—Vice President of the Kolhapur Municipality has expressed that on account of the demands she has felt every time she visited Pandharpur that she should not come again. More or less similar are the sentiments of Mrs. Malati Bhosale a municipal Councillor of Kolhapur. It is not necessary to refer to many more witnesses whose evidence is on record.

#### Incidents not restricted to Wari time

19. Such incidents are not restricted to the periods of wari alone but even on ordinary days. When the Commission was camping at Pandharpur one evening in the month of March along with the Secretary, both being in mufti were standing and watching from a corner of the Solkhambi hall. A witness not acquainted with any of them believed them to be among Badves from their dress, came in an excited mood, to complain that he saw the man at the Dandi pushing a female devotee by her waist who got annoyed. Witness regarded the manner in which she was treated as so outrageous that he exclaimed if it had not been a temple he would have beaten that man with a shoe. (*Vide* D. S. Nadkarni Ex. 322). This witness as the Commission learnt is a bachelor who has settled in Pandharpur after retirement from his post as a librarian in a University Department at Bombay to carry on research on Shrimat Bhagwat and he has described that though he came to Pandharpur because it was the "Adhyatmic" capital of Maharashtra, he has found that nearer the temple he feels farther away from God, that when one comes to the temple, like shoes which are to be left outside, a person has to leave his self-respect also outside and that inside the temple the policemen present and others are like the three Chinese monkeys who shut their mouth, eyes and ears even when they witness improper behaviour. Ex. 361 Khadke has also spoken of illtreatment of a woman. Last but not the least Mr. S. C. Bhat, a former Charity Commissioner of the Maharashtra State has kept a note of the behaviour and malpractices noticed by him in the course of his first visit when without disclosing his identity he stood in a queue to take note of how the devotees were being handled. (*Vide* Ex. 620). The evidence on this point is so voluminous and repetitive that it is unnecessary to refer in detail to it in view of the fact that those complained against namely the priestly classes have not seriously challenged the veracity of the witnesses and have not addressed any arguments on this evidence about harassment.

#### Not in the interest of Badves to effect improvements

20. Reference is already made to the constructional difficulties in the precincts of the temple which make it impossible to provide Darshan to more than 37 to 40 persons per minute. In all these years nay several centuries no steps have been taken by the Badves—Chief Priests and Managers to have another entry or exit. The difficulties were noticed even in the time of Peshwas and directions are contained in one of the orders issued by them (*Vide* reference in Ex. 106). With difficulties increasing, with the increase in the number of devotees every year,

no steps are taken towards constitutional improvements. True it would have cost a considerable amount and may have involved structural changes in the walls, by having new openings. Want of funds cannot serve as an excuse for the simple reason that if a strong committee inspiring public confidence had been formed to raise funds, the public, if they were sure of proper application of the money would not have hesitated to contribute freely. Instances can be seen in Pandharpur where others in the name of Vithoba have collected lacs and built Dharmashalas to house the pilgrims. What matters in raising funds is the public confidence that what they pay would be utilised for the purposes for which the donation is given. In fact leaving aside a more urgent cause of providing means for a large number of devotees to have Darshan by opening new doors, the Badva Committee raised a fund to pull down an old sabha mandap to construct in its place a new structure not matching with the old one, which is now called Gajendra Mandap. Obviously it was not in the interest of the Badves to provide for additional entries and exits, which would have provided Darshan, may be only Mukh-darshan to such devotees who might feel satisfied with it, because such darshan would not be productive in respect of the offerings at the feet of the deity.

21. In this connection it is necessary to refer to a suggestion made by Mr. Ramohandran D. S. P. Sholapur, which was repelled and resisted by the Badves. Having found that even after the Darshan of Vithoba crowds tarried in the Solkhambi hall or moved slowly before Pariwar Devatas even when there is a rush and that was not conducive to quick movement of the crowd outside to permit new groups to come in for Darshan, he appears to have suggested that there should be an opening in the northern wall and the people should be directed outside immediately after the Darshan to pass out of the hall instead of lingering in it. This idea was opposed by the Badves on the ground that sentiments of the devotees would be offended if they do not remain in the hall to touch or embrace the Garrod Khamb. There are many other Pariwar Devatas in the hall both in the niches as well as on the Pillars which are productive in the shape of offerings to them, to invite which, people are encouraged to linger inside. It is obvious that acceptance of the suggestion of the D. S. P. would have stopped these productive springs to the Badves though it would have obviated inconvenience to the multitudes of devotees. Thus the suggestion it appears to the Commission, far from affecting the sentiments of the devotees, stands to affect the purse of the Badves if accepted.

#### Reservation of time for priestly classes discussed

22. On behalf of the Badves, Sevadharies and Kshetropalyes it was urged that if the reservation of the time for them is abolished their profession of Yajmankritya of providing accommodation food and arranging for the Darshan, puja etc. which is their main source of livelihood would be adversely affected. The Commission feels that the weight of this contention stands very much reduced by the fact that during the periods of reservation it is not only their respective Yajmans but a large number of outsiders who purchase admission ticket for a puja, are taken in for Darshan at the cost of those who cannot afford to spend for the tickets but who have been waiting in queues some times for 8 to 10 hours (See in this connection former depositions of two witnesses, who are no longer living—Mr. Bhadule Ex. 180 and Diwan Bhadur Paricharak Ex. 181, Nikhate Ex. 190 a trader, Ex. 376—former statement of witness Mahajan who produced a Pass and Ex. 378 Bhavsar.) The Commission has no hesitation in feeling that greater the difficulties and obstacles for the public to get the much valued Darshan of Vithoba the better is the scope and facility to the priestly classes to exploit the situation. There appears really no justification for discrimination in favour of some of the classes in the allotment of time which instead of being utilised for the purpose of which it is allowed, is exploited to earn more money.

#### Grievances in respect of Pujas

23. The public have voiced grievances in respect of pujas also. As already mentioned though originally there were only two types of pujas, Mahapuja and Padyapuja with permutation and combination of upchars involved in a puja, several new types of pujas have come into vogue. As already stated these pujas are more productive to the individual priests than the collective income in the shape of offerings at the feet of the deity especially because there are no fixed rates for pujas and what a devotee has to pay is the subject matter of agreement between the devotee and the Badve or the person who performs Yajmankritya and introduce him to the Badves. This practice has continued inspite of an express direction in the order of the Raja of Satara in 1790 that Badves should not contract with Yajmans in respect of poojas (Vide recital on page 12 of Ex. 106). No part of the Puja income goes to the temple fund so that deducting the expenses for the material and what little the Badves choose to pay to the Sevadharies for their services during the pujas, the income looking to the annual number of pujas is very substantial. The result of this has been that as many pujas as are sought to be offered happen to be allowed even in the afternoon or late in the evening and at night, contrary

according to some Shastris, to what is prescribed in the Shas ras. When the pujas take place all the doors from Solkhambi hall are closed and the devotees waiting in the queue for Darshna have to wait. When too many complaints started coming the Badve Mandal which is exercising certain rights of management, though not appointed under the Scheme, has prescribed alternate hours or periods for darshan and poojas and put up boards. In this connection the evidence of a leading Advocate of Nasik Mr. Yajnik Ex. 394 is revealing. On a perusal of the Board and finding that there was a vacancy, he asked to fix up a puja for which he was himself to bring the material and only pay some Dakshina—a proposal, not very attractive to the Badves. Though at first after going from pillar to post he got an impression of having got permission, when he came to the spot ready with material he was told that there was no time for the puja. It is only when he insisted upon his right that he could perform his puja. Mr. Yajnik who appears to be a leading advocate of Nasik was fully aware of his rights and could assert them. But one is left only to imagine as to what would be the position of lesser people. In this connection the evidence of Mr. Gurjar Ex. 129 whose daughter-in-law is from Utpat family and that of Mr. Gavaskar Ex. 226 who is a regular visitor on foot to Pandharpur is illustrative of some malpractices. In regard to Pujas it is not only the public that feel harassed but even some among the Badves because there was even a fight among Badves themselves when a puja for which a pass had been issued by the Badve Committee was not recognised by the Badve Mandal, though the latter body was not one prescribed under the Scheme and came into existence in 1937, the reasons for which will be referred to in the next chapter (*Vide* Ex. 288 Dattatraya Balvant Badve). Witness Ghalsasi who is also the editor of a Newspaper, who appeared as witness with a bias in favour of Badves was confronted with an Article in his own Newspaper in which pujas are described as an outrage on the sentiments of the devotees who are deprived of the time for Darshan to which they are entitled (*Vide* Ex. 185). The Commission feels that there should be a restriction on the number and timing of pujas when they are of a secondary importance so far as the Pandharpur temples are concerned. So also the Commission feels that rates should be fixed for different pujas and upchairs though some witnesses are against this suggestion.

#### Case for fixation of Puja-rates

24. Those who are against this suggestion of fixing rates are of two types (1) those who feel that if the fees for pujas do not happen to be fixed but left to be the subject matter of agreement between the devotees and the Badves it might be possible for poorer people who cannot afford higher fees to arrange with Badves for lesser amounts and get the satisfaction of performing the pujas. But it is highly improbable that any concession would be shown to poorer people when the evidence is so eloquent about the propensity of the priestly classes to make money even in the matter of Darshan. The Commission found that in the Goa Temples the rates for poojas and upachars fixed are such as to be within the means of majority of devotees with the result that a larger number of devotees desire to have poojas and the income does not stand to be affected. The second group feels that fixation of rates for pujas would be in a way amount to commercialisation of the religious services. If in all the temples in India which are well managed rates are fixed there is no reason to think that there is anything in it which should hurt the religious sentiments. All that is necessary is that the rates should not be prohibitive but should be within the means of generality of the devotees. On the other hand so far as Pandharpur is concerned since Darshan, which can be had even without money, is the chief service to the deity there would be no reason for even a sentimental devotee to feel that his inability to perform a puja is a deprivation of his right which as it is at present depends solely upon the sweet will and pleasure of the Badves. If the rates to be prescribed are the minimum rates on same lines as in the Goa temples providing for the cost of material and a small surplus to the temple and the priests officiating there is no reason for any devotee to object to it.

#### Police pass for Pujas

25. There is a peculiar practice in Pandharpur which has been objected to by number of devotees regarding pujas. To perform a mahapuja a devotee is told that he has to approach the Police and obtain a pass without which either the Badve Committee or Samasta Badve Mandal will not issue the necessary permit. Though it is apparent from the allegations and the evidence that the devotee has to pay a certain amount to whom it is kept vague to obtain a pass, no straight forward evidence is coming as to the amount of the fee to obtain such a pass from the police. While the intention behind the introduction of the system of obtaining a pass appears to have been good, the practice appears to have resulted more in mischief and corruption than in its usefulness. It appears that at one time there was a riot in the temple about a ritual concerned with the puja which brought the police and actually a breach of the peace resulted. Orders appear to have been issued that to prevent recurrence of such incidents the Police should be informed so that they could arrange to keep a person present to prevent a breach

of the peace. At that time a Magistrate had to be moved by an application to send the necessary orders to the Police to keep bandobast. But now this duty appears to have been delegated to the Police themselves. The D. S. P. when asked in his evidence has stated that to his knowledge this was an administrative arrangement without any basis by way of any decision of a Court or of any Rules. Unfortunately a large number of witnesses have complained that this practice has out-grown the purpose for which it was introduced and has led to corruption. The Commission feels that all this has resulted from lack of pure and strong administration in the management of the temple.

#### Evidence with a bias for Badves considered

26. Before going to the next topic it would only be fair to refer to the witnesses who have no complaints regarding the arrangements and who do not want a change in the mode of management. Out of 218 witnesses and three representatives of priestly classes called by the Commission about 30 witnesses have either no complaints about the Badves or do not want any change in the present set up. Besides these there are 29 witnesses called by the Badves and three by the Utpats whose evidence is intended to support their case that there is no harassment of the devotees and that no change is called for. These 62 witnesses out of 253 witnesses examined by the Commission can be easily classified into the following categories on their own respective evidence which are: (1) witnesses who have come forward as a result of pressure or propaganda, (2) witnesses who are either under the obligations of Badves or interested in them, (3) witnesses who hold certain political opinions belonging to a party which does not want the Government to have anything to do with Hindu temples, (4) witnesses whose attitude is one of indifference so long as their personal vanity is satisfied and convenience is made for them for the Darshan whenever they visit the temples, and (5) those who claim to have had experience about institutions with which Government had to do and, therefore, are under an apprehension that if administration is imposed the religious practices may suffer.

#### Evidence of propaganda

27. Majority out of the 62 witnesses have come forward either as a result of propaganda or importunity or other influences. Reference is already made, though briefly, to the propaganda carried on by the Badves to influence the Commission into believing that there are really no complaints on the part of the public either regarding the management or Darshan and Upchans at the temple. Answers in favour of Badves to the Questionnaire issued by the Commission were got printed and forwarded after carrying on a signature campaign all over Maharashtra. A large number of postcards were also got printed to the effect that no change in the administration is necessary and after taking signatures of people forwarded to the Commission. That the propaganda was vigorously carried on both among the literate as well as the illiterate is clear from the evidence of a large number of out of the 62 witnesses referred to above and some of the literate persons let the Badves down. Instead of blindly signing the post-cards which were taken or sent to them with postal stamps already affixed, some of the witnesses instead of subscribing to the contents scored them out and wrote thereon that a change in the administration is necessary (See for instance Ex. 322). Reference has already been made to the evidence of witness Durugkar Ex. 267, who took an active part in the propaganda by sending printed answers together with the envelopes bearing slips of the Commission's address, requesting people from Towns and Villages to take signatures and forward the same to the Commission. Unfortunately, a letter addressed by a person entrusted with the work of taking signatures by Durugkar instead of being sent to him happened to be enclosed along with the propaganda leaflets that were sent to the Commission. Then again propaganda leaflets were purported to have been sent by certain people who had never done so and one such name used was that of a student who was too young to take part in such things. The Commission received by registered post a packet containing propaganda leaflets with a postal acknowledgement form which the staff of the Commission signed. When the postal acknowledgement went back to witness Mr. N. B. Solvat of Barsi who is a student attending a school, he was surprised and amazed because he had never sent any registered packet to the Commission. Therefore he hastened to write to the Commission not knowing what that packet was that he had never sent any packet but had received a postal acknowledgement and actually returned the postal acknowledgement to the Commission. The Commission called this witness to examine him and found that he was incapable, owing to his age and occupation, of taking any part in the propaganda nor did his signature tally with any of the documents purporting to have been signed and sent by him and which he had denied.

28. The next group of propaganda documents were the post-cards and the Commission called some of the signatories on the post-cards. Ex. 270 a clerk at the Pandharpur Railway Station whose signature appeared on the post-card while admitting the signature said that some one took it under a representation and after applying a stamp, posted it. Ex. 274—Vasant

Harshe a merchant of brass utensils who has a shop close to the Namdeo Payari stated that one Shri Bhosale who loiters about without any occupations had brought the card for his signature and the Commission found later on that this Bhosale was always in attendance in the temple to do all odd jobs at the bidding of the Badves. One or two other witnesses who are illiterate were not able to know the contents of the post-cards on which their signatures were taken, but they said that the postage stamps had already been affixed. The next batch of witnesses on this point that came, came with greater wisdom and said that they had read the contents and had applied the stamp. If propaganda material ready for posting was being circulated all over Maharashtra the probability is that the postal stamps must already have been affixed and that the campaign of signatures was going on, not only in Pandharpur but elsewhere. In this connection Ex. 754—Nandalal Shikhchi a trader of Beed in Marathawada has stated that Bhagwan Badve's son had visited his place with certain leaflets on which he was taking signatures and Bhagwan Badve himself when he had visited his place for Kirtan had requested him to give evidence in their favour. The propaganda was so intense that the President of the Alandi Municipality—Sarjerao Bhandare Ex. 679, appeared before the Commission and stated that during his absence Bhagwanrao Badve visited Alandi and got the municipal Councillors to pass a Resolution giving all commendation to the Badves and suggesting that there should be no change in the administration. The President said that Rambhau Badve and two other Badves were present in the meeting when this Resolution was passed and saw to it that it was passed but all this during the absence of the President of the Municipal Board. In the light of all these facts the Commission feels that no reliance can be placed upon the exhibits, No. 257—Vithal B. Ghadake, Ex. 267—Durugkar, Ex. 274 Vasant Home, Ex. No. 284—Raghuwarsing Rajput, Ex. 295 Madhav Deshpande, Ex. No. 311 Mr. V. L. Parekh a repairer of pots and pans, Ex. 319—Shri R. G. Gotekar, Ex. 321—Shri Kondiba E. Netrao a boatman, who did not know the contents of the post-card, and Ex. 768 Kashinath Salunke.

#### Those witnesses who are under obligations

29. Among the group of about 62 witnesses referred to above there is a considerable number who are under the obligations of Badves. For instance all persons professing the profession of Yajmankritya are required to take the help of Badves in arranging pujas or upchars or a darshan for their Yajman. Nay they have to depend completely on the Badves and that is why the witnesses from these classes cannot come out openly to depose against the Badves or if they come they must depose in their favour (Ex. 313—Bapuji Eknath Navalakhe). Among those a special mention deserves to be made of D. R. Deglurkar *alias* Dunda Maharaj Ex. 594 who is not only highly respected among the warkaries, but is mentioned by another witnesses Ghalsashi, Editor of *Hindu* of Pandharpur—Ex. 182, as the fittest man to be entrusted with the management of the temple along with others like him. This gentleman who has been regarded as a saint preaching Dyaneshwari to the public in an effective manner could not resist the temptation of falling a prey to selfish considerations to the extent of deviating from his former statement in his anxiety to support the Badves. He replied to the Questionnaire sent by the Commission (Ex. 595) probably not remembering a statement (Ex. 596) which he had submitted in writing to the Inspector of the Charity Commissioner in the course of the enquiry in regard to these very matters in 1964. In his reply to the questionnaire he was supporting the Badves but in 1964 when he was approached for his statement, in the course of the enquiry, he took time to send his statement, got it written by his son to his dictation in the absence of the Inspector and later on hand it over to the Inspector. In that statement he has unequivocally mentioned the complaints now voiced by the public and had advocated a complete change in the affairs of the temple. Witness evaded to appear before the Commission while Badves were insisting on his being called. Ultimately he was called in the Aurangabad camp and the witness himself not being aware of the contents of his former statement started supporting Badves. When his former statement was put to him the witness found himself in a most uncomfortable position stating finally that if he had known and had remembered his former statement the evidence which he gave before the Commission would have been different from what he had stated, or in other words, a highly respected person regarded as a saint admitted in so many words that he was capable of changing the tenor and the contents of his statements as and when it would suit him with scant regard for reality. The reason is apparent why the witnesses assumed that attitude. During Chaturmas he camps at Pandharpur for his religious pursuits which means that he has necessarily to depend upon the help and good grace of the Badves. He admitted that the Badves had approached him to send a reply to the questionnaire which reply was in their favour. If a person of the type of Dhunda Maharaj could be approachable to the Badves, which indicates the measure of influence which they can exercise, no wonder that many other persons approached by them have tried either to support them or to sit on the fence. Dhunda Maharaj admitted in his deposition before the Commission that the conditions when he gave the statement of 1964 are not only existing now but have even worsened so that it is obvious that nothing but influence must have induced the attitude which he took while

sending his reply to the questionnaire and deposed before the Commission. Along with Dhunda Maharaj can be classed other persons who can claim at least a middle class if not a higher class in the Society. Ex. 767, B. D. Josh a retired Mamlatdar with his personal contacts with the Badves; which he admitted, could not stand with that attitude with which he had come when questioned closely. Ex. 771 is Babu rao Manjul Shastri. He is a Kirtankar and the Kirtans which he is allowed to perform in the Gajendra Mandap of the temple provide him a livelihood and he has to obtain permission from the Badves for these Kirtans. Ex. 772 Nagarkar an Income Tax Practitioner of Poona has purchased a house in Pandharpur and the Badves make Darshan easy for him when they conduct big persons visiting Pandharpur. Ex. 778 Ramkrishna Kendre is another Kirtankar who performs Kirtans in the temples obviously with the permission of the Badves. Ex. 779 is another Kirtankar who confesses that right from childhood he is familiar with the Badves and, therefore, knows Bhagwan Badve. Badves arrange for his Darshan of the deity. Ex. 759 Vasant N. Zanjale who claims to be the president of the Bharatiya Warkari Mandal which is different from the Warkari Mahamandal admitted that he always goes with influence and stays with Vithal N. Badve at Pandharpur and, therefore, did not have any trouble at any time. When the hearing of the evidence of witnesses was approaching conclusion, Bhagwan Badve and some others appeared to have got very active and approached several witnesses in Poona to come and give evidence before the Commission. The evidence of these witnesses who came at that stage to support the Badves would show that they were aware of the invitation to the public printed in the Newspapers by the Commission to supply information to the Commission in the shape of answers to the questionnaire or by their evidence. None of these persons thought it fit till Bhagwan or any other Badve approached them to send replies or to come and give evidence. Among such people is Ex. 763 Shri S. G. Sohni a retired Mamlatdar, Ex. 754 Mandalal Shikhchi, Ex. 768 Kashinath Salunkhe. Witness at Ex. 761 K. S. Gandhi a clerk serving in the Ammunition Factory at Kirkee approached the Commission with an offer to give evidence and his request was granted. But his evidence which was in favour of Badves discloses that one of the Badves is a colleague in his Office who was found attending before the Commission though it was a working day.

30. Like Badves, Utpals also had been trying to get witnesses as would appear from the evidence of Mrs. Shantabai Gokhale Ex. 784, and Mrs. Kusum Apte Ex. 785. There are some others who have shops and interest in Pandharpur but who did not care to appear when the Commission camped at Pandharpur, but took all the trouble to come to Poona when an opportunity had been given to the parties to lead their evidence. In fact they did not claim either a summons or their fares for the journey. Such witnesses are Ex. 775, Shankar Katap, Ex. 776. Kondaskar who sells religious books in a shop just behind the temple. Ex. 777 Jagdish Gosavi and Ex. 773 Gurjar and Ex. 774 Mamane.

#### Witnesses with political or other bias

31. Then coming to the class of witnesses who were either influenced by the policy of the political parties to which they belonged or those who believed in their own great capacities to settle matters there are quite a few of them. A typical witness is Mr. Ghalsalsi Ex. 182 who contrary to publication in his newspaper of the complaints previously and the editorial written by himself some years back complaining about the affairs in the temple started his evidence by challenging that the appointment of the Commission was unconstitutional. But after questions by the Commission he ended his deposition with a statement that he thinks that the appointment of a Commission was necessary and a change in the circumstances was called for. Yet he thought that he and witness Mamane could bring about a reformation in the management of the temple by the Badves which, history shows was found impossible even by the suzerain powers viz. Raja of Satara and the Peshwa. This witness like other witnesses belonging to the Hindu Mahasabha appear to have attempted to support the Badves either with a prejudice or with a wrong impression about the object behind the appointment of this Commission. Though not belonging to Hindu Mahasabha Prof. Panse Ex. 505 imagined certain things (Ex. 263). He is a teacher entertaining a fond hope that Badves themselves will realise that it is necessary to change the methods to prevent complaints and grievances of the public. Mr. Shatchandra Khare (Ex. 263) a school teacher and not another witness of the same surname who is an author and historian seems to be under the impression that Badves were the owners of the deity and the temple but when it was pointed out to him that the High Court has repelled such a claim and that they were held only to be the chief priests, managers, guardians and overseers in regard to the deity and the property, he changed the tenor of his statement and said that if the right of service is preserved there would be no objection if the Government takes over the administration.

### Witnesses labouring under misconceptions

32. Typical among the witnesses who subscribed to the views of the Hindu Mahasabha was Mrs. Savitribai *alias* Kashibai Kulkarni Ex. 299—a municipal corporator and a social worker of Sholapur. She made a grievance that in respect of Pandharpur alone a Commission should be appointed while there are other institutions and other places of worship presumably all over India where worse things prevailed but no action was taken. When questions were addressed by the Commission intended to clear the misunderstanding with which she was giving her evidence she ultimately found herself to agree that an administration on the part of the Government which does not appropriate the income of the temple or affect the rituals, etc. would be desirable for Pandharpur. It seems to have been thought by some witnesses as mentioned by Mr. Somnath Ex. 756 and Mr. G. M. Nalavade Ex. 684—Ex-Mayor of Poona that any interference by the Government would necessarily mean stoppage of pujas and upchairs and appropriation of the income by crediting it to the Treasury. A similar fear was voiced by Ex. 760 Mr. Gopal Arole, Ex. 770 Mr. R. S. Bhat, Ex. 786 and Mr. V. R. Patil who is a sitting M.L.A. from Sholapur and Vice-President, Maharashtra Pradesh Committee of the Hindu Mahasabha. When the witnesses were referred to the terms of reference and that they do not disclose any intention on the part of the Government to convert the temples into Government department or appropriate the temple income but that the only object of the Government was to see that the objects of the endowments are fulfilled and the devotees get their spiritual satisfaction, the witnesses subscribed to the fact that there were many complaints from the public that there was a need for consideration of those grievances and that an administration would be required to be imposed though some of them took opportunity to urge that hereditary rights of service of the Badves, Sevadharies and Utpats should be protected.

## CHAPTER VII

### LITIGATIONS BETWEEN BADVES AND SEVADHARIS

1. It cannot be denied that the atmosphere in a religious institution and particularly of the type of the Pandharpur Devasthan, needs to be such as to maintain serenity, peace and sanctity and such atmosphere will necessarily depend upon the attitude and conduct of the priestly classes and those who are actively connected not only with the rituals but also with dealings with the devotees who come in large number. Viewed at from this angle the history is replete with litigations and disputes not only with the Badves *inter-se* among themselves but between Badves and each of the Sevadharies, Badves and Utpats and Badves and others viz. Kolis, Shimpies, etc. Going into the details of each of these litigations would take several chapters of this Report and is not necessary. Therefore, the present chapter will be confined to narration of broad outline of the various litigations solely with the object of pointing out how with such litigations the atmosphere of serenity and sanctity in a temple is bound to be vitiated so as to give cause to the devotees and the public to complain that the cause of Hindu religion is not properly served.

#### Disputes and decisions in 1519 A.D., 1780 A.D., 1790 and 1938

2. The commencement of the history of litigations lies as far back as 1519 A.D. It is regrettable to notice that though the others have also contributed towards it, the Badves, it cannot be denied, have played the chief part in promoting these litigations. There appears to have been a dispute between Badves and Sevadharies or those carrying on services at the temple who complained that in spite of previous decision Badves are not observing its terms. So, in Hizari 935 i.e. 1519 A.D. a Vatanzada was prepared called Bijapur Sthal Prat (Exhibit 92-A) enumerating the duties of different persons. The next document Exhibit 92-B which is of the year 1568 A.D. is known as Incapur Sthal Prat. This document discloses a dispute between Badves and Utpats, the latter claiming a half right in the worship and management in the temple of Pandurang. This dispute appears to have been decided after recording evidence by the Arbitrator who held that Utpats have no connection with the Vithoba temple but are concerned only with the Rukmini temple and that Badves have no connection with the Rukmini temple. In this document too disputes of the different sevadharies in the Vithoba temple have been mentioned. Then in 1780 there was a dispute between Badves and Danges regarding the custody of keys of the temple and the decision given by Madhavrao Narayan Peshwa which is at Exhibit 105 mentions the right of all the parties concerned. The Niwada or the decision shows that the dispute had been going on since 40 years previously. Then in 1790 there appears to have been a dispute between Sevadharies and Badves in regard to the obstructions created by the latter in the matter of the devotees offering pujas to the deity. This is referred to in Mr. Khare's book and also in

Exhibit 106 at page 12 and 13, which is an order of Raja Pratapsinh of Satara. Exhibit 106 also reveals that there was a dispute about Panchamruti puja and Prakash Puja. After recording evidence the rights in connection with these pujas are mentioned in the order—Exhibit 106. This was in the year 1838.

#### Litigations during the rule of East India Company

3. With every change of the Ruler disputes appear to have cropped up amongst the priestly classes of Pandharpur. Exhibit 92-C shows that there was a suit No. 171/1850 in the Court of the East India Company relating to the dispute between Banaries and Utpats the former claiming rights in the Rukmini temple but which were negated by the Assistant Commissioner (vide Exhibit 92-D). Then there was a suit No. 638/1850 in the Court of the East India Company filed by the Badves claiming right to appropriate income of the Rath or Car festival of Amruteshwar. The claim was against Kolies but the claim of the Badves was rejected (See Exhibit 214).

#### "Grand Riot" of 1879

4. In about the year 1879 there appears to have broken out a grave disorder in the temple with physical violence between Badves and Sevadharies which has been described as "grand riot". There were criminal proceedings in the course of which the Magistrate took security from different Sevadharies directing them not to have anything to do in the temple services till they get their claim established in a Civil Court. This grand riot led to a spate suits by each class of Sevadharies against the Badves.

#### Suits between Sevadharies and Badves

5. Suit No. 1, 1882 was filed by Pujaries to establish their rights which were opposed by the Badves. The suit was filed in the District Court and the decision of the acting District Judge Mr. G. Druitt is at Exhibit 59. The suit No. 2/1882 was a suit filed by Benaries against Badves. Suit No. 3/1881 was filed by Dingres. Suit No. 4/1881 was filed by Haridas against the Badves and suit No. 5 of 1881 was filed by Paricharaks against Badves. These four suits happened to be tried by Mr. S. Tagore the then District Judge of Sholapur and Bijapur and the Judgments recorded are respectively at Exhibits 61, 64, 67 and 68. In all the suits Badves had denied certain rights claimed by the Sevadharies and they also claimed that they had founded the temple and therefore they were the owners both of the deity, temple and its properties. They further contended that all the Sevadharies were their servants at their beck and call. In the first suit Mr. Druitt accepted the contention of the Badves that they were the owners of the deity, temple and property but granted declaration in favour of the Pujaries in regard to their rights which were obstructed by the Badves. Mr. Tagore however, in the other four suits held that the Badves were not the owners of the temple or the property and their position was merely that of trustees being chief priests and managers of the temple and guardians of the temple property and God's ornaments. All the five suits went up in appeal to the High Court and they were heard together and disposed of. In Pujaries' suit a detailed judgment was recorded as regards the position of Badves. In the other four suits, the findings recorded in the judgment in Pujaries' suit were repeated. The claims of the Sevadharies were recognised viz. that Pujaries were entitled to perform the rituals, Benaries to chant hymns, the paricharaks to supply bath water and Arti, Dingres to show mirror and put Paulghadi, the Danges to hold the mace and keep order and the Diwate to hold the lighted torch at the

badves were not the owners of the temple and deity that they were at best, chief priests, managers and guardians was accepted setting aside the findings of Mr. Druitt about ownership of the temple and deity. Further an additional capacity as overseers for Badves was recognised. But it was also made clear that though the Sevadharies were inferior and subordinates to the Badves they were not their servants at beck and call and, therefore, all that the Badves could do was to bid the Sevadharies perform the duties which belong hereditarily to these classes.

#### Scheme suit and appeal Nos. 141 and 168 of 1892 in the High Court

6. While the suits just referred to were pending in appeal in the High Court the Sevadharies filed a representative suit in the District Court at Sholapur against Badves to have a scheme framed in respect of the Vitthoba temple. The suit was filed with the consent of the Advocate General. Mr. Tagore, who heard the case framed a scheme the relevant clauses of which concerning the rights of the Badves were that they were entitled to take cash offerings at the feet of the deity, up to the value of Rs. 500, gold ornaments upto a value of Rs. 100, silver and clothing upto a value of Rs. 50 and any offerings in excess of these limits should



be retained for the purposes of the deity. This was subject to the obligations on the part of the Badves to meet the expenses of the temple and they were held entitled only to the surplus distributable among all the Badves. The scheme directed that for repairs and improvements of the temple and for other purposes a fund shall be created called Vithoba fund to which a sum of Rs. 5,000 should be contributed by the Badves, Rs. 1,000 within one year and Rs. 4,000 within 10 years from the date of the judgment to form a nucleus. Portions of the idol's ornaments that would be considered as useless and superfluous were to be sold from time to time and the proceeds applied to augment the Vithoba fund. Sevadharies were also to contribute to the fund annually according to their means and contribution could be received from such of the devotees as may desire to give. The fund was to be augmented to such a limit as to yield Rs. 4,000 per year as interest at 4% per annum. The interest was to be applied for enlarging the temple premises improving sanitary arrangements, devising means to secure comfort and convenience of the pilgrims, supporting the poor and indigent, or opening other charitable institutions, after Badves appropriating 5% out of the interest for their services. For management a committee of five was to be constituted—4 members being elected by four Takhims or branches of the Badves and the fifth elected by those four members. The Devasthan Committee which had already been constituted by the British Government to manage the cash allowances, was to audit the accounts of the Badves Committee and Vithoba Fund in regard to the offerings and their disposal. Not being satisfied the Badves went in appeal to the High Court. In that suit the Sevadharies had sought removal of the Badves on the allegations of misappropriation of ornaments etc. The allegation of misappropriation was held to be proved but the learned District Judge thought that it was not sufficient for their removal and, therefore, retained the Badves and constituted a representative committee from among them. The Sevadharies being dissatisfied also went in Appeal. The judgment in the Scheme suit is at Exhibit 801. Both the appeals were heard together and the scheme as proposed by the District Judge was modified. Relying upon former decisions of the Raja of Satara and the Peshwas, the High Court held that there was a sanad in favour of the Badves allowing them to appropriate cash offerings upto a limit of Rs. 500 and accordingly allowed the same. The powers of the Devasthan Committee were curtailed restricting the scope of audit only to the Vithoba fund and the whole clause relating to the creation of Vithoba fund as ordered by the District Judge was deleted but in its place it was ordered that Vithoba fund shall be constituted out of offerings above Rs. 500, when not required for purchasing of ornaments and the sale proceeds of ornaments which may be found superfluous and useless. The judgment of the High Court is at Exhibit 113. It was decided on 30th September 1896. This scheme as mentioned in the High Court judgment was subjected to minor modifications in 1945 (*vide* Exhibit 167 in Civil Application No. 240/44 decided on 30th August 1945). As will appear from the judgment greater liberty was allowed to the Badve Committee in the hope that they would realise that it was to their own benefit to manage the affairs properly so as to attract pilgrims who would not otherwise come if the public were not to be satisfied with the management. The Commission regrets to note that further history shows that this hope was never to be realised.

#### Suit by Diwates and Danges against Badves

While litigation was pending in the High Court suit No. 61/1891 had been filed by Diwates and suit No. 62/1891 by the Danges in Pandharpur Court to get a declaration of their respective rights as sevadharies. These suits were decreed and the judgments of the Trial Court are at Exhibit 69 and 71 and the first appellate court's judgments at Exhibits 70 and 72 and of the High Court is at Exhibit 73 confirming the Trial Court's decree.

#### Benaris vs. Badves and Pujaris vs. Badves

##### Stoppage of Puja

8. Notwithstanding the declaration of the rights of the respective Sevadharies and the Scheme that was ultimately framed by the High Court in 1896, conceding to the Badves a substantial part of their claim which had not been granted by the District Court in the scheme suit, the troubles instead of abating continued to raise their heads. It will appear from three Reported decisions—In re-Pandurang: 2 Bom. L.R. page 84. In re-Jnaneshwar, 3 Bom. L.R. 416, and In re-Pandurang 4 Bom. L.R. 433—that disputes in criminal court were going on between Benaries and Badves as mentioned by Dixit J., in Exhibit 79. It appears that there was a further dispute between Badves and Sevadharies and just four days before the Ashadhi Ekadashi an application under section 144 of Cr. P. C. was filed in the Court of the District Magistrate voicing an apprehension of breach of the peace. In the meanwhile the Pujas had stopped. By a prohibitory order under section 144, issued by a Magistrate the Pujaris were restrained from performing the pujas which was their recognised right and the Badves were directed to carry on the Pujas as Ashadhi Ekadashi

was only 4 days ahead and a large number of pilgrim were collecting at Pandharpur and the public were directed not to interfere with the Badves. Though the sevadharies took the matter to the High Court in revision as it was a question of law and order and the prohibitory order was of a temporary nature the High Court did not interfere (Exhibit 724 and 725).

#### Devasthan Committee's Suit

9. There was an obligation under a Behada on the Devasthan Committee to look to the nitya or daily pujas of the deity. Since owing to the disputes between Badves and Sevadharies the puja stopped, the Devasthan Committee had no alternative but to file a suit which was numbered as 264/1902 in the Pandharpur Court. This suit (No. 264/1902, went up to the District Court in Appeal No. 91/1906, and further to the High Court in appeal Nos. 454, 589 and 488/1907. In the High Court Their Lordships added a declaration to the decree that in the event of Badves and Sevadharies refusing or failing to perform the Sarkari Pujas the plaintiffs i.e. Devasthan Committee are entitled to get the Puja performed by suitable person or persons of their choice. (Exhibit 709). This litigation appears to have provided a starting point for dispute between Badves on the one hand and the Devasthan Committee on the other.

10. The details of the dispute between Badves and the Devasthan Committee will be dealt with separately a little later because there are several litigations concerning it. And to preserve the continuity reference may be made to several other groups of litigations, classified by the parties as under, before the Commission:—

(1) Mangalarti suits, (2) Pacharti suits, (3) Tulshiarchan suits and (4) suits by Kshetropadyas and Diwans on the question whether they could get pujas performed for their Yajmans without intervention of a Badves other than the Diwaskari Badve. These litigations went on ceaselessly till the Public Trusts Act was made applicable in the year 1952 and thereafter instead of the Courts the Charity Commissioner and the Government became the recipients of the complaints for a certain period.

#### Mangalarti Suits

11. Dealing first with the Mangalarti suits different Sevadharies filed different suits—Pujaris filed suit No. 40/1907 and the other Sevadharies Nos. 41, 44, 43 and 179 of 1907 in the Pandharpur Court to restrain the Badves by an injunction from obstructing the Sevadharies from performing the rituals connected with the Mangalarti and Shravan Abhishek puja and to restrain Badves from performing these poojas upon the allegations that they have newly introduced the ritual of Mangalarti as a ritual to be performed before Kakadarti and that they had started performing Abhishek in the Shravan month from 1903. It was alleged that upto 1906 pujaries were allowed by the Badves to exercise their rights of performing the puja and Abhishek but in 1906 they approached the District Magistrate complaining about the likelihood of breach of the peace and obtained an order prohibiting them. The suits were heard together and the learned Trial Judge in his judgment Exhibit 74 found that Mangalarti was a recent innovation and, therefore, the pujaries had a right to prevent Badves from performing that ritual and that the pujaries had a right to take part in the Abhishek puja. But the right of holding Abhishek patra was recognised as that of Badves because they were the chief priests but that they are not yajmans. The decree of the Trial Court was taken in appeal and the judgment of the District Court delivered on 18th August 1913 is at Exhibit 75. The following observations of the learned District Judge are very eloquent:—

“Badves have evidently realised that multiplication of ceremonials leads to a multiplication of emoluments, especially if a monopoly can thereby be secured for their order in any particular ceremonial.”

The District Judge held that right of holding Abhisheka patra by Badves is not in their capacity as chief priests but as Yajmans and confirmed the injunction issued to the Badves restraining them from performing Mangalarti. Their position was explained as masters of ceremony. It was also held that they had no right to pour panchamrit. The rights of different sevadharies were defined and appropriate injunction issued. The dispute was taken to the High Court in 5 appeals Nos. 750, 751, 752, 753 and 754 of 1913 (Exhibit 76) and the High Court in a common judgment confirmed the decision of the appellate court holding that Mangalarti was only a parody of Kakadarti. The right of the Badves to perform Abhishek puja was negated so also the right claimed by them of applying Panchamrit. Their Lordships observed that Badves were attempting to get some foothold into the actual worshipping of this idol to the detriment of the rights of worship already secured by judicial decision to the pujaries.

### Necessity to Engage a Badva other than Diwaskari

12. In the course of these litigations Diwates and Kshetropadyes had asked for certain other reliefs. It appears that Badves claim that Kshetropadyes did not have a right to have a Yajmanpuja performed for their clients unless they engaged a Badva in addition to the Diwaskari. Badva was not accepted. These questions however were not decided in the judgment of the High Court in the appeals in Kshetropadyes' suit. In Diwate's suit his contention that for Yajmanpuja on behalf of his client no additional Badva was necessary to be approached was remanded by the District Court to the Trial Court. In this matter the High Court ultimately held that an additional Badva other than Diwaskari Badva was essential. The result was in regard to this question there were two different judgments of the High Court not exactly reconcilable with each other. In Kshetropadyayas suit the claim of the Badve that an additional Badve is necessary was not accepted because the Yajmans were not parties to the suit and the Court held unless they were heard regarding this claim it would not be proper to give a decision. (Exhibit 703 and 704). But in Diwate's suit however it was held that no Yajmanpuja can be performed by the Sevadharies unless an additional Badve is present at the time of the puja (*vide* Exhibit 116 and 117).

### Pacharti Suits

13. Next follows the group of suits known as Pacharti suits. Pujaries filed suit No. 509 of 1917 claiming seven reliefs connected with pouring of water by the Badves at the daily puja, offering of Gandha and flowers, removing from the idol Gandha and flowers and Tirth for giving it to the devotees and performing the pacharti which the Badves were preventing them from doing in order to do it themselves. In this suit pujaries lost and the matter went to the District Court in appeal No. 41 of 1915 and to the High Court in Appeal No. 5 and 277 of 1924. In the High Court Pacharti was held to be an innovation as held by the District Court as contended by the pujaries but the claim of the pujaries was rejected mainly on the ground of limitation. (*vide* Exhibit 118). A similar suit No. 690/1918 was filed by the Paricharaks against Badves who brought a pot of water for Abhishek while the Paricharak had the right to bring the water to pour it on two Pariwar Devatas—Vyankoba and Laxmi. Paricharaks also wanted an injunction to restrain Badves from showing Kakada and waving Dhuparti before these Pariwar Devatas but the claim of the Paricharaks happened to be rejected by the Trial Court the decision having been confirmed by the District Court in appeal No. 200/1921 and by the High Court in Appeal No. 794/1924. Though Paricharak did not succeed, the judgment of Marten C. J. contains a warning about these litigations which will be referred to in a later chapter.

### Palkhi Suit

14. Then there were further litigations between Diwates and Badves known as Palkhi case which was Civil suit No. 664 of 1919 in the Pardharpur Court. Diwates sought a declaration that they had a right to hold a torch on all occasions. But the Badves contended that while they had a right to hold it in the temple they had no such right when the Palkhi was going in procession at the time of three fairs Ashadh Shudh 15, Ashvin Shudha 10, and Kartik Shudha 15. The Diwates alleged that owing to disputes and litigations Badves have started bringing torches to deprive the Diwates of small offerings which devotees give to the torch bearer. The claim of the Diwates was upheld (*vide* Exhibit 80) in the judgment of the Trial Court and Exhibit 81 the judgment of the District Court.

### Tulshi Archan Suit

15. The next litigation is the Tulshi archan case in which there was a criminal proceeding under section 144 of the Cr. P. C. Badves filed this suit for a declaration that Benaries had no right to be present, chant mantras and ask for Dakshina except at the Vastrayukta Panchamrit Puja. The claim of the Badves was dismissed by the Trial Court (Exhibit 77), and the decree of the Trial Court was confirmed in appeal No. 162/1945 carried by the Badves (Exhibit 78) and the High Court in appeal No. 648/1950 (Exhibit 79). The Trial Court's judgment of Mr. P. T. Kadkol and the District Court's judgment of Mr. V. S. Bakhale give a revealing history of the litigations between Badves and Sevadharies.

### Shudhodak Case

16. After this there was a criminal proceeding under section 144 which is known as Shudhodak case. Dispute arose when Badves were alleged to have mixed the gorges water with Shudhodak. It was alleged that Badves could pour only Shudhodak but by

adding Ganges water they were trying to establish a new right so that they could pour Gangaots brought by devotees and earn therefrom a tendency noticed earlier by the High Court in the judgment of Batchelor J. Exhibit 76. The pujaries alleged that Shudhodhak had to be supplied by the Paricharak to the pujari who had to pour it and, therefore, any abhisheka with Ganges water had to be routed in the same manner as in the other Abhishekas through Paricharaks. An injunction was issued against the Badves not to interfere with the established right of the Paricharaks and the pujaries but it is refreshing to note that Badve for once did not appear to have further pursued the matter. The fact remains that for such minor things litigations were being resorted to in the temple instead of paying attention to the creation of a peaceful atmosphere conducive to the fulfilment of the aspirations of the devotees who come there (vide Exhibit 85).

17. In 1938 Harijan Temple Worship (Removal of Disabilities) Act was passed and 88 Badves filed in the District Court a Misc. Application Nos. 39 to 43 of 1947 and this was after the Badve Committee threw the temple open to Harijuns when Sane Guruji undertook a fast unto death at the temple. Exhibit 535 is the judgment of the District Judge which contains revealing remarks about the Badve Mandal which happened to be formed in the mean time and about which a reference will be made later. The matter was taken to the High Court against these remarks and the High Court observed that in view of the Act XXXV of 1947 the discussion was academic and the remarks obiter (vide Exhibit 742).

#### Genesis of the Enquiry of 1964 and attempts thereafter to foist the blame on others

18. As stated above after Misc. Application Nos. 39 to 43 of 1947 there was an apparent lull in the litigations but this lull did not continue for long because as a result of the complaints received by the Government and the Charity Commissioner in the year 1964 an enquiry was ordered and the Assistant Charity Commissioner held a detailed enquiry in the course of which he recorded statements of 49 persons regarding their grievances against the Badves. It appears that this enquiry which was held in different places mainly at Pandharpur, Bombay and Poona must have come to the knowledge of the Badves. Newspapers of which cuttings are included in the record received by the Commission from the Government made grievances among other things of the frequent demands of Dakshina in the temple and there were the devotees' complaints that this was harassment on the part of the priestly classes. After the enquiry of 1964 there was a bunch of suits which are still pending filed by the Badves against different Sevadharis namely Benaries, Paricharaks and Dingres, suit Nos. 238/68, 242/68 and 252/68 (Exhibit 802). Of these the second and the third suit happened to have been filed after the Notification of appointing this Commission was issued. The allegations made in these suits are not only interesting but they reveal an attempt on the part of the Badves to show that for the demands complained of by the public it is not themselves but the Sevadharis that are responsible. It is alleged against the Benari that at the time of Kakadarti immediately after the rituals of chanting hymn he moves about indiscriminately among devotees exploiting their devotion to beg for Dakshina and thereby holds up the progress of further rituals. Similar allegations are also made against Paricharaks and Dingres. When a large number of witnesses that have appeared before the Commission have made allegations against the Badves that they are resorting to all sorts of tactics to exploit the sentiments of the devotees to earn Dakshina, it is indeed interesting that the Badves themselves should have thought of transferring this allegation to the Sevadharis. All the complaints filed by the Badves allege that as a result of demand of Dakshina the religious sentiments of the devotees are injured, that the devotees in addition have to bear physical discomfort by movements of these people among them, that the next steps in the rituals viz., Darshan and Puja are unnecessarily delayed, and that as a result of this confusion, mismanagement results in the normal routine of the temple. In this Report it has already been pointed out earlier how after the enquiry of the Charity Commissioner boards have been put up and if after the appointment of the Commission these suits, with such allegations, are filed it is obviously an attempt either to side-track or to transfer the blame laid at the door of the Badve by large number of witnesses to Sevadharis. The allegations incidentally seem to ignore the fact and do not indicate if by judicial decisions Sevadharis cannot ask for Dakshina inside the sanctum and yet they are required to render service which is the place and where and how they have to ask the devotee for their livelihood. By these suits the Badves impliedly admit that demands of "Dakshina" result in harassment -- a charge levelled against them.

## CHAPTER VIII

## LITIGATIONS BETWEEN BADVES, THE DEVASTHAN COMMITTEE AND OTHERS

## Explanation for the Litigations Examined

1. Having dealt with the course of litigations replete with suits, appeals, revisions and criminal proceedings *inter-se* between Badves on the one hand and the Sevadharies on the other in the last Chapter, it would be convenient to deal with the litigations between Badves and other classes of persons viz. Utpats, Shimpies and Kolies besides the Devasthan Committee. A brief reference to these also would be necessary to point out that litigations seems to prove a good pastime in Pandharpur. In this connection the learned Advocate on behalf of the Badves pointed out, referring to the voluminous evidence regarding litigations, that if the rights of a particular party are invaded the only course for it is to approach the Court and not to take the law into its own hands and, therefore even though the suits may be numerous the object was to establish rights. Not much imagination appears to be necessary to reject the explanation because the very subject matter of each of the suits and the results of most of them would show either that the subject matter was trivial or that it referred to innovations capable of yielding money as observed by the High Court and the results would further show in most cases, that not being satisfied with what they got, Badves were trying to deprive others of their rights to earn their Dakshina on which alone they have to maintain themselves.

## Badves vs. Utpats

2. Regarding the litigations with Utpats there was suit No. 592/1938 in the Pandharpur Court in respect of a Pimpal tree in the precincts of the temple. This litigation went up to the High Court, the District Court appeal being 300/35 and the second appeal in High Court being No. 191/1938. After five years of fighting in the Courts, Badves lost the suit. There was another suit also with the Utpats No. 524/1944 which related to the change of position of a slab called Navagrahi and in this litigation after some time better sense appears to have prevailed because there was a compromise agreement of which a copy is at Exhibit 542.

## Badves vs. Kolis

3. Brief reference has already been made to the litigations with Kolis regarding the car festival of Amruteshwar temple (Exhibit 214). The Badves claimed all the income while the Kolis resisted on the ground that it was their temple and finally Badves lost their claim.

## Badves vs. Shimpis

4. Then there is the Namdeo Payari suit which was a dispute with Shimpis.—High Court Appeal No. 127/1932 (Exhibit 120). In the description of the temple above, there is mention of the Namdeo Payari consecrated to the great saint Namdeo. Namdeo belonged to the Shimpi community and there was an allegation that the remains of the saint have been interred below the first step leading to the temple, the saint having desired that all the devotees of Vithoba should step over him before reaching the deity probably as a mark of humility. The Shimpi community treated it as the Samadhi of Namdeo and claimed it as their right to perform puja and get the earnings in the shape of offerings made at the spot by the devotees. The Badves resisted that claim though ultimately the claim of the Shimpis was substantially rejected and their right was limited to making bhajans and having Darshan at that spot. But the defence put forward by the Badves is interesting. The defence in that suit was that the remains of saint Namdeo were not really interred at that place but that the Badves consecrated that place as a Parivar Devata to serve as means of attracting devotees with the name of Namdeo so that the devotees may make offerings and Badves may get them. Now this Namdeo Pyari is a Parivar Devata like many other Parivar Devatas and Shri N. D. Badve in his deposition has stated that Parivar Devatas were not installed all at the same time but new Parivar Devatas were being installed from time to time presumably because they brought income to the Badves. With all these admissions it is somewhat amusing to find that in 1968 after the Inquiry by the Charity Commissioner followed by the appointment of this Commission, the Badves should start complaining by filing suits that Sevadharies are resorting to means such as demanding offerings which cause annoyance to the devotees.

**Badves vs. Haridas and Bairagis vs Badves**

5. Namdeo Payari was not the only Parivar Devata in regard to which there was a suit. There were two other litigations one between Badves and Haridas family relating to Rokdoba (vide Exhibit 586 and 587) and between Bairagis and Badves regarding the Maruti temple and the Banian tree standing by the side of the Tehatis Koti Devas belonging to Bairagis (vide Exhibit 121 and 122).

**Badves intervene in suit between Kolis and Kshetropadhyes**

6. There was a dispute between Kolis and Kshetropadhyes in regard to Maruti temple. Badves applied and got themselves impleaded with a view to claim that the Maruti temple belonged to neither of them but to the Badves. In the judgment in that suit there were certain adverse remarks regarding the accounts maintained by the Badves to which it is not necessary to refer (vide Exhibits 581, 584 and 585).

**Badves vs. Devasthan Committee**

7. Dealing next with the litigation between Badves and Devasthan Committee it has already been remarked above that the action of the Devasthan Committee in filing a suit when pujas were stopped in the temple in 1902 (Exhibit 709), on account of the dispute between Badves and Sevadharies provided a starting point of disputes between the Devasthan Committee in their capacity as auditors and the Badves. A reference is already made to suit No. 264 of 1902 over which there was appeal in the District Court No. 91 of 1906 and in the High Court appeal Nos. 454, 419 and 488 of 1907 (vide Exhibit 709). In the course of the judgment of the High Court there are remarks indicating that the Devasthan Committee would have the power to get the pujas performed in case Badves and Sevadharies quarrel between themselves resulting in stoppage of daily pujas designated as "Sarkari Nitya Mahapujas" as prescribed by the Behadri of the Government. It appears that after this decision the Devasthan committee filed an application in the High Court which was Civil Application No. 127/1913 for amendment of the scheme that was settled in 1896 by the High Court. The occasion for this was that Badves questioned the power of the Devasthan Committee to audit certain accounts relying upon Rule IV of the Scheme. The application of the Devasthan Committee was not accepted with the result that the Devasthan Committee become indifferent and did not carry on the audit (vide Exhibit 152). Thereafter it appears that Mr. Justice Madgavkar visited Pandharpur where the Devasthan Committee met him and represented the difficulties which they were experiencing on account of the attitude of the Badves and that he advised them to take steps for amendment of the Scheme. As a result of his suggestion the Devasthan Committee filed Civil Application No. 548/1927 in the High Court (vide Exhibit 164). Madgavkar J. after hearing the arguments appears to have thought that the District Judge himself had the powers under the scheme to make suitable orders and it was not therefore necessary for the High Court to intervene to amend the scheme. The Devasthan Committee appears to have been satisfied with the order dated 27th June 1930. The Devasthan Committee thereafter resumed the work of auditing of the accounts which had been stopped from 1915 and also issued a circular Exhibit 168 to the public pointing out among other things the rights of the Devasthan Committee and the classification of the offerings for the purpose of specifying which offerings would remain for the deity. The tenor of the Circular was to suggest to the public that if they made donation after specifying the purpose for which it was meant the donation would go to the Vithoba fund. It is significant to mention here that it is soon after this litigation that a new mandal came into being viz., Samastha Badve Mandal, when under the scheme there was already in existence the Badve Committee which was representing all the four Takshims of the Badvas of Pandharpur.

**District Judge's observations regarding failure to comply with orders and High Court's observations thereon**

8. At the date of the birth of the Samastha Badve Mandal in 1937 audit reports of the Devasthan Committee were pending for years before District Judge of Sholapur. Mr. Wells the then District Judge warned Badves in these terms :—

"It is clear to me that this is a case of deliberate disobedience of the order of this Court and any further disobedience in the coming year will be severely noticed."

These remarks will be found in the judgment of the High Court in Civil Revision Application No. 54/1938 (Exhibit 165), which was filed by the Badves being aggrieved by the said remarks. Wassoodew J. thought that it was outside the powers of the District Judge under the scheme and therefore deleted the remarks made by Mr. Wells. However he observed :

"It is unfortunate that the scheme should be lacking in the necessary provision for carrying out the suggestions of the auditors. An audit which can be relegated to

the waste paper basket is at all times fruitless and ineffective. If it was considered necessary to provide for audit, I think, there should have been the corresponding machinery for carrying out the suggestion of the auditors. The High Court on two occasions deliberately omitted to provide such a machinery; probably it left it to the good sense of the parties, particularly having regard to the interests and rights of the Badves as envisaged in the order itself..... Circumstances have now arisen when there is a possibility of mismanagement and it is not unlikely that the interests of the institution may suffer if no proper accounting and check are provided for."

9. In pursuance of this order a direction was sent by the High Court to District Judge which is Exhibit 166 that if the District Judge thinks an amendment in the scheme necessary he should take steps to ask the Devasthan Committee to move the Court.

#### Devasthan Committee's Application for Amendments in the Scheme

10. In view of this order of Wassoodew J. and the directions to the District Judge the Devasthan Committee filed Civil Application No. 240/1944 in the High Court for amendment of the scheme (*vide* Exhibit 167). The application was strongly opposed by the Badves. The judgment of Their Lordships would show that the attempt of the Devasthan Committee proved substantially infructuous and Their Lordships remarked that "if the Badves disobeyed the orders of the High Court they are liable to be removed. So far no serious view has been taken, but they must know that if they repeat consequences will be commensurate with the lapse." A careful perusal of this history would unfortunately reveal that while at one stage the High Court thought that the District Judge had power at the next stage when the District Judge exercised that power it was held that he had no powers, and that the scheme should be amended. When the Devasthan Committee moved for amendment of the scheme the High Court felt that the scheme is complete and no substantial amendment is necessary. But all appeared to agree that the Badves do not carry out in spirit what the scheme intended. But no action was taken in the hope which proved equally infructuous that it is in the interest of Badves themselves to effect improvement in their conduct. Needless to say that this situation has contributed not a little to the circumstances which necessitated the appointment of this Commission.

11. After these judgments the Devasthan Committee continued the audit. It may be pointed out here that though the Devasthan Committee was all the time acting in the best interests of the Trusts in regard to the application filed by it in the year 1930, they were made to pay the costs to the Badves and this had made them indifferent towards the audit and had stopped it. But they appeared to have got a little reassurance first that the District Judge would act and later on at least that the scheme would be amended which caused them to resume the audit. Though neither of these happened at least the orders happened to be made regarding costs that it should come out of the trusts and that the Devasthan Committee are not personally liable for it. Thus from 1913 to 1930 the Devasthan Committee was required to be inactive so far as the audit was concerned because they were helpless. A passing reference may also be made to a suit regarding the title and possession of Nagar-khana between Devasthan Committee and Badves which ultimately ended in a compromise in the High Court in second appeal No. 310 of 1915.

#### Consequences of the Disputes

12. Before proceeding to the next Chapter it is necessary to sum-up the possible consequences of this long history of litigations, not only between Badves and Sevadharies but also between Badves and others. Litigation appears to have been regarded easy means even in respect of trivial claims. It is apparent from some of the litigations that Badves were trying to introduce innovations whenever these were capable of yielding money. Not satisfied with all this they were trying to prevent others from making their earnings necessary for their livelihood out of fear that if others ask for Dakshina the burden on the devotees would be such as to make them complain against Badves and also reduce their own earnings. If constant litigations occupy the time and the attention of those who are expected to guide the devotees in their religious path all that the devotee can get in return is the annoyance resulting from demands of Dakshina not to speak of the total absence of religious atmosphere in the temple which is essential to enable the devotee to seek peace and concentration in search of which he comes to Pandharpur and many of whose type come on foot hundreds of miles. Though apparently therefore litigations may be a private affair between litigating parties they cannot but have repercussions on the minds of the devotees who visit Pandharpur in search of consolation and peace.

13. Before parting with this Chapter it may be mentioned that besides litigations mentioned above there have been litigations *inter-se* among Badves and Utpats which have direct reference to the disputes about the management of the affairs of the respective temples and these together with the consequences will be discussed in some detail in another Chapter relating to the management of the temple.

## CHAPTER IX PROPERTIES AND THEIR MANAGEMENT

### Commission's attempts to collect information about endowments

1. Under paragraph 2 of the Notification appointing this Commission one of the terms referred to specifically relates to the claims of persons other than the trusts in relation to property which really belonged to the trusts. In the case of both Vithoba and Rukmini trusts those in management happen to be persons in regard to whose actions the present enquiry is directed with the result that there was no possibility or chance of the Commission getting any co-operation from them when it directed its enquiry regarding the properties of the trusts. The Commission had therefore to fall back upon such information as it could collect from the records of the Assistant Charity Commissioner who had registered the various trusts and their properties and such information as the Commission could gather from the witnesses that came before it. It also made enquiries through the Inspector working with this Commission and referred to land records where extracts could be available, to find out information about the properties. For the purpose of this enquiry it was not necessary for the Commission to go into the detailed evidence regarding each alleged encroachment or encroachment because such enquiry would have entailed taking of evidence such as would be necessary for adjudication of a claim. The Commission therefore confined its enquiry to get *prima facie* evidence as to the question whether there are any endowments not properly applied or accounted for belonging to or connected with the trusts. Needless to say that a detailed enquiry regarding each endowment would be called for at some later stage in regard to the properties belonging to the Trusts but which are in the enjoyment of others.

### Disclosure from Register of Trusts maintained by Assistant Charity Commissioner

2. In the course of inspection of the register of trusts maintained by the Assistant Charity Commissioner, the Commission noticed that there were in all seventeen trusts having some connection or the other with the Vithoba and Rukmini Trusts. For instance there are trusts of the Tehtis-koti Dev, the Pundalik Trust, the Gopalpura Trust, Garood temple in the precincts of the Vithoba temple and Chokhoba Deo, which is near the Namdeo Payari. When the Commission noticed that the enquiry did not cover under the terms of reference to several other trusts showing some connection or the other with the main trusts, the Commission reported to the Government pointing out the desirability of inclusion of the same. The suggestion of the Commission did not happen to be accepted and, therefore, in the course of enquiry the Commission directed its attention exclusively to the grants or endowments alleged to have been made in favour of Shri Vithoba and Shri Rukmini for specific purposes.

### Prevarications

3. In the course of the preliminary examination of the parties the representatives of Badves, Utpats and Sevadhars were questioned as to whether there were any endowments or grants for specific purposes made in favour of the idols in their possession or not shown in the accounts. At that stage the reply happened to be in the negative. Then at a later stage Shri N. D. Badve had to modify his answer and refer to some endowments which according to him did not give any income. In the course of the enquiry some evidence came before the Commission to show that there are endowments by the devotees of outside places in the shape of land, cash allowances moveables or income for specific purposes in favour of the idols. A brief reference to that evidence will be made presently.

### Prima Facie evidence about Existence of Endowments

4. Shri N. D. Badve (Exhibit 97), the spokesman on behalf of the Badves has admitted endowments only of two houses and one shop at Pandharpur, a land at Bhulai, Taluka Darwa, District Yeotmal, a land at Kapur Talani, Taluka Darwa, District Yeotmal, a land at Yadur Manjri, Taluka Chikodi and a land at Helwak. Out of these only the



last two are registered with the Assistant Charity Commissioner as separate trusts. Witness Gangadhar Tukaram Nikte (Exhibit 190) mentions of a charge created on house No. 2313 situated at Kumbhar ghat at Pandharpur by one Smt. Chandrabhagabai Narayan Gangashettiwar. Witness Shri Gajanan Yajneshwar Aradhye (Exhibit 201-202) has mentioned a grant of 80 acres of land in Bhalavni in favour of Shri Rukmini though the document appears to have been made in the name of Krishnaji Baburao Utpat on behalf of Rukmini. Though there was no mention by the Utpats regarding this land, after the Commission got the information, when Utpats were asked to explain about it, the explanation given by V. K. Utpat was that the said land is not in the actual possession of the Utpats but in the possession of the tenants and steps are being taken to recover it. Witness Murlidhar Narayan Kadam (Exhibit 251) has referred to S. No. 42 (1) in the village Takli Taluka Pandharpur. He has alleged that though today the land stands in the name of Trimbak Vithal Pujari and Shankar Vithal Pujari it was actually an endowment given to meet the cost of Naivedya of Shri Pandurang, though the document was in favour of the Pujari mentioning, nevertheless, the purpose of the endowment. Dattatraya Balwant alias Bhausahab Badve (Exhibit 288) produced a sanad granted by the Raja of Aundh which purports to be a grant of the village Umbergaon for the purpose of Naivedya to both Vithal and Rukmini. The sanad shows it to be a grant of the soil (vide Exhibit 290-A). Witness Dattatraya Krishnaji Bhate (Exhibit 331) mentions S. No. 340 of Wakhari for the Naivedya of Rukhmini. A similar grant of the adjacent land for Naivedya of Vithoba. Witness Gopal Pandurang Gore (Exhibit 511) mentions about an endowments of 100 acres of land in favour of Vithoba situated in the village Bohale. Witness Prabhakar Digambar Haridas (Exhibit 518) has mentioned about endowment of agricultural lands in Nagothne in Tasgaon Taluka. Witness Bhikaji Kashinath Haridas (Exhibit 477) mentions of a grant of three villages. None of these, just referred to, appears to have been registered with the Charity Commissioner either as separate endowment or as part of these trusts: Mr. B. P. Bahirat, Exhibit 281 has deposed about an endowment by one Jamadarinbai.

5. While the Commission was camping at Nagpur while some witnesses appeared and spoke about the endowments, the Commission received certain communications, one of which is worth being referred to. The Commission received the communication from one Damodhar Shivaram Ujavane of Dapori, Taluka Kelapur, District Yavatmal, stating that on 5th January 1924 Shivram Vithoba Ujavane had made an endowment of 25 acres 35 gunthas out of S. No. 12 of that village in favour of Shri Pandurang Deo of Pandharpur, and that one Ramchandra Krishna Kale is about to sell a part of the property. The witness appears to have published a notice in the Newspapers warning the intending purchasers that the property is a trust property, forming part of an endowment in favour of Shri Pandurang and that none should purchase it. The Commission received the issue of the Newspaper in which the notice was published, a postal acknowledgement, as well as relevant extracts from the Revenue Record mentioning the endowment. Though the witness was summoned to appear before the Commission while the Commission was camping at Nagpur, he did not come up but from the documents received by the Commission, the Commission has no reason to doubt that such an endowment which is of valuable property had been made, in favour of Shri Vithoba. The Commission feels that a further enquiry in this connection would be necessary.

#### **Attitude of the parties to the Notices and Enquiries about Endowments**

6. In the light of the information received by the Commission both from the documents as well as witnesses after the evidence was over, notices were issued to Badves, Utpats and Sevadharies to notify to the Commission whether they held any properties in their own name which originally formed the subject matter of endowment for specific purposes in favour of the deity. Replies received from different parties are revealing. The replies of the Badves and Utpats are to the effect that as the notices issued by the Commission have been sent to the representative bodies of Badves and Utpats and as those bodies deal with the collective matters of the respective classes viz. Badves and Utpats they have no knowledge or documents regarding grants or endowments in favour of the deities standing in the name of individual Badves and Utpats and, therefore, are not in a position to supply the information called for. Individual Badves and Utpats did not appear before the Commission and though public notices were issued Badves, Utpats and Sevadharies, etc., appeared only through their representative spokesmen claiming to represent fully the respective classes. Therefore when notices were served on the representatives and also by publication to all, the reason put forward is only a mode of evasion. Referring to a recent endowment given by one Jamadarinbai in favour of the deity as is clear from the evidence of Mr. Bahirat (Exhibit 281), the learned Advocate

on behalf of the Badves has advanced an argument that the document is made in favour of an individual Badve. This was not disclosed and when asked for the document the answer is that it is with that individual and hence cannot be produced. This shows the attitude of the individuals regarding the properties which are not rightfully theirs but should belong to the Trusts. The Commission will have an occasion to show in the next Chapter that the attitude of the chief parties has been one of evasion and so far as Badves are concerned there are three different bodies—Badve Committee, Samastha Badve Mandal and the Badve Samaj representing the same community of Badves which are formed from time to time for the purpose of evading enquiry. This has led to litigation not only between Devasthan Committee and Badves, but even inter-se among the Badves.

7. In reply to the notice the Pujaris have submitted a statement mentioning about two lands and certain movables as forming part of endowment in favour of Vithoba. Similarly Dingres have furnished some details. Kolis and Benaris have informed that there are no such endowments, and Paricharaks have given some details. The rest have not furnished any information.

#### Claims of Adverse Possession

8. While the attitude of the representative bodies of Badves, and Utpats is to point their fingers to individuals, all of whom have been collectively represented by their respective spokesman before the Commission, without each one appearing separately, some material obtained by the Commission shows that all has not been well with the endowments made in favour of the deity. Nay leaving aside the endowments made by the strangers, some individuals among Badves themselves have not hesitated to claim title by adverse possession or by getting their names entered in the City Survey record over a part of the temple property. Shri N. V. Badve (Exhibit 193) who is a practising advocate at Pandharpur has claimed title over a room forming part of the structure comprised in the temple bearing city Survey Number 2392, which is an 'ori' or a room adjacent to the Office of the Badve Committee, on the ground of adverse possession, to prove which, he has produced a rent note for 12 annas, claiming that he had let out the room for a few months in 1938 or so for storing paving stones and a receipt of four annas said to have been paid to Carpenter for repairs to the doors. The solitary documents for paltry amounts speak for themselves and comment is superfluous. Though another witness Exhibit 199 had filed a statement presumably with the object of claiming title to another room opposite the office of the Badve Committee, discretion appears to have prevailed after the experience of Shri N. V. Badve who gave his evidence of adverse possession and who had just preceded the witness who having earlier filed more or less a similar claim was evading to appear but had to do so on the insistence of the Commission. The witness when he appeared started saying that though he had filed a statement he did not intend to claim title and does not claim any right over that room. Mr. V. K. Utpat who appeared as an advocate on behalf of all the Utpats, but who, it is reported, died subsequently, admitted before the Commission when he was confronted, when the evidence of Exhibit 190 was being recorded, that he had surrendered a charge created in favour of Rukmini for the purpose of Naivedya by taking as consideration Rs. 2,500, which is not accounted for. An equal amount appears to have been taken by one of the Badves for surrendering a charge on the same immovable property for the Naivedya of Vithoba. The temple properties appear to have been subject matter of agreements between priestly classes and even strangers. It appears that there is an agreement (Exhibit 256) between Sevadhari and one Kadekar (Exhibit 255) that there should be a Padya Puja in the name of the latter every morning before Vithoba and in consideration thereof this Kadekar purports to have gifted to Sevadhari a room which as appears from its situation forms part of the temple and could in no sense have at any time belonged to Kadekar. Shri Bhate (Exhibit 331) is in possession of another room forming part of the Rukmini temple. These provide instances to show that so long as the idols could not come and assert either vocally or through courts their claims and the management of the affairs of the idols was being carried on by those whose interests were not kept distinct or separate from those of the idols, there was complete freedom to them to deal with the property belonging to the trusts as if it was their own.

9. In the description of the temple in the earlier chapter mention is made of the fact that the open space round the temple appears to have been built upon at least on one side not providing enough space for movement or passage of the vast concourse of people collecting at the time of the fairs. From the appearance and situation of properties and houses within the four outer-most walls and the lanes surrounding the temple, the Commission feels that areas belonging to the temple appear to have been encroached upon

without let or hindrance by those in charge of the management and the trusts deprived of its original property. The Commission has on record Exhibits 541 to 545 and Exhibits 547 to 552 which are revealing. These are extracts from City Survey Record some of them of the enquiry register. They show that parts of the number in which the Temple stands or adjacent properties stand in the names of Badves or other persons. When the management was vesting in Badves as Trustees they should not have allowed individual Badves to be in occupation so as to be able to claim their individual rights of ownership over the Trust properties. The Commission may note however, that it did not have the facility or the time to hold enquiry into each of the properties and, therefore, the conclusions about the encroachment are inferences based upon the City Survey Record and observation of the situation and, therefore, need further and fuller investigation.

10. From what has been stated above it is obvious that there must have been a large number of endowments in favour of the deity, that they have not been accounted for and, that any attempt on the part of the Commission to get information, instead of being helped is evaded with vague replies, such as that the bodies that represent the priestly classes can get no information about the khatas of the individuals. In fact the Commission did hear at one stage a suggestion in the course of arguments that if there are grants or endowments they are not in favour of the deity but in favour of individual Badves and Utpats and this might well be the reason for the evasion for, otherwise, one would not have expected such replies from the Badves and Utpats who have taken active part in the proceedings.

#### No distinction maintained between Trust and Private Property

11. One other instance might be cited to show that Badves and Utpats have not made any distinction between their properties and trust properties. Samastha Badve Mandal—not constituted under the Scheme but which came into being in 1937 prohibited the public taking photographs of the deity. Shri N. D. Badve who has appeared as a spokesman for all the Badves and their representative bodies has got printed photographs of the Shri Vithoba and by an agreement with the Mandal obtained a copy right reserving to himself in his individual capacity the right of selling the photographs and appropriating the income. The Utpats also have got such a photograph of Shri Rukmini printed. Though this source of income namely sale proceeds of exclusive pictures of the deity should justly go to the Devasthan Trusts not having been allowed to the Badves under the Scheme, especially when the public and others are prohibited by the Committee from taking photographs or selling them, the income is being appropriated by the individuals—without being accounted for in the Trust Funds as if the deities constitute the private property of those individuals. When the Commission tried to probe into this question it was met by an answer that the photographs of which large number of copies are got printed are not meant for sale or not being sold but are meant only for presentation. The answer again needs no comment.

#### Neglect of Surroundings and Provision of Facilities

12. Among the aspects of management, mention and reference are necessary to the surroundings of the temple and the hardships and difficulties which the pilgrims attending in large numbers have to experience during the waris. In the course of its extensive tour the Commission observed that in almost all the temples, particularly in the South, large areas surrounding the temple are kept open to permit free movements of the pilgrims. Similarly it was refreshing to observe in Tirumalai that throughout the day the devotees in the whole of the Hill Town are kept in touch with what is going on in the temple such as the singing of bhajans, recitation of Vedas, progress of the rituals, in addition to warnings etc. Unfortunately these in management in Pandharpur are ages behind and miles away from these elementary facilities. The Commission has already pointed out that the devotees attaching supreme importance to the Darshan wait patiently in the queues for 8 to 10 hours, more often than not, to get a disappointment instead of Darshan. How great would have been the appreciation of the devotees if their tedium of waiting could be relieved by a few devotional songs played on the gramophone with the aid of loudspeakers which have actually been installed by the Devasthan Committee. Mr. Nabar the D.I.G. (Wireless) who set up a net work of inter-communication during the last Ashadhi fair providing great facility for management of the crowds in an orderly manner could convince the Commission that at no great cost even television could be provided besides loudspeakers arrangements to occupy the minds of the waiting crowds. Pilgrims would also have felt eternally grateful if only some comfortable arrangements are made for their sitting instead of huddling them up in the enclosures affording no scope or facilities for their movements even if there is

an urge by the call of nature. The Commission did not find in the course of its visit suitable arrangement for the supply of drinking water. As the number of devotees particularly at Ashadhi time was great queues were noticed as long as half a mile and most of the people braved to sit under the sky throwing themselves to the mercy of the elements. The Commission regrets that over all the years that have gone by little attention has been paid towards the conveniences of the pilgrims or the cleanliness of the surroundings. Some evidence came before the Commission about a meeting arranged and presided over by the Director of the Local Authority and attended by the Charity Commissioner to consider the steps for improvement of the surroundings of the temple and the attitude of those in the management of the temple viz. Badves and Utpas was that as they did not have funds they were not concerned with the object of that meeting. The Commission notes here that the respective State Governments in Badrinath, Nathdwara, Puri and Tirupati were vigilant and took steps for development of the surroundings of the temples. Though the Commission noted that some steps were taken regarding Ambabai temple at Kolhapur, the Commission has not to its regret found any steps in that direction towards Pandharpur the main temple of Maharashtra.

#### Ornaments

13. Lastly a brief mention may be made about the ornaments both of Vithoba as well as Rukmini. The Commission noticed in the course of its enquiry that no upto-date lists with weights and values of the ornaments had been prepared in spite of the directions of the District Court on the and its objections of the Devasthan Committee. The Commission thereupon requested the Charity Commissioner to arrange for preparation of lists showing the present values because the Commission had been receiving complaints that there was possibility of some precious stones having been substituted. Though the Charity Commissioner after appointing an expert got a list as well as valuation made of the ornaments of Vithoba and Rukmini, on one or two points the reports of the valuer was ambiguous and the Commission has not been able to get the ambiguities cleared. The fact however remains that no steps have been taken to have the ornaments insured, though according to the present valuations Vithoba's ornaments are valued nearly at 12 lacs of rupees and Rukmini's ornaments nearly at Rs. 3 lacs. The Report of the Valuer shows that some of the ornaments have suffered due to lack of care in handling and storing. Needless to say that having regard to the value of the ornaments, necessary steps have to be taken by those that matter, in regard to the security and preservations of the ornaments both of Vithoba and Rukmini. In fact as the Commission will have occasion to show later the ornaments of Rukmini when the Commission enquired about them were found to be in the custody of a person not connected with the management but who happened to be the son of deceased treasurer of the Utpat Committee, a fact which does not speak well of the management

## CHAPTER X

### MANAGEMENT OF THE TEMPLES AND SOURCES OF INCOME OF BADVES, UTPATS AND SEVADHARIS

1. Before dealing with the question whether a change in the present mode of management is necessary it would be desirable to explain the present mode which is in vogue in the case of Vithoba temple right from the date of the scheme judgment of 1896. So far as Rukmini temple is concerned there is no scheme framed but they have adopted a constitution or a Committee of Utpats and that Committee claims to be in management of affairs of the Rukmini temple.

#### Bodies managing Vithoba Temple and Pariwar Devatas of Vithoba

2. At present there are actually three bodies directly or indirectly dealing with the affairs of the Vithoba temple and the Pariwar Devatas. These three bodies are the Badve Committee, Samasta Badve Mandal and the third whose existence is recently brought into prominence is the Samasta Badve Samaj or the whole community of the Badves. A close examination of the constitution and powers of the Badve Committee formed under the Judgment in the Scheme suit will show that that Committee consists of representatives of all the Badves viz. entire Badve Community and, therefore, the last two bodies viz. Samasta Badve Mandal and the Badve Samaj if the last one really purports to act, are either redundant or must have been formed for certain purposes which are obscure but which could be inferred from the circumstances surrounding the occasions which gave birth to these two committees. Rule V in the Scheme framed by the High Court says "At the commencement of every year, each of the four Badve Taxims (families) shall elect one member out of its own body, and the

four members thus elected shall nominate a fifth member out of the whole body of Badves. These five members shall form a Committee to manage all the affairs of the temple herein specified according to the votes of the majority. This committee will be considered as representatives of all the Badves in the administration of the temple. The accounts shall bear the signatures of the five members and the seal of the Badves, a seal being specially prepared for the purpose."

#### Reason for formation of Badve Mandal examined

3. It was pointed out to the Badves in the proceedings before the Commission that, when according to this Rule there was a body representing all the Badves, there was no necessity whatsoever to form other committees. In this connection it might appear repetition to point out that when the Devasthan Committee asked for accounts of the Samasta Badve Mandal that had come into being in 1937 it was resisted and contended that the accounts of the Mandal are not within the purview of audit authorised under the scheme. In the earlier Chapter a reference has already been made to the fact that the time of formation of the Samasta Badve Mandal synchronises with the occasion for the order of Madgaokar J. at the instance of the Devasthan Committee that they could move the District Judge who had powers to make certain orders regarding scope of audit and also the fact that the Devasthan Committee had issued a circular (Ex. 166) with a view to inform the public that any donations made by them for specific purposes will go to the Vithoba Fund which fell within the audit jurisdiction of the Devasthan Committee. However, the learned advocate on behalf of the Badves has explained that the powers of the Badve Committee formed under the Scheme were limited "to manage all the affairs of the temple herein specified". Emphasis being laid on the words "herein specified", it was urged that all the income from the offerings was the property of all Badves, that it was found inconvenient for the Committee to make distribution between different members according to their shares and, therefore, in 1937 they formed a Committee exclusively for the purposes of distribution of the income. This explanation can carry no conviction at all because when the scheme has defined the rights of all the Badves to the offerings mentioned therein and has appointed a Committee, it was not necessary further to say that the Committee should distribute or that distribution is one of the acts to be performed by the Committee when the Committee has been specifically entrusted with the management. That the Badve Committee had all the rights inclusive of those of distribution under the Scheme judgment will be clear from the very next sentence that follows: "This Committee will be considered as representatives of all the Badves in the administration of the temple."

#### Badve Committee relegated to a minor position

4. There is ample evidence to show that the activities of the Samasta Badve Mandal are not restricted to merely distribution of the income to the Badve families but that it exercises virtually all the powers of the Badve Committee which though constituted under the High Court's Scheme appears to have been relegated to a secondary position. For instance Ex. 121 would show that it is the Samasta Badve Mandal that filed a suit against Laldas Bairagi for a declaration that Maruti temple and the Banian tree are of their ownership, that they have to perform certain rights and pujas and appropriate the income. This property is actually situated within the precincts of the temple which has been held to be a public trust. Therefore, the Samasta Badve Mandal was asserting here virtually the rights of the temple trust which could be represented by the Badve Committee alone and not the Samasta Badve Mandal. Again the City Survey Extracts Exs. 547 to 549 show that instead of the Badve Committee the Samastha Badves were claiming and were entered as Trustees of the Temple and the property and thereby ignoring the Badve Committee formed under the Scheme.

5. The formation of the Badve Mandal itself has been the subject matter of litigation *inter-se* among the Badves. Mr. M. V. Kane Ex. 324 has produced the Office copies of two notices (Ex. 325 and Ex. 326) given on behalf of two of the prominent members of the Badve community viz. Vasudeo Baburao Badve and Jnaneshwar Eknath Badve and so also another by Bhagvan Pandharinath Badve and Pandurang Eknath Badve challenging the legality of forming the Samasta Badve Mandal and pointing out that formation of this Mandal is contrary to what is indicated in the scheme or in other words that it was formed to circumvent the Badve Committee. A suit was filed by Jnaneshwar Eknath and Vasudeo Baburao being suit No. 52/66 but it was ultimately compromised. Trimbak Gopal Badve who was the Chairman of the Badve Committee in the year 1951 told the Committee that the formation of the Mandal was illegal and that he would give a memorandum pointing out why he said so. Though he actually gave the memorandum a copy of which is at Ex. 510 no action was taken and it was thereafter that Trimbak Gopal filed a suit No. 95/52 (Ex. 561) in which he had challenged the constitution of the Badve Mandal on the ground that it was *ultra-vires* of the scheme.

As a counter blast to this suit a suit was filed by three persons authorised by the Samasta Badve Mandal alleging misappropriation, etc. (*Vide Ex. 556 and 558*), against Trimbak Gopal who was the chairman of the Badve Committee and thereafter Trimbak withdrew his suit with permission to bring a fresh one. The dates when these litigations were undertaken by some of the Badves and happened to be dropped are capable of showing the probable reasons why they were not pursued. One of the suits was withdrawn when the Public Trusts Act came into force and Badves might have thought it desirable to stand united and resist the demand for registration of the Trust. The next occasion when the proceedings taken up happened to be dropped was after the enquiry by the Charity Commissioner in 1964 when there was reason to anticipate that the Government was taking action which ultimately resulted in the appointment of this Commission.

6. That the Samasta Badve Mandal has not restricted its activities only to the distribution of the income but has arrogated to itself the powers vesting in the Badve Committee under the Scheme, is obvious from many facts. In the temple there is a board prescribing time for puja and Darshan which is essentially an act concerned with management and this board happens to have been put up by the Samasta Badve Mandal. Notices prohibiting demand of Dakshina have again been put up by the Mandal. Then there is the evidence of Dattatraya Balvant Badve (Ex. 288) who is probably the biggest sharer among the Badves which leaves no doubt about the arrogation of authority by the Samasta Badve Mandal. It appears that this witness had taken passes for his two Yajmans to perform pujas from the Badve Committee, the body recognised under the Scheme, but when he went to perform the pujas the passes were snatched away by the President of the Badve Mandal and his Yajmans were prevented from performing the puja. He, thereupon filed a criminal complaint of assault (Ex. 292) but ultimately he had to withdraw it presumably under pressure. The Commission has no doubt that so far as the arrangements of pujas, keeping of the order in the temple and all other matters that concern the day to day conduct of the affairs of the temple are concerned the Badve Mandal has arrogated to itself all the powers which really belong to the Badve Committee under the Scheme but the Committee has been relegated purely to the position of only signing documents which are subject to audit by the Devasthan Committee. In the Constitution of the Badve Mandal (Ex. 726) there is a clause which is very revealing. The Samasta Badve Mandal under their constitution is required to accord sanction to the expenses incurred by the Badve Committee (*vide* Rule No. 16) and yet it appears to have been represented in an appeal in the High Court, which will be referred to presently, that Badve Mandal acted within a limited scope and exercised only certain powers carved out for it by the Badve Committee which led the Court to believe that Badve Mandal are purely agents for distribution of the income, appointed by the Badve Committee when in actual practice the position has been reversed. In application No. 39/1947 filed under section 5 of the Bombay Harijan Temple Worship (Removal of Disability) Act, 1938, the learned District Judge has also discussed and pointed out how the Badve Mandal does act with or without connivance of the Badve Committee and has pointed out that the fact that they do so cannot affect the legal status of the Badve Committee formed under the Scheme (*vide* Ex. 535).

#### Samastha Badve Samaj

7. Then there is a third group which though existing all the time but which has no separate or independent Constitution has started to assert its existence as a separate body independent of its duly representative constituted bodies namely the Badve Committee and the Samastha Badve Mandal. Recently it appears from the evidence of Shri N. D. Badve and other documents, that in addition to the Badve Committee, the Samasta Badve Mandal, existence of a third body called Samasta Badve Samaj is asserted. The first is appointed under the Scheme and the second has at least adopted a Constitution but the third one, it is admitted, has neither any constitution nor any recognition. The Commission has before it certain record capable of showing why this new third body has come into existence. A daughter in the Badve family was given in marriage to Diwate family and in the absence of a male heir she succeeded to the rights of her father of getting a certain share in the income of the Badves. On her death her legal heirs filed a suit to recover the share to which she was entitled and to which she had succeeded. A suit was filed both against the Badve Committee as well as the Samasta Badve Mandal and certain agnates of the original owner. The suit was dismissed and Diwates took an appeal to the District Court. In the appeal presumably on the contention that the Badve Mandal did not have a separate existence because the Badve Committee was already on the record the name of the Mandal was deleted. Diwate succeeded in the appeal and a declaration was granted in his favour. The same was confirmed in the High Court in the appeal No. 1267, of 1950. When this litigation was pending in consequence of the decrees passed by the appellate court granting a declaration, Diwate had filed a suit for an account against the Badve Committee, Badve Mandal and the agnates of the deceased, being suit No. 44 of 1956. That suit was

decreed and the decree was confirmed in the District Court in Civil Appeal No. 425 of 1959. The Samasta Badve Mandal and the agnates took an appeal to the High Court which was appeal No. 481 of 1961. The decree was confirmed as will appear from Ex. 741. It appears from the judgement of Chandrachud J. dated 19th September 1963 that the contention was taken in the High Court that the Samasta Badve Mandal was merely an agent and that there was a third party who stood to be affected but who had not been impleaded and, therefore, the decree was bad. The third party that was alleged to have been omitted was the whole body or community of Badves viz. the Samasta Badve Samaj. The learned Judge observed that if there is any other party affected they would take action but the Badve Committee and Badve Mandal who were parties would be bound by the decision. Accordingly the decree was confirmed.

8. Taking advantage of these observations a new suit was filed in the Court of the Civil Judge, Sr. Dn., Sholapur and for filing this suit the third body viz. the Samasta Badve Samaj came into existence because neither the Badve Committee, nor the Badve Mandal who were bound by the decree could raise any objections. As pointed out above the Samasta Badve Samaj is the entire body of the Badves which has no constitution. It may be pointed out that within 10 days after the High Court judgment a suit was filed by the Badve Samaj through a person described as its President presumably to make it appear that it has a constitution but when it was contended that it had no constitution and no duly elected President, the suit was withdrawn. It is obvious therefore that while the Badve Committee is a body that came into existence under the scheme and therefore the only recognised body the Badve Mandal was formed, for what purpose it is not clear, under a so called constitution, and now a third body is paraded as Samasta Badve Samaj without any Board or President or Constitution. It is an elementary principle that where a unit consists of a large number of people and each member cannot act, the group can act only through representatives for which those representative must be duly appointed either by election or by nomination. When such a body has duly come into existence they act so as to represent the entire body being the duly appointed representatives of that body. It would be seen from the Scheme judgment and the entire evidence in the case may even the admissions of Mr. N. D. Badve that the Badve Committee and the Badve Mandal represent the identical body viz. Badve Samaj which consists of all the Badves. Yet if the Badves have resorted to such tactics to fight litigation and when the distinction made between different bodies is one without any substance the irresistible inference looking to the history of the litigation is, that it is only to circumvent the Badve Committee constituted under the Scheme that several bodies are brought into being from time to time, only to have the effect of taking certain matters out of the control of the Badve Committee which are likely to be supervised or checked by an agency like the Devasthan Committee and the District Court. It may be pointed out in this connection that the Pariwar Devatas are under the control of Samasta Badve Mandal so that any mal-practices in relation thereto not falling within the activities of the Badve Committee, can be removed from the possibility of a check by any authority. That such must be the intention is obvious from the fact that after application of the Bombay Public Trusts Act when the question of registration came up, the Vithoba trust is divided into two parts—Part A for the Vithoba Fund and temple property administered by the Badve Committee and Part—B for the offerings below the limits prescribed by the Scheme administered by the Samasta Badve Mandal, to make it appear that these are two exclusive bodies when actually both represent the identical community. In regard to the Pariwar Devatas an entirely separate trust was registered with the Samasta Badve Mandal as the trustee. This position will be of particular relevance on the question of amalgamation of the trusts.

#### Body Managing Rukmini Temple

9. In regard to Rukmini temple there is no scheme. It appears that in the year 1951 they adopted for themselves a constitution providing for election of a Committee. The existence of this constitution was put forward and led Patel J. in the appeal against the registration of the trust, to say that no scheme is necessary for them. (*vide* Ex. 92). But unfortunately, as the evidence before the Commission shows, the constitution has not only not worked but there is mismanagement in the affairs. It should be noted that the constitution happened to be adopted soon after the Public Trusts Act was passed. There is chaos in the working of this constitution at least since 1962 if not earlier. There is no stable body after 1962 legally elected. Change Report sent in 1962 was not accepted and the election was held to be invalid by the Assistant Charity Commissioner and the order was confirmed in appeal. Since the body declared illegal was still in power two Utpats filed a suit with the consent of the Charity Commissioner under section 50 of the Public Trusts Act being a suit No. 6/66. The Charity Commissioner was a formal party but when he realised that all was not well with the management, the Charity Commissioner tendered a detailed written statement pointing out all the defects with the idea of having a proper scheme. When the written statement was tendered and the

Charity Commissioner supported plaintiff's application for appointment of a Receiver, behind the back of the Charity Commissioner. the suit was withdrawn. When the suit was withdrawn it was represented that a new body has been legally elected. Accordingly they filed a change Report. In the course of the enquiry it was found that no notice to all the members had been given and in fact no legal election had taken place and the change Report was rejected. In the meanwhile this Commission happened to be appointed and therefore Utpats hastened to hold a new election and a change Report was filed. This change Report also has been rejected by the Assistant Charity Commissioner after holding a judicial enquiry. It is understood that appeals have been filed. But the fact remains that there was no stable legally elected body and complaints have been received that the charge is not being handed over to the body said to have been elected. In fact when the Commission visited the Utpat Committee Office and wanted to peruse their accounts, the Commission learnt that some of the accounts together with valuable ornaments of the deity were in the custody of the son of the deceased Treasurer, the son himself not being elected as a member of the Utpat Committee at that date. Needless to say that the Utpats did not deserve for their constitution the remarks of approval of Patel J. who at that time might not have had before him all the facts nor could he anticipate what was to follow in the management.

10. In this connection the evidence of two Utpats who at one time or the other had connection with the Management can be referred to, apart from the evidence of their representatives. Pradyumna D. Utpat Ex. 208 who had been elected as Chairman of the Utpat Committee evaded to come before the Commission and ultimately when he was compelled, he appeared. Earlier he had sent an application making several charges against the Utpat Committee and when he appeared he first disowned the signature thereon and when a number of documents were shown to him he fainted and requested his evidence be taken in-camera. He then admitted all the complaints as well as the letters earlier disowned by him, exposing the management (*vide* Ex. 209). It would appear from the papers produced that as soon as the Commission was constituted and it was anticipated that evidence would be called, the Committee which was headed by the witness Pradyumna was superseded by what was called another election of which the change Report did not subsequently happen to be accepted. The evidence shows that though he was elected he could not get charge of the papers and consequently he had to send the application to the Government. The previous treasurer had not been elected either in the previous Committee or the Committee constituted with Pradyumna as President. In the meanwhile the Treasurer appears to have died and the charge of the ornaments remained with his son who did not have any *locus-standi* so far as the management was concerned. Pradyumna has named the persons who were alleged to have been newly elected as being those elected in 1962 but whose election was not recognised by the Charity Commissioner. Similarly the evidence of Ramkrishna Utpat (Ex. 276) also exposes the mismanagement of the Committee. This witness had alleged that the old list of ornaments of the deity had been destroyed. He had filed a suit No. 322/64 in the Pandharpur Court in the course of which a Commissioner was appointed at his instance to check the ornaments. The witness had a list which he had produced but soon after the Commissioner was appointed and he checked the ornaments the witness withdrew that suit, nobody knowing whether the ornaments were in order, as no time was allowed for the Report. The witness was asked to produce a copy of the Report of the Commissioner but evaded it by saying that he did not possess it. For withdrawing the suit the witness is not able to give any reason but on the contrary admitted after prevarication that he did not personally know whether the ornaments are in order because he had not checked the ornaments or the list. A number of prevarications appear in the evidence of this witness. He had filed a criminal complaint alleging misappropriation in 1962. But it was not pursued and finally the witness himself was suspected of having stolen a valuable silver pot belonging to Rukmini trust for which his house happened to be searched. This fact shows the measure of care exercised by the Committee regarding the management of the trust property. This witness appears to have been actively connected with collection for Jirnodhar fund of the temple and had gone from place to place for the purpose. The evidence of Mr. Yevle, Assistant Director of Accounts, would show that the accounts of this fund have not been properly maintained.

#### Accounts of Rukmini Trust

11. In fact the evidence of Mr. Yevle (Ex. 699) as a whole shows that both the Utpats as well as Badves have not maintained their accounts properly. It will appear from his evidence that for a period from 2<sup>nd</sup> October 1960 and 15<sup>th</sup> April 1961 the accounts of the Rukmini Trust were not available and, therefore, did not happen to be incorporated in the statements, and that the statutory auditors have qualified their Report pointing out several omissions and irregularities. The only income shown is the amount of the bid offered by Diwasakari Utpat. There are no estimates of the work of Jirnodhar and the work happened



to be entrusted to an unqualified mistry without calling for tenders. Proper vouchers are not maintained nor is cost register kept. Mr. Yevle has remarked in his evidence that the accounts both of income and expenditure have not been maintained either correctly or in accordance with the provisions of law and though they were once prosecuted and convicted they are persisting in their defaults. Before the two Utpat witnesses and Mr. Yevle were examined, Vasudeo Narayan Utpat as representing all the Utpats had stepped into the witness box before the Commission at the earlier stage when parties were examined by the Commission to inform itself about their allegations. After the close of the evidence while on behalf of Badves and Sevadharies their spokesmen reappeared to state their case and submit to cross examination, no one on behalf of Utpats appeared. When Mr. Gogate their Counsel was asked, he said that Vasudeo Narayan Utpat who had not previously submitted himself to cross examination did not wish to step into the box and that no one on behalf of the Utpats wished to appear and give evidence. In the light of the evidence of the two Utpats and the Assistant Director of Accounts who were subsequently examined and the answers given by Vasudeo Narayan Utpat at the early stage, presumably the Utpats thought it risky to submit their representative for cross examination. In the course of the party examination this Vasudeo Narayan Utpat had made a tall claim that the Utpats are not merely the trustees of the Rukmini temple but also owners thereof. He had admitted that the income of the Pariwar Devatas is unaccounted for, and that the collection of funds for Jimodddhar has not been registered as a separate trust nor all the accounts are incorporated in the accounts of the Rukmini trust. It also appears that there is no separate Rukmini fund maintained by way of a Reserve fund. The Commission has no doubt at all that there is no proper and regular management of the Rukmini trust and as observed by Mr. Yevle no proper accounts of the income are maintained, that the constitution is defective, and that no effective body has ever functioned in regard to management, with the result that it is not possible to know whether all the funds that must really belong to the trust are properly accounted for or not and whether they would at all be accounted for in view of the claim even at this stage by Vasudeo Utpat that Utpats are the owners of the Rukmini Temple.

#### Accounts of Vithoba Temple and Pariwar Devatas' Trust

12. It is not necessary to refer in detail to the evidence of Mr. Yevle (Ex. 699) beyond pointing out that in his evidence, he has mentioned various irregularities in regard to the accounts both of Vithoba Fund, Samasta Badve Mandal and Pariwar Devatas. In fact he has also pointed out that the Auditors' Reports are all qualified. It appears that the accounts of Ten years were submitted after audit in the year 1968. Vanarase's evidence (Ex. 618) shows that change Reports are not regularly filed before the Assistant Charity Commissioner nor the contributions required to be paid under the Bombay Public Trusts Act regularly paid by all the three trusts viz. Vithoba, Rukmini and Pariwar Devatas trusts. It may be pointed out that so far as Rukmini's Pariwar Devatas are concerned there is no separate trust registered and no separate accounts also maintained and the income is treated in the same manner as the income of the Rukmini trust. It is not necessary to refer here to the audit by the Devasthan Committee who do not appear to have received any co-operations as this question has been dealt with separately in another Chapter.

#### Sources of Income of Badves and Utpats

13. It would be appropriate at this stage to consider the sources of income of the Badves and Utpats and the manner in which they get it. While considering this question, reference to their rights and validity of their claim to the rights will be reserved for the next Chapter. The discussion in this Chapter will be confined only to the Heads of income and the manner in which it is recovered and distributed. The source of income of the Badves consists of the offerings at the feet of the deity to the limit recognised by the Scheme viz. cash offerings upto a value of Rs. 500, Gold and ornaments upto the value of Rs. 100 and silver and clothing upto the value of Rs. 50 subject to the liability of maintenance of the temple and daily expenses for puja, naivedya etc. In addition, the members of the Badve family earn profits from puja or Dakshina from Yajmans or from devotees in return for giving Prasad. This last constitutes the individual income. The income before the Pariwar Devatas viz. offerings placed by the devotees before all the Pariwar Devatas wherever they are situated, is claimed to be the income of the Badve Community subject to the liability of maintenance of these Devatas and the expenses of puja etc. For collection and distribution of these incomes the system of fanning out or auctioning the incomes is in practice, the Commission is told, since time immemorial. What is done is that every night the next day's right of taking income before Vithoba is auctioned and the bidder has to be in-charge of the collections next day by remaining present near the deity. He is called the Diwaskari Badva. At the time of the auction he pays down the amount as consideration for his right purchased in auction to be exercised on the next day. Naturally therefore as a large number of witnesses have stated, particularly Mr. G. V. Joshi

Ex. 144 the auction purchaser "Divaskari Badva" tries to make most of his purchase and, therefore, does not hesitate to resort to all methods that are capable of bringing him income from the devotees, in excess of what he has paid as bid.

14. The right in respect of Parwar Devatas to collect the income is auctioned every year. Reference has already been made to the fact that the number of Pariwar Devatas has grown from time to time with the result that at present the Pariwar Devatas have been divided into ten groups and the income of each group is farmed out by auction every year. The auction purchaser credits the amount of the bid and after taking charge of the Pariwar Devatas tries to make most of the situation.

15. In regard to the income of the Utpats there has been no scheme. It appears that at the time of the registration of the trust the Utpats claimed that they are entitled to the whole income without any liability to spend anything for the maintenance of the temple or for daily or occasional expenses for puja etc., and that such right was established by custom. The Charity Commissioner did not concede and after litigations the dispute went to the High Court in appeal No. 62 of 1930 in which Panel J. on a construction of the word "Jagvan Nimini" held that Utpats are entitled to half of the income and that the other half is to be utilised for the upkeep of the temple and services. The Utpats like Badves are following the system of farming out the income by auction but not daily. They auction the right of each week in advance during ordinary days and the daily income relating to the days of the fairs. The next source of income which they have, is of Charan Tirth or the holy water given to the devotees and the return got from them. The right to this is auctioned every month. There being no separate class of Sevadharies in the Rukmini temple the work is entrusted to some of the Utpats who bring water etc. and these services are called mantra puja for which they earn from the devotees and the right of collecting these offerings is sold in auction once in four months. The fourth source of income is the proceeds of the garlands and sweets presented to the deity in Chaitra and the right of taking these garlands is sold in auction once in a year. So far as their Pariwar Devatas Radhika and Satyabhama are concerned the income is distributed directly so that no auction takes place in respect of the offerings made before them. Besides these sources the Utpats get, as in the case of Vithoba Temple income from Yajman pujas performed at the instance of devotees. It has been rightly pointed out by the Assistant Director of Accounts Mr. Yevle that in the accounts both of Badves as well as Utpats what is shown as the income are the amounts of bid realised and not the amounts of the actual offerings collected and, therefore, the accounts do not depict correctly the income under the respective heads, actually received by the deity. So there is considerable scope for a proportion of such income going unaccounted for.

16. In regard to this practice of auction a large number of witnesses have taken strong objections on grounds which may appear to be sentimental. Some of those have described these auctions as sale of the deity. Some of them have felt offended because what they give is not to the Badves but to the deity and, therefore, the offerings which have attached to them certain sentiments of the devotees are being treated as chattels. Badves and Utpats on the other hand have pointed out that it is impracticable to keep persons for taking an exact account of each offering that such a course would require a large number of men to watch and would also lead to complications and, therefore, having all these difficulties in view their ancestor from time immemorial have adopted the system which is in nature similar to the system of farming out revenue from the soil. The Commission is not prepared to dismiss the objection as purely sentimental because the auction purchaser in every purchase in his anxiety to make most out of the purchase, tries to earn as much as possible from the devotees who feel irked by the demands. The devotees would be perfectly justified in objecting to the root cause which leads to this trouble. However, if there is occasion for a change in the administration all these causes of trouble are capable of being remedied.

17. The sources of income of Sevadharies have already been dealt with in the earlier chapter. Except the Pujari who gets the 'Ovalni' the other six have to depend upon what they get from their demand of "Dakshina" outside the sanctum. All that is necessary to be mentioned in this Chapter is about the mode by which they distribute these earnings. Out of the Sevadharies except Dange and Diwate the rest of the Sevadharies also follow the system of auction. Danges and Diwates are not required to follow this system because in the case of Diwate there is only one family and among Danges there are only two. The earnings of Sevadharies, besides dakshina asked for directly, consist of a small fraction of puja amount given by the Yajmans as collective remuneration for all the Sevadharies which is distributed among them according to their shares after pooling the income. The work of receiving and distribution is entrusted to the Samasta Sevadhari Committee which keeps an account of the number of pujas, performed in the Vithoba temple.

18. Having dealt with the present mode of management of Vithoba, Rukmini and Pariwar Devatas trusts, the income of priestly classes and the machinery now in vogue for disposal of that income, the next question of importance is whether having regard to all the evidence, the demands of the public and the changing times any change is called for in the management of the trusts. As this question involves several points they will be dealt with in the next Chapter. However, it is necessary to mention that though the object of the devotees in making the offerings is that it is meant for the deities, in actual working hardly any thing remains for the Temple after the priestly classes appropriate the offerings may be by virtue of custom or judicial decisions.

## CHAPTER XI

### WHETHER CHANGE IS NECESSARY

1. The question whether a change in the present set up of management is necessary involves a careful examination of several aspects viz. (1) what is the exact nature of the rights claimed by the Badves, Sevadhari and Utpats vis-a-vis the public, and whether they are in the nature of rights to property, (2) since the property in this case consists of offerings intended for and made to the deity whether rights to such property can constitute private rights of the persons claiming them, (3) if so whether such rights are protected by any of the Articles of the Constitution as fundamental rights and if so to what extent, and lastly (4) if a change is necessary whether abolition of those rights is called for and on what terms or in what manner. All these points will be dealt with in different successive chapters.

2. In dealing with the points just adumbrated which are very important points, it would not be inappropriate or superfluous to set down at the risk of repetition what the temples of Vithoba and Rukmini mean to the public of Maharashtra nay all over India and what is the present state of things existing as disclosed by the evidence. The temple of Vithoba is regarded as a unique temple and to use the words of Mr. N. G. Gore—Chairman of the Praja Socialist Party, it is a seat of cultural renaissance. Another witness has described it as an "Adhyatmic capital" of Maharashtra. The Gazetteer has described it as "Dakshin-Kashi". It has provided inspiration to great saints popular not only in Maharashtra but all over India like Jnaneshwar, Namdeo and Tukaram who have provided the foundation for Marathi literature through their writings and Abhangas and which constitute the proud heritage of Maharashtra. The cult of Bhaktimarg considered to be the simplest path for God realisation for a person of whatever status attracts every year lacs of pilgrims of whom 50 to 60 thousand come on foot from far off Vidarbha and Khandesh Districts braving all the difficulties of the monsoon in full swing at the time of Ashadhi Ekadashi. In the temple of Vithoba there is no distinction of caste or creed and even untouchables are allowed to enter the temple and in that sense with a progressive cosmopolitan creed. No wonder therefore that there has been persistent demand from the public for a change in the management from various aspects resulting from the experiences of harassment by interminable demands of the priestly classes. The grievances of the public have been ventilated both by applications to the Government and the Charity Commissioner as well as in the Press. Many Articles that have appeared in the Press are on the record after being duly proved either by the Editor or by the authors. People have described that Vithoba is a prisoner in the hands of the Badves and pleaded for his release. Some have invoked Vithoba the Grand deity of Maharashtra himself and asked him whether he is so powerless as not to be able to come out and meet his devotees freely and without trouble. It is unnecessary to emphasise the devotion and veneration in which the deity is held by the public mainly of southern India—Maharashtra, Karnatak and Andhra Pradesh. To quote Bahinabai—one of the female saints, she has described Vithoba as "Vaikunthicha Rana"—Lord of the Paradise and Pandharpur as "Bhu-Vaikuntha"—Paradise on earth.

#### Summary of findings

3. With the importance just described attached to the place and the temples it would be worthwhile to sum up the findings and conclusions from the evidence referred to in the foregoing Chapters: (1) Though it is the inherent right of the devotees to get Darshan of the God they are not able to get it peacefully being subjected to frequent demands of money which if not complied with, the devotees are subjected to harassment in the shape of indignity, physical violence such as pushing, pressing of their heads and mental torture making it impossible for the devotees to get that peace and tranquility necessary for a devotional approach for spiritual solace that being the only object with which the devotees visit Pandharpur: (2) Taking advantage of the situation of only one entry and one exit for Darshan and the impossibility for all the pilgrims visiting at Wari time to obtain darshan, the situation is exploited by the priestly classes to sell

passes to the public to give them preference to the cost and disappointment of crowds waiting in queues for 8 to 10 hours ; (3) Though Darshan is more important than Poojas and Upchars from the devotees point of view, Poojas prove more profitable they are performed at any time closing the doors and thereby curtailing the time for darshan ; (4) In the absence of a fixed schedule of rates for poojas and upchars's spurious demands are made from the devotees ; (5) There is no proper management or application of the income consisting of the offerings made to the deity the bulk of which is appropriated by the Badves and Utpats ; (6) Not being satisfied with the income just mentioned from the offerings and poojas innovations in Upachars are thought of and new Pariwar Devatas established to attract more and more offerings and to divide the value of individual offerings to prevent any of them from exceeding Rs. 500 ; (7) Indulging in constant litigation with Sevadharis or others or inter-se either on trivial matters or to prevent others from earning out of fear that their own earnings might be affected and thus preventing a peaceful atmosphere so necessary in a place of worship ; (8) They have failed to account for endowments—may have even claimed parts of temple property adversely—not to speak of the fact that no action is taken against those who have encroached upon it ; (9) Attempts are made to by-pass and circumvent safeguards for audit provided under the Scheme judgment by formation of new Committees and entrusting them with such powers as would prevent audit by the Devasthan Committee ; (10) Notwithstanding that the Trusts are public and charitable trusts the attitude adopted by those trusts if the property is their private property by omitting to take steps under the Bombay Public Trust Act ; (11) There is no stable management so far as Rukmini Temple is concerned ; (12) In spite of lapse of centuries there have been no improvements effected in the surroundings of the temple or to provide even minimum amenities to the devotees who gather in multitudes and wait in queues for hours together ; and (13) In spite of the unique position occupied by the temple in the religious field no provision is made to propagate the tenets for which the institution stands or to impart religious education.

#### Nature of rights

4. While the Commission feels that the demand of the public including enlightened opinion for a change is fully justified, before the Commission can propose it, it will have to give careful and anxious consideration to the several aspects which will be referred to presently. The first point in this connection to be determined is what is the nature of the right claimed by the Badves, Sevadharis and Utpats in regard to the offerings or Dakshina as the case may be. The Badves have claimed that they were the owners of the temple, the deity and property. That claim has been negatived. Mr. Tagore in his judgment in suit No. 2 of 1881 (Ex. 61) has discussed the claim in these words :—

“ There is no evidence that the endowment was founded by the Badves—nothing to show that the Badvas contribute a single pie towards the temple expenditure. Certain provision was made by the Peshwa for the daily worship of the idol. Under this Government a Devasthan Committee has the management of the funds. The way in which this Watan was dealt with by the Peshwa—its confiscation and conditional restoration—the exaction of a penalty—borne from the Badvas and their humiliating submission—all this goes to negative the claim now put forward by the Badves. All that can be conceded is that the Badves as the Chief Priests are managers and trustees of the temple. They are guardians of the temple property and of the God's jewels. ”

Mr. Drutt, who had heard suit No. 1 of 1882 had come to a different conclusion but Their Lordships in appeal No. 90 of 1886 against these decisions clearly accepted the findings of Mr. Tagore deferring from Mr. Drutt, and declared :—

“ Badvas are not the owners of the temple, idol and property. They are the Chief Priests, managers, overseers and guardians of the idol and temple and the property belonging thereto. As such they are bound to keep order and to bid the Sevadharis to perform the duties which belong hereditarily to those priests. ” (Ex. 60).

5. If Badves are not the owners nor are they proved to be founders of the temple, but are merely guardians of the idol and temple and property belonging thereto, the element of ownership in the shape of acquisition of the Institution will not arise. However the right to the portion of the offerings can be justified only upon one of the two grounds viz. either by specific grant or by custom. In the scheme Judgment Ex. 113, the High Court has referred mainly to three documents viz. (1) the document described as “ sanad ” granted by Balaji Bajirao in the year 1754 A.D. (Ex. 727); (2) the Nivada Patra of Madhavrao Narayanrao Peshwa of the year 1780 (Ex. 105) and (3) the order of the Raja of Satara of 1838 (Ex. 106). The commencement of the right of the Badves does not lie in any of these three documents. All that the documents do is to recognise the practice or custom whereby the Badves had been appropriating the offerings. Notwithstanding this position, Their Lordships described the first document as a sanad because it was a formal declaration recognising that right. Essentially therefore the

right of the Badves does not derive its origin from any of these three documents and, therefore, advisedly it is urged that the right is based upon an immemorial custom the commencement of which is lost in antiquity and the earliest declaration of it contained in the Bijapur Sthal Prat (Ex. 92-A). The elements of a valid custom are that it must have been in existence and followed publicly for a long time, that it was invariable and that it was recognised. In the present case while the first and the third characteristics may be said to be present the middle one cannot be said to be present as will appear from three documents.

#### Documents regarding the rights

6. The earliest document is the Bijapur Sthal Prat (Ex. 92-A), which was exhibited in first Appeal 62/1960. Though in the Sholapur litigation on account of the distance of the time the document did not happen to be admitted, in the subsequent litigation just referred to, it was admitted and exhibited. When it was produced before the Commission all the parties have endorsed on Ex. 88 that the document may be exhibited and, therefore, the authenticity and the genuineness of this document is not disputed. The occasion for the document appears to be that a complaint was received that in spite of a previous decision, Badves are not observing its terms. If such was the history as long ago as 1519 A.D. no wonder that complaints still exist in 1969. In this document the rights of Badves, Utpats and Sevadharies are mentioned. Badves' right to the offerings at the feet of the deity is limited from Rs. 5 to Rs. 10 and any amount in excess has to be credited to Jamdarkhana namely the Treasury of the God. So far as clothing is concerned the limit is Rs. 10. Any article upto one Tola is allowed to them but any in excess thereof should be credited to the coffers of the deity. The income from the Pariwar Devatas is recognised to be that of the Badves. Then other duties and obligations are enumerated which are not relevant at this stage. In regard to Utpats it is stated that six of them should go at the time of Rukmini's puja and whatever is offered at the feet should be taken, clothes should be taken Dakshina may be asked for and half jagvan should be given. So far as the pujaris are concerned *Oralni* is described to be of the right of the pujaris, besides certain articles for puja like conch, tambya or pot etc. This document does not describe their capacity but only mentions their rights to take offerings within certain limits and the obligations which they have to discharge. After this the next document that shows variations is an order sent by Balaji Bajirao to the Khamavidar or manager Ramchandra Krishna in charge of the Pandharpur temple. This is a document of 1772 which is traced in the 'Limaye Daftar'—Limaye family being then the Khamavidars. From this document it will be clear that Badves were to take cash offerings from Rs. 1 to 25, that any amount in excess belonged to the deity, that clothes of the value of Rs. 10 and below should be given to the Badves but those of a value in excess of Rs. 10 should be deposited in the Jamdarkhana of the God, and that ornaments should be credited to the Jamdarkhana of the God (Ex. 670). The third document is Ex. 727 referred to in the Scheme Judgment in which the limits are raised upto Rs. 500 by the then Suzerain power after hearing them and after taking bonds from them as observed by Tagore J. in his judgment in the Scheme Suit (Ex. 801). It is important to notice that both Ex. 670 and Ex. 727 are addressed to the same Ramchandra Krishna Khamavidar as representative of Parashurambhau Patwardhan. These three documents, therefore, establish that the limits of value of the offerings that could be appropriated by the Badves did not remain the same and though they were allowed to take offerings the limits were varied from time to time.

#### Evidence of variation in the rights

7. The nature of this right would be clear from the bond which is on record at Ex. 570. It appears that after the limit was raised to Rs. 500 the Badves did not observe the conditions imposed and, therefore, the Peshwas suspended their rights to the income and a Clerk was appointed to receive and keep an account. A representation was made as will appear from Ex. 570 which has inherent evidence to show that the Badves did not claim and the then Rulers had not conceded an absolute right that was invariable or that one which did not permit of interference by the State. Apart from giving undertakings after admitting all their defaults Badves say that in case they fail to observe the conditions that had been imposed the Sarkar or the then Government can remove them. So the right of the State to remove them is conceded by the Badves and it is only as an act of grace that the vritti was restored to them.

8. In spite of this warning there are communication in Ex. 106 (at pages 12 and 13) to show that the Badves had committed a breach of the undertaking given by them earlier. In the Newada of the Pratapsing of the year 1838 at pages 12 and 13, there is a reference to the Badves having failed to observe the undertakings given by them and in consequence their Vritti had been attached. Four clauses as to how the Badves and Sevadharies should conduct

themselves in respect of pujas are mentioned therein, and on their undertaking to observe those conditions vritties are directed to be restored. What is significant to notice in all these documents is firstly that though the suzerain power permitted the Badves that they could take the offerings, it was impressed upon them that they were liable to be removed, that the limits of the offerings that could be appropriated were varying, that in spite of warnings the Badves were continuing to commit breaches even after execution of the bonds and that the disputes between Badves and Sevadhari have been as old as the rights that had been claimed by them. There will be further occasions to point out that while Badves have not heeded to the warnings given by the Old Rulers they have treated the warnings with equal respect given by the High Court and other Courts repeatedly even till to-day.

9. The Commission may refer to another document Ex. 658 which is described as *Vatanzada of the Fasli year 1260*. This appears to have been prepared by the Village Officers concerning the temples at Pandlarpur together with a list of persons connected with them and their rights. The Badves are described in that document as "*Badve-Sarkar-Chakar*" which means servants of the Government. The document was challenged as not binding on the ground that Badves have not signed it and there is nothing to show that they had notice of its contents. Except that it happens to be a document prepared in the course of official duties by the Village Officers, there being no other evidence surrounding the preparation of that document such as the purpose or occasion, the Commission thinks it not very safe to rely upon the description of the rights contained in it.

#### No evidence of grant but recognition of rights

10. In the light of all this documentary evidence before the Commission, while the Commission feels that the origin of the connection of the Badves with the service of the temple is not traceable though there is no evidence that their connections started simultaneously with the foundation of the temple, what is claimed as a right was not the subject matter of a specific grant. Since they used to appropriate certain part of the offerings as their remuneration for the service rendered the practice came to be recognised by the successive Rulers though after varying the limits from time to time. In the bond Ex. 570 the Badves have conceded the right of the State not only to vary the grant but even to remove them from the service of the temple. So far as the Utpats are concerned except the Bijapur Schal Prat referred to above which mentions their rights there are no other documents. But looking to the circumstances that Rukmini is a consort of Vithoba and that one set of priests was concerned with the worship of Vithoba, it can be inferred that the other set also must have been on the same footing and consequently would show that the Utpats also could have no higher rights than those of the Badves and that they happened to be in charge of the temple without interruption because they gave no cause to the suzerain power for suspension or restoration as in the case of Badves. The question before the Commission is if by reason of exercise of the right of service for a long time, the commencement of which is lost in antiquity, whether the State can now interfere and if so what circumstances are required to be established for interference with those rights.

#### Right of the State to remove

11. The documents referred to above clearly establish that the State has exercised its right of suspension and revision of terms on every occasion whenever serious complaints against Badves were received. Therefore, the right of the State to remove them on proof of conditions inviting that step cannot be challenged unless protection under the Constitution which is now claimed is available to them in law. In this connection it was urged that though the terms of reference refer to mismanagement of the trust no acts of mismanagement are proved. It is also pointed out that there are no complaints on the part of the public that poojas and upachars are not being properly performed. It is true that there is no complaint about non-performance of the daily rituals. But on the contrary there are complaints of excess of poojas. Mismanagement has not been defined in legal phraseology to the knowledge of the Commission. The Commission feels that where the objects of a foundation fail to be fulfilled it would amount to mismanagement providing good reason for the State to interfere. Similarly if the rights claimed come in conflict with the rights to which the beneficiaries of an institution are entitled, as fundamental rights, it will have to be seen which set of fundamental rights should prevail over the other, or in the alternative to what extent restrictions could be placed on the fundamental rights of respective parties so as to ensure or lead to a harmonious working and fulfilment of the objects. The Commission will examine presently whether conditions have been established inviting interference on the part of the State.

12. The Commission has already indicated its findings earlier that the conduct of the Badves in the temple is such as to interfere with the right of the devotees or their freedom to practice religion in the sense that by harassment the minds of the devotees are distracted. This is the general plight of the devotees barring a few exceptions viz. those privileged either on account of their Office or on account of their powers or fame which they may have gained. From such people remarks have been obtained in visitors' books and they are produced. Many of the remarks record only the fact of visit and little of praise. The very fact that remarks are obtained from a few out of the lace of visitors shows that they were regarded as important persons and consequently had received better attention. But the standard should be in relation to the common man. A very large number of witnesses some of whom were not even cross examined and who represent the common man have spoken about their woes in the matter of getting Darshan. Findings are already recorded in Para. 3 above regarding "Darshan", harassment, atmosphere in the temple, management of the vritti and surroundings, and neglect towards elementary needs of devotees. It is not necessary to repeat either the evidence or the findings based thereon. But mention may be made of the fact that repeated warnings have had no effect even from the earliest times till this day. Since some of the witnesses recommended that a chance should be given to improve the state of things the Commission feels it necessary to refer to the evidence showing the futility of any further chances.

#### Warnings without effect

13. Reference has already been made to the attachment of the vritti of the Badves for their mismanagement by the Peshwas, on different occasions. In the course of the litigations referred to in the earlier chapters almost every Court including the High Court has recorded warnings in their judgments. In Ex. 71 the learned Subordinate Judge who heard Dange's Suit No. 62/1891 against Badves has observed in his judgment that he cannot conclude the judgment without expressing a hope that in the interest of the parties themselves as well as with proper regard to the conveniences of the public and the great respect due to the deity of one of our holiest shrines, Badves and Sevadhari should have the good sense to settle these long standing disputes among themselves, pointing out, that already many influences have unfortunately worked to undermine the respect due to the holy shrine and the custodians of the temple of Sri Vithoba should not add to those influences by such unbecoming and unpriestly disputes amongst them. In Civil Suit No. 509/1917 the learned Subordinate Judge observed (Ex. 884) as follows:—

"It is a matter of sincere sorrow that the parties indulge in such heavy and costly litigations from time to time and thus bring the good name of the God Vithoba and his holy temple into disrepute. The constant quarrels between the parties have been instrumental in reducing the number of pilgrims as well as the Yajmans desiring to perform Maha Pujas. Instead of making the worship of ever revered God Shri Vithoba most attractive so as to draw number of pilgrims here from all parts of the country, they quarrel among themselves and thus discourage pilgrims from performing pujas here."

To these remarks Sir A. Martin J. has made reference in the judgment in Second appeal Nos. 5 and 277 of 1924 in these words:

"Before parting with the case, I should like to express my general agreement with what learned Trial Judge Mr. Bhagat has said in paragraph 6 of his judgment. He there pointed out that constant quarrels and litigations between the various classes of priests are calculated to bring the good name of God Vithoba and his holy temple into disrepute and to diminish the number of Yajmans and pilgrims. There has now been almost continuous litigation for the last 46 years. Further, the litigation is of such a special nature and has now accumulated such a large number of judgments and other documents that a great strain is put upon the presiding Judge to sift the relevant from the irrelevant; and also a large amount of public time is expended to the detriment of ordinary litigants. We in this Court have the advantage of careful judgments not only of the Trial Judge but also of the learned District Judge Mr. Kindersley, as well, and yet our experience of this suit is substantially the same as in the lower court.

It would require an optimist to expect that the present suit will end all quarrels between these priests, for they appear to attach more importance to their own pecuniary profit than to the good name of their God. But I would give this warning to all of them. We have ample powers in a properly constituted suit to enforce the trusts in favour of the idol, and to see that the worship of the deity is duly performed. There is already a High Court Scheme for the management of the temple property. That scheme can be added to on good grounds shown. It would accordingly be a matter for argument whether priests who bring the God's name into disrepute by their constant quarrels should not be removed or suspended, and other arrangements made to carry on their duties. Our present

judgment is intended to maintain what on the evidence before us we hold to be substantially the practice for the past 137 years. In other words our judgment is intended to maintain the *status quo*. But if either party tries to make further encroachments on the rights of the others and more quarrels ensue then apart from removal or suspension it may be a matter for future consideration whether some outside and independent Committee of Hindu gentlemen should not be formed to control the ceremonial and other details of worship. A precedent for this may be found in the Dakore Temple Committee." (Ex. 118).

14. With respect to these observations it may be pointed out that such litigations as were feared and anticipated in the remarks of the High Court are pending even to-day not to speak of the fact that they have continued after the warnings of the High Court in 1926, and thus a situation as contemplated by Martin J. in the judgment has arisen leading to the appointment of this Commission. Though in all the litigations in which the warnings happened to be given the Public not being parties had no occasion to ventilate their grievances and yet Their Lordships could anticipate the trend of events. Similar warnings have been recorded in 2 other judgments of the High Court one by Wassoodew J. (Ex. 165) in Civil revision application 54/1938 in which the learned Judge has observed :—

"As circumstances have now arisen when there is a possibility of mismanagement and it is not unlikely that the interest of the Institution may suffer if no proper accounts and check are provided."

In Civil Application No. 240/44 Their Lordships Kania and Gajendragadkar JJ observed :—

"That if the Badves disobey they are liable to be removed. So far no serious view is taken but they must know that if they repeat, the consequences will be commensurate with their lapse."

Apart from these and several other warnings which it is not necessary to refer to it may be pointed out that in the scheme itself a rule was framed which is Rule No. 11 and the District Judge Mr. Tagore has observed :—

"There is provision to remove the defendants (Badves) from their position as managers and trustees, and to declare that the Devasthan property (as distinguished from private property vested in them under these rules) shall vest in the newly appointed trustees, and to frame such further rules for their guidance as shall seem necessary to this Court."

All these hopes and warnings have fallen flat as the subsequent history of the litigations, some of which are still pending, would clearly indicate.

Conditions similar in cases where administration was imposed

15. On going through the decisions of the Supreme Court and the High Court in the cases relating to the Tirupati temple, the Durgah of Ajmer, Jagannath Puri Temple, Nathadwara temple, as well as Badrinath temple, the Commission finds that the history preceding introduction of legislation was more or less similar as is found in regard to Pandharpur. In order to remove mismanagement suits were filed and schemes framed. Notwithstanding there was repetition of the mismanagement and continuation of all the defects which had invited the schemes. Ultimately in every case it was felt that Legislation was necessary and accordingly Legislation in respect of each temple happened to be passed. (See I.A.R. 1965 Supreme Court, 1231: Mahant Narayan versus Board of Trustees Tirupati Devasthan; A.I.R. 1961 S.C. 1402, Dargal Committee versus Hussen Alli; A.I.R. 1964 S.C. 1501, Raj: Birkishor Deb versus State of Orissa; A.I.R. 1963 S.C. 1638: Tilkayat versus State of Rajasthan; A.I.R. 1952 S.C. 245; Harishastri versus Badrinath Temple Committee).

Public demand for change

16. The public opinion too in regard to Pandharpur trusts as voiced by almost all witnesses from different classes is that hereditary rights should be abolished and change in the administration of the trusts should be introduced. Without going into the details of evidence of all, reference to a few exhibits would be sufficient. Ex. 129 Gurjar—a retired Bank Manager, Ex. 130 Mr. Kulkarni—Sub Government Pleader of Pandharpur, Ex. 134 Karandikar an Advocate of Mangalwedha and Ex. 215 A. V. Patil a Member of the Parliament and Editor of a daily "Vishal Sahyadri", Ex. 225 Prof. D. K. Bedekar, Ex. 229 Mr. N. G. Gore, Chairman of the Praja Socialist Party of India, Ex. 231 D. N. Shikhare, a Sarvodaya Leader, and an eminent author and Ex. 233 Mr. S. K. Neurgaonkar a retired City Engineer of the Poona Municipal Corporation and the trustee of Alandi and Parvati temples, have all advocated a change. The last witness however while advocating a change in the management suggests that it is desirable, to retain hereditary rights of service. The other witnesses who have



advocated a change and abolition of the hereditary rights in an unqualified manner are Mr. B. N. Bhide an Advocate of Poona—Ex. 235, Mr. G. B. Deshmukh—Ex. 305, District Government Pleader of Sangli, Ex. 307—Mr. Mirasdar an Advocate of Pandharpur, Ex. 322 Mr. D. S. Nadkarni a research worker, Ex. 343 R. K. Tamhan a retired Superintendent of Telegraph, Ex. 144 G. V. Joshi an Advocate and former M.L.A. and editor of *Gofan* from Pandharpur, Ex. 365 Mr. V. N. Phadnis—Editor of *Prabodh Chandrika*, Jalgaon, Ex. 367 Ambodekar a warkari and communist worker, Ex. 394 Mr. Yajnik Advocate from Nasik, Ex. 399 Mr. D. S. Potnis Editor of *Gaokari*, Ex. 400 Mr. Shirvadkar a well known poet "Kusumagraj" and a journalist, Ex. 414 Mr. V. S. Page—Chairman of the Legislative Council, Ex. 415. D. G. Nerurkar a retired Superintendent of Customs, Ex. 423, S. K. Joshi an author. Ex. 426 V. B. Waralikar a former Mayor of Bombay, Ex. 430 Mr. Barot a retired Chief Presidency Magistrate and trustee of 'Mahalaxmi temple' at Bombay Ex. 442 Mr. Walawalkar retired Dy. Secretary, Finance Department Ex. 450 Mr. Bharde—Speaker of the Legislative Assembly Ex. 451 Mr. Premani a trustee of the Somnath temple Ex. 452 Mr. G. P. Pradhan M.L.C. Ex. 460 Dr. Athale—a leading medical practitioner and a social worker belonging to the old generation of Satara Ex. 468 Mr. V. T. Shiralkar a retired Dy. Collector Ex. 475, Mr. Inamdar, a retired Educational Inspector and Educational adviser from Aundh State, Ex. 592 Shri B. G. Gate a retired District Judge and promoter and trustee of Shri Eknath Sanshodhan Mandal, Aurangabad Ex. 597 Shri L. S. Kulkarni a former District Government Pleader and public prosecutor of Aurangabad. Ex. 605 M. M. D. V. Potdar of Poona, Ex. 607 Shri S. S. Apte, General Secretary of Vishwa Hindu Parishad, Ex. 497 General S. P. Thorat, Retired Dy. Chief of the Army Staff and former Chairman of the Maharashtra Public Service Commission, Ex. 611 Prof. Mehendale of Alandi trust Ex. 616 Dr. Sarojani Babar, M. P. Ex. 636 Mr. S. B. Athare an Advocate of Kopar-gaon, Ex. 691 H. V. Pataskar a former Law Minister, and member of the Constituent Assembly and present Vice-Chancellor of the Poona University. The list but not the least mention may be made of the former statement of the late Shri Tukadoji Maharaj Rashtrasant who has also advocated a change in the administration (Ex. 381).

17. Apart from these witnesses there are many warkaries and people from other strata of society who in the light of their bitter personal experiences have advocated abolition of the rights of Badves, Utpats and Sevadhars and recommended imposition of a new administration. It will thus be seen that experienced administrators, retired Government servants, who occupied high positions, thinkers, writers, journalists, social workers and professional men like Advocates and Doctors have all advocated introduction of a new administration in Pandharpur having regard to the importance of the temple to which a large number of devotees flock to seek inspiration and solace.

#### Changing times

18. One other fact that cannot be lost sight of is the transformation of ideas in regard to religion brought about by the ever changing world. The idea of socialism has led to abolition of hereditary watan and inams nay even of the Princely States. There is an awakening in every citizen in respect of certain fundamental rights of which practice of religion is the upper most among the less sophisticated than their more progressive brethren. The Commission had occasion to witness the intensity of devotion among the agriculturist and the working classes who were prepared to suffer trials and tribulations to reach Pandharpur with the prospect of having Darshan of the deity singing all the time Bhajans to the glory of their favourite deity. While the less fortunate in society have great faith in Sri Vthoba to bring happiness even the sophisticated and richer classes though satisfied from materialistic point of view seek spiritual satisfaction and this may probably explain the reason why inspite of adverse conditions in Pandharpur the number of pilgrims visiting is on the increase every year. The Commission is satisfied that the increase in the number of pilgrims is certainly not the result of good and attractive arrangement at Pandharpur. For among the large number of witnesses examined by the Commission there were many well-to-do persons who had nothing to seek far from the materialistic point of view but who after their visits voiced their grievances and complaints emphatically asking for better management in Pandharpur. While the written evidence in all on record the Commission feels it necessary to mention that whoever met the Commission casually at different places on coming to know about the work entrusted to the Commission, did not omit to exclaim in no uncertain terms either their experiences or their feelings that they would not think of visiting Pandharpur once again. It would not be out of place to refer to the fact that such organised bodies as the Warkari Maha Mandal and the Vishwa Hindu Parishad who intervened in these proceedings also urged for a change in the present situation.

19. Before closing this Chapter it would be necessary to deal with a contention advocated on behalf of the Badves. It was argued that the customary rights of Badves and Utpats of appropriating the surplus of the offerings before the respective deities apart from having been

recognised by the Courts have also received recognition from the public from time immemorial. It was further pointed out that though in the Scheme suit the public were not parties it had been filed with the consent of the Advocate General and, therefore the decision would be binding. The case of Raja Anandrao A. I. R. 1961 Supreme Court p. 1206 was cited in support. Though there is a subsequent decision of the Supreme Court in Ahmed Adam's case A. I. R. 1964 S. C. 107 it was argued that this case has not over-ruled Raja Anandrao's case. It is unnecessary to discuss both these cases because legislation by the State under authority derived from the Constitution of India would render the decisions ineffective if the Legislation is *intra vires* of the Constitution. In the next Chapter the question whether the State is empowered to legislate and in what circumstances to abolish the rights recognised by custom or judicial decisions and on what conditions will be discussed.

## CHAPTER XII

### STATE'S POWERS TO LEGISLATE AND THE CIRCUMSTANCES IN WHICH IT CAN EXERCISE THAT POWER

#### Findings Relevant for considering State's Powers

1. The Commission has now to consider whether in regard to the four Trusts, in view of the rights claimed and recognised by judicial decisions of Badves, Sevadharies and Utpats, there are powers and occasions for the State to legislate so as to affect those rights and if so to what extent. In this connection at the risk of repetition the findings on the evidence would need a brief reference. Firstly the date of the establishment of the Temple is not ascertainable, though there can be no doubt that the temple is a public temple which has attracted devotees from all parts of India. Secondly though the commencement of the connection of Badves, Sevadharies and Utpats is lost in antiquity there is no evidence at all to show that it started simultaneously with the foundation of the Temple. Though the Badves claimed ownership of the Deity, Temple and its property that claim has been negated by judicial decisions. All that is found from the evidence, therefore, is that long established usage and customs entitled Badves and Utpats to take the offerings placed before the respective deities subject to certain liabilities viz. of maintenance of the Temple, Pujas and Upchars. From this fact alone no inference is possible that the connection of these Badves, Utpats and Sevadharies started right from the foundation of the temple nor will such inference be safe or permissible in view of the history referred to in detail in another Chapter (See Chapter XI). There is positive evidence of suspension of their rights on account of misdemeanour and misappropriation with threat of their removal, right from the 16th century, a fact totally inconsistent with their having any connection with the foundation of the Temple or their rights having sprung from the fact of foundation of the Temple itself. This fact would, on the other hand, clearly indicate that at some time, now not determinable owing to lapse of age, Badves, Sevadharies and Utpats must have started connection with the Temple after the establishment of the Temple but not simultaneously either by reason of their appointment or by a chance that afforded itself to them on account of movement of the deity by fear of Muslim invasions, the deity being popular with all classes of devotees. This conclusion finds support from the fact that Badves are credited with having removed the deity and hidden it to save it from desecration, when Aurangzeb is said to have camped near about Pandharpur. Some evidence which if admitted, would have proved positive in nature, was tendered before the Commission to show that Badves were servants appointed by Kunts who were the original priests and who having disappeared, the Badves were able to establish themselves by usurping the rights of Kunts at a time when a Muslim invasion was threatened probably of the Bidar or Bijapur dynasties. There is mention of this fact in a book published by one Thatte (Exhibit 390) in the 19th century. This is also referred to by Khare in his book. But as the Commission did not have evidence about the authenticity of the statements contained therein, the Commission is unable to place implicit reliance on them. However, the Commission in the absence of any evidence to the contrary feels that the connection of the Badves, Sevadharies and Utpats did not start simultaneously with the foundation of the temple but at some later date. It is pertinent to note that the names of Takshims of the Badves—Tanba, Timman, Malhar and Shamraj and their family Gods which are Ekvira, Panashankari and Renuka indicate that Badves must have belonged to the Bijapur District—a part of Karnatak, whereas the temple so far as its origin can be traced was established at Pandharpur at a considerable distance from the Bijapur District.

2. The third fact accepted by the Commission on the evidence is, that all the offerings made at the feet of the deity are meant by the devotees as dedicated to the deity and not to the Badves. The same view was held by the Religious Endowments Commission Presided over by Dr. C. P. Ramaswami Aiyar (See Chapter IV, page 36 para. 8). While not contesting this position what has been argued on behalf of Badves and Utpats is that maintenance of Badves, Sevadharies and Utpats is a necessary part of maintenance of the religious objects so that they may carry on the rituals and consequently the offerings taken and appropriated by them are in a sense dedicated to the deity. The validity of this contention would have to be examined later but suffice at this stage to say that all the offerings claimed by the Badves and Utpats are those meant by the devotees as dedicated to the deity concerned.

3. On these facts found by the Commission the question firstly is whether the State can interfere with the rights acquired and recognised by custom and usage of the Badves, Utpats and Sevadharies, and secondly whether the evidence establishes a situation requiring the State to legislate on this question and thirdly the limits and extent which any such legislation may cover. In regard to this third question it may be mentioned that for the first time in the course of arguments all the three priestly classes have sought protection under Article 26 of the Constitution though the Counsel on behalf of the three classes did not challenge the powers of the State to legislate in regard to certain religious matters under the Constitution.

#### Articles 245 and 246 of the Constitution discussed

4. Dealing first with the powers of the State, Article 245 of the Constitution provides that subject to the provisions of the Constitution Parliament may make laws for the whole or any part of the territory of India, and the Legislatures of a State may make laws for the whole or part of the State. Article 246 of the Constitution prescribes subject matter of the laws, that can be made by the Parliament and by the Legislatures of the State respectively. In Schedule VII in List No. 2 of the Constitution are entered items on which the State can legislate and List No. 3 is a concurrent list containing the items which can be the subject matter of legislation both by the Centre and the States. Item No. 10 in List No. 3 relates to Trusts and Trustees, and Item No. 28 to Charities and Charitable Institutions, Charitable and Religious Endowments and Religious Institutions, Charities, Charitable Institution. In List No. 2 also item No. 7 on which the State can legislate refers to pilgrimages other than the pilgrimages outside India and Item No. 32 among others relates to religious and other societies and associations. There being no dispute that the Trusts under enquiry being public religious and charitable institutions and having been registered as such and Pandharpur being a place of pilgrimage the subject is capable of being covered by the items in List No. 2 just referred to. In this connection a reference may be made to the case of *Ratilal Panachand Gandhi vs. State of Bombay*: A.I.R. 1954 S.C. 388, in which the validity of certain provisions of the Bombay Public Trusts Act, XXIX of 1950 were challenged and the Supreme Court held that it was within the competence of the State to pass the enactment.

5. While the powers of the Maharashtra State to legislate in regard to the Trusts was not seriously disputed before the Commission, it was contended that the rights of the Badves, Sevadharies and Utpats are protected under Articles 25, 26 and 27 of the Constitution of India. Though the vast mass of oral evidence recorded by the Commission is capable of showing that the very objects of the foundation fail to be fulfilled by reason of harassment and coercion to the pilgrims, not much, and in fact to argument, was advanced to challenge that evidence or dispel the legitimate inferences that can be drawn from that evidence. As this matter has been dealt with and findings recorded in a separate chapter, it is sufficient at this stage to confine to the finding that the objects of the Trusts as mentioned elsewhere in the earlier Chapter having failed it would be the duty of the State to legislate under the authority vested in it by the provisions of the Constitution just referred to.

6. Assuming for a moment that there was no harassment or coercion to the devotees and pilgrims, the Commission feels that there would yet be an obligation on the State to legislate to fulfil the aspirations regarding the religious needs of a society which is undergoing rapid transformation or in short according to the needs of the times. It is pertinent to note in this connection that though there was no allegation of mismanagement in the Banks, nationalisation has taken place purely with the object of meeting the social aspirations. Though Prevention of The Hindu Bigamous Marriages Act was challenged as encroaching upon the fundamental rights of the Hindu Community it was held to be *intra-vires* on the ground that it was a progressive enactment necessary for social progress and benefit.

**Nothing is left for the interest of Beneficiaries—The worshippers**

7. Keeping aside for a moment the evidence regarding harassment and coercion and of the malpractices proved by mass of evidence against Badves, etc. the very fact that practically nothing is left for the deity out of the offerings and no part of the offerings goes to the deity and its beneficiaries viz. the devotees, would itself provide reason for the State to interfere towards achievement of the object of the Trust. As has been observed in *Devakinandan vs. Murlidhar* 1956 S.C. R. 756 at pages 760 and 761 the worshippers or the devotees are the beneficiaries of the trust. Under the Scheme as settled in cross Appeal Nos. 141 and 168 of 1892, in respect of Vithoba Temple, of the offerings made at the feet of the deity in cash upto Rs. 500 in gold ornaments upto a value of Rs. 100 and silver and clothing upto a value of Rs. 50, are appropriated by the Badves and the evidence before the Commission shows that since the date of that judgment till to-day there is only one offering shown as exceeding Rs. 500 which is credited to the Vithoba Fund, the rest of the offerings having been appropriated by the Badves. It is also pertinent to note that for the purposes of repairs both of the Vithoba Temple as well as Rukmini temple, since there were no funds available in spite of lakhs of pilgrims visiting the temple every year, those connected with the management had to raise funds by way of donations and the work is still progressing. In this connection one cannot lose sight of the fact that while Badves and Utpats were not able to collect sufficiently large amounts for repairs and renovation of the main Temples which attract lakhs of pilgrims, private individuals preaching religion like the late Gadge Maharaj, Sant Tanpure Maharaj and Kaikadi Maharaj etc. were able to collect lakhs and lakhs of rupees to build palatial buildings as Dharma-Shalas in the name of Lord Vithoba to house the pilgrims that come in multitudes to Pandharpur every year. The necessity for an overhaul of the administration cannot be more eloquent than what one sees of the accommodation available and the surroundings at the temple as compared with the accommodation provided by private agencies after collection of funds in the name of Shri Vithoba. The irresistible inference is that the public do not freely contribute to those at present connected with the management of the temple in the knowledge that whatever they contribute will not go towards the charitable object but to the pockets of the individuals. If confidence is inspired in the public by appointment of an administration whose integrity cannot be questioned, the Commission feels that funds will not be slow to come for improvement of the surroundings and the buildings.

8. It is not necessary to deal at length with the conditions that call for legislation in regard to the management of the Trust because the Counsel appearing on behalf of the three priestly classes have wisely desisted from any attempt to challenge the evidence as either interested or false, but have concentrated on the provisions of Articles 13(3), 19, 25 and 26 of the Constitution to claim that their rights are fundamental rights to property and also that they constitute a religious denomination and therefore their right to establish institutions, to manage its own affairs, to own and acquire property and to administer it are protected subject only to public order, morality and health. Before proceeding to discuss Articles 25 and 26 of the Constitution and the protection claimed under them on the ground that they constitute a "Religious Denomination" or part thereof, it would be convenient first to refer to the other articles of the Constitution on which reliance is placed in the course of arguments.

**Whether rights of priestly classes are fundamental rights and if so whether they can be interfered with**

9. Firstly it is argued that it is the fundamental right of the Badves, Sevadhari and Utpats to continue to discharge their functions and duties and get their respective remuneration in the shape of offerings which constitute property and, therefore, those fundamental rights cannot be curtailed or abolished under the Constitution. This necessitates examination of the question firstly whether it is a fundamental right claimed by the priestly classes, if so, whether the right claimed by the devotees is also a fundamental right and if there is a conflict between the rights of these two groups viz. priestly classes on the one hand and the public on the other, what is the duty of the State to resolve that conflict.

10. The Commission has indicated earlier that though the source of commencement of the respective rights claimed by the Badves, Sevadhari and Utpats cannot be traced, there is little doubt that they were in exercise of those rights at least from 1519 A. D. or may be some time earlier because in the Bijapur Sthal Prat (Exhibit 92-A), there is a mention of the respective rights of these respective persons. The customary exercise of that right will have the force of law because under Article 13(3)(a) of the Constitution law includes a custom or usage. Therefore, notwithstanding evidence of their suspension and restoration of their

vrittis on revised and modified terms, any income derived on the basis of custom which has the force of law constitutes property and right to that property is guaranteed by the Constitution under Article 19(1)(f), subject to the limitation mentioned in Article 19(5) of the Constitution. In fact in the Scheme suit their right to income is not only recognised but is construed as a grant by the then suzerain power. However under the Constitution this rights to property is not an absolute one but is made subject to clause (5) of Article 19, which says that nothing in sub-clause (d), (e) and (f) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interest of the general public or for the protection of the interests of any Scheduled Tribe. On reading this sub-section it is important to note that the enjoyment of that property which is a fundamental right does not affect the right of the State to put restrictions in the interest of the general public. It may also be observed that the restrictions that may be imposed by the State do not require if the interest of the public demand that the original right to property should be preserved and it will be competent for the State to transform those rights or convert them into one of payment of compensation. In other words the right to the recurring income can be substituted by payment of compensation if the interests of the public demand it. The question, therefore, to be considered is whether the public interest demands restrictions or alteration including abolition of that right granting that it is a fundamental right of the respective priestly classes.

#### Fundamental Right of the Public

11. Granting that rights claimed by the priestly classes are in the nature of proprietary rights guaranteed by the Constitution, it is urged on behalf of the devotees and the public that under Article 25 of the Constitution of India the devotees and the public have the right of practice of religion as a fundamental right protected by Article 25 subject to the public order, morality and health, and other provisions of Part III of the Constitution which relates to the fundamental rights. It seems to be the case on behalf of the public that they have a right to take peaceful Darshan of the deity, and to perform pujas and sevas, without violating public order, morality or health, but that in the exercise of these rights they invariably have been harassed, obstructed and prevented by the priestly classes. Details of the harassment, obstructions etc. have already been discussed in the earlier Chapters and need not be repeated, nay even the evidence relating to the fact that the Devotees in the exercise of their rights are subjected to physical violence apart from mental torture has already been referred to. Therefore, the public seems to have a just grievance that exercise of their fundamental right is obstructed and prevented by the priestly classes, by their behaviour. Another aspect of complaint by the devotees and the public is that the intention with which they make the offerings viz. that the offering is meant as dedication for the deity, is completely frustrated by reason of the fact that it is appropriated by the priestly classes, and thereby there is interference with their practice of religion. While there is much force in the contention on behalf of the public, it is equally true that the right of rendering service at the temple and earning therefrom by way of remuneration constitutes a fundamental right of the priestly classes under Article 19(1)(g). The apparent conflict of these two sets of rights, it appears to the Commission, is capable of being resolved by reference to Article 19(6) which seems to embody in it the rule of harmonious construction.

#### State's Powers when there is conflict between two fundamental rights

12. There is no doubt at all that where two sets of people have fundamental rights with possibility of conflict between the two, clause (6) of Article 19 gives powers to the State of making any law imposing reasonable restrictions in the interest of the general public. Therefore, it would be within the powers of the State to legislate in such manner as to avoid a conflict that that would act in derogation of the fundamental right of any of the two groups. The Legislation that may be passed by the State should be such as to harmonise the conflict without violating the fundamental rights of any of the two parties or groups. Not much argument is necessary to emphasise that the interest of the public involves interest of a larger class as compared to the interest of the priestly classes which represent a fraction of the public. It seems to be settled law that a recurring right to property is capable of abolition on payment of compensation. Article 31 provides for compulsory acquisition of property of course subject to the conditions mentioned therein. The two essential conditions contemplated under Article 31 are (1) Authority of the law and (2) must be for a public purpose subject to payment of compensation where called for. Abolition of right to service amounts to deprivation of property within the meaning of Article 31

which empowers the State to do so whenever it is for a public purpose. This Article shows, therefore, that the interest of the general public is regarded as paramount under the Constitution to the interest of a smaller class subject to the smaller class being compensated instead of being totally deprived. If, therefore, the circumstances established in this Enquiry call for abolition of the hereditary rights of the priestly classes Article 31 read with Article 19 will empower the State to legislate to serve public interest or in the interest of the general public. The fundamental right to property would also stand protected by payment of compensation. The question whether acquisition of the rights of the priestly classes is demanded by public interest or for public purpose will be discussed in detail in Chapter XIV dealing with the subject whether the rights can be acquired.

## CHAPTER XIII

### RELIGIOUS DENOMINATION

#### Defence of Religious Denomination

1. Having discussed the provisions of the other Articles of the Constitution of India a detailed consideration is necessary of Articles 25 and 26 of the Constitution on which strong reliance is placed by the priestly classes to claim protection. This contention involves determination of the questions firstly whether any of the three priestly classes separately or together constitute a religious denomination or a part thereof and secondly whether the abolition of their rights and introduction of a new scheme for management would violate their rights under Article 26. On the first question whether any or all the three of the priestly classes constitute a religious denomination or a part thereof, it must be stated at the outset that none of the three priestly classes have taken up that contention in their written statement:—Exhibit No. 43 of Badves, Exhibit No. 27 of Utpats and Exhibits Nos. 12 and 101 of Sevadhariis.

2. Article 26 reads :—

“26. Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes ;
- (b) to manage its own affairs in matters of religion ;
- (c) to own and acquire movable and immovable property ; and
- (d) to administer such property in accordance with law.”

It will be seen on reading the Article that two elements are necessary under it : (1) there must be a religious denomination and (2) it must have property or in other words the property must belong to the religious denomination or part thereof. Badves, Sevadhariis and Utpats claim protection on the ground that the surplus remaining out of the offerings and whatever is paid to them by the devotees viz. “Ovalni” to the Pujaris, and dakshina paid in the precincts of the temples constitute property of their religious denomination. Alternatively if they claim, as they do, that it is their right to manage all the entire offerings and also to do all acts pertaining to the management of the temples and deities they will have to establish that the respective temples and the deities are denominational. However, the ground of “religious denomination” does not appear to have been present in their mind throughout the enquiry because in their written statements Exhibits 43, 12, 101 and 27 or in their party examination they have not put forward this claim at all. Nor was any evidence led on the point though the point is one of fact, to prove either that the temples are denominational or that they themselves constitute a religious denomination or a part thereof. However in the course of arguments Badves, Sevadhariis and Utpats claimed for themselves the status of ‘religious denomination’ as distinguished from a claim for the temples as “denominational temples”. Here again it may be pointed out that Badves and Sevadhariis connected with the Vitheba Temple have not made it clear whether both of them together constitute a religious denomination and each part thereof. Thus the claim is based upon allegations which are rather vague. It seems that the ruling of the Madras High Court in *Lakshmindra Tirtha Swami vs. The Commissioner Hindu Religious Endowments Madras* A. I. R. 1952 Madras 613 known as the Shirur Math case appears to have provided the sole foundation for the contention advanced for the first time in the course of arguments on behalf of Badves, Sevadhariis and Utpats.

### Shiroor Math case and the Origin of the Podu Dikshitaras of Chidambaram

3. The judgment in the Shiroor Math case relates to two Institutions concerning which writ petitions had been filed challenging the validity of the Madras Hindu Religious and Charitable Endowments Act (XIX of 1951) and the Notification issued thereunder. The first Institution was a Mutt presided over by a Mathadhipathi or a Swami a spiritual head of a community. The second was a temple and a petition was filed by the Podu Dikshitaras of Chidambaram temple. Both the Institutions claimed to be denominational or belonging to a religious denomination. I should be stated at the outset that the description of a "denomination" in the case of a Mutt presided over by the Swami or a Mathadhipathi would differ from a temple held or managed by priests because their respective capacities differ essentially. A Mathadhipathi is not a corporate body but the Head of the spiritual fraternity and by virtue of his office had to perform the duties of a religious teacher. It is his duty to practise and propagate the religious tenets of which he is an adherent and if any provisions of law prevents him from propagating the doctrines, that would certainly affect the religious freedom guaranteed under Article 25 of the Constitution. An Institution as such cannot practise or propagate religion. It can only be done by individual persons and whether these persons propagate their personal views or the tenets for which the Institution stands is really immaterial for the purpose of Article 25. It is the propagation of belief that is protected, no matter whether the propagation takes place in a church or monastery, or in a temple or parlour meeting. (See the decision of the Supreme Court in the Shiroor Math case : A. I. R. 1954 S. C. 283, Para 14 p. 289). It is no doubt true that in the case just referred to above the Dikshitaras of the Chidambaram temple also were held by the Madras High Court to constitute a religious denomination or at least a part thereof though it was a temple. It is on this case that strong reliance was placed before the Commission. But unfortunately that being a common judgment in respect of the Shiroor Math and the Podu Dikshitaras the essential attributes in so far as they related to the Chidambaram temple did not happen to be fully discussed in it because it was assumed or it was not seriously challenged by the State, as would appear from the judgment, that the Podu Dikshitaras constitute a religious denomination or at least a part thereof. The litigation in respect of Chidambaram temple did not go to the Supreme Court and hence A. I. R. 1954 S. C. 282 deals only with the Shirur Math. Even though the status claimed by the Dikshitaras was not seriously disputed there are indications in the judgment showing what was their exact position and why the status of a "religious denomination" claimed by them was conceded and consequently the protection under Article 26 of the Constitution was not disputed. In order to be able to study the characteristics which gave the 'Podu Dikshitaras' the status claimed by them as a "religious denomination" the Commission visited Chidambaram and interviewed their Secretary with the assistance of the Assistant Commissioner of Hindu Religious Endowments of Cuddalore. In paragraph 68 of the judgment of the Madras High Court, at page 644 of A. I. R. 1952, appears the legendary story about their origin and connection with the temple accepted in those parts or at least not disputed viz. that they claimed a divine origin. This was confirmed by the spokesman of the Dikshitaras in the course of the Commission's interview. The story is that Brahma took them from Chidambaram to perform a yagnam near Banaras where they stayed till they were invited by Shweta Varma who was cured of his leprosy and assumed the name of Hiranya Varma to Chidambaram to establish a temple at the suggestion of the deity. 3,000 men known as the Dikshitaras arrived at Chidambaram but to their amazement and distress, it was discovered that their number was less by one. Thereafter, the Akash Vani or the voice from Heaven announced that it was the God himself that was missing i.e. Sat ha Nayakar which is the name of the presiding deity of the temple. In other words the Dikshitaras claim their origin from the family of the deity. The judgment has further in paragraph 69 onwards given peculiar features of this temple as well as the Dikshitaras which are not common to other temples as observed by Their Lordships and these are summarised in the next para.

#### Characteristics in which Podu Dikshitaras accepted as constituting a "Religious Denomination".

4. From the judgment of the High Court it would appear that in holding the "Dikshitaras" as constituting a religious denomination the following characteristics were noticed or accepted :—

- (1) That the temple was founded by Shweta Varma who on being cured of leprosy adopted the name of Hiranya Varma.
- (2) That the whole body of Dikshitaras were called and settled at the suggestion of the deity to run the temple.

(3) That the Dikshitar claimed divine connection if not origin in that the presiding deity—Sabha Nayakar was one among them.

(4) Every married male member of the sect of Dikshitar has equal voice and control (not according to shares under the Hindu Law of Coparcenery as ascertained by the Commission). The female do not get any right either by birth or marriage in the collective property.

(5) The right of management does not go by succession but is acquired by birth and marriage.

(6) Dikshitar are a close community as they do not marry from any outside families but only from among themselves.

(7) Though every married male is entitled to take part in the management, till he attains 25 years of age he is not considered to be qualified for performing the principal rituals in the shrine when he is initiated in a ceremony called "Diksha" with secret mantras either by his father or senior Dikshitar.

(8) The Dikshitar have no other emoluments; they confine in themselves the function of priests as well as archaks and are therefore prohibited from taking up any other avocation. They have necessarily to depend for their livelihood consisting of as many as 250 families and 1,500 members on what is received in the temple as "Dakshina" or offerings of food.

(9) The worship carried on at the temple is in accordance with Vedic rites and not "agama" shashtras followed in other temples.

In addition to the above characteristics the Commission came to know of some more. While taking education in schools and colleges is permitted, if any profession other than the hereditary one is taken up by any member, he loses all the rights in the collective property of Dikshitar. Same is the position if he marries outside and in that case he is for all practical purposes regarded as outside the class. The Dikshitar manage the temple and all its affairs through a Committee elected by all the Dikshitar described as "Podu Dikshitar" Podu having the meaning "Samastha" or "all collectively". A Secretary is elected from among them and he exercises all the executive and disciplinary powers. Any misbehaviour or offence committed by a member is dealt with by the Secretary who has powers to punish by a fine. While the delinquent has a right to question the legality of the punishment in a Civil Court he can do so only after payment of the fine. If he fails to pay it he is outcasted even if he approaches a Court without payment of the fine. Thus obedience to the will of the community is not only enforced but the community is an autonomous body for all purposes. Thus as Their Lordships have observed the position, customs and practices of these "Dikshitar" are uncommon such as are not observed or followed in any other temples.

#### Comparison with priestly classes of Pandharpur

5. Pausing for a while to compare whether any of the characteristics found in the case of "Podu Dikshitar" are present in the case of Badves, Sevadharis or Utpats, it will be seen that none of them is present.

(1) There is no evidence about the foundation of the temple and the purpose of the foundation.

(2) There is no evidence that any of these or all the three classes were brought and settled.

(3) No common origin—much less a divine origin like that claimed by Dikshitar is claimed by any of three classes. On the other hand Badves and Utpats are described from different "Shakhas" or branches of different schools—some are Rigvedis, some Yajurvedis, some Madhyandin branches of Deshasthas. They have all different Gotras and their family deities are different. The same diversity is observed among the different Sevadharis (*Vide* Dr. Dingle's Thesis pages 124 and 205).

(4) All males have no equal rights as in the case of Dikshitar—their rights being determined by the Hindu Law as applicable to all Hindus and their shares being liable to be unequal. The females also get shares.

(5) The right to participate goes by succession under the Hindu Law.

(6) None of the three classes is a close community because marriages of males and females take place from families outside the fold of these three classes. Among some witnesses were those who had married from other families. It is not claimed that members of these three classes are prohibited from marrying girls or boys as the case may be from outside families.



(7) There is no special "Diksha" or initiation required for members of the three groups to enable them to perform services in the temple as in the case of Dikshitar, except the "thread ceremony" prescribed for all Brahmins.

(8) Though Badves, Sevadharies and Utpats claim the offerings as their only source of income it is not a correct statement because they are not prohibited from taking up other avocations and earning income therefrom and they do not lose their rights in the vritti if they do so. Before the Commission a Badve who is an advocate appeared as a witness, an Utpat appeared as an advocate to represent his class and from among the Sevadharies, a Dingre, a Pujari and a Paricharak who are all advocates appeared to represent their respective classes. A Benari who is in Railway Services at Bhusawal appeared as witness. It was conceded that there was no prohibition against members of the three classes Badves, Sevadharies and Utpats from taking up employment or service outside.

(9) Lastly the poojas in the Pandharpur temples are carried on according to agama shastras common in most other Hindu temples. They do not as in the case of Dikshitar have autonomous machinery to exercise disciplinary powers. Thus Badves, Sevadharies and Utpats do not have any special characteristics comparable with those of the Dikshitar which have distinguished them from other classes to hold that they constitute a "religious denomination".

#### What is a religious Denomination

6. Since a "religious denomination" has not been defined anywhere the Commission went through all the rulings cited by the Advocates and Counsel and also those put up by the Secretary to the Commission who devoted considerable time and energy to find out as many rulings as could be found out. In every case the Commission found that where a Devasthan or temple was held to be denominational or a group or community a religious denomination the emphasis was on special features peculiar to them which could distinguish them from the generality. In the Shirur Mutt case which went in appeal from the decision of the Madras High Court in so far as it relates to a Mutt there are indications in the judgment of the Supreme Court as to why it is regarded as a religious denomination entitled to protection contemplated by Article 25. In paragraph 15 of the A. I. R. 1954, S. C. P. p. 289 after giving the meaning of the word 'denomination' as found in the Oxford Dictionary, Their Lordships observed:—

"It is well known that the practice of setting up Maths as centres of theological teaching was started by Sri Shankaracharya and was followed by various teachers since then. After Sankara, came a galaxy of religious teachers and philosophers who founded the different sects and sub-sects of the Hindu religion that we find in India at the present day.

Each one of such sects or sub-sects can certainly be called a religious denomination, as it is designated by a distinctive name,—in many cases it is the name of founder—and has a common faith and common spiritual organization. The followers of Ramanuja, who are known by the name of Shri Vaishnavas, undoubtedly constitute a religious denomination; and so do the followers of Madhwacharya and other religious teachers. It is a fact well established by tradition that the Udipi Maths were founded by Madhwacharya himself and the trustees and the beneficiaries of these Maths profess to be followers of that teacher. The High Court has found that the Math in question is in charge of the Sivalli Brahmins who constitute a section of the followers of Madhwacharya. As Article 26 contemplates not merely a religious denomination but also a section thereof, the Math or the spiritual fraternity represented by it can legitimately come within the purview of this Article."

This passage clearly indicates that there must be a faith common to the group of persons which forms a distinct entity following the tenets of its own, having a faith and followers of its own.

#### Have the priestly classes any distinctive faith?

7. It would be idle to suggest that Badves, Sevadharies and Utpats have a distinctive faith which others do not possess or tenets different from those possessed by the community at large. The learned advocates at the Bar were requested to indicate what are the special attributes or features claimed on behalf of Badves, which are distinct from others and which would constitute them a religious denomination. The only answer that could come was that they are devotees of Vithoba and all are engaged in the same avocation viz. the worship of

10. These two rulings in addition to those referred to above clearly spell out the essentials necessary to be present to call a group of persons a "religious denomination". Apart from being a body or a collection of group of individuals they must have a common faith common tenets which can well be described as a golden thread running through to bind and bring the group together to constitute a distinctive body or in other words there must be features to distinguish it from an ordinary class. In short there must be a common denomination which should essentially be religious to attract protection as a "religious denomination" under Article 26. The special features which give the group the character of a religious denomination should not be such as could be claimed by one and all or as could be applicable to the public as a whole. There must be some distinctive features which take the community out of the larger group of the public and secondly that group must possess certain rights which would require to be protected from the general laws nay from certain provisions of the constitution itself. When Article 26 is a sort of an exception conferring privileges on a certain class in order to be able to claim those privileges, all the attributes pertaining to the class which is sought to be protected would have to be proved.

**Note attached to the Report of C. P. R. Aiyar Commission**

11. In this connection it would be useful to refer to the Note of Shri P. Kameswara Rau who was a Retired Endowment Commissioner of Madras, and who was a member of the Hindu Religious Endowments Commission presided over by C. P. Ramaswami Aiyar. In Section VI at page 211 the learned Member of the Commission has dealt with "religious denomination". At page 212 he has given the genesis of the expression and its purpose. Referring to the Article 26 the learned Member has observed as follows :—

"In order to understand this article of the Constitution it is necessary to go briefly into the history of gifts and bequests to institutions of a faith different from the established Church in England. Under the Statutes against Superstitious Uses enacted during the time of Queen Elizabeth, no gifts or bequests to the Roman Catholic Church or to any institution under the direction of the Pope at Rome were recognized as valid in law. Again, dissenters, i.e., those Protestants who did not conform or dissented from the doctrines of the established Church of England, were subject to grave disabilities in England from the time of Charles II till about the middle of the nineteenth century. They could not hold offices. They could not build their own churches unless the local authorities connived at their evasion of the law. All these disabilities of the various religious denominations were swept away by legislation from about 1829 when the Catholic Emancipation Bill was passed by Parliament. The churches of the dissenters were called denominational institutions. Let us take, for instance, the concrete case of the Wesleyan Church. These churches were built by the followers of John Wesley, a great religious reformer of England in the latter part of the eighteenth century, out of their own funds and entirely endowed by members of their faith only. Not a penny came to them from the Government of England or from the public funds of the State. Not a cent of public land has ever been endowed for such institutions. The institutions are maintained by subscriptions by the Wesleyans themselves if the Church has not got any fund for its upkeep subscribed at the time of its establishment by the members. The preacher there is a Wesleyan and the congregation is almost entirely composed of Wesleyans.

It may be stated without fear of contradiction that there are no such denominational institutions in this country excepting in the very wide sense of "denomination" meaning a whole religion like that of Hindu or Muslim."

12. From the foregoing discussion if it is obvious that to constitute a religious denomination certain special features are necessary viz., a common faith and tenets adopted by the group which can be distinguished from the general part of the Society, the question is whether any of the three priestly classes in this case can claim any of these special features. It is already pointed out that there are no pleadings that they constitute "religious denomination" much less any evidence regarding the attributes on which they base that claim. If the faith or the tenets which they claim are the belief in the God Vithoba it can be pointed out that that is a common belief not particularly of the priestly classes but of the general public. It is not the case of the Badves that they have any distinctive rituals such as those of the warkaries. It is pertinent to point out that if they claim to be a part of the religious denomination on the ground that they form part of a larger number of devotees of the temples of Vithoba and Rukmini a reference to the case of Dargah at Ajmer vs. Sayyed Husen Ali and others, A. I. R. 1961 S. C. p. 1402, at page 1410 and 1411—paras. 24 and 25 shows that forming part of a general body of the pilgrims cannot give the group of individuals the status of a religious denomination.

13. In the absence of tenets or faith exclusive to the priestly classes if it is assumed even though not alleged that they follow certain practices which form an integral part of religions, all the mass of evidence does not disclose any practices which can be regarded as essential and different from those followed by priests in all the Hindu temples, and, therefore, could be regarded as distinctive features in respect of these particular classes. All that the Commission was able to gather from the evidence on behalf of the priestly classes is that the Badves and Utpas from ancient time are in management of the property belonging respectively to Vithoba and Rukmini and that they are appropriating surplus income in respect of the services rendered by them as managers and priests. Such a claim cannot be regarded as a religious practice to supply an essential characteristic of a religious denomination. Precisely these were the claims made on behalf of the Tilkayat in the Nathdwara Temple case: A.I.R. 1963 S.C. p. 1638. At page 1661 in para. 61 their Lordships have dealt with the rights similar to those now claimed by the priestly classes before the Commission. In paras. 61 to 64 of the said judgment the learned Judges observed as follows:—

"(61) Let us then enquire what is the right which has been contravened by the relevant provisions of the Act. The only right which, according to the denomination, has been contravened is the right of the Tilkayat to manage the property belonging to the temple. It is urged that throughout the history of this temple, its properties have been managed by the Tilkayat and so, such management by the Tilkayat amounts to a religious practice under Article 25(1) and constitutes the denomination's right to manage the affairs of its religion under Article 26(b). We have no hesitation in rejecting this argument. The right to manage the properties of the temple is a purely secular matter and it cannot, in our opinion, be regarded as a religious practice so as to fall under Article 25(1) or as amounting to affairs in matters of religion. It is true that the Tilkayats have been respected by the followers of the denomination and it is also true that the management has remained with the Tilkayats, except on occasions like the minority of the Tilkayat when the Court of Wards stepped in. If the temple had been private and the properties of the temple had belonged to the Tilkayat, it was another matter. But once it is held that the temple is a public temple, it is difficult to accede to the argument that the tenets of the Vallabha cult require as a matter of religion that the properties must be managed by the Tilkayat. In fact, no such tenet has been adduced before us. So long as the denomination believed that the property belonged to the Tilkayat like the temple, there was no occasion to consider whether the management of the property should be in the hands of anybody else. The course of conduct of the denomination and the Tilkayat based on that belief may have spread for many years, but, in our opinion, such a course of conduct cannot be regarded as giving rise to a religious practice under Article 25(1). A distinction must always be made between a practice which is religious and a practice in regard to a matter which is purely secular and has no element of religion associated with it. Therefore, we are satisfied that the claim made by the denomination that the Act impinges on the rights guaranteed to it by Articles 25(1) and 26(b) must be rejected.

(62) That leaves one more point to be considered under Article 26(d). It is urged that the right of the denomination to administer its property has virtually been taken away by the Act, and so, it is invalid. It would be noticed that Article 26(d) recognises the denomination's right to administer its property, but it clearly provides that the said right to administer the property must be in accordance with law. Mr. Sastri for the denomination suggested that law in the context is the law prescribed by the religious tenets of the denomination and not a legislative enactment passed by a competent legislature. In our opinion, this argument is wholly untenable. In the context, the law means a law passed by a competent legislature and Article 26(d) provides that though the denomination has the right to administer its property, it must administer the property in accordance with law. In other words, this clause emphatically brings out the competence of the legislature to make a law in regard to the administration of the property belonging to the denomination. It is true that under the guise of regulating the administration of the property by the denomination, the denomination's right must not be extinguished or altogether destroyed. That is what this Court has held in the case of the Commissioner, Hindu Religious Endowments, Madras 1954, SCR 1005; (AIR 1954 SC 252) (supra) and Ratilal Panachand Gandhi vs. State of Bombay, 1954 SCR 1055; (A. I. R. 1954 SC 388).

(63) Incidentally, this clause will help to determine the scope and effect of the provisions of Article 26 (b). Administration of the denomination's property which is the subject matter of this clause is obviously outside the scope of Article 26 (b). Matters relating to the administration of the denomination's property fall to be governed by Article 26 (d) and cannot attract the provisions of Article 26 (b). Article 26 (b) relates to affairs in matters of religion such as the performance of the religious rites or ceremonies, or the observance of religious festivals and the like; it does not refer to the administration of the property at all. Article 26 (d) therefore, justifies the enactment of a law to regulate the administration of the denomination's property and that is precisely what the Act has purported to do in the present case. If the clause "affairs in matters of religion" were to include affairs in regard to all matters, whether religious or not, the provision under Article 26 (d) for legislative regulation of the administration of the denomination's property would be rendered illusory.

(64) It is, however, argued that by the constitution of the Board in which the administration of the property now vests is not the denomination, and since the administration is now left to the Board, the denomination has been wholly deprived of its right to administer the property. It is remarkable that this plea should be made by the representatives of the denomination who in their writ petition were prepared to support the Tilkayat in his case that the temple and the properties of the temple were his private property. That apart, we think that the constitution of the Board has been deliberately so prescribed by the legislature as to ensure that the denomination should be adequately and fairly represented on the Board. We have already construed S. 5 and we have held that S. 5 (2) (g) requires that the members of the Board other than the Collector of Udaipur District should not only profess Hindu religion but must also belong to the Pushti-Margiya Vallabhi Sampradaya. It is true that these members are nominated by the State Government, but we have not been told how else this could have been effectively arranged in the interests of the temple itself. The number of the devotees visiting the temple runs into lacs; there is no organisation which comprehensively represents the devotees as a class; there is no register of the devotees and in the very nature of things, it is impossible to keep such a register. Therefore, the very large mass of Vallabh's followers who constitute the denomination can be represented on the Board of management only by a proper nomination made by the State Government, and so, we are not impressed by the plea that the management by the Board constituted under the Act will not be the management of the denomination. In this connection, we may refer to clause (1) of the Firman which vested in the Darbar absolute right to supervise the management of the property. As a successor-in-interest of the Darbar, the State of Rajasthan can be trusted to nominate members on the Board who would fairly represent the denomination. Having regard to all the relevant circumstances of this case, we do not think that the legislature could have adopted any other alternative for the purpose of constituting the Board. Therefore, we must hold that the challenge to the validity of the Article on the ground that it contravenes Articles 25 (1), 26 (b) and 26 (d) must be repelled.

14. This decision has clearly brought out the fact that even if there is a denomination the right of management of that property is not a right that is protected under Article 26 (b). Management being a purely secular right as distinguished from being an essential part of religion it can be subject to legislation by a competent authority, when such legislation is called for having regard to all the circumstances. In this case the circumstances are discussed at length in an earlier Chapter.

15. From the authorities relating to Article 26 it is obvious that the object behind inclusion of that Article in the Constitution assumes existence of a religious denominations as separate entity to preserve continuity so as not to affect the religious freedom of a particular denomination, and so as not to be inconsistent with the practice of religion which is the fundamental right and if there is no religious denomination as such much less no distinctive practice of religion claimed by any of the priestly classes it would be futile for them to clutch at a late stage to a defence offered by chance on coming across the authority of the Madras High Court in the Chidambaram Temple case.

## CHAPTER XIV

## PUBLIC PURPOSE AND INTEREST OF THE PUBLIC

1. The three preceding Chapters have dealt with the questions whether change is necessary, whether the State has powers to legislate to effect a change and if so in what circumstances and whether the priestly classes of Pandharpur can claim protection under Article 26 of the Constitution. It has already been shown that they do not constitute a religious denomination or a part thereof and in any case right to manage the offerings does not form part of any religious practice inviting protection contemplated by Article 26(b) and therefore the legislature would be competent to legislate in regard to the property of the Temple. The property claimed by the priestly classes consists of offerings made to the deities and Dakshina. So far as Dakshina is concerned it would constitute their private property though it would be competent for the State to legislate that there should be no demands in the temple so that the devotees may not feel harassed. Such legislation would be a secular matter connected with the management (See A. I. R. 1952 S. C. p. 245).

2. However so far as offerings to the deity are concerned they should belong to the deity because as pointed out earlier in Chapter XII they are meant by the devotees as dedicated to the deity. In the same Chapter the two essential conditions of Article 31 are dealt with namely authority of the Law and public purpose. The first of these is dealt with in that Chapter and the second—namely “public purpose” will be dealt with in this Chapter as it needs a detailed discussion.

What is a public purpose?

3. Before going to the decided cases which explain what is a “public purpose” as distinguishing from private purpose, it should be stated that while most of the cases relate to acquisition of property for purposes not necessarily connected with religion there is a decision of the Madras High Court in I. L. R. 1455, Madras, page 356 : Narayan Nambudripad vs. the State of Madras, which may be considered as a leading case on the point. The expression “public purpose” as has been observed by Mr. Basu in his Commentary on the Constitution (Fifth Edition) Vol. II, page 217, is not capable of precise definition and has no rigid meaning. The definition of the expression is elastic and takes its colour from the statute in which it occurs. Complaints vary with the time and the state of society and its needs. The learned author quoting from the State of Bihar vs. Kameshwar : A. I. R. 1952 S. C. 252 at pages 274, 290, 292 and 311 observes :—

“With the upward march of civilization our notions as to the scope of the general interest of the community are far changing and widening with the result that our old and narrower notion as to the narrowness of the private interest of the individual can no longer stem the forward flowing tide of time and must necessarily give way to broader notions of the general interest of the community”.

The learned Author has observed that the test of a public purpose is whether it is useful to the public rather than its use by the public. If the purpose for which the acquisition is made results in benefits and advantage to the public it is a public purpose, though the acquisition may be in favour of private corporation or individual. The principle of compulsory acquisition of property is founded on the superior claim of the whole community over an individual citizen, but it is applicable only in those cases where private property is wanted for public use or demanded by the public welfare. The very author Mr. Basu on Constitution in Vol. I, page 602 and 603 : 5th Edition, has explained what is meant by the phrase “in the interest of the general public”. He has stated that it means nothing more than in the public interest. It may well mean that the Legislation affecting a limited class of persons or a limited area is in the public interest though the public of other parts of India may not be directly affected by such legislation. Legislation affecting a particular class or a particular area would only directly affect the members of that class or the inhabitants of the area. But the removal of some serious abuse or grievance or discontent is a matter indirectly affecting the public generally. The last sentence is of the utmost importance to the present matter.

No wall between State and Religion and State can Legislate re : Secular aspect

4. It is true that the cases referred to are not those relating to religious institutions, or acquisition of property or rights connected with those institutions. But Seervai in his lucid and exhaustive Commentary on Articles 25 to 28 in Chapter XIII of his work on Constitution has pointed out that the secular element introduced in our Constitution has not changed the law as it stood in regard to the purpose being a public purpose before the constitution. Before

the Constitution in the case of *Amulchandra Vs. Corporation of Calcutta*, [(1922) I.L.R. 49, Calcutta : Page 838]. The Privy Council had held that the acquisition of certain property by the Corporation of Calcutta for building a Dharmashala for accommodating the pilgrims to a Hindu temple was for a public purpose. The learned author Mr. Seervai has pointed out referring to the Constitution of England, Australia and our own Constitution, that in so far as certain matters connecting religion are concerned even though the Constitution is secular in its expression there is no change in the law. He has pointed out that under the English Constitution there is no wall between the State and the Religion because the rulers regarded religion as a part of the State administration. But in America there is a wall between State and Religion and under its Constitution establishment of a religion is prohibited. The Australian Constitution had provided by its Article 116 that the Commonwealth shall not make any laws for establishing any religion or for imposing any religious observance. These questions arose for decision in the case of *Narayan Nambudripad Vs. State of Madras* cited above and at page 382 of I.L.R. 55 ; Venkatarama Ayyar, J. has observed the position in law before the Constitution thus :—

“ While the State did not interfere in matters of religion in its Doctrinal and ritual aspect treating it as a private purpose, it did exercise control over the administration of the property no doubt for religious institution treating it as a public purpose if the institutions were themselves dedicated to the public.”

The effect of the decision in this case, therefore, is that there is no change in the law as it stood before, that the law was and is that while the State did not interfere with the doctrinal aspect of a religion it did make laws and could make laws in regard to the management or the secular aspect of the property relating to the religious institution particularly when the institution was itself dedicated to the public. The aforesaid decision has further pointed out at page 370 that though there are some specific prohibition indicated in Articles 27 and 28 there is no general prohibition against legislation in respect of establishment of religion but on the other hand there are provisions in our Constitution which are inconsistent with the theory that there should be a wall of separation between the Church and the State. His Lordship has cited Article 16 (5) which recognised the validity of laws relating to management of religion and denominational institution and Article 28 (2) contemplates the State itself managing Educational Institution wherein religious instructions are to be imparted.

#### History shows that State or Rulers has controlled secular aspects

5. Applying the ratio decidendi of *Narayan Nambudripad's* case to the facts of the present matter it will be seen that if the rights of the Badves, Sevadhari and Utpats are acquired they will not come within the prohibition of any of the Articles but on the contrary in view of the evidence and facts found, the interests of the public demand such acquisition. It may be mentioned that the Privy Council held in *Hemabai Framji Petit vs. The Secretary of State*, I.L.R. 39 Bom. 289 at p. 291 that it was for the Government ultimately to decide what is public purpose. Though this is an old case before the Constitution was adopted the Constitution itself has not defined what is “ public purpose ” and it will appear from the decision of the Madras High Court in *Thambiran vs. The State of Madras* A.I.R. 1952 Madras 756 at p. 760 and 761 that there is no change in the law as explained in the I.L.R. 39 Bombay Case. In *Thambiran's* case all cases on “ public purpose ” have been reviewed. This temple as is clear from the record was subject to control by the State in so far as its secular aspect was concerned viz. the arrangement to be made for the pilgrims, management of the property belonging to the God and further indicating what proportion could be appropriated by the respective priests. The State has made provisions by sanctioning a certain amount for the daily conduct of worship through a distinct agency other than the priests and that arrangement continues even to-day in the shape of the Devasthan Committee. The amount of Rs. 3,000 and odd originally granted by the Chhatrapati of Satara has been raised recently after the introduction of the Constitution to Rs. 10,000 a year entrusting the management of the grant to the Devasthan Committee. Therefore, the position of the relations between the State and the temple has remained unchanged even after the Constitution. In *Narayan Nambudripad vs. the State of Madras*, I.L.R. 1955 Madras 353 it was held that provision for an object which may have connection with a particular religion would be a public purpose if a large section of the public stand to be benefited thereby. If all the evidence discussed in the earlier Chapter establishes a necessity for abolition of rights of Badves, Sevadhari and Utpats, any of the Articles of the Constitution cannot stand in the way because such acquisition would be for a public purpose or in the interest of a general public as envisaged in Article 31 of the Constitution. The only aspect of it which could stand in the way of acquisition was the claim of the priestly classes that they constitute “ a religious denomination ” and as that question has been sufficiently dealt with and the contention has been negatived, there is no legal impediment in the matter of abolition of their rights both in regard to service as well as the emoluments.

Whether purpose of the offerings according to the mind of the devotees is to remunerate the priestly classes

6. In regard to emoluments, though it was contended that the purpose of the devotees in giving it may be to the deity as it was also necessary to maintain service of the deity offerings appropriated by the respective classes cannot lose the character of an offering to the deity. The Commission cannot accept this argument because if it was shown that the amounts appropriated were just enough or commensurate with the services rendered there could have been some ground for that suggestion but even so taking of the offerings by the respective classes is a matter connected with the disposal and not with the state of mind or the intention of the devotees in the matter of offerings. The actual act of offerings has to be distinguished from the aspect of its disposal. Therefore, it cannot stand to reason that merely because the offerings are appropriated by the priestly classes it should be deemed that the intention of the devotees is fulfilled. In fact the manner of disposal by those who appropriate it may not necessarily conform to the best intention with which the devotees make the offerings as for instance where those who take the offerings apply it for vices or unnecessary litigations or other purposes unconnected with services. The question of essence is who is the owner of the offerings whether it is the God or the priestly classes and the ultimate disposal of those offerings would depend upon the purpose for which the offering is meant by the devotees when he makes it. On this point in the Report of the Hindu Religious Endowment Commission : 1960-61, presided over by Dr. C. P. Ramaswami Ayyar, it is observed at page 36 as follows :—

" Offerings are made by the members of the public to temples as well as mutts. In the case of temples, they are made for the benefit of the deity out of the devotion by the worshippers of the deity to the temple which is the property of juristic person viz. deity. Such property has to be utilised for the spiritual benefit of the body of worshippers. This benefit may take the form of sevās, pujas, religious discourses, cultural activities including music, drama, dance, conducive to the spiritual solace and enlightenment and activities designed to make the temple and its Dharmakartas useful beneficial or elevating to the worshipping public. This property is obviously impressed with a public character inasmuch as the worshipping public is interested in it and should obviously be treated as part of the set up. No absolute ownership in the strict sense in respect of offerings to the temple on behalf of the arcāks-pujāries, etc., should in our opinion be recognised."

The same paragraph ends with these observations :—

" Where offerings are made to the temple without specially distinguishing whether they are made to the official priest Mahant, Archaks, etc., or to the deity then it should be presumed to be belonging to the deity as juristic entity."

In the Questionnaire issued by the Commission a specific question was asked as to the intention of the devotees who make the offerings. To many of the witnesses the same question was asked and the unequivocal answer was that the offerings were meant for the deity except where by way of Dakshina anything was placed in the hands of the priests. Though at one stage ownership of Badves, Utpats and Pujaris over all the offerings was claimed without specifying the stage for ripening into ownership, in the course of the arguments it was not seriously disputed that the offerings were all meant to the deity though it is urged that the appropriation of those offerings by the priests fulfils the intention of the devotees because the offerings were made in return for the service rendered to the deity for whose existence the services were necessary. If the legal ownership in the offerings vests in the deity it cannot in the legal sense be regarded as the property of the priestly classes though they might be entitled to remuneration for the services rendered out of those offerings which would constitute a distinct part comprised in the disposal of those offerings. Therefore, a question may arise whether if an agency is appointed to receive all those offerings it would amount to acquisition of the rights of the priestly classes when the offerings are meant for the deity. The right of the priestly classes would be restricted to what they have to get as remuneration for the service rendered by them but not to the entire offerings. In this connection it is pointed out that out of the offerings expenditure is met for the deity and it is only the surplus that is appropriated. If that is the position, conceding that the right to property of Badves is restricted to the surplus portion appropriated by them, that alone could be considered as the basis for calculating the compensation.

#### DUTIES AND REMUNERATION

What part of duties constitute religious practice and what are secular

7. While on the question of remuneration it is necessary to scan each of the duties which can be said to constitute an essential part of the religious practice. So far as Badves are concerned in them are fused four capacities, chief priests, managers, guardians and overseers by the judgments of the Bombay High Court. In the written statement Ex. 43 Badves have

enumerated a long list of duties but when in the course of his evidence Mr. N. D. Badve was asked which of the duties pertained to which of the four capacities, he was not able to classify and the stand taken is that they are so intermingled that they cannot be separated. The learned advocate on their behalf has enumerated the following as the duties :—

- (1) Taking out pots and flowers out of Shejghar.
- (2) Uttering 'Uttishta' invocation to the God to arise. (Benaries claim that it is their right being a hymn.)
- (3) Removing flowers from the feet of the main idol.
- (4) Cleaning the dress of the flowers.
- (5) Applying water to the eyes, mouth and feet of the idol.
- (6) Naivedya of butter and sugar-candy.
- (7) Handing over the Kakada to paricharak to be handed to Pujari for waving.
- (8) Providing material after the Kakada for Padya Puja.
- (9) Sankalpa for Mahapuja and giving directions to the Sevadharies to proceed with the performance of the Puja. (There is a dispute whether the Badves make the sankalpa for daily puja.)
- (10) Supplying the necessary material for Mahapuja.
- (11) After panchamrit puja offering of flowers, Naivedya, Sandal paste and saffron water.
- (12) Supplying the dress to be put on the deity.
- (13) Handing over garlands to the pujaris to be placed on the deity.
- (14) Offering Naivedya of Khichadi after Mahapuja.
- (15) Offering of pushpanjali.
- (16) Providing for maha Naivedya at 11 a.m. after dhup and deep.
- (17) Providing change of dress and offer of ladus for Naivedya at 4-30 p.m.
- (18) Supply of material for evening Dhuparti and also bringing water for Dhuparti.
- (19) Offering Gandh (Sandal Paste) flowers and Naivedya at the time of Dhuparti.
- (20) At about 8 p.m. cleaning of the bed Chamber.
- (21) To bring water for Shejarti so that pujari may wash the feet of the idol.
- (22) Naivedya at Shejarti.
- (23) After departure of all the Sevadharies performing Pancharti and Prakshalpuja.

In connection with the last item it may be observed that in the litigation already referred to it has been held that this is a parody of Shejarti and an innovation introduced by the Badves. It is clear that that was not the original ritual intended but an innovation as it could yield some income to Badves by way of offerings by the devotees present.

8. Even cursory glance at the duties just mentioned would show that no skill or training of a religious nature is involved in any of these duties. In fact it is conceded that in the performance of a puja which in the true sense is a religious service, the entire part which the Badves have to play is to stand and direct the Sevadharies to do their acts, after making sankalpa which claim is disputed. Offer of Pushpanjali or Mantrapuhpa is participated in not only by the pujaris and the other sevadharies but even by the devotees who are present. The actual ritual of worship is conducted by the pujaris, the mantras or hymns are recited by the Benaries and the various other Sevadharies do their part, so that the Badves are purely masters of the ceremony in the sense that they have to bid the Sevadharies to do their duties which act of bidding has constituted them the chief priests without their having to recite hymns, mantras or physically participating in the rituals. Needless to say that none of these duties are such as to require any religious training being purely in the nature of ministerial duties. In the course of arguments however, it was urged that reciting Brahmanas, ate or invocation to the God to arise is a mantra or a hymn. Even if it is conceded that it is a mantra, Benaries claim it as their right and there has been no decision on it. It is significant to note as appears from the evidence, that between Kakadarti and Shejarti the officiation at the actual religious rituals is done by different Sevadharies and that may explain the reason for the introduction of Mangalarti before Kakadarti and Pacharti or Prakshalpuja after Shejarti which are claimed by Badves to be their exclusive service. If these are excluded Badves would have no duties as priests in the strictest sense. Both these were subject matter of litigation, while mangalarti was held to be an innovation recently introduced and consequently prohibited by an injunction the latter was held to be an innovation but being an old one was allowed to be continued as the claim to stop it was held to be barred by limitation.



### At best duties could be classified under two capacities Chief Priests and Managers

9. The duties stated above if attempted to be classified or divided between the four capacities attributed to the Badves the result would be that these duties are such as could be covered only by two capacities viz. chief priests because they bid the Sevadharis to perform their functions and managers because they have to hold charge of the deity, temple and property and manage the secular affairs. As pointed out in respect of these duties which can be covered only by two capacities after meeting the expenses of the rituals and maintenance of the temple the surplus is appropriated as remuneration for these capacities.

### Remuneration for Yajman Poojas

10. In regard to Yajmanpujas Badves have claimed property in the surplus after expenditure for the material and making certain small payments to the Sevadharis. For Yajman pujas they have no fixed rates so that it is difficult to know what proportion of the amounts fixed for the pujas should be regarded as the property of the Badves. The part they play in connection with the Yajman pujas again is not certainly with any of the rituals or upchairs of the deity but only presentation of the prasad to the Yajman and applying Akshata and sandal paste on the forehead of the yajmans after the puja is over.

### Remuneration of Sevadharis and Utpats

11. So far as Sevadharis are concerned except pujaris who get the ovalni viz. second offering made before the deity, the only other right established is of their respective shares in the Dakshina paid at the time of different kinds of pujas by Yajmans and their right to ask for Dakshina outside the sanctum from the devotees. So far as Utpats are concerned, as already stated they are entitled to half share of the offerings as recently held by the High Court. Prior to the decision in Appeal No. 62/1960 they were required to spend for the temple out of the entire offerings and appropriate only the surplus though they had claimed before the Charity Commissioner and in the High Court that there was no obligation upon them to spend anything for the temple or the deity without explaining who had to spend for the nitya upchairs or daily worship, etc. If for the reasons mentioned in the earlier Chapter, there is necessity for abolition of the rights of these various Sevadharis if they do not fall within the definition of a "religious denomination" or part thereof to invite protection of Article 26, and if the Articles of the Constitution discussed above can enable the State to legislate for the purpose of administration of the rights claimed by the respective Sevadharis the questions that would require to be considered are (1) whether compensation should be awarded; (2) what should be the basis and quantum of compensation and the principles governing them, and (3) from what source the compensation should be paid. The questions will be considered in a later Chapter.

## CHAPTER XV

### WHAT RIGHTS SHOULD BE ACQUIRED

#### Rights of the priestly classes

1. Having found in the preceding Chapter that under Article 31 of the Constitution of India it is within the competence of the State to legislate and acquire in public interest the rights of Badves, Utpats and Sevadharis and that they should be so acquired it is now necessary to consider what are the rights that should be acquired in the interest of the general public as contemplated by Article 31. Broadly the rights claimed to be possessed by Badves, Utpats and Sevadharis can be divided into two main classes: rights of management which are in the nature of secular rights and rights in regard to officiation which are claimed as rights having relation to the practice of religion. Badves claim the right to manage the affairs of the temple, idol and property and more or less same is the position in regard to Utpats. In addition to these rights both these classes claim right of officiation in connection with the practice of religion at the temple by the devotees. So far as Sevadharis are concerned they have no claim to any right of management and all their rights are restricted to officiating at the rituals.

2. The capacities in which Badves claim all the rights are as defined in the High Court's judgment in Pujari's suit appeal No. 90/1882 (Ex. 60) which are chief priests, managers, guardians and overseers, in regard to the idol, temple and its property. Though the capacities or the rights of the Utpats have not been the subject matter of any decision or declaration under any judgments the rights claimed by them are more or less identical with those of the Badves with a slight difference viz. that there is no separate class of sevadharis in the Rukmini Temple and the right of performance of service is held by the Utpats themselves. In fact in the Indapur Sthal Prat (Ex. 92-B) their position mentioned is held to be on an identical footing

in the expression "that Badves are to Vithal as Utpats are to Rukmini, and, therefore, Badves cannot claim rights in the Rukmini temple and Utpats in the Vithoba temple." Therefore, for the purpose of this Chapter the rights of the Badves and Utpats can be considered on an identical footing.

3. Really speaking as pointed out in the preceding Chapter the four capacities assigned to or recognised in the case of Badves reduce themselves only to two viz. chief priests and managers. The duties of a guardian or that of an overseer are part and parcel of the duties required to be discharged by the managers. However, for argument sake if the duties of an overseer are not restricted to acts of secular management but have also relation to the conduct of rituals, these duties would form part of the duties of the chief priests. By any stretch of reasoning, therefore though four capacities are ascribed to Badves, in actual practice, the duties can be classified and included only into two capacities viz. of chief priests and managers. This is precisely the reason why Shri N. D. Badve in the course of his deposition had to concede and so also his advocate in the course of his arguments, that out of the number of duties enumerated, particular duties cannot be separated as belonging to a particular capacity and, therefore, the duties of different capacities overlap. In some judgments Badves are described as Masters of ceremonies and principle performers of pujas, but both these are such as to fall within the category of chief priests. Therefore, while considering what should be the subject matter of acquisition, the capacities and duties pertaining thereto in the case of Badves as well as Utpats could be reduced only to two viz. chief priests and managers. In this connection a reference to the last Rule No. 11 framed by M. Tagore can be referred to with advantage. The learned Judge who proposed the scheme has observed :—

"If the Badves commit serious breach of any of these rules, or if on enquiry in a criminal proceeding or a Civil suit it be found that any articles are missing or kept back and cannot be satisfactorily accounted for, or for any other sufficient reasons, it will be open to the Court to select and appoint new trustees, a ter due enquiry and to remove the defendants from their position as managers and trustees, and to declare that the devasthan property (as distinguished from private property vested in them under these rules) shall vest in the newly appointed trustees; and to frame such further rules for their guidance as shall seem necessary to this Court."

The learned District Judge had described the capacities of the Badves only as chief priests, managers and trustees. Omitting the word trustee the High Court described the capacity as guardian and overseer. But the fact remains that both the District Judge as well as the High Court made particular distinction between the duties of a religious nature and those of a secular nature and, therefore, the Rule contemplates removal from the Badves only the duties of secular nature namely duties pertaining to management without any mention of the religious part as chief priests. The Commission has perused several other schemes framed and also some of the legislation enacted imposing an administration in other temples from which it is clear that duties of a secular nature have been distinguished from those pertaining to a religious practice. It is, therefore, clear that the question of abolition has to be considered only from these two separate aspects.

**Temples not being denominational and the priestly classes not being a religious denomination State can legislate in regard to management and officiation**

4. It is already pointed out in the earlier Chapter that even in the case of a religious denomination the State would have power to legislate in regard to secular aspect. In the present case the Commission has come to the conclusion that neither Vithoba temple nor Rukmini temple are denominational in nature and also that Badves, Sevadharies and Utpats either jointly or severally do not constitute a "religious denomination" or part thereof. Therefore there would be nothing in the way of the State to proceed to legislate both in regard to the duties pertaining to the practice of religion namely officiation as well as those of a secular nature. However in the matter of legislation if the subject matter covered by it constitutes property within the meaning of Article 19 (1) (f), the question of compensation will arise and, therefore, it becomes necessary to consider which of the rights fall within each of the two classes viz. secular and religious so as to constitute property involving payment of compensation if the rights are abolished or acquired by legislation.

**No compensation for mere change of Management Case-Law discussed**

5. So far as rights pertaining to the management are concerned all the decided cases show that abolition of such rights to management will not call for compensation. This is because change of management does not involve transfer of ownership contemplated by Article 31 (See Basu, Vol. II, p. 241). In this connection it is pertinent to point out that neither Badves nor Utpats have pointed out what part of the remuneration they received pertains to the acts of management as managers, guardians and overseers. Both these classes

on whom there is an obligation to meet the liability of daily worship—upchans and repairs to the temple, take the surplus after meeting these liabilities, as remuneration for all the capacities including that of Chief Priests. Therefore, there is no separate income for each capacity that could be determinable on their own admission. Apart from it both the temples are public temples nay even Pariwar Deva's as in both the temples are held to be public trust and consequently are not owned either by Badves or Utpats. The High Court decisions also have negated the claim of ownership of both of them. If these are all public trusts which are at present being managed by Badves and Utpats respectively, though they may not be regarded as trustees under the English law their position is more or less the same as those of trustees that may be the reason why Mr. Tagore in his Judgment has described Badves as trustees. It cannot be denied that the Badves and Utpats stand in relation to these institutions as trustee subject to all powers and liabilities and if a trustee is removed from the management he would have no basis for a claim for compensation. The right of management, therefore, in these cases is not a right to property attracting Article 19 (1) (f) of the Constitution, with a right to be compensated on removal. Section 92 of the C. P. C. and section 50 of the Bombay Public Trusts Act also make no provision for payment of compensation for removal of trustees and substitution by new trustees.

6. This principle has been accepted and followed in the Nathdwara case: *Tilkayat Shri Govindlalji Maharaj versus State of Rajasthan and others*: A. I. R. 1963: S. C. 1638. In this case the institution was held to be a denominational institution. For the Tilkayat who was in hereditary management the position of a Mahanta or a Shebait had been claimed being a descendant of the founder: Shri Damodarji, the 7th descendant of Shri Vallabhacharya and the present Tilkayat being the 17th descendant in the line. In the present case neither Badves nor Utpats can claim the position of Shebait because there is no foundation or endowment creating in their favour a right to management. The position of the Tilkayat in Nathdwara was better founded than that of the Badves and Utpats as just pointed out. Yet it was held that the Tilkayat is merely a custodian, manager, with the trusteeship of the temple and no more. That position is not similar to that of a Mahant or Shebait and there can be no doubt that the right to have custody of the property such as the custodian has or the right to manage the property such as the manager possesses or the right to administer the trust property for the benefit of the beneficiary which the trustee can do, cannot be regarded as a right to property under Article 19 (1) (f) of the Constitution. For the same reasons it does not constitute transfer of ownership to property under Article 31 (2). Their Lordships considered the Tilkayat's position even if he be regarded as a Mahant or Shebait and came to the same conclusion that the right to management cannot amount to a right to property under Article 19 (1) (f). It is important to note that the beneficiaries in the case of these trusts are the general public and, therefore, it is public property without any of those holding the management having proprietary rights over it so as to be able to claim any compensation. The decision of the Supreme Court in Nathdwara case just cited has been followed in *Raja Birakishor Deb versus State of Orissa* A. I. R. 1964 S. C. 1591—a case relating to the administration of the Jagannath Temple at Puri. In that case it has been prominently brought out that the office of management is not being abolished but substituted by appointing one manager in place of the other. But if, by removal of Badves and Utpats on the grounds already referred to in the earlier Chapter, the management is taken away or in other words they are removed and in their place, a management is substituted what is taken away will not amount to acquisition at all because Badves and Utpats can be said to have had no right to any property in the management.

7. On behalf of the Utpat, however a decision of the Madras High Court in the case of *Nambudripad versus State of Madras*: I. L. R. 1955: Madras, 356 was cited. In that case it was held that the word "property" in Article 19 (1) (f) is of special amplitude to take in hereditary trusteeship and that the word "hold" contained in the Article is wider in its sense than the word "enjoy" and, therefore, the trustees who are in management of a religious endowment can be said to hold an office though they may not have beneficial interest to enjoy and consequently a scheme which abridges the rights of the hereditary trustees would be void. This case however does not appear to have been considered by the Supreme Court in the two later cases viz. the Nathdwara case and Jagannath Temple case, referred to above, and the Supreme Court's view in the two cases appears to be contrary to the view taken by the Madras High Court earlier. The view of the Supreme Court must prevail.

8. Another case cited on behalf of the Utpats is that of *Sudhindra Tirth Swamiar and others vs. Commissioner, Hindu Charitable Endowment* A. I. R. 1956 Madras 491. But that ruling has no concern with those entrusted with the management of the temple and at page 499 of the Report in para 36, Their Lordships have clearly stated "again we should emphasise that we are concerned with the validity of this rule only in its application to mutts and mathadhpathies." The rule complained against was one restricting the right of management and

the case related to a mutt and mathadhipatis. In the earlier Chapter this Commission has pointed out the difference between the position of a mutt and mathadhipati on the one hand and of a "Devasthan" or a temple and its managers and urclaks on the other. Therefore, the aforesaid ruling cannot much help the priestly classes in this case. It is however not necessary to discuss this question further in the present case because even if the right of hereditary management is "property" the Commission proposes payment of compensation which would cover all the capacities including that of hereditary management though the parties have not been able to show or claim separate remuneration or profits or beneficial interest in regard to each separate capacity and a break up of the remuneration for each capacity is not possible.

#### Claim of hereditary right of mediation as property

9. Coming to the question as to which of the rights claimed in this matter connected with the religious practice can be deemed to amount to "rights to property" within the Article 19(1)(f) to attract the right of receiving compensation under Article 31, so far as Badves and Utpats are concerned in the beginning they alleged, that no Darshan of the deity can be taken without their mediation and, therefore, their rights to officiate constitute a right to property. The claim was however modified in the evidence of Sri N. D. Badve when he stated that for ordinary Darshan no mediation is necessary but if the devotee wants to make a special offerings or invoke blessings of the deity such mediation would be necessary so as to confer in the Badves and Utpats a right to property. It would be convenient to deal along with this claim another claim also put forward in relation to performance of pujas.

10. It is claimed by Badves, Utpats as well as Sevadharies that no puja either of Vithoba or Rukmini can be performed except with the officiation of Badves and Sevadharies into the Vithoba temple and of Utpats in the Rukmini temple. It seems to the Commission be a claim not having any support of the Hindu Dharma Shastras. The Commission has recorded the evidence of Khuperkar Shastri Ex. 190. This witness aged about 37 is well versed in Shastras and was working as a Shastri in the Deccan College before his retirement. He has opined that according to Shastras no meditation is necessary for a devotee to have Darshan or to have a communion with the God and in the case of pujas as a devotee does not know the rituals to be performed, some one knowing the procedure of rituals would be necessary to guide the devotee. He has pointed out that the devotees do not know the usual mantras, and such a man who guides rituals is necessary to chant mantras. But if a devotee wishing to perform a puja, knows the rituals and mantras, no priest for that purpose or a mediator is necessary according to Dharmashastra. Witness has added that if there are people discharging these duties attached to such places, it would only be "proper" to take their services as "Vyavahar" or practice. A reference to any of the Puja books or the pujas as prescribed either by the Vedas or Agama Shastras and the history of Varnashramas among the Hindus will show that there is full support for the view of Khuperkar Shastri. It will be seen right from the sankalpa or the beginning to the end of the puja the language in first person singular is used to emphasize that it is the person performing the Puja that performs every ritual connected with it and the last clause of prayer is that the puja is performed by "me" without knowledge of rituals, mantras and devotion, that mistake might have crept in and "I" seek pardon from "you God", i.e.

मम आत्मनः श्रुतिस्मृति पुराणोक्त फल प्राप्त्यर्थं.....

.....

ध्यानावाहनादि षोडशोपचार पूजां करिष्ये ।

.....

सर्वोपचारार्थं गंध पुष्पं समर्पयामि ।

..... समर्पयामि । ..... समर्पयामि ।

ॐ यज्ञेनयज्ञ ॐ देवताम्यः मंत्र पुष्पं समर्पयामि ।

आवाहनं न जानामि न जानामि तवाचनं ।

पूजां चैव न जानामि क्षमस्व परमेश्वर ॥

मंत्रहीनं क्रियाहीनं मक्तिहीनं सुरेश्वर ।

यत्पूजितं मया देव परिपूर्णं तदस्तु मे ॥

.....

दासोऽयमिति मां मत्वा क्षमस्व परमेश्वर ॥

..... सर्वं कामांश्च देहि मे । ..... त्वमेव सर्वं मम देव देव ॥

कायेन वाचा ..... समर्पयामि ॥ ..... तीर्थं जठरे धारयामाहं ॥

अनेन मया यथा ज्ञानेन ..... कृतपूजनेन देवतः प्रीयन्ताम्

Further in the brahmin section of the Hindu community there is "upanayan" or a thread ceremony and according to the history of Varnashrama "Upanayan" is a sort of a Diksha or initiation by the father or in his absence an elder which entitles him thenceforth to perform all rituals. In vedic times brahmins of this class were engaged only in the study and practice of shastras being prohibited to take up any other profession though changed times have no longer observed the restrictions as to trade and profession. Occupations for Brahmins, Kshatriyas, Vaishyas and Shudras according to the shastras and traditions were prescribed. So far as the shastras are concerned they have never enjoined anywhere that for such puja, as the class is entitled to perform, any mediator or priest is necessary. In fact communion with God is a fundamental right of every one that being a practice of religion and, therefore, it would be too much to claim that mediation of a priest or for that matter a particular class of priests is essential and indispensable though, as put by K. H. Parikar Shastri as a matter of practice priest attached to a particular temple is engaged by the Yajmans who no longer study the shastras according to the Varnashrama Dharma. Moreover the temples and deities at Pandharpur are not the private property of Badves, Dtrats or Sevadharis to claim such a right.

11. If the right to officiate is claimed by the priestly classes at Pandharpur as a legal right based upon a custom, in the case of *Baijanath vs. Ramnath* I.A.R. 1951 : Himachal Pradesh p. 32 it has been held that such a custom even if proved would be void and unenforceable under Article 13 of the Constitution as such a right infringes the fundamental right of freedom of religion or its practice because it would encroach upon the right of Yajman to choose or have his own ministrant or to do without it.

#### Claim to charge fees for Darshan examined

12. In this view the claim for reservation of time in their favour by Badves to arrange Darshan for their own Yajmans would amount to an encroachment on the rights of other devotees. In this connection, the learned advocate for the Badves argued that if during the time reserved for them the Badves as disposed by a large number of witnesses charge the devotees other than Yajmans some fees, it would be justifiable because the moment the Badves undertake to arrange for their Darshan to devotees become their Yajmans and consequently if they charge that can be treated as legitimate remuneration. The evidence, however, shows that the Badves abuse the time allotted to them for the purpose of exploiting some of the waiting devotees at the cost of vast multitudes patiently waiting. Nor would it be reasonable to accept that a person paying money under compulsion or duress can become a Yajman. The learned advocate also cited a decision in the case of *Badrinath Temple* reported in A.I.R. 1953 S.C. p. 545, to show that reservation of time for certain rituals would be within the competence of the management without infringing the fundamental rights of others. While that case related to proper management and administration it has to be distinguished from the circumstances appearing from the evidence in the present matter, viz. that the reservation of time is made for the benefit of a certain class giving scope for malpractice and not so much in public interest as good arrangement or good administration. In this connection it is also important to observe that the public have made bitter complaints not only about reservation of time in favour of the Badves and other Sevadharis but also against the exploitation resorted to during these reservation hours. Most of the witnesses have charged the Badves with doing black-market by issuing passes for a fee ranging from Re. 1 to Rs. 10, depending upon the density of the crowd, only to get the Darshan of the deity which is the fundamental right of every citizen. It is significant to note that this right of reservation of time claimed by the Badves was not the subject matter of any judicial decision. But reliance was placed upon Ex. 119, which is an order of the District Magistrate allotting different hours to different classes of priests and it is admitted that the privileges allowed to some of the classes were subsequently withdrawn. Obviously it was matter of Law and Order arrangement within the jurisdiction of the District Magistrate to make and can confer no right upon any of the priestly classes to claim that it is their hereditary right or a right established by law. In short it is clear that there is no vested right in them as of custom to take their Yajmans for "Darshan" at night encroaching upon the general right of the devotees at large and even if such custom prevails it would be void being in conflict with the fundamental right of the public under Article 25 and cannot be recognised. Therefore the earnings which they make during the periods reserved which can represent only the result of exploitation, cannot be taken into account for determination of the amount of compensation. It may be mentioned here that in earlier stages there was a denial that money was being earned for providing Darshan though at a later stage with over-whelming evidence coming forward the fact could not be denied.

#### Claim to remuneration in respect of pujas examined

13. Even though the remuneration at the time of pujas or darshan cannot be regarded as a right to property, there are certain factors requiring to be considered in favour of Badves, Sevadharis and Utpats. For the discharge of their functions in the temple which they have

been doing from time immemorial they have been earning substantially which provides the main source of livelihood for their families. They have exercised these functions since time immemorial to such an extent that Badves and Sevadhari are associated with Vithoba and Utpats with Rukmini in the minds of the devotees who visit Pandharpur. Some of the witnesses that appeared before the Commission urged that the hereditary rights of officiation of these priestly classes should not be disturbed. Some are of the view that because of the long connection and hereditary succession to the functions the devotees might derive satisfaction about proper performance of the rituals. In fact in all the numerous grievances and complaints it must be said that there has been no complaint about the rituals not having been performed in a proper manner. The Commission therefore feels that it would be in the interest of justice and equity to pay compensation when the parties concerned are deprived of the functions which have been hereditarily discharged by them and which have provided means of livelihood. As pointed out above as the earnings got by Badves and Utpats cannot be broken up as for a particular capacity ascribed to them, reasonable compensation would cover acquisition by abolition of all the hereditary functions.

14. These remarks would apply to the offerings at the feet of the deity earned by Badves and Utpats, the Ovalni got by the Pujaris and the Dakshina received by the Sevadhari only inside the temple.

15. The question about the rights of the Badves to appropriate the offerings made before the Pariwar Devatas is subjudice before the Assistant Charity Commissioner, having been remanded by the High Court. The Commission therefore desists from making any observations regarding the right to the income before the Pariwar Devatas. However Government can consider whether any different consideration should prevail in regard to the appropriation of the offerings before the Pariwar Devatas. If the rights of the Badves to appropriate the surplus of the offerings before the Pariwar Devatas after meeting expenses for the deity, so far as abolition is concerned, same consideration would apply as in the case of other offerings. Therefore the same standard could be adopted in the matter of compensation. But as just mentioned these observations should not be regarded as recommendations regarding the offerings before Pariwar Devatas as the matter is subjudice.

#### Koli's claim and Garud Temple

16. There is one other class who claim hereditary rights in respect of 4 deities installed in the precincts of the Vithoba Temple. They are Kolis who claim that they have hereditary rights of worship of four lingas namely Rameshwar and Vishweshwar in the northern part of the Temple, Koteshwar in the western part and the linga on the head of the idol of Vithoba. In respect of the last Badves dispute their claim for income. But in respect of the other three the claim of the kolis that they worship the deities and take the income is not disputed. It may be mentioned that the claim of Kolis in regard to the Linga on the head of the main Vithoba's idol is restricted to worship only on Shivaratra day. These claims are put forward in the statement Ex. 529 and the evidence of witnesses Ex. 213 and 228. Except the last witness neither the written statement nor Ex. 213 disclose the figures of income. The figure given by Ex. 228 appears exaggerated when compared to the other Pariwar Devata income. However as these are situated in the Temple precincts it would be necessary to acquire their hereditary rights when those of all others are being acquired. The compensation payable would be discussed in the next chapter. It is also necessary to state here that Garud Temple in the Sabhamandap to which Benaris claim right of worship and income therefrom would have to be treated on the same lines being in the precincts of the Temple. As no separate figures are mentioned by Benaris in their statement and as the figures given by them include the income of Garud Temple compensation to be determined would include the claim in respect of Garud Temple also.

#### Preservation of hereditary rights not practicable for Pandharpur

17. Before closing this Chapter a reference to the recommendation by the C. P. R. Aiyar Commission appears necessary. In serial No. 10 of the conclusions at page 175 of the Report the Commission has observed "Hereditary rights of succession wherever archaks and pujaris enjoy such rights need not be abolished". Chapter V, p. 58, para 3 deals with this recommendation and the reason mentioned therein is "that abolition is bound to entangle institutions in litigation and would otherwise cause great hardship to a large number of archaks and their families enjoying the rights apart from the fact that they will also swell the ranks of the unemployed in the country". With respect the Commission feels that it is not practicable to adopt this recommendation for the Pandharpur Temples.

### Reasons

18. First of all in the same Chapter V, p. 58, para 4 it has been recommended that the archaks, pujaris etc. should not be allowed to have a proprietary right to any part of the offerings made before the deity. In Pandharpur this constitutes the main source of income from time immemorial of Badves, Utpats and Pujaris. Therefore if this recommendation in para 4 is implemented by preserving hereditary rights disputes and litigation is sure to follow, as the history of litigations would show. This has been the experience of the administration in Ajmer, Nathdwara, Jagannath Puri and Tirupati where hereditary rights of some have been preserved. Therefore the two recommendations would prove incompatible for implementation in the case of Pandharpur. This Commission feels that no seed for future disputes should be kept and, therefore, if hereditary rights are such that one cannot be dissociated or separated from the other in the interests of smooth administration both should be abolished.

19. Secondly it is not clear whether the Aiyar Commission on Religious Endowments has considered the aspect that payment of adequate compensation would weaken the reason of unemployment mentioned in support of the recommendation. This Commission is proposing payment of compensation for abolition of the hereditary rights. Thirdly in Pandharpur except in the case of Pujaris and Lenaris who alone can be called archaks in the strict sense of the term there are six other types of hereditary sevadharis viz. Badves, Paricharaks, Dingres, Danges, Divates and Haridas in Vthoba Temple. In the Utpats, of the Rukmini Temple, the duties of Badves and all the seven other Sevadharis are combined. There, as in most other temples, is no single class doing only the work of worship like archaks and pujaris. Then again there is a combination of duties connected with religious and secular practices among Badves and Utpats and separation of one from the other for abolition would be impracticable especially when the duties are over-lapping. This aspect has been dealt with above. This Commission therefore advisedly recommends a further anxious consideration that all hereditary rights including those of asking for Dakshina inside the premises should be abolished and compensation as proposed in the next Chapter should be paid.

### Preservation not recommended

20. From what has just been stated it follows that none of the hereditary rights should be preserved. Therefore the question of regulation of such rights referred to in para 3(c) of the terms of reference will not survive.

## CHAPTER XVI COMPENSATION

### Effect of the 4th Amendment on Article 31.

1. Having dealt with the question as to which of the rights or functions hereditarily exercised by Badves, Sevadharis and Utpats should be acquired, the next following question that would arise for consideration is, what compensation should be awarded in respect of those rights and functions. The terms referred to this Commission include one requiring the Commission to suggest the quantum of compensation to be paid and suggest the machinery for determination and payment of compensation [Para 3(c) Terms of Reference]. The Commission is required also to suggest the source for meeting the compensation that may be required to be paid. Before coming to the source for the compensation it would be necessary to observe that for determining the quantum, Article 31 which refers to compensation would have to be considered as it stood before the Amendment and the effect after the fourth Amendment by which in place of the original clause (2) new clauses (2) and (2A) were substituted. Before amendment clause (2) read as follows:—

“No property movable or immovable including any interest in, or in any company owning, any commercial or industrial undertaking shall be taken possession of or acquired for the purposes under any law authorising the taking of such possession or such acquisition unless the law provides for compensation for the property taken possession of or acquired and either fix the amount of compensation or specify the principles on which, and the manner in which, the compensation is to be determined and given.”

After the Amendment clause (2) reads as follows:—

“No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of law which provides for compensation for the property so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which, and the manner in which, the compensation is to be

determined and given; and no such law shall be called in question in any Court on the ground that the compensation provided by that law is not adequate."

(2A) where a law does not provide for the transfer of the ownership or right to possession of any property to the State or to a Corporation owned or controlled by the State, it shall not be deemed to provide for the compulsory acquisition or requisitioning of the property, notwithstanding that it deprives any person of his property."

2. A careful reading of the clauses as they stood before and after the amendment would reveal that by reason of the amendment where a transfer of ownership is not involved or right to possession of any property to the State or to a Corporation, it would not amount to acquisition or requisition. Mr. Seervai in his "Commentary on the Constitution of India" 1967 Edition, at page 522 has pointed out that occasion for amendment of Article 31 as originally indicated arose because of the three decisions viz. (1) The State of West Bengal vs. Bela Banarjee : 1954, S. C. R. 558, (2) Dwarkadas Shrinivas vs. Solapur Spinning and Weaving Mills : 1954, S. C. R. 674, and (3) The State of West Bengal vs. Subodh Gopal Bose : 1954 S. C. R. 587. The learned Author has pointed out that the first of these three decisions raised the question of compensation whereas the other two were treated as raising the question about the scope of Article 31 (1) and (2). The learned Author has pointed out that the framers of the Constitution believed that the scope for judicial review of the compensation for acquisition of land would be very limited but that decision in Bela Banarjee's case shows that belief of the Framers was a mistaken one. It seems that in the West Bengal Land (Development and Planning) Act, 1948, a specific date that is 31st December 1946 was fixed as the accounting date and the market value prevailing on that date, if it was less than the market value on the date of the acquisition, was regarded as proper compensation. When this was challenged in Bela Banarjee's case it was contended on behalf of the State that compensation did not mean a just equivalent because otherwise there was no point in providing in the Article for powers to fix the principles of compensation. But the Supreme Court held that the compensation meant just equivalent and though the legislature had been given discretion to lay down the principles of compensation, such principles had to ensure that what was determined as payable was a compensation which amounts to just equivalent of what the owners had been deprived of. In other words the Supreme Court was of the view that notwithstanding the power conferred upon the Legislature to determine the principles, the compensation should be just equivalent. It is not necessary to refer to the other two cases which led to the amendment of Article 31 because those cases did not concern precisely the determination of compensation or providing the indication of what should be the compensation. The cases referred to the scope of Articles 31 (1) and (2) as it stood before fourth amendment and in respect of which also the decision is out of date. The decision in Bela Banarjee's case happened to run counter to the opinion of the framers of the constitution that the Article did not allow much to question, in a court of law the quantum of compensation because they felt that if the Article provides for the determination of the principles the question of actual quantum could not become justiciable when the principle is defined and the quantum is fixed according to that principle. When Bela Banarjee's case decided in so many words that compensation could only mean a just equivalent and consequently the value of which the owner would be deprived by reason of the acquisition which was more or less equivalent to the market value, by the amendment of clause (2) substituted the words "requisition" for the expression "shall be taken possession of" and made explicit what was implicit in the original viz. that the property could only be acquired for a public purpose. By adding a proviso to clause (2) adequacy of the compensation was made non-justiciable. By addition to clause 2(A) the decisions of the Supreme Court that deprivation of property itself meant acquisition or taking possession was nullified by explaining that deprivation of property which did not transfer ownership or right to possession by a State or a Corporation owned and controlled by the State, should not be deemed to be acquisition or requisition. For our purposes we are concerned with the question whether under the Article 31 compensation should be equivalent to the market value and secondly whether adequacy of compensation would be justiciable. By reason of the amendment it was thought that the effect was that compensation that may be determined need not be necessarily equivalent to the market value and that the question would not be justiciable by reason of the proviso.

3. However the Article after its amendment has been interpreted by the Supreme Court in the case of Vajrevalu Mudaliar vs. Special Deputy Collector : A. I. R. 1965 S. C. 1017. In that case Their Lordships observed :—

"The argument that the word "compensation" means a just equivalent for the property acquired and, therefore, the Court can ascertain whether it is a just equivalent



or not makes the amendment of constitution obligatory. It will be arguing in a circle. Therefore, a more reasonable interpretation is that neither the principle prescribing the just equivalent nor the just equivalent can be questioned by the Court on the question of the adequacy of the compensation fixed or arrived at by the working of the principle." The Judgment further mentions :-

"This much is clear. If the compensation is illusory or if the principles prescribed are irrelevant to the value of the property at or about the time of its acquisition it can be said that the legislature committed a fraud on power, therefore, the law is bad. It is the use of the protection of Article 31 in a manner which the Article was hardly intended." As the Commission understands the decision in Vajravelu Mudaliar's case from the illustration given by the Supreme Court that where a certain principle which in itself cannot be questioned or its applicability does not lead to ridiculous result, even though by application of that principle there is some difference in the amount of compensation arrived at, from that figure which may be arrived at by another standard, or application of the principle, which also is a sound one, the fact that there is some disparity between the result will not be justiciable; but where the principles which are totally irrelevant and could not be applicable as for instance the standard of agricultural lands for valuation of a house or value of property in a certain year when the conditions were totally different and subsequently conditions have changed the situation or where compensation determined becomes illusory then the mere fact that a certain standard or principle is adopted will not take the case out of the jurisdiction of a Court. The result of the decision in Vajravelu's case was that the amendment of Article 31 clause (2) did not realise the expectation and belief of the framers that where principles are defined and compensation fixed in accordance with it the question of compensation would be rendered non-justiciable or that the compensation need not necessarily be equivalent to the market value.

4. Vajravelu's case appears to have been followed in *Union of India vs. Metal Corporation of India*, A.L.R. 1967, S. 2, p. 637. But after Vajravelu's case as well as that of the *Metal Corporation of India* the Supreme Court had occasion to consider and interpret Article 31(2) after the 4th Amendment, in the case of *State of Gujarat vs. Shantilal Maganlal*; Civil Appeal 1377/1968 from Gujarat which was decided on January 13, 1969. That was a case under the Bombay Town Planning Act and it lays down the following proposition: "Compensation which is guaranteed by Article 31(2) of the Constitution need not necessarily be in terms of money; therefore a law which provides for making satisfaction to an expropriated owner by allotment of other property may be deemed to be a law providing for compensation". The next proposition which is important for our purposes is "That enactment of a Rule determining compensation by a scheme estimate of market value on the date of the declaration of the intention to make the scheme is none-the-less a specification of principle of compensation notwithstanding the date to be an anterior date, and that under Article 31(2) if what is fixed or is determined by the application of the specified principle it is a compensation for compulsory acquisition of property, and the Courts cannot be invited to determine whether it is just equivalent of the value of the property expropriated". The case further explains that what is fixed as compensation by statute or by the application of principles specified for determination of compensation is guaranteed by the Articles. But it does not mean however that the principle applied could be illusory and by its application what is determined as compensation is no compensation whatsoever. The Court held that the principle and the amount determined as compensation should not amount to a device to deprive a person of his property for nothing. Unfortunately the whole judgment of this case not having been published except the Note which is reported in 71 Bom. L.R.—Notes of the Recent Supreme Court Decisions—No. 62, pages 54 and 55, it is not available but from the Note it appears that the ruling in *Metal Corporation of India's* case stands overruled.

5. On a careful study of all these decisions the principles laid down appear to be that where a certain principle which is not irrelevant or such as not to bear applicability is adopted and the compensation is fixed upon such a principle does not happen to be illusory, the quantum fixed will not be justiciable. This casts a responsibility upon the Commission to propose a principle for adoption which cannot be questioned either on the ground of irrelevancy or non-applicability and which on application does not yield a result which is illusory. The Commission, therefore, proposes to recommend with such modification as is necessary for this case the principle which has been adopted and accepted in other cases in Maharashtra and by the application of which the result far from being illusory, has proved substantial to the parties deprived as the first case.

### Principle for Determination of the Compensation Enunciated

6. There have been several legislations in Maharashtra by which the State has acquired by abolition the hereditary rights such as those conferred by the Vatan Act, Bhagdari Act and Narvadari Act and Khoti Act, etc. Under these Acts particularly under the Vatan Abolition Act the right of hereditary service has been abolished and compensation equivalent to what would have been seven years' remuneration has been awarded. The Commission takes note of the fact that in the case of the abolition of Vatan, etc. in addition to the remuneration that was payable under the Vatan Act, holders had certain other properties which could have formed a substantial part of their livelihood. In Pandharpur also though one cannot go to the extent of saying that what the priestly classes derive from offerings and pujas is the sole source of their livelihood it could be said that it forms a substantial part of their livelihood, at least to some families, because the evidence shows that from among the Badves, Sevadharies and Utpats people have taken to different professions also. The Commission, therefore, thinks that 10 times the average of 10 to 15 years' income would be a reasonable standard or principle for determining the compensation that could be provided for abolition of the hereditary rights.

7. In this connection the Counsel to the Commission advised having regard to the legislations regarding abolition of Vatan, etc., that seven times would not be unreasonable. It is already observed above that the income from these hereditary functions is a substantial part which provides the livelihood of the priestly classes. Apart from it, abolition would entail deprivation to members of their respective families, other than those whose services are retained on different terms, of the sources from which they got their income from time immemorial. It is not unlikely that by reason of abolition of hereditary rights the members of the different families will think of alternative occupation but some period would be necessary for them to establish themselves. During such a period they will have to fall back upon the share of the compensation which they may get and may help them to rehabilitate themselves. With encouragement of small scale industries and the like the amount of the share which they may get may help them to utilise as capital for new avocations. Last but not the least when hereditary rights exercised over centuries are to be abolished the Commission feels that the recommendation should be more on the liberal side, especially when sentiment appears to have prompted some of the witnesses to suggest if possible the preservation of the hereditary rights. Taking into consideration all these factors the Commission feels that 10 times the average income would be a decent and reasonable compensation for abolition of the hereditary rights. To the amount of compensation arrived at if 15% of it is added by way of solatium for compulsory acquisition it would be a just standard. For such of those who exclusively depend upon the priest-hood the Commission would recommend that the source for appointment of persons for services in the temple should as far as possible be the same because none of the services necessary or otherwise should be disturbed having regard to the sentiments of the public in respect of the deities. Therefore, notwithstanding the retention of the same sources for recruitment for the service, 10 times the average would be a liberal standard. With this principle enunciated the Commission feels that it would be expedient to fix rather than recommend the provision of machinery to determine the quantum of compensation payable to each of the three classes—Badves, Sevadharies and Utpats.

### Material supplied for application of the principle examined

7. The Commission called upon Badves, Utpats and each class of Sevadharies to submit statements of the income which they received by performing their hereditary services during the last 10 to 15 years. Badves and Sevadharies have submitted statements covering 12 years. Utpats have submitted the Statements covering 13 years. They were called upon to show in their statements the separate heads under which they received the income such as offerings at the feet of the deity, puja income, etc. Though we have got the figures of the number of pujas, the income therefrom is not shown by Badves and Utpats. In regard to these statements one or two important features would require to be noted. As already stated above the system of auction prevails in respect of the rights of getting offerings each day, or during a week or during a year, as the case may be. It is only the bid amounts of these auctions that are liable to be distributed among the individual families of the class which is entitled to that income. Therefore, these items find place, in the accounts in some form or another and, there is little scope to interfere with these figures if they have found place in the accounts.

8. But the same is not the position in regard to the income shown under different heads in the statements but which does not find place in the accounts. Then again the auction purchaser who has purchased the rights of collecting the offerings claims to get and must necessarily get more than the bid amount, though it is not distributed among the other members of his class. None the less it is his individual income. There is ample scope to inflate the figures of such income particularly if those concerned could anticipate, when the enquiries are afoot since 1964, that there was a possibility of abolition of hereditary rights. Similarly since the start of enquiry in 1964 the trend of the times has been in favour of abolition of hereditary rights which even the heads of princely States have to face. And if there is a realisation that for abolition of rights compensation could be demanded there was every scope to feel that the figures of income should be inflated so that the amount of the compensation may rise.

9. On a scrutiny of the statements it can be easily noticed that there is a steep rise in the figures of income shown in regard to items that go into the accounts as well as those to mention which in the accounts there is no scope. The Commission is fully aware of the fact that there is a steady rise in the number of devotees from year to year and, therefore, it would not be possible for the Commission to characterise every rise unless it is disproportionate as an inflation made with the object of earning more compensation. It would, therefore, be necessary to examine the statements submitted by each of the three groups and find out which of the figures appear on the face of them to be inflated. In doing so even though the Commission has noticed that the steep rise dates from 1964 when the first enquiry through an Assistant Charity Commissioner was made, all these figures have gone into the accounts. There is no scope for the Commission to reject them when they have been distributed. In this connection it may be mentioned that the general public opinion as voiced by the witnesses, is, looking to the number of devotees, that the income of offerings at the temples of Vithoba and Rukmini over the years has been much more than what was being shown in the accounts in all these years. The Commission also feels so when the total number of pilgrims—as appearing from municipal and other records is about 10 lacs.

#### Figures supplied by Badves

10. On perusing the statements submitted by the Badves, it will be found that they have given the figures of income for each of the 12 years commencing from Shake 1878-1879 to 1889-90 under different heads viz., income at the feet, value of the offerings in kind, the total expenditure, and the balance distributed amongst the members of the different Takshims. Since all these figures are pulled out from the accounts maintained by them and distribution has taken place in accordance with what is shown in the accounts, there is no scope for the Commission to interfere with any of the figures given by them even though from 1964 a steep rise in the figures of income is discernible. An average of the 12 years of the amount distributed among the Badves has been taken and that average works at Rs. 33,839-84 (See Appendix VIII-A). This amount is the average of the balance or surplus out of the bid amount distributed remaining after deducting expenses. It is true that the Divaskari Badve must be recovering from the devotees more than the bid amount for otherwise he would not have thought of doing the service in return for just a share equal to that of all those who do not have to work. But it is difficult to assess that excess because Badves have not given any figures about the surplus. Though there can be no doubt that what is actually realised by the daily bidder (Divaskari Badva) would be more than the bid, since other Badves never realise any portion of the excess it cannot be said that the excess would represent a loss to the whole class of Badves. It is significant to note that bidders are very few persons who seem to have monopolised the bidding for purchase of the rights (See Exhibit 837) and, therefore, the whole class of Badves can have no claim to the excess. Apart from it as the Commission proposes to add 15% of the total compensation to the amount of compensation as solatium in view of the compulsory acquisition there should be no cause for grievance.

11. Though called upon, the Badves have not filed any statements regarding the income from pujas derived by them, stating that it is an independent income. If the right in respect of the income from pujas is to be abolished, as it needs to be, compensation would have to be paid in respect thereof upon some reasonable basis. Sevadhari how-ever have filed a statement regarding the number of mahapujas, padya pujas, kapurarti, tulshi archan pujas, etc., during the period of 15 years (Exhibit 734) from Shake 1876-77 to 1890-91. In respect of these pujas there are no rates fixed as already pointed out and the evidence especially of Shri Narayanrao Badve itself shows that any amount between

Rs. 100 to Rs. 250 is charged for Mahapujas, Rs. 10 to 25 for Padya pujas and similar amounts for the other pujas. It should be remembered that in these pujas material has to be supplied. Deducting the cost of the material and the Dakshina to be paid to the other Sevadharis according to Shri N. D. Badve the spokesman of the Badves, 20% out of the puja receipts-remains to them as profit. But this is in respect of pujas done in the course of the profession of Yajmankritya so that in the profits of 20% are included the profits of Yajmankritya also which is a profession not connected in any manner with temple services. Yajmankritya like a travel agency is to receive the devotees, minister to their wants, fix up their pujas and for all this the persons following the profession of Yajmankritya contract or fix up the amount with the Yajman or the devotees. It is admitted that some Badves follow the profession of Yajmankritya, contract with the Yajmans or devotees for pujas and charge them the amounts as mentioned above including their profits or remuneration for their Yajmankritya. Therefore the profits for Yajmankritya out of 20% mentioned by Shri N. D. Badve would have to be deducted. But unfortunately no figures are supplied in respect of the profits. However since the Badves have been officiating for pujas they receive certain profits from the Yajman and, in the absence of disclosure of any reliable figures the Commission has to adopt some basis which is reasonable, taking into account the duties which they have to discharge.

12. In the earlier chapter in which the duties are enumerated in has already been pointed out that in the conduct of the puja except being present and applying Gandh and giving Prasad to the Yajman, the Badves does not have to play any part because the pujaris perform the rituals, the benaris chant hymns and each one of the Sevadharis plays his part. The Commission thinks on the basis of the part played by the Badves (as enumerated in Exhibit 43), the profit received by them in respect of the pujas should not be normally more than what all the Sevadharis rendering services together get. However, in view of the position given to them as chief priests and masters of ceremonies and the principle performers, the Commission while calculating the compensation would recommend as their profit Rs. 10 for each Mahapuja, Rs. 2 for each Padya puja and Re. 1 for each kapurarti, tulshiarchan and other pujas. On the figures of pujas for the past 15 years supplied by Sevadharis as per Exhibit 734 calculating the Badve's income in respect of these pujas at the rates just mentioned above the average would work at Rs. 20,418 (See Appendix VIII-B).

#### Compensation proposed for payment to Badves regarding Vithoba

13. A third source of income claimed by the Badves as independent income is the right of giving Prasad to the devotees. This is claimed to be a hereditary right of the Badves which any Badve can exercise even though the Divaskari Badve is in charge of the shrine on a particular day. For giving Prasad to the Yajman the Badve earns by way of Dakshina whatever the Yajman chooses to pay. In regard to this income also no statement has been filed on the ground that it is the individual income of the Badves, not being distributable among the Badves and, therefore, unascertainable. Taking the most liberal view, the income on this head of the whole class of Badves cannot exceed on an average of Rs. 10,000 a year which is about 50% of the Puja income because this is an income derived from devotees other than the Yajmans performing pujas. The total of the average figures from these sources would come to :-

	Rs. P.
Bid amount (Distributable after deducting expenses, etc).	... 33,839-85
Income from Pujas	... 20,418-00
Income from Prasad	... 10,000-00
	-----
	64,257-84

rounding up this figure and calculating the 10 times of this as the compensation payable in respect of Vithoba temple for the entire community of the Badves which is distributable among them according to their shares would be Rs. 6,43,000. Adding to this 15% as solatium as stated above the amount comes to Rs. 7,39,450-00 and this would cover all the rights claimed by the Badves individually or collectively excluding of course the illegal gains that may be made for causing Darshan to be given etc for which no compensation would be payable.

### Pariwar Dewata Income

14. Besides offerings to Vithoba, the Badves claim all the income in the shape of offerings made to the Pariwar Devatas after meeting the expenses of maintaining them. The Commission desists from making any observations regarding the right claimed by the Badves because the matter is sub-judice. But assuming that they have the exclusive right of appropriating the income before the Pariwar Devatas it would be desirable at this stage to mention the figures of the income so that if the rights of the Badves in regard to the Pariwar Devatas, claimed by them, happen to be abolished the figures would indicate what should be paid to them as compensation.

15. Now these pariwar Devatas are situated not only in the temple precincts but even outside in the city of Pandharpur. In fact it is their claim that every idol not of private ownership is of the right of the Badve Committee and, therefore, all offerings derived therefrom belong to them. The Pariwar Devatas in the temple as well as outside in the city of Pandharpur are registered under a separate common trust. The Badves however have divided Pariwar Devatas in 10 groups, according to their situation and the income of each group is being formed out by auction so that the income of each group is shown separately. The question now before the Commission is whether the rights in respect of all the 10 groups should be abolished or only in respect of those groups which are within the precincts of the temple. The only ground that could possibly be urged against abolition of the rights relating to Pariwar Devatas situated outside the temple is, that there are similar or other deities managed by different communities whose rights have not been abolished as for instance, Pundalik temple under the management of Kolis, Gopalpura under the Guraos etc. The fact that no steps are yet taken against the other trusts is no ground to exclude the Pariwar Devatas most of which are connected with the Vithoba temple. It is true that Vishnupad is mentioned as a Pariwar Devata situated at a distance of a mile but it is also apparent that in Margashirsha a Palkhi of Vithoba goes to Vishnupad showing the connection of that Pariwar Devata with the Vithoba temple. The Commission thinks that the management of all the religious places connected with the Vithoba Temple should be under a common scheme though on account of the distance of some of the Pariwar Devatas it could be possible to make separate arrangement for looking after them. Therefore, subject to the decision in regard to the rights of the Badves regarding the offerings collected before the Pariwar Devatas the Commission proposes to record the figures of compensation liable to be paid if the rights of the Badves happen to be abolished.

16. The Commission has before it the Statement of income from the 10 groups of Pariwar Devatas received by the Badves and distributed amongst themselves (Exhibit 821 and 717). The figures cover a period of 12 years and if the average is taken of the income it works at Rs. 17,396 (See Appendix VIII-C) after deducting the expenses. This figure represents the average amount distributable amongst the Badves and, therefore, the net amount after deducting the expenses rounding up the average comes Rs. 17,400. On the basis adopted above or 10 times the average income, the total amount of compensation that would be payable if and after their right to the offerings before Pariwar Devatas happen to be acquired by abolition, would be Rs. 1,74,000. To this if solatium of 15% is added in consideration of compulsory acquisition the total amount payable would be Rs. 2,00,100.

### Figures of Income of Sevadhuris and compensation

17. The different Sevadhuris—Pujaris, Bennaris, Paricharaks, Dingres, Haridas, Diwate, and Danges have also submitted their statements of income. While preparing statements they have shown income under different heads. While in regard to some of the heads there is no scope to doubt or reject the figures being the amounts of bids in auction, in regard to other heads, the figures to say the least are arbitrary and inflated. For instance in the statement of the pujaris the right of taking the income between 12-30 noon to 4-30 p.m. is auctioned and what is realized in the auction is distributed among the families. Therefore, in regard to this item of auction there is mention in the account. But for the period excluding these four hours it is their case that members of the families according to their turn attend the temple and get the income and, therefore, there is no necessity to auction it and consequently to keep any account. Where there is no necessity to keep an account there is ample scope to inflate the figures especially when one can anticipate that the figures are meant to serve as basis for calculating compensation in the event of abolition of the hereditary rights. That such a step to inflate has been resorted to can be seen from the statements themselves, for, while the income shown for the years prior to 1964 is less, the figures after that year has gone on increasing by leaps and bounds and 1964 was the year when enquiries were afoot into the affairs of these temples. In the Statements submitted by pujaris

while the figures for bid amount for four hours, the money being distributable to the other members of the family could be acceptable, in regard to the income not liable to be distributed the figures shown appear to be arbitrary both in view of the fact that there are no accounts to support them and also the fact that these figures bear no reasonable proportion to the amount of the bid. For instance in addition to the bid amount an equal amount is shown as the profit of the bidder without any account to support it and, therefore, according to the statement the total amount of the bid should be taken as income for the period covered by the services. Such a statement would be obviously untenable because if bidder is sure to get double the amount of the actual bid the amount of the bid itself would have been more or for that matter there would have been keen competition, ultimately leading to the giving up of the system of auction. The Commission does not disagree that the bidder who purchases the rights must be making some profits because it is obvious that if he does not get any profit he would not think of doing service for nothing after paying the bid amount. However, as in the case of Badves since the Commission proposes to add to the amount of compensation arrived at 15% as solatium in consideration of compulsory acquisition—adopting the principle of the Land Acquisition Act, there should be no grievance by the Sevadhari as a class because except the bidder the others were not deriving any benefit of the amount realised by the bidder in excess of the bid. The Commission would recommend this principle to be applied to all the offerings to which any of the holders of service have a right as a hereditary right.

#### Proposed compensation for pujaris

18. Reverting to the Statements of Account submitted by the Pujaris [Exhibit 826 (1)] since the bid amounts shown refer to only four hours during the day they have shown for the remaining 16 hours excluding 4 hours during the night when the temple is closed, 8 times the bid amount as income. The Commission is not prepared to accept these figures which, not being recorded in any account, appear to be inflated and arbitrary. The claim of 8 times the bid amount in addition to the bid amount and the claim for a profit equal to the bid amount for that period shows an assumption on the part of the pujaris that the real income is 10 times the bid amounts which cover the service of four hours. To say the least the assumption is fantastic. Taking the most generous view while the bid represents the income for four hours, for the remaining part of the day, the income could be deemed to be four times and on the principles enunciated the result would be that 5 times the bid amount could be taken to be the income for calculation of the compensation. This though errs on the generous side, should not be open to any objection.

19. Another source of income shown by the Pujaris is the share which they get out of the puja income from the Samastha Sevadhari committee and in regard to this item there could be no objection because the Sevadhari Committee which receives the amount from the Yajmans has to keep an account for the purpose of distributing it to all the different Sevadhari according to their shares. The amount received from the Yajmans by the Samastha Sevadhari Committee has to be divided into 6 shares and one of these shares is again sub-divided, between Danges and Diwates, since shares of these two together is equal to the share of other five Sevadhari. There is no reason to doubt the correctness of these figures. In addition to what the Sevadhari get from the Samastha Sevadhari Committee a further claim is made by each Sevadhari in respect of his Dakshina received from the Yajmans performing pujas by way of Sambhavana. The demand for Sambhavana shown in the statements is actually double the amount received from the Samastha Sevadhari Committee. While there can be no doubt that some Dakshina by way of Sambhavana is being paid by the Yajmans it is improbable that it could be double the amount of that which is already collected by the Sevadhari Committee for the benefit of each. However as the Commission proposes additional payment by way of solatium no separate consideration of this uncertain amount is necessary. The result, therefore, will be in the case of Pujaris for calculation of compensation the following items would be taken into account :—

	Rs.
(1) The average of the bid amount worked on the figures of 12 years which comes ... ..	2,230
(2) Four times for the period of the day not covered by the bid ... ..	8,920

which comes to Rs. 11,150 as average income, add to this average of 12 years of the amount received from the Samastha Sevadhari Committee which is Rs. 527-68. Thus the total comes to Rs. 11,677-68 (See Appendix VIII-D). The Commission feels that on the basis of 10 times of this average income after rounding up would be the proper compensation which Rs. 1,17,000. Adding 15% solatium the compensation payable would be Rs. 1,34,550.

#### Proposed Compensation for Benaris:

20. Adopting the same principles in the case of Benaris their average income by bids is Rs. 3,734-31 [See Exhibit 826 (14)]. It should be mentioned here that Garood temple which is within the precincts of the Vithoba temple is in charge of the Benaris and while framing out the income before the Garood temple also is included and, therefore, in the figures of income shown by them the income from the Garood temple is also included. The average of Rs. 3,734-21 therefore includes the income of the Garood temple received by the Benaris and also what they receive from the Samasth Sevadhari Committee. Since the temple is situated within the precincts of Vithoba temple Benaris's right in connection with that temple would be desirable to be acquired and, therefore, while determining the compensation to be paid, that income also has been taken into account. In the figures of the bid amount the Benaris have included the amount recovered by them from the Sevadharis for their share. The income which they derive thereore from their vritti will be Rs. 3,734-31 (See Appendix VIII-E). 10 times of this amount after rounding up would be Rs. 38,000 and the Commission would recommend after adding 15% as solatium Rs. 43,700 as proper compensation to the Benaris in respect of abolition of their rights.

#### Proposed compensation for Paricharaks

21. Regarding the statements submitted by Paricharaks [Exhibit 826 (8)] as well as Haridas [Exhibit 826 (16)] the same remarks as are made above in respect of items not shown in the account would apply. Adopting the same principle which is applied to Badves, Pujaris and Benaris, the average income of the Paricharaks would come to Rs. 2,091-89 (See Appendix VIII-I) and, therefore, after rounding up the compensation of 10 times the annual average would work at Rs. 21,000. Adding 15% solatium to this the Commission recommends payment of Rs. 24,150 to the Paricharaks as compensation.

#### Proposed compensation for Haridas

22. Adopting the same principle in the case of Haridas also to the Statement of Accounts submitted by them the general remarks made above would be applicable. Their average income per year comes to Rs. 2,022-67 (See Appendix VIII-E). 10 times of this amount after rounding up would be Rs. 21,000 and the Commission would recommend Rs. 24,150 including solatium to the Haridas as compensation.

#### Proposed compensation for Dingres

23. The statements of accounts submitted by Dingre, Dange and Diwate and for that matter even Haridas and Paricharaks equally show that the figures shown by them therein of amounts received by way of Dakshina are so exaggerated that if true they would be eloquent evidence about the harassment complained of by the devotees on the part of Sevadharis in the shape of demand of Dakshina. But looking to the other heads of income there is no doubt at all that the figures are exaggerated. In the case of Dingres the right of receiving the income is framed out by auction but not so in the case of Diwates and Danges. Taking advantage of that fact Diwates and Danges have shown arbitrary figures because there being no system of auction, there is no occasion for rendering accounts to other members of the family. In fact their families are very limited, there being only 2 branches in each. Looking to the nature of service rendered by Dingres, Danges and Diwates they appear to stand on the same footing. It would, therefore, be reasonable to adopt the same standard as in the case of Dingres for Diwates and Danges. It must be pointed out that Diwate and Dange together have 1/6th share which is equal to that of each of the other Sevadharis. Therefore, Diwates and Danges get from the Samastha Sevadhari Committee 1/12 share each.

24. The average of Dingres' income by auction plus what they get from the Samastha Sevadhari Committee works at Rs. 1,84-34 (See Exhibit 826 (4) and Appendix VIII-F). 10 times of this after rounding up the average would work at Rs. 9,000. After adding 15% by way of solatium the Commission feels that Rs. 10,350 would be the adequate compensation payable to Dingres.

#### Proposed compensation for Danges and Diwates

25. In the case of Diwates and Danges, adopting the standard of what is realised by Dingres by auctioning their rights it would be found that the annual average would come to Rs. 356. Adding to this the share received from Samastha Sevadhari Committee which is Rs. 263-84 total would come to Rs. 619-85 (See Appendix VIII-G). So each of

these viz., Diwates and Danges should get as his compensation 10 times of this amount after rounding up which comes to Rs. 7,000 with 15% added as solatium the Commission would recommend that Danges and Diwates should be paid Rs. 8,050 each as compensation for abolition of their hereditary rights.

#### Proposed compensation for Utpats

26. Dealing with the case of Utpats who stand in respect of Rukmini temple in the same position as Badves plus Sevadhari together in respect of Vithoba, the statement of accounts submitted by the Utpats though purporting to be for for 13 years, the figures for Samvat year 2012 and 2024 appear to be incomplete (See Exhibit 822 (1- to 13)). From the amounts shown which are low it appears that they do not cover the full year. In fact reference has already been made to the dispute in the management, that account books were not handed over to the succeeding Committee, etc., and therefore this might have resulted in the low figures for two years during which there are disputes. The average therefore would be reduced which the Commission thinks would be unfair and, therefore, adopting the usual rule for taking the mean, the Commission has excluded the two years for which the figures appear to be abnormal. According to the decision of the Bombay High Court in Appeal No. 62/1960 the total income of the Rukmini temple is to be divided into half and half and the Utpats are entitled only to 1/2 the other half being the amount for expenditure on the deity and the temple. Therefore, the figures of distribution submitted by Utpats would not provide the correct foundation for calculation of the compensation. So the Commission feels that the correct basis would be to take the total income, divide it into half, and allow to the Utpats only half of the total income. Half of the average per year on the basis of 11 years comes to Rs. 16,704 (See Appendix VIII-H) and this is the income of their share. To this income the income from pujas and the income from Prasad and from the Pariwar Devatas would have to be added. Utpats have not submitted any statements regarding puja income. But the evidence of the representative of the Utpats shows that the number of pujas in the Rukmini temple as compared with Vithoba is 1 to 5. In the case of Vithoba temple on the basis of the figures supplied by the Sevadhari a sum of Rs. 20,000 per year has been allowed as puja income and, therefore, the puja income of the Rukmini temple would be 1/5th which comes to Rs. 4,000 (See Appendix VIII-B). The puja income though taken by the individuals concerned is nevertheless income relating to the vritti, proposed to be abolished, in the case of Badves it is proposed above, discussing the various facts available that half of the puja income should be regarded as income in respect of giving Prasad, etc. Applying the same rule to the Utpats Rs. 2,000 being half of the puja income would be the appropriate measure of compensation in respect of the Dakshina income for giving Prasad. Regarding the Pariwar Devatas of the Rukmini temple viz. Rahi and Satyabhama the Utpats say that they do not maintain any accounts. But in the evidence of their representative it is claimed that from each of the two Pariwar Devatas they derive about Rs. 600 to Rs. 700. Though not supported by any accounts, Commission accepts the statement considering that Rs. 600 for each of the Pariwar Devatas would be the average income. So a sum of Rs. 1,200 would have to be added. A total of the amounts under four heads just referred to would come to Rs. 23,904. The Commission would recommend after rounding up the figures and adding 15% as solatium that the adequate compensation payable to the Utpats for abolition of all their rights would be Rs. 2,76,000.

#### Proposed compensation for Kolis

27. As pointed out in the last Chapter as the rights of Kolis in regard to worship and income of the "Shivalingas" in the precincts of the Temple would require to be abolished compensation will have to be determined and paid to them. The only witness Exhibit 228 the spokesman of the community has alleged that the right is auctioned every year and the average income distributable to the Koli families is about Rs. 800 to Rs. 1,000 per year. The Commission has no doubt that the figure is exaggerated. Though called upon no accounts are produced though it is stated by the witness that accounts would be available with Koli families. No statements of income have been produced. Therefore there is no independent material to support the quantum of the claim. However, looking to the income of other Pariwar Devatas which is definitely more than the income of the deities claimed by Kolis, the Commission thinks that the average will not exceed Rs. 500 per year. On this basis applying the principle adopted for determination of the compensation the amount payable to the Koli community would be Rs. 5,000 and with 15% as solatium the total would come to Rs. 5,750.



28. A total of the compensation recommended in respect of Vithoba, Rukmini and Parivar Devatas including Garrod temple of Benaris and the compensation payable to Kolis would come to Rs. 14,71,200. In the case of Devasthan Committee there is no question of any compensation.

29. The question next for consideration, under the terms of reference, for the Commission is the source from which the compensation should be paid. None of these trusts has any Reserve fund to meet the payment of compensation. Though Vithoba and Rukmini have ornaments, the total value of them, as now made, will not be even sufficient to meet the entire claim. Most of them have great sentimental value because of the historical background and it is doubtful whether they would fetch such value unless they are broken up and mutilated in which case their value may depreciate. In any case the ornaments of such famous deities held in reverence by the whole of Maharashtra nay people of other parts of India also, should not in the opinion of the Commission be sold; but on the other hand adequate steps should be taken to preserve them in a proper condition and protect them. The Commission finds that such steps have not been taken so far.

30. Since the trusts do not have any source to meet the claims of compensation at present other provision would have to be made for immediate payment of compensation. The Commission feels with confidence that once a proper administration is established at Pandharpur the income of the trusts will rise by leaps and bounds, as in the case of other trusts for instance Shirdi, Tirupati, etc. where the income now derived is several times more than what used to be shown or even realised as income. The Commission has already mentioned in the earlier chapter that in the name of Vithoba private parties are able to raise large funds because the donors have confidence that the money paid will be utilised for a proper purpose, and would not go to private individuals as now happens in the case of Vithoba and Rukmini temples.

31. In view of this situation the Commission has considered various alternatives. Though there is Public Trusts Administration Fund under the control of the Charity Commissioner, who administers it subject to the directions of the Government under the B. P. T. Act, having regard to the fact that contributions to that fund come from trusts belonging to different religions, objection, is likely on the grounds that it should not be used for a particular religion or for a particular temple. However the Commission feels that under Article 282 of the Constitution, it is within the powers of the Union or a State Government to make any grant for any public purposes notwithstanding that the purpose is not one with respect to which, the Parliament or the Legislature of the State as the case may be, make laws. In the case of *Narayan Nambudripad vs. State of Madras* : I.L.R. 1955 : p. 356, the question arose whether expenditure of public fund under section 76 (4) of the Madras Act is in contravention of Article 282 of the Constitution on the ground that it is not for a public purpose. The expenditure challenged was under the budget head of administration of the Madras Hindu Religious and Charitable Endowments Act, 1951. The observations at page 382 show that since the position as it stood before the constitution has not undergone a change which question is discussed in an earlier chapter of this Report, payment of expenses of administration of religious endowments by the Government was not held to violate Article 282. This decision which has discussed the Shirur Mutt case also has proceeded upon the principles that where the purpose is a public religious purpose or where the expenses intended to be incurred are for a "public purpose" even though it may relate to a temple, it would, be within the powers of the State to give grants. The Commission feels that in the absence of any reserve fund public interest demands in this case that the Government should make a grant for setting up an administration after abolition of the rights though not without a provision for recouping a part of it from the income that may be derived by the trust after the administration is set up. The Government may consider in view of the financial position of the trusts whether 50% of the amount required could be made available by way of an outright grant and make the other 50% recoverable from year to year with a nominal rate of interest. As stated above the Commission feels that it will not take a long time for a good sizable reserve to accumulate once the administration such as can inspire public confidence is established. If people can endure to walk 400 to 500 miles in the thick of the monsoon and if every year the number of devotees visiting Pandharpur is on the increase, assuming that most of the devotees are poor and are drawn from the working classes those who spend to travel all the distance would always think of setting apart a small amount for benefit of the trust in the shape of the offerings true to the Hindu concept that none should go empty handed to the deity, king and preceptor. In fact some of the witnesses in the sophisticated class expect that the income would go into several lacs and their expectations the Commission feels is bound to be justified.

## CHAPTER XVII

## SUMMARY OF THE FINDINGS ON THE POINTS REFERRED FOR ENQUIRY

**Mismanagement acts and omissions amounting to**

1. Having discussed in the earlier Chapters about the various complaints and the evidence regarding them, the position and privileges claimed by the priestly classes and the obligations and powers vested in the State under the Constitution, before formulating the recommendations it is necessary and desirable to summarise the findings on the specific terms referred to this Commission for Report in para. 2 of the Notification. The findings of the Commission on the points are :—

(a) (i) There is mismanagement of both Vitthoba and Rukmini trusts in that the objects for which the trusts exist are not fulfilled. As already pointed out mismanagement is not defined. But failure to discharge the duties and obligations even implicit in the management will amount to mismanagement. Several acts of commission and omission which singly or together will amount to mismanagement will be set forth presently. For the cult propagated by the temples which is one of Bhakti-marga which is eloquently expressed by the Warkari Sampradaya—regular visit to Pandharpur and Darshan of the deity are of the utmost importance among other things and, therefore, lacs of pilgrims visit Pandharpur, several thousands of them trudging on foot over hundreds of miles. The priestly classes exploit the situation that constructional short-comings of the temples cannot permit Darshan to all and, therefore, resort to mal-practices such as giving preference and facilities for Darshan only to those who pay and harass those who do not pay, not sparing them even from physical violence.

(ii) Constant demand of Dakshina at various points by various people belonging to the priestly classes from the devotees with harsh words if they fail to comply leave to the devotees little spiritual concentration in quest of which the devotees visit.

(iii) Constant quarrels and litigations *inter-se* between priestly classes tend to reflect on the peaceful atmosphere. The attempt of one class viz. Badves to appropriate all the offerings and to prevent others from soliciting for Dakshina which provide the only remuneration for the services rendered by them, when resisted, has led the continuous litigations and the demands have resulted in harassment of the devotees by those who have no other source of livelihood like the Badves.

(iv) No adequate arrangements or facilities are provided for the devotees who have to wait in queues, for hours together during the Ashadhi and other fairs though on some occasions waiting involved is 8 to 10 hours. It was the duty of the Badves who manage and take almost the entire income to provide these facilities. On the contrary time for Darshan is curtailed by untimely pujas during which the doors are closed and for such pujas there being no fixed rates they prove very productive to the Badves.

(v) Accounts are not kept in a proper mode and such checks and safeguards as were provided under the Scheme framed by the High Court are attempted to be circumvented by creating new committees, such as Samasta Badve Mandal, and Badve Samaj both representing the identical community which is properly and effectively represented by the Badves Committee appointed under the Scheme.

(vi) Though there is *prima facie* evidence of endowments they are not accounted for both by the Badves and Utpats as well as Sevadhari. Encroachments on parts of the temple property appear to have been allowed and connived at in the City Survey Enquiry by conceding to the claims and even there was an adverse claim by one of the Badves in respect of a room before the Commission.

(vii) The attitude of the management is such that in some matters no differentiation is made between what should be credited to the Devasthan and what should go to the Badves and Utpats as for instance copyright of photographs of Vitthoba and Rukmini, the sale proceeds of which are appropriated by the individuals. So also rents or fees recovered by letting out halls in the temples and spaces are also appropriated by the Badves though none of these fall under the head of offerings to which they are entitled under the scheme.

Utpats do not have any stable management and even their accounts have been noticed to be incomplete and unsatisfactory. Though Rukmini trusts registered under the Bombay Public Trusts Act 1950 instances have been noticed in the course of the evidence where the provisions of the Act have not been respected or observed in spite of warnings and action by the Charity Commissioner. It is, therefore, clear that there is mismanagement of both Vitthoba

and Rukmini Trusts. Though Pariwar Devatas really form part and parcel of the Vithoba Trust, the Badves have got it registered as separate trust for reasons which are obvious from what is stated above. So far as the Devasthan Committee Trust is concerned there are no allegations of any mismanagement and the ruffle between this Trust and the Badve Committee has been dealt with sufficiently in the earlier part of the Report. In fact there will be no occasion for continuance of this trust as a separate entity if the recommendations made by this Commission are accepted and put into effect.

#### Sources of income

(b) There are no stable sources of income both for Vithoba and Rukmini trusts except the original cash allowance of Rs. 3,000 granted by the Raja of Satara to Vithoba and Rukmini which is now increased to Rs. 10,000 and is the only property under the control of the Devasthan Committee Trust. Though under the scheme framed by the High Court for the Vithoba trust provision is made that offerings of cash exceeding Rs. 500 should go to the Vithoba fund, since the date of the Scheme which was 1896 there is only one such offering. There is a small negligible amount of rent for a small building known as Terkarwada endowed to the deity and some fees recovered from vendors of flowers sitting inside—all these amounting to about Rs. 500 a year. In the case of Rukmini temple prior to the decision in appeal No. 62/60 whole of the income from offerings used to be taken by the Utpats. But after the decision half of it is directed to be spent for expense and the maintenance of the temple allowing the other half to be appropriated by them. So except the cash allowance referred to in favour of Vithoba and Rukmini there are no other mentionable sources of stable income. The result is that for repair and renovation of the temples or improvements of surroundings both Vithoba and Rukmini trusts have to seek public charity—indeed a sad situation for temples of such eminence in Maharashtra. It may be observed here that all offerings made in cash and kind to the deities and income from pujas and upans offered to the deities, should really belong to the deities, if not the whole, at least a part leaving the balance for the maintenance of services including of those who are engaged in them. But unfortunately either by reason of judicial decisions or by custom and usage no part of what should really belong to the deity for utilisation for the benefit of the real beneficiaries—the devotees remains. The Scheme judgment recognised the right partly upon the custom and usage enjoyed by the Badves which in turn was relied upon by the then Suzerain Power to recognise that right. With respect the Commission feels that a custom which has the effect of leaving the trust indigent is an unreasonable custom. The Commission cannot help referring to the quotation from the Halsbury's Laws of England appearing at page 65 of the Report of the Committee of Enquiry into the affairs of Dargah Khwaja Saheb (Ajmer) headed by Mr. Justice Ghulam Hasan of the Allahabad High Court. The Committee has observed :—

“A custom, it has been said, must be reasonable. If it be against reason it has no force of law. The reason here referred to is not to be understood as meaning every unlearned man's reason but artificial and legal reason warranted by authority of law . . . . . When, however, it is said that the custom is void because it is unreasonable, nothing more is meant than that the unreasonable character of the alleged custom conclusively proves that usage, even though it may have existed from time immemorial, must have resulted from accident or indulgence, and not from any right conferred in ancient times on the party setting up the custom.

. . . . . An alleged custom which is contrary to the public good, or injurious and prejudicial to the many and beneficial only to some particular person is repugnant to the law of reason; for it could not have had a reasonable commencement. Alleged customs which appear to have been founded in wrong and usurpation, and not on the voluntary consent of the people to whom they relate, are counted unreasonable and are void in law.”

—(Halsbury's Laws of England, Vol. X. 2nd Edition, pages 8 and 9).

#### Claims to endowments

(c) and (d) : Though there is *prima facie* evidence of endowments in favour of both the trusts information is evaded and not forthcoming from Badves, Utpats and Sevadhari on the ground urged by Badves and Utpats and Sevadhari that the representative committees of management have no knowledge of endowments standing in the name of individual Badves, Utpats and Sevadhari. Individuals have not come forward to supply the necessary information though notice was given to them through their representative committees and though actually they have chosen to be represented before this Commission by representatives who claim to represent not only committees but even the classes which the committees represent namely the Badve Committee, the Utpat Committee and the Sevadhari Committee.

### Appropriation of income

(ii) All the surplus remaining after meeting the expenses out of the income from offerings below the limits imposed by the Scheme judgment in appeal Nos. 141 and 168 of 1892 in the case of Vithoba and half of the income from offerings as decided in appeal No. 62 of 1960 before Rukmini after using the half for expenses is being distributed respectively among the Badve and Utpat families.

(iii) So far as Sevadhari are concerned for the services rendered by them in the nitya or daily pujas and upchars they do not get any remuneration from any source except the pujaris who get 'Ovalni', so that they have to fend themselves by soliciting Dakshina from the various devotees that visit the temple which practice has become irksome, not only to the devotees but even to the Badves. In respect of the pujas for which the Yajmans are introduced many a time either by a Badve or a Kshetropadhyaya or a person following a profession of Yajman-kriya, out of the income which is represented by an amount which is the subject matter of contract between the procuror and the Yajman, the procuror gets the lion's share, Badve or Utpat as the case may be, next to it, and the Sevadhari who had to perform actual rituals a very small amount, with nothing reserved for the deities or their trusts. The material purchased for the puja though its value is shown to be considerable goes to the Badves or Utpats as the case may be.

### Committees of Management : Badve Committee, Samastha Badve Mandal and Badve Samaj

(e) (a) The Vithoba temple is supposed to be under the management of the Badve Committee to be appointed in the manner prescribed in the scheme, consisting of five members, four of whom representing the four Takshims or branches of Badves. They are elected by the respective Takshims and the fifth is elected by the four representatives elected by the Takshims. This Committee is elected every year. Though this committee represents the entire Badve community, since 1937 a new committee called Samastha Badve Mandal is brought into existence by adopting what is called a constitution. It consists of nine members out of whom two are elected by each of the four Takshims, the 9th being nominated by the 8 members. The period of Office of this committee also is one year. Though the ostensible object of bringing into existence the Samastha Badve Mandal is to manage the work of distribution of collective income of the Badves among different families, in the earlier chapters it has been pointed out that this new Badve Mandal exercises not only some of the powers of the Badve Committee but has to approve of certain actions of the Badve Committee and thus enjoys an overriding position. On the basis of the ostensible purpose for the formation of the Badve Mandal, while registering the Vithoba trust before the Charity Commissioner it is registered in two parts—Part-I represented by the Badve Committee which is supposed to administer the Vithoba fund which as pointed out above is negligible and the movable and immovable properties of Vithoba which except Ornaments and the temple building consist of nothing of much value. Part-B is represented by the new body Samastha Badve Mandal which manages all the offerings below the limits prescribed by the Scheme so that while the Badve Committee appointed under the Scheme has very little to do and hence is reduced to a nominal position, it is the Badve Mandal brought into existence in 1937 that gets under its control practically the entire income of the offerings and the accounts of the Badve Mandal are not subjected to audit by the Devasthan Committee which was specifically entrusted with the work of audit under the Scheme judgment.

(ii) In addition to these two Committees very recently a third body under the name of Samastha Badve Samaj is being put forward though it has no constitution of its own and though the Badve Samaj constitutes the whole community of the Badves who have already two bodies representing them viz. Badve Committee and the Badve Mandal.

### Samastha Utpat Committee

(iii) In regard to the Rukmini temple including its Pariwar Devatas there is no scheme and none was found necessary by the High Court on the assumption that they have a constitution adopted by them providing for management. In the body of the Report it has already been pointed out earlier that the Constitution adopted by the Utpat Committee which has been done just before registration of the trust has not only been not effective but there has been no stable management which could keep proper control over the funds or the income. The committee under their constitution is of 5 persons four of whom are made up by each of their four Takshims electing one member and the 5th being nominated by the four elected members. The election is to take place after every four years. Their treasurer who is in possession of all the jewellery and valuables does not appear to be among the elected persons and as has been noticed earlier the ornaments were found to be in charge of the son of the deceased treasurer who has no locus-standi except as a member of the Utpat family.

### Devasthan Committee

(iv) The Devasthan Committee consisting of five members, was originally appointed by the British Government in 1854, when the East India Co. divested itself of the control over the temples and religious institutions all over India in pursuance of its traditional policy to rid itself of responsibility for the management of the religious endowments and at the same time make provisions for proper administration in the future. The Committee was recognised under the scheme and was entrusted with the duties of audit of the funds of Vithoba trust. The members of the Committee did not have any fixed tenure so that they were members for life but any vacancy occurring by death or resignation is being filled up by co-option by the remaining members.

(v) There is no scheme for the management of Pariwar Devatas of Vithoba, which are registered as a separate trust but the Samast Badve Mandal manages the said trust. The mode of election to this Mandal has already been stated.

### Persons claiming right to Management and Service

(f) Badves have right of management of the Vithoba trust as well as of the Pariwar Devatas. Under the Scheme Judgment they have a right to all the offerings subject to the limits described therein with a liability to meet the expenses of the nitya upchars and the maintenance of the temple. Their rights in regard to service are described as Chief Priests, Managers, Guardians and Overseers, and these rights have been adequately discussed in the earlier chapters. Seven Sevadhari have hereditary rights of service in the Vithoba temple but in respect of the daily pujas and upchars no provision is made for their remuneration. On the basis of custom, the pujari is allowed to demand and take ovalni by way of a second offering, near the deity. The other Sevadhari can solicit for 'dakshina' outside the sanctum. In respect of Yajmanpujas in consideration of the exercise of hereditary rights the Sevadhari collectively get a small portion from either the Yajman or through the Badves which is divided by them according to their shares. Badves take the entire income from the offerings made before the Pariwar Devatas, their claim being that after meeting the expenses of Pariwar Devatas they are entitled to appropriate the surplus and the question is sub-judice.

*Utpats.*—So far as Rukmini temple is concerned hereditary right both of management and service is claimed by Utpats.

*Kshetropadhyes.*—So far as Kshetropadhyes are concerned the only hereditary right claimed by them is the one to accompany their Yajmans or clients upto the sanctum which can by no means be called either a right to management or right to service.

*Kolis and Garud Temple of Benaris.*—So far as the claims of Kolis in respect of deities situated in the precincts of the temple and the right of Benaris regarding Garood temple are concerned provision is made for payment of compensation.

## CHAPTER XVIII

### RECOMMENDATIONS

1. Under the terms of reference the suggestions or the recommendations asked for from this Commission can be broadly classified into two categories viz. whether hereditary rights to management of the trusts and appropriation of the income thereof should be abolished and if so on what terms and conditions or if the rights are to be retained whether they should be curtailed and if so to what extent and secondly what should be the arrangement for proper management of the trusts. The first category refers to para. 3 (c) and the second to para. 3 (a), (b), (d) and (e). Beside these two, suggestions are asked for on any other matter considered relevant. It would be convenient first to deal with the points covered by para 3 (c) concerning abolition of hereditary rights. Though this question is discussed generally in the earlier Chapter it would bear repetition in a concrete form in this Chapter on recommendations.

#### Hereditary rights of Badves and Utpats

2. Badves and Utpats enjoy hereditary rights in respect of Vithoba and Rukmini trusts respectively of two types (1) right of management, (2) right of service. The seven types of Sevadhari in Vithoba Temple and Kshetropadhyayas in the Town of Pandharpur enjoy respectively hereditary rights—the Sevadhari pertaining to the service in the Temple and the Kshetropadhyes service to their Yajmans coming on pilgrimage in respect of Sevas and rituals which they intend to perform. All these classes follow the profession known as Yajmankritya or service rendered to Yajman which consists, among other things, of receiving the pilgrims.

putting them up and making arrangement for their food and residence. This is not necessarily a hereditary right or profession for, since the payments made by the pilgrims prove profitable the profession is being followed not merely by the priestly classes whose ancestors were following this profession but even others who have houses and rooms to spare and means to put up and cater to the necessities of the pilgrims. None of the trusts is directly concerned with this profession of Yajñankritya.

3. A few witnesses, some of them ladies and some among the sophisticated class suggest that hereditary rights should not be completely abolished forthwith and that a chance may be given to effect necessary change and improvements in the management of the temple. The Commission feels that this suggestion which is voiced is prompted firstly by sentiments based upon the fact that the priestly classes have enjoyed the hereditary rights since time immemorial and secondly by a fear that if the present set up is substituted by a new one the religious requirements of rituals now in the hands of persons trained hereditarily for priestly duties may suffer. All these witnesses however have stated unequivocally that a change in the methods is necessary so as to be conducive to the convenience and satisfaction of the pilgrims. The Commission feels that there are no valid grounds for continuing the hereditary character both in regard to management and service. In the earlier chapter the Commission has discussed the evidence in detail and pointed out that none of the grievances of the devotees or their complaints though genuine have been rectified even though they have been existing during the last 2 or 3 centuries, that quarrels and disputes *inter-se* between the priestly classes resulting in repeated litigations have not only not stopped but have been continued even after this Commission was appointed, that suspension of *vritti* at least twice by the former Rulers and solemn undertakings given for good behaviour to obtain restoration of the *vritti* and warnings administered in no uncertain terms by the Courts including the High Court repeatedly have had no effect to ensure a solemn and peaceful atmosphere in a temple and a place of pilgrimage where large number of devotees flock in search of solace. Endowments have not been accounted for, immovable properties have not been properly protected by preventing encroachments and adverse claims, no attempt made for developing the surroundings to provide proper amenities to the pilgrims and make the temple attractive. Lastly if the hereditary rights have left the trusts so indigent that they have to depend upon charity and donations for improvements reconstruction or development of surroundings and if donations and charities have been shy in coming forth for want of confidence on the part of the donors that their donations would be properly utilised for the benefit of the temples, there is no purpose in allowing a further continuance of the hereditary rights. Again the present established rights etc. is a parasitic growth on the fundamental necessity for maintaining a temple arising out of greed of the persons in charge of and connected with the management and the ignorance and indifference of the society and the unstable political power and as such requires to be rooted out in public interest when society is becoming conscious of its rights and duties and it is necessary to give to the society a clean slate to fulfil its religious and other aspirations.

#### Combination of duties of Master and Servant-effect

4. Then again the merger and fusion of hereditary rights as master and servant in the same person can never be conducive to the interest of the real beneficiaries who are third parties viz. devotees. History in this case points to this fact emphatically so far as Badves and Utpats are concerned. In the suits of 1882 to which detailed reference has already been made Badves had claimed ownership of the temple, deity and the property. Though they succeeded in this claim in one suit it was negatived by Mr. Satyendranath Tagore in the others that followed and the High Court finally confirmed the findings of Mr. Tagore holding in effect that the temple is a public trust and the property is the property of that trust. Notwithstanding, Badves succeeded in the Scheme suit in establishing, on the ground of custom and usage, their rights to substantial part of the offerings which in effect has left the trust without any substantial income or fund. Reference has already been made to the evidence showing that Badves in their capacity as managers have not maintained much difference between what should be their private property and what should be the trust property or income. New committees with new ostensible purposes but which really are intended to circumvent the checks imposed by the Scheme have come into being. Endowments made to the trusts stand in the name of individuals who have refused to co-operate and give information. In short the course of conduct throughout, after the scheme, has been such as to indicate a tendency not to differentiate between the property and the income of the trusts from that of the class of Badves.

5. Similar is the situation in the case of Utpats who are in management of the Rukmin trust by right of heredity and who have also hereditary rights of service. There was no occasion for a suit to have a scheme framed in their case. But after the Bombay Public Trusts Act came into force the Utpats claimed before the Charity Commissioner what Badves had claimed

and failed in 1882 that they were the owners of the deity, temple and property. In fact the representative of the Utpats in the party examination before the Commission, attempted to trot out the same claim though immediately, he tried to modify it in view of the earlier evidence. Needless to say that the claim of ownership was negatived and the trust was held and registered to be a public religious and charitable trust. However the Utpats insisted that they have the right to the entire offerings. Ultimately the High Court held in the appeal against the orders of the Charity Commissioner that half of the offerings should be appropriated by the Utpats and the other half spent for the expenses and upkeep of the temple. Reference has already been made in the earlier Chapter to the management of the Utpats and it is not necessary to repeat it.

6. From what is just stated it is quite obvious that the position of Master and Servant cannot co-exist and, therefore, ultimately the two capacities will cease to exist separately. The inferior of the two capacities will merge with the superior and the servant is bound to become the master.

#### Whether desirable to continue one of the two hereditary rights

7. If for the reasons just stated two hereditary rights viz. management and service should not be allowed to continue in the interest of the trusts, the next question is whether it would be in the interest of the trusts or in other words of the public to allow any one of them. From the experience gathered by the Commission in the course of its visits to Badrinath, Ajmer, Nathdwara, Jagannath Puri and Tirupati-Tirumalah, the Commission feels that it would not be conducive to smooth working of an institution and fulfilment of its objects to preserve any of the hereditary rights as they are now enjoyed by the Badves and Utpats though recognition could be given to them in a modified and qualified form to satisfy the doubts of those who feel that the quality of the rituals might suffer by abolition.

#### Experience at the Ajmer Dargah and Nathdwara

8. In the Dargah of Khwaja Saheb of Ajmer it was noticed that the hereditary rights of Khadims of taking offerings outside the dome not having been completely abolished, in addition to disputes between them and the administrator appointed under the legislation passed, harassment of the devotees has not in the least abated. The Special Officer Mr. Alimi told us that even though according to the Act and Rules covering the management of the Dargah all offerings made at the shrine should go to the Dargah fund and though locked boxes are kept, he meets with constant difficulties in regard to offerings. He told us as an instance how he was threatened when he took charge of the offerings made by the Pakistan High Commissioner at the Dargah. The Commission itself experienced during the visit to the shrine in the company of the Special Officer that the khadims present inside were dissuading the Commission and the Secretary from depositing offerings in the locked boxes kept by the management with a representation within the hearing of the Special Officer that those offerings put in the box do not reach the Khwaja-saheb and it is only those thrown inside near the shrine which khadims are not permitted to take but who persist in taking reach the Khwaja saheb. The Special Officer told the Commission about constant disputes in the shape of writ-petitions suits etc. between the administration and the Khadims regarding the rights to the offerings in spite of the legislation. The Commission noticed in Nathdwara that preservation of the hereditary rights though not in respect of offerings but in respect of service and other matters retards the progress or scope for any improvements. In the Nathdwara case it seems that certain hereditary rights of the Tilkayat have been preserved (*vide* S. 16, 21 and 22 of the Nathdwara Temple Act 1959). Fixation of time and periods during which the doors of the shrine could be open for the Darshan of the public is preserved as the hereditary right of the Tilkayat. The Commission found that the shrine is open for Darshan to the public 8 times during the day but on each such occasion only for a short period ranging from 15 minutes to 45 minutes or so, so that during the course of the whole day public can have Darshan only during the period not exceeding three to four hours. The Commission noticed crowds waiting in front of the closed doors. Knowing that only a few minutes would be available when the doors are open, to have a view of the deity, there is a scramble in the huge crowds of devotees who rush for getting a good view and force their way. The servants to keep the pressure off use improvised cloth whips to strike and keep the crowd at bay. It appears to be hazardous for the aged and the infirm to get mixed up. The time when the shrine is open not being sufficiently long crowds are not satisfied and some who have had a chance once wait for another opportunity. Devotees also are in large numbers. It is true that there are separate places earmarked for females and males to stand but to get to those places itself through the crowd is a trial. No queue system is followed and the Commission was told that as Shri Krishna whose boyhood form is represented by the deity used to have Darshan from Gopis and devotees in multitudes, introduction of the queue system is considered to be repugnant and may not be acceptable to the Tilkayat who is the sole arbiter. It appears that

large supply of milk is necessary at Nathdwara for daily Bhog of the deity. Such milk is brought on head-loads by a large number of persons who claim a hereditary right which is recognised. Though transport of milk in vehicles would have been speedier and cheaper the administrator is not able to introduce this improvement because of the hereditary rights and it is the right of the Tilkayat also to decide how the milk should be brought. Contrary to the decision in Badrinath Temple Case acts of management such as regulation of time for Darshan or conveyance of materials appears to have been included among hereditary religious rights or powers of the Tilkayat and distinguished from powers of a secular nature, with the result that the administration appears to be helpless to introduce any reform that would be conducive to orderly management of the crowd or economy of expenditure.

#### Experience at Jagannath Puri

9. In Jagannath Puri the list of the hereditary Sevadharies or Sewa-wallas is so long that Record of Rights is maintained. The total number of hereditary sevavalas is 3,700 belonging to 1,400 families and they render service according to turns and receive remuneration in kind on the days they serve. Besides Supakaras or cooks they get a share of the bhog which are sold by them as prasad to the public at rates which bear no proportion either to the market value of similar items or the actual costs. The administrator is experiencing considerable difficulties in management on account of the claims and dispute of the holders of these hereditary rights. In short the Commission finds that hereditary rights whether in the management of service proves to be a means for harassment of the administrator or the devotees and is not at all conducive to proper and orderly management of the affairs of a religious institution. And where hereditary rights to management and service are combined in the same person or body of persons there would be no means to check or prevent pursuit of selfish ends.

#### Abolition of hereditary right recommended

10. After giving the most anxious consideration to all the aspects the Commission feels that hereditary rights of Badves and Utpats both of management and service and of all other Sevadharies who have only the rights of service should be abolished. Needless to say that preservation of any one of the two hereditary rights viz. of management or service in Badves and Utpats would be a source of constant trouble because possession of one is liable to be used as a lever or means to gain the other. Therefore for the reasons just stated question of preservation of any rights or curtailment of any existing rights does not survive for any discussion. However to satisfy the apprehension of some of the witnesses who have advocated preservation of some rights the Commission thinks that after abolition of the hereditary rights to service while making appointment for the same service on the basis of salary as remuneration the source should be maintained as far as practicable by appointing suitable persons properly qualified from among Badves, Utpats and Sevadharies as the case may be for rendering such service as they have been doing without curtailing any of the religious practices that have been observed and respected. Needless to say that when hereditary rights are abolished right to offerings as income or share in it also would have to be abolished and all the rights and powers shall vest in and duties and obligations cast on the Administration to carry out all religious services to the deities and secular management of the temples. Therefore, making appointment of the necessary staff, duly trained, from the same source, as far as possible, of suitable persons on a decent living wage to keep them comfortable with all service benefits should be provided for.

#### No necessity to propose machinery for determination of the compensation as it is dealt with earlier

11. The Commission has already dealt with in other chapter, the power of the State to abolish hereditary rights in "public interest" and has also proposed the quantum of compensation to be paid to each of the classes after enunciating the principles. There is, therefore, no necessity to propose any machinery for determination of the compensation or the source because that is also discussed and indicated in the same Chapter. For distribution of the compensation provisions are proposed in the draft enactment. Since the Commission has proposed abolition of the hereditary rights of management it will have to propose what it considers would be proper machinery to carry on the management of the trusts and also for each service persons may have to be appointed on salary basis.

#### Retention of posts of Badva, Utpat and Sevadharies

12. At this stage it would be difficult for the Commission to say how many persons would be necessary for each of the services rendered by Badves, Utpats and Sevadharies. It has already been pointed out that the Badves do not have to play any active part in the worship or upchars, though they are designated as Chief Priests, Managers, Guardians and Overseers.



If hereditary rights of management are abolished the capacity as managers and guardians will also disappear as they will have little to do in these capacities. To preserve their position as the chief priests and overseers the only work that could be entrusted to them in keeping with the dignity of the idol and importance of the temple is that of remaining present for directing of pujas and service.

#### Maintenance of visible aspects of God's Dignity

13. Dr. Mrs. Iravati Karve in the course of her conversation with the Commission when on a visit to the Deccan College Research Institute after the hearing of the evidence and arguments was over stressed that Vithoba is described as "Pandharicha Rana". He is some times described also as "Vaikunthicha Raja". In keeping with this description attendance on the deity and the service from different classes of Sevadharis are being rendered. Dr. Karve stressed the necessity of maintaining the dignity of the deity by keeping intact all the paraphernalia and practices. The Commission also feels that reduction in any of the outer and physical attributes of dignity and position would violate the sentiments of the devotees and therefore, all services with all the pomp and dignity would have to be preserved. Philosophers and economists may argue that strict requirements of religion do not have value for the glistening rituals. But the idol being regarded as personification of super being, sentiments of the devotees would demand preservation of all the attributes of pomp and dignity in keeping with the unique position attributed to the deity. The Commission noticed that all such ritual practices are maintained in all the important temples not merely in the case of deity and idols but even in the case of the principal servants who enjoy some spiritual status. For instance, in the case of the Rayal at Badrinath he is preceded by persons holding a sceptre while coming into the temple and back. The *Vilkayat* at Nathdwara and the Mahant at Tirumalai are preceded by liveried attendants. In fact at Shri Vyankatesh temple at Tirumalai the Commission witnessed what is called a *Dabbar* held every morning at 9 a.m. when a Report is read out before the idol placed on a golden throne outside the sanctum to inform the idol about the collection of the previous day and details of the administration. The Commission, for the reasons just stated, recommends continuation of the posts of *Badves* and *Utpats* in addition to seven *sevadharis*. The number of suitable incumbents to be appointed for each of these classes or the terms of salary would have to depend upon the duties to be performed, the load of work, and the financial conditions and these matters can be left only to be determined by the future administration which will have to exercise the powers of appointments, removal as well as other disciplinary powers. So far as the devotees are concerned they should not have a feeling that any of the services or the servants are omitted or the paraphernalia of the deities curtailed because sentiments towards God form an integral part of devotion.

## CHAPTER XIX

### ADMINISTRATION

#### Nature of Administration

1. In this Chapter most of the remaining points covered by para. 3 viz. (a), (b), (d) and (e) of the Terms of Reference will be dealt with. Abolition of hereditary rights of management so far exercised by the *Badves* and *Utpats* would have to be substituted with an effective administration that would be capable not only of removing all complaints and grievances of the devotees and the public, but also of meeting the trends of modern thought and aspirations that a temple as a religious institution in addition to fulfilling the spiritual needs of the public should further the cause of the well being and betterment of the society in the field of social amelioration, education etc. These objects can be achieved only by an administration free from all ills which have vitiated the social structure by some *isms*. A temple is not a political institution and, therefore, its administration should be one which is never likely to be affected by political changes or influences; nor is religion a preserve for a particular class or community. Pandharpur as has been pointed out earlier is a centre of spiritual attainment for all irrespective of caste, creed and even religion though essentially it stands for and represents the tenets of the Hindu religion. The Commission has devoted anxious thought to the question of the nature of administration to be proposed, the strength of the Committee, the manner of its appointment, the powers it should exercise in the best interest of the institution and the agency through which the control should be exercised having regard to the objects just mentioned. With this in view the Commission visited various temples and places of pilgrimage where by special legislative enactments administration has been imposed. Wherever possible the Commission contracted the Executive

Officers managing the affairs of the temple, so that it may be possible to recommend or suggest for Pandharpur an administration which, as far as is possible, can avoid the difficulties which others have experienced.

#### Modes of Appointment Discussed

2. Election and selection which will include nomination and appointment by an agency, are the modes available for having a Committee of management and every mode has its advantages and disadvantages. There is no doubt that a public religious and charitable institution to which public have free access and which has to minister to their wants should have a body truly representative of those for whom it stands. While election is a mode approved of and adopted in a democracy for having a representative body, an electorate or a body entitled to vote is necessary. For an institution like the Pandharpur Temples there can be no electorate except the class of devotees which is not a determinate body but spread far and wide and if the number of pilgrims is any guide it runs into 10 to 12 lacs a year made up of different castes, communities and even religions. Before the Commission there was a suggestion by a witness that those belonging to the Warkari Panth may constitute the electorate. But as has already been pointed out warkari panth represents only a portion of the larger class of devotees of Vithoba all of whom may not be warkaris. In short it would be impossible to have a list of voters without which there can be no proper election.

#### Administrations in Different Temples

3. In Badrinath four out of the 15 members have to be resident of four Hill Districts who are to be elected by Hindu Members of the respective Zilla Parishads and where no such exist the Collector of the District has to nominate a member from his District. Six other members are required to be nominated by the State; two by the Maharaja of Tehri Garhwal, one to be elected by the Hindu Members of the U. P. Legislative Council and two by the Hindu Members of the Assembly of the same Legislature. The majority of the members therefore are nominated either by the State or by the Government or by the Collector or by the erstwhile Ruler or by the Members of the Legislature. In Tirupati-Tirumalai which has an administration of 11 members constituting a committee, there is no provision for election of a representative. Three members are nominated from among the members of the State Legislature and one each is nominated from among the females and scheduled caste by the Government. The remaining six are to be nominated by the State Government. In Jagannath Puri out of the Committee of 11 members 8 members are to be nominated by Government but from different groups viz. one from among the persons having the right to sit in Mukti Mandap, three from among the Sevakas whose rights are recorded in the Record of Rights and four other persons who are neither *ex-officio* nor representative of the classes just mentioned. Besides these eight there are three members—one being the Raja of Puri who is recognised as Adyasevak and two *ex-officio* members viz. the Administrator of the Temple and the Commissioner of Hindu Religious Endowments for the State of Orissa. Nathdwara administration also does not provide for any election. Besides Tilkayat who is the *ex-officio* President and the Collector of Jdaipur an *ex-officio* member, 9 other persons nominated by the State Government including the Vice-President who shall be Hindus following the Pushti-margiya Vallabhi Sampradaya. This qualification however need not apply to the Collector. Out of this committee a small executive committee with the Vice-President and two members is constituted to carry out day-to-day administration.

4. To manage the Durgah of Kwaja Saheb of Ajmer the Central Act prescribes a Committee of not less than five and not more than 9 members belonging to the Hanafi-Muslim sect and all these are required to be appointed by the Central Government. It will thus be seen that for all practical purposes the mode of election has been completely eschewed.

5. In these case of Temple there can be no different objects as in politics, the only object being one of pursuit of religion or spiritual attainment permitting of no controversy. Therefore, there is no scope for party interests calling for election to express the wishes of the electorate. The alternative mode adopted in most cases is of nomination, in some cases by the State Government and in some cases by the Collector of the District or the Raja or a person having the hereditary rights like the Raja of Tehri-Garhwal. The Commission feels in all humility that nomination by the State Government represented by a political party in power or election or for that matter nomination of members of the Legislature will not fulfil the object of preventing political influence from entering into the temple management. In this connection the views of Mr. Justice Ghulam Hasan and his

Committee in the Report on the affairs of the Ajmer Dargah can be quoted with advantage. At page 92 of the Report it is stated :—

"We also think that in view of the purely religious character of the Durgah members of the Legislature whether Central or Provincial elected on one political plank or another could hardly be expected to spare time to attend the meeting of the Committee ..... without meaning any disrespect we cannot help thinking that they could not by reason of their peculiarly difficult position make a useful contribution towards advancing the interest of the Durgah."

In the same Report it is also pointed out that it is not desirable to those who have any beneficial interest in the Dargah to be associated with its administration as they are likely to attempt to advance their own interest and this aspect has already been referred to above while discussing the question of abolition of hereditary rights of Badves, Utpats and Sevadhari. Of course it after an initial period of 15 years if some from these classes as representing the society as a whole and not the respective classes are appointed by the Court while making appointments there could be no objection or harm ; but initially at least for a period of 15 years nobody from these classes, should be appointed on the administration.

#### **Disadvantages of Nomination**

6. A Committee nominated by Government representing a particular party more often than not is likely to feel embarrassed in taking its decisions. With growing awareness of real or supposed rights of individuals questions may frequently arise in which the temple administration has to take important decisions having far reaching effect. Occasions may arise frequently enough when the members of the Committee may feel embarrassed in taking decision if they feel that those who voice certain grievances are likely to approach members of the Government who have something to do with making of their nominations. The Commission in the course of talks with Officers entrusted with the administration of the Durgah at Ajmer and at other temples gathered that either the hereditary services or those interested in them create situations of embarrassment for the administration when it is a question of effecting an improvement by enlisting support of important people. The result is that they do not feel themselves free to act in the best interests of the public or the trust. The Commission feels compelled to note with regret its own experience during the last Ashadhi Fair. The visiting pilgrims at that time were estimated to be 4½ lacs. It was impossible for more than a few thousand to get Darshan during the day and multitudes were waiting patiently in queues for 8 to 10 hours. While the Commission was sitting in the shed near Tarti Darvaja where all those who are incharge of arrangement are stationed it was noticed that large number of people approached with notes or chits from persons in position to arrange for their admission for darshan and those incharge of the management dared not disregard these notes. The result was that a sizeable number during the course of the day could obtain darshan without having to wait in the queues by exercising "influence" or pressure. What is true in such matters would prove true in more important matters having far reaching effects. What seems necessary therefore is that the administration should be so chosen that it does not represent any political views or party and those constituting it will have no occasion to feel that their continuance or existence will depend upon the pleasure or displeasure of certain individuals. Nomination by such agency is likely to be reduced to the position of a gift for which many may covet.

#### **Judiciary should be entrusted with appointment**

7. The Commission after giving its most anxious thought to this question and ascertaining the experience of those who are entrusted with the management elsewhere has come to the firm conclusion that election of a Committee for Pandharpur is not at all feasible because there is no definite electorate, that nominations are capable of taking away the initiative from the management and, therefore, the powers of appointment to the Committee should be entrusted to the judiciary which should make appointments acting in a judicial capacity. It is not necessary for the Commission to point out that under the Constitution of India the judiciary is entrusted with powers to safeguard sanctity of the constitution and the freedom of the individual. Luckily so far no charge is levelled that the judiciary as a whole is acting either in a capricious manner or is capable of being influenced by political or other considerations except those of justice. Large number of witnesses appearing before the Commission have expressed themselves unequivocally against nomination of members by the Government or its important Officers, which indicates that public is still to acquire confidence that the nomination will not be guided by other extraneous considerations. In fact some of the witnesses who advocated a *status-quo* indicated as their reason that if the present management is removed the Government might step in as if it is a part and parcel of the Government.

8. While the Commission experienced what is just recorded above, some of the enlightened and important witnesses appearing before the Commission did not want an election for instance General Thorat—retired Deputy Chief of Staff, Indian Army, and former Chairman of the Maharashtra Public Service Commission (Exhibit 457), Shri V. S. Page—Chairman of the Legislative Council (Exhibit 414), Shri T. S. Bhardes Speaker of the Legislative Assembly (Exhibit 450). In fact not a single witness qualified to speak on such matters advocated or suggested election as a mode for appointing a Committee. On the other hand some witnesses expressed complete faith and confidence in the judiciary for being entrusted with the powers of appointing a committee. The Commission would like to quote relevant extract from the evidence of Shri H. V. Pataskar (Exhibit 691)—an elder statesman, senior Legislator, Member of the Constituent Assembly, former Law Minister of the Central Government, former Governor of M.P. and at present Vice-Chancellor of Poona University, not to speak of his enjoying a position where his advice is sought by the Central Government by serving on Commission to solve many a knotty problem. Mr. Pataskar has stated in his evidence :—

"From what we see and from my experience I would not recommend the mode of election for appointing the Committee. It would be proper to have the members of the Committee appointed by the District Judge, acting judicially. Applications should be called for from the candidates or those who wish to propose any candidates and the names of the proposed candidates should be published inviting objections if any; liberty should be given to the public to file affidavits regarding the merits or disqualifications of candidates and after fixing a date for hearing the District Judge should select suitable persons from among the categories which I have suggested above. The District Judge's order should be subjected to revision by the High Court. The tenure of members should be of 5 years. I would not in the beginning suggest retirement by rotation as it might lead to complications."

With respect the Commission agrees with the opinion of Mr. Pataskar except in that he has suggested certain categories for choosing members therefrom. He seems to favour the appointment of some representatives in the Committee from among the Badves, Utpats and Sevadharies. The Commission has already discussed at length about the undesirability of associating those who were claiming hereditary rights with the administration. If the source for selection for service in the temple is maintained as far as possible from among Badves, Utpats and Sevadharies needless to say that it would not be desirable to combine the capacity of master and servant not to speak of the fact that when hereditary rights are abolished persistent attempt will go on to regain as many advantages as possible if not the lost rights themselves.

9. Shri Pataskar in his evidence has indicated the procedure and the Commission is in full agreement with the procedure suggested by him. It would not be out of place to mention here that the Commission has experience of appointment to the temple committees by following this very procedure mentioned by Shri Pataskar in the North Canara District when it formed part of the Bombay Presidency. At that time the Religious Endowments Act 1863 was applicable to that District and appointments to the temple committees in the various Talukas and the District used to be made by the District Judge following the procedure as mentioned by Shri Pataskar. The only difference was that those appointed used to be members for their life and, therefore, some of the vice that cropped up in the administration could not easily be removed. The Commission understands from the record of the Assistant Charity Commissioner and many schemes gathered by the Office of Commission as material for study that in most of the schemes framed by the Courts the mode of election has not been adopted and appointments of trustees are made by the Courts themselves. It is not necessary to further dilate upon the question of procedure because the Commission thinks that Legislation would be necessary and in the Legislation that will be proposed by the Commission a reference will be made to the procedure to be followed.

#### Strength of the Committee

10. It is necessary at this stage to indicate the strength of the Committee of administration, qualifications of the members and whether representation of any group or class would be necessary. In the Ajmer Durgah Committee Report, the Enquiry Committee has expressed that a Committee of 25 persons that had been appointed before under the Act, 1936 could not act and did not useful work. In all the Acts referred to above the Commission has found that a Committee of 11 members is appointed except in the case of Ajmer Durgah where a minimum of 5 and maximum of 9 members is fixed. The Commission feels that

for Pandharpur Temples a Committee of 11 members would be suitable without making it too small or too unwieldy.

11. Pandharpur is not a District place though a city with headquarters of a Sub-Division viz. a Revenue Prant Officer. The Commission does not believe in a majority of members staying outside the place where the administration is to be carried on. There must be a sufficient number to form a quorum near at hand and at the same time it should be so constituted that a majority is not subjected to local influence or vested interests. This necessitates having some *ex-officio* members. The Commission would, therefore, recommend that out of the 11 members 4 members should be *ex-officio* members consisting of the President of the Municipality, the Prant Officer, the District Health Officer and the Administrative Officer of the temple. The Commission is of the opinion that at least at the commencement for a few years the Administrative officer should be an officer in Government service not lower in rank than a Prant Officer whose services should be lent and appointed by the Government. Since a Government servant with prospects in his regular line would not prefer to continue for long on deputation, the tenure should be fixed at three years providing for one extension of equal period if sought by the Committee of administration. Needless to say that the *ex-officio* members should be Hindus. If any of the Officers does not belong to the Hindu religion the head of his department may nominate an officer of similar status to serve as an *ex-officio* member. If the President of the Municipality happens to be a non-Hindu the Vice-President or failing him the Chairman of the Managing Committee shall be an *ex-officio* member. In proposing four *ex-officio* members the Commission has in its view that the *ex-officio* members alone should not constitute a majority on a question that may be influenced by party considerations.

12. The remaining seven members should be appointed by the District Judge following the procedure mentioned above, quoted from the evidence of Shri Pataskar. The Commission does not advisedly recommend any constituencies to choose the members from, such as the particular priestly classes or the warkari Maha Mandal etc. because the Commission feels that the Committee should consist of representatives not having a particular label but all those who are believers in the deity and the welfare of the institution. The only qualification which the Commission would suggest is that the seven members should all be Hindus, who are not atheists but believers in the deity and the institution. Among the devotees answering these qualifications, while there may be some in Pandharpur a large number of devotees may hail from outside and the Commission therefore thinks it fair that such devotees should have representation on the Committee so that they may be able to voice the difficulties of people coming from outside and suggest remedies. It being necessary at the same time that the progress of work from day-to-day should not be hampered there may be sufficient number from Pandharpur or near about to form a quorum, even though the Administrative Officer may be armed with wide powers. The Commission therefore proposes that out of seven members to be appointed by the District Judge answering the qualifications mentioned above three will be from Pandharpur proper or from within a radius of 20 miles from Pandharpur. Two shall be from the rest of the District excluding Pandharpur and the area around it within a radius of 20 miles, and two may be from any other place outside the District. The Commission feels looking to the status of the Administrative Officer who will be an *ex-officio* member of the Committee and also its Secretary he should be entrusted with wide powers in regard to management and discipline. The tenure of the members other than the *ex-officio* members shall be ordinarily five years, subject to removal for adequate reasons and they should be eligible for re-appointment.

#### Amalgamation of Trusts

13. The next question of importance is whether there should be amalgamation of all the trusts. The subject matter of the present enquiry consists of four trusts viz. the Vithoba trust, the Rukmini trust, the Privar Devatas Trusts and the Vithoba-Rukmini Devasthan Committee trust. It is already pointed out earlier that the last of these four does not have any property except cash allowance to be utilised for the Vithoba and Rukmini trusts and presumably it is on this count that it is constituted into a separate trust, for, the only other duty entrusted to this trust is of auditing the accounts of Vithoba Trust. If administration is to be imposed there would be no necessity to maintain this trust at all because the Vithoba Rukmini Devasthan Committee will have no duties or powers left since all the powers will be exercised by the Administrative Committee. Regarding the other three trusts when a Committee of administration is to be appointed and the trusts are interconnected, the management relating to all the three trusts will merge together in the Committee of administration that may have to be set up. In other words there would be an automatic amalgamation of

not only these three trusts but certain other trusts having connection with Vithoba trust, which are in Pandharpur and which did not happen to be included in the terms of references of this enquiry. Even apart from this aspect, convenience, efficiency and proper management will demand amalgamation of all the trusts to be brought under a common administration for which so far as Commission is concerned it does not see any legal impediment. All the trusts are public religious and charitable trusts having more or less the same common objects connected with the propagation of religion. Vithoba being the centre of attraction, Parivar Devatas being the subsidiary deities of Vithoba and Rukmini being the consort of Vithoba it is only proper that all the three together should be amalgamated into one common trust. It is true that at present Vithoba trust and Parivar Devata trust are in charge of Badves and Rukmini trust is in charge of Utpats, but if as proposed above the hereditary rights of Badves as well as Utpats happen to be abolished and the conduct of worship is entrusted to persons drawn as far as possible from the original sources on salary basis the fact that the trusts are managed to-day by different persons will not be any serious impediment. The deities pertaining to all the three trusts are within the same enclosure and, therefore, retention of the trusts as separate entities would lead to inconvenience if only one or the other of them happened to be vested for management in a separate committee. The Commission may mention that in the Badrinath temple and Jagannath Puri Temple as well as at Tirupati Tirumalai Devasthan though prior to the imposition of an administration there were separate Parivar Devatas and possibly separate management of the deities subsidiary to the main deities all of them have been brought under common management even though in Jagannath Puri there were 200 Parivar Devatas and at Tirupati they were of a large number. It is important to note that under U. P. Act 16 of 1939 known as Badrinath Temple Act only the administration was imposed in respect of Badrinath Temple but later on under U. P. Act VIII of 1964 Shri Kedarnath Temple and the Endowments, were also brought under the same administration, so that though Badrinath and Kedarnath are places far apart, for convenience not only were they brought under the same management but even 29 others mentioned in Schedule I and 16 mentioned in Schedule II of the said Amended Act were also brought under the same administration. There should, therefore, be no difficulty in amalgamating the trusts though some of the Parivar Devatas are outside the Vithoba Temple. Similarly under the common management of Tirupati-Tirumalai Devasthan there are several other trusts mentioned in the first Schedule of Andhra Pradesh Act XVII of 1966. The Commission therefore feels that there should be no difficulty in amalgamating all the trusts of Pandharpur so as to bring them under the common administration which, needless to say, will lead to efficient and economic management.

14. The last question which can properly fall within the scope of this Chapter is whether the provisions of the Bombay Public Trusts Act XX X of 1950 would be adequate or whether a separate legislation would be necessary to give effect to the recommendations of this Commission. The Commission feels no hesitation in thinking that a separate legislation would be necessary on the lines of Acts passed for other similar temples and institutions. First of all conditions in the Ajmer Durgah were more or less similar to the conditions existing in Pandharpur, the Khadims claiming exactly similar rights as the priestly classes of Pandharpur. Even though a separate legislation had been passed for Badrinath Temple the legislation required to be amended so as to include the Kedarnath and other connected temples. Turning to the provisions of the Bombay Public Trusts Act apart from the serious doubt which the Commission entertains about the adequacy of its provisions at least in one respect which is the practical aspect, the Commission feels that the provisions of B. P. T. Act will not be adequate to give immediate effect to the recommendations of this Commission.

15. It is no doubt true that under the B. P. T. Act there are provisions for amalgamation as well as for framing schemes. While the powers of ordering amalgamation or framing a scheme are vested in the Charity Commissioner they are all subject to appeal to the District Court and the High Court not to speak of the Supreme Court. Experience has shown in the case of a suit pertaining to the Rukmini trust that the powers of the Charity Commissioner can be rendered ineffective unless the Charity Commissioner himself acts as a plaintiff and approaches the Court. Two Utpats with the consent of the Charity Commissioner had filed a suit being suit No. 6/66 of the Sholapur District Court, alleging mismanagement of the Utpat Committee in the Rukmini temple and asking for their removal and framing of a new scheme and in the meanwhile for an appointment of a Receiver. The Charity Commissioner was made a formal party as required by the B. P. T. Act.

16. Without at that stage realising the importance of the question the Charity Commissioner filed a formal statement that he would abide by the orders of the Court.

But as soon as it was realised that the suit related to the Rukmini Temple of Pandharpur where there was trouble the Charity Commissioner filed a supplementary written statement indicating that he supported an overhaul of the management and an appointment of a Receiver. As soon as this written statement was filed the disputing parties thought that the suits as a whole will stand to lose and, therefore, behind the back of the Charity Commissioner the plaintiffs informed the Court that they did not want to prosecute that suit. The attempt of the Charity Commissioner at that stage to get himself transposed as a plaintiff to be able to prosecute the suit proved ineffective because the parties that had approached the Court had arrived at an understanding, thus leaving the Charity Commissioner to take his own independent course.

17. In exercise of the powers vested in the Charity Commissioner if he were to make orders for amalgamation or framing a scheme, those orders would be subject to jurisdiction of appeals to three Courts, so that the parties objecting would have ample scope to delay the proceedings for years together, and the remedy which is immediately necessary would ultimately stand to prove infructuous. Besides the powers of the Charity Commissioner or for that matter even of the Court are restricted in that they would have no powers to interfere with the rights already vested in the party and a scheme would have to be proposed or framed within the limits of the rights of the parties recognised by the previous judicial decisions.

18. In case of Pandharpur, there are decisions of the High Court in appeal Nos. 141 and 158 of 1890 whereunder as pointed out in the earlier Chapter practically the entire offerings vest in the Badves as the offerings above Rs. 500 are very scarce being only one in the course of these 80 years. No court would be able to ignore these decisions based upon recognition accorded to the rights claimed by the Badves by the former Rulers. Where judicial decisions of a High Court have recognised certain rights and where those rights prove derogatory to the public interest and where custom on which those rights are based is unreasonable and would act in detriment of the beneficiaries of a trust the only course that appears to be open is for the State to discharge the obligation thrown upon it under the Constitution, of legislating in respect of a public religious and charitable institution as demanded by the interests of the general public. The Commission feels that passing a legislation naming it as Pandharpur Devasthan Act is not only the most advisable course but the only course open to the State.

19. The proposals made by the Commission involve not only abolition of the hereditary rights recognised by the judicial decisions and amalgamation of a large number of trusts to bring them under the common management but also involve payment of compensation in the public interest acting under Article 282 of the Constitution in view of the fact that none of the trusts have any funds and if for abolition of the rights which are the rights to properties payment of the compensation under the Constitution is obligatory, the provision of the B. P. T. Act will not enable the Charity Commissioner or for that matter even the Court to pay the compensation and this can be done only under separate legislation.

20. Last but not the least the importance of the temple which is the chief temple of Maharashtra the seat of renaissance and the fountain of Marathi literature demands treatment as a separate entity because the Commission feels that there is a prospect of growth of that institution so as to bring in large income to further the religious objects as has been the case in other similar institutions notably the Tirupati temple. Since there are similar separate legislations for the Ajmer Durgah, the Badrinath temple, the Nathdwara temple and the Puri temple, the Commission feels that passing of a separate legislation would not offend any of the fundamental rights vested in any parties and guaranteed by the Constitution. In fact the questions have been raised and decided when some of the above Acts referred to above were challenged. (Syed Hussain Ali vs. Durgah Committee, A. I. R. 1951, S. C., p. 1402; Narhari Shastri and others vs. the Badrinath Temple Committee, A. I. R., 1952, S. C., page 245; Shri Govindlalji vs. State of Rajasthan A. I. R., 1953, S. C. page 1638; Bira Kishore Deb vs. State of Orissa A. I. R. 1964, S. C., page 1501.) The Commission would propose the legislation in Part II of this Report.

## CHAPTER XX

## OTHER RECOMMENDATIONS:

1. Since the earlier Chapters are devoted to the terms of reference, the findings and recommendations of the Commission thereon, in this Chapter the Commission proposes to discuss other matters relevant or following from the recommendations made in the earlier Chapter. In the previous Chapter the Commission has proposed appointment of a Committee. The Legislation to be passed in respect thereof will have to specify the powers of the Committee as well as the Administrative Officer. But at this stage it is necessary to make it clear that constitution of an independent Committee with an administrative Officer will not affect the general powers of supervision vested in the Charity Commissioner of the Maharashtra State under the Bombay Public Trust Act, 1950. Since a separate legislation is going to be proposed if that is passed certain provisions in the B. P. T. Act. will be inapplicable to the amalgamated trust and those provisions will be indicated in the Draft enactment. The administrative Officer to be appointed having been proposed to be not lower in status than a Deputy Collector in service but whose services are loaned, the Commission feels that he should be entrusted with wide powers including those of appointment, disciplinary action including dismissal of the trust servants etc.

2. Having dealt with the general aspect so far the Commission proposes to make concrete proposals in regard to some matters which have been the subject matter of grievances and complaints from the public under the different heads viz. Darshan, Pujas, Offerings, properties and utilisation of funds etc. The Commission is fully conscious of the fact that such concrete recommendations cannot aspire to be exhaustive because difficulties will continue to crop up. However the Commission feels that the administration that may be set up will be able to tackle them and it will be sufficient for the Commission to mention a few suggestions indicative of the lines on which the improvements could be effected. For brevity they would be mentioned under different heads.

## Darshan

(See Chapter VI)

(i) Padparsha Darshan should be restricted and eventually stopped in view of the slow damage resulting from constant friction to the feet of the deity. Instead Padukas can be kept at the threshold of the sanctum as the Alandi administration has done. Meanwhile, it is suggested that the feet of the deity may be covered with a suitable type of gold or silver covering either of footwear or of the shape of feet so that the friction would be reduced.

(ii) Before it is possible to abolish Padparsha Darshan completely it should be restricted to certain hours which could be progressively reduced till it is possible to abolish altogether. The Commission does not advisedly propose any fees for Padparsha darshan during the restricted hours because the Commission feels that it would be attempting to put a price upon the devotion of the pilgrims even though such a fee would augment the income. During the war days in order to provide Darshan to the maximum number of people Padparsha Darshan should be suspended wholly. In this connection it may be pointed out that "Padparsha Darshan" was being suspended for 37 days during the four wars every year by a proclamation dated 7th January 1857 during the British Regime in the interest of safety of the people and maintenance of order (Vide Ex. 578). It appears that in subsequent years as a result of persistent representations of the priestly classes the proclamation was not enforced.

(iii) After consultation with experts, steps should be taken to open one or two more doors to permit entry of more than one queue and a similar number of exits, so that the number who can get Mukh-darshan can be doubled or trebled. One of the witnesses Col. Gupte (Ex. 688) suggested construction of a conveyor belt which can help quick movement of the pilgrims. The Commission feels that while the use of a conveyor belt may be possible for pilgrims content with mukh-darshan, it will not be practical or feasible in regard to Padparsha Darshan because the idol of Vithoba stands on a pedestal and the feet of the deity are at a distance of a cubit from the edge of pedestal.

(iv) The Commission noticed a number of unnecessary barricades and sort of partitions upto a height of about 10 feet, making it appear that the pilgrims moving in a queue are put in a cage like an animal or prisoners before they enter the Solkhambi Hall. Such unseemly constructions liable to violate human dignity should be removed and instead systematic barricades with detachable iron pipes should be constructed. For the devotees waiting in a queue proper sitting facilities and provision of drinking water within easy reach should be made so also clean sanitary arrangements outside the temple premises.



(r) The Commission having noticed that on wari days people have to wait for 8 to 10 hours the Commission recommends that in order to remove the tedium of waiting and in keeping with the mental attitude of the devotees, devotional music should be broadcast as is being done not only in the temple at Tirumalai but in the whole town.

(r) Mr. Nabar, D.I.G. Wireless of the Police Department recommended introduction of small Television screens at different spots so that people who have to wait long hours can at least get satisfaction from seeing a picture of what is going on in the sanctum. Mr. Nabar has recommended points for Walkie Talkie wireless sets which can help communication and lead to orderly arrangements. During the Ashadhi fair the Commission witnessed the arrangement personally supervised by Mr. Nabar and found that the suggestions made by him if carried out will go a long way towards better management of the crowd.

(vii) The Commission feels that reservation of time for particular classes of priests to take their own yajmans should be abolished as it has led to undesirable practices resulting in exploitation and great discontent among the general class of devotees. However a short period of the day could be reserved for such persons who cannot wait or who are in a hurry to leave Pandharpur but from them some money in the shape of an offering can be taken.

(viii) Time of pujas should be restricted, by insisting that no puja should take place in the afternoon beyond say 1 p.m. as pujas occupy in Pandharpur a secondary place in importance. This will provide more time for Darshan to the pilgrims to which great importance is attached.

## (2) Pujas

(See Chapter VI)

(i) A Schedule for pujas and archans or upachars should be fixed so as to cover the cost of material, payment to those who render service during their conduct and a decent proportion for the trust.

(ii) All payments in respect of pujas, archanas or upachars according to the schedule should be recovered in the Administration Office and every payment should be receipted.

(iii) After determining the number of Yajmans that can be accommodated, pujas of all those people can be performed simultaneously. After consultation with experts it should be seen whether more space can be made available in the sanctum.

(iv) During the pujas mukh darshan should continue to be allowed from a distance so that it will enable as many people as possible to get, if not Padsparsha darshan, at least mukh-darshan of the deity.

(v) The desirability of making the right of officiation as yajman for sarkari puja on wari days as a prize by drawing lots on the previous day by selling tickets as in the case of a lottery. The Commission feels that if a rupee per ticket is fixed at Ashadhi and Kartiki waris a large number of people is likely to come forward to try their luck at having both darshan which is extremely difficult and officiation as yajman at the puja at close quarters of the deity.

## (3) Offerings

(i) Boxes should be kept in front of the deity and at all other points publicising by notices at all prominent points that all offerings put in the boxes will go to the trust fund.

(ii) Solicitation of Dakshina, offering, Owalni or tip in the temple premises should be prohibited.

(iii) Where gifts are made for specific purposes they should be utilised for those purposes.

(iv) Where devotees place money or offerings into the hands of erstwhile priests and sevadharis or persons professing yajmankritya outside the temple premises those will belong to them.

(v) If the devotees want to pay any Dakshina to any priest in the service of the Administration he should do so through the Administration Office.

(vi) The temple servants, whether priests or others should be prohibited from receiving any dakshina or tip directly from the devotees.

(vii) All non-perishable given or placed as offerings of whatever value shall belong to the trust. The trust will open a store in which all things of a value not more than Rs. 100 could be sold as Prasad to the devotee for a fair price.

(viii) The Commission noticed that what is taken by the pilgrims while leaving Pandharpur as Prasad consists of eatables, Kamkum, Bukka etc. purchased from shops in Pandharpur which

cannot be really called Prasad because it is not offered to the deity. If the store run by the Administration undertakes to get prepared eatables and other such things taken as Prasad and after offering them to the deity as Naivedya packs them in suitable packets and sells the same to the devotees it might bring good income. The Commission noticed both in Puri and Tirupati that such offerings sold as Prasad bring considerable income. The sale proceeds should be credited to the trust fund. Offerings to the Deities of a value exceeding Rs. 100 shall be disposed of according to the orders of the Administrative Officer. In respect of the Articles valued more than Rs. 500 they will be disposed of under the direction of the Committee. Bye-Laws may be prescribed by the Administration in this behalf.

(ix) All perishables and food offerings shall be distributed as prasad following the by-laws if any prescribed in this behalf.

#### (4) Properties

The Committee should take immediate steps to have enquiries made in regard to properties belonging to any of the trusts entrusted to it, but not actually standing in the name of the trust, endowments standing in the name of individuals from the priestly classes meant for Naivedya or bhog to any of the deities or for such purposes as are connected with the temple. Similarly the committee should take steps to investigate and determine whether any of the areas surrounding the temple have been encroached upon by others and take steps in connection therewith for recovering the same or acquiring the same if recovery is out of question.

#### (5) Ornaments

The Committee should also take charge of the ornaments and take immediate steps not only for their proper storage and custody but also for their insurance. The Religious Endowment Commission has at page 58 of the Report observed that archaks and Pujaris should not enjoy any proprietary rights of custody of the jewels and other valuable articles belonging to the Temple [See para. 59 (4) of Chapter V].

#### (6) Utilization of Fund in the order of Priorities

(i) After meeting the expenses of the temples including of the administration and provision for repairs 5 per cent of the surplus shall be set apart to form a Reserve Fund.

(ii) Such amount out of the surplus as is necessary should be utilised for payment of Government loan, with interest, if any, advanced for payment of compensation to acquire hereditary rights.

(iii) Development of surroundings such as removal of encroachments, acquisition of sufficient areas and construction of places for accommodating pilgrims and providing facilities during the fair, supplementing funds by raising donations for this purpose.

(iv) The Committee should take steps towards establishment of an institution for imparting religious instruction, for propagating the tenets of Bhakti-marga and for training of people for customary services in the temple, and building up a library of religious books and manuscripts emphasis being laid on the works of saints connected with the temple.

(v) The Committee should set apart a portion of the surplus for donation to charitable institution like Orphanage or amelioration of the conditions of the infirm and helpless people.

#### (7) Augmenting Resources

The Commission feels, as already observed in this Report, that imposition of an administration is sure to attract offerings and donations from the public so that the income will be several times the amount shown now. However the committee can consider the following without violating the sentiments of the devotees for augmenting income:—

(i) In the paragraph of pujas it is already suggested that the committee should consider the desirability of drawing lots for the right of officiating as Yajman at the sarkari pujas from out of those who purchase the tickets. While this can be tried at the Ashadhi and Kartiki waris on all other days, devotees may be invited to offer to meet the cost of the daily pujas and upchars which regularly take place, in return for acknowledgement of the gift or offering on the public Notice Board that particular puja or upchar of that day has been performed at the cost of a particular individual and a special prayer at the close of the puja or upchar before the deity for the well being of the donor, allowing the said donor to remain present at that time and giving him some prasad.

(ii) The municipality of Pandharpur has been charging pilgrim tax of 60 paise per head and a number of pilgrims have strongly objected to this tax on the ground that the devotees

as a class do not get adequate return for the same. The Commission had called for the figures of receipts and expenditure from the municipality of the pilgrim tax and has noted that 33 per cent of the amount of the tax collected is debited by way of collection charges paid to all the municipal servants and other temporary staff employed at that time. The average of the total collection of the taxes during the last three financial years ending 1968-69 is Rs. 3,64,553 (vide Ex. 695). The Commission feels that the municipality should be persuaded to pay a certain percentage to the Committee for development of surroundings of the temple from inside.

(iii) In the paragraph of offerings it is already suggested to open a store to sell the prasad and this would also yield a good income even if the percentage of profit is kept low.

(iv) After the imposition of Administration it can take steps to collect donations from devotees for its various activities and developments by starting separate funds for such activities and by passing receipts; e.g. funds can be started for the purpose of starting the institution for imparting religious instruction, building up a library, Dharmashalas, poor feeding, help to helpless, Renovation of the temple etc. If the administration creates confidence of clean and impartial management there would be no difficulty for donations to come for these purposes.

#### (8) Budget, Accounts and Audit

(i) At present the B. P. T. Act, 1950 does not make it incumbent on the trusts to prepare a budget. However preparation of budget and sanction thereof is essential and as such in the Draft Act provision has been made in this behalf.

(ii) It is needless to say that accounts should be maintained so as to facilitate the audit and proper reflection of the affairs of the administration and as such the same should be maintained as prescribed by the B. P. T. Act and further directed by the Charity Commissioner.

(iii) Under the B. P. T. Act the power of appointing auditors vests in the trustees. However, the Commission feels that the appointment of auditors should not remain with the Administration and should be exercised by some independent authority and Charity Commissioner would be the most appropriate for this purpose as he has to exercise the supervising power on the administration.

#### (9) Inclusion of other connected trusts under the Administration and co-operation of the public and devotees

(i) It has already been made clear in the earlier portions of this Report that apart from the four trusts in respect of which this enquiry is ordered there are many other trusts and endowments connected with these temples or connected with the pilgrimage of Pandharpur. Steps are necessary to extend the proposed Act to all such trusts and endowments so as to include them under the Administration proposed. A list of such of them forms part of the Appendix.

(ii) It is needless to say that the Commission does not expect an overnight change in the conditions prevailing at Pandharpur even though Administration is imposed on the lines proposed. Success of the administration would entirely depend on the working of the administration and the co-operation of the public and devotees to the administration in its endeavour to give a clean administration and effect development. For this purpose the Administration will have to seek co-operation at different levels and on different aspects and in this behalf the Administration will have to appoint so many committees to advise the administration or to carry out different plans of development. The Commission feels that many devoted and selfless persons are likely to come forward to help the administration and it will depend on the skill of the Administration to utilise all such help. With this view the Administration proposed is empowered to form advisory committees or committees for carrying out certain schemes of development.

#### (10) Other General Aspects

(i) Steps should be taken to remove beggars from ghats and the vicinity of the temple and preventing infestation of those places by beggars and the afflicted.

(ii) To ensure order in the premises it may be necessary to empower the Administrative Officer with powers of an Executive Magistrate. Such powers vest in the Administrator of Puri and Secretary at Badrinath.

(iii) The necessity of obtaining police permission for Mahapujas even on the grounds of maintaining order be stopped.

(iv) The ventilation and sanitary conditions inside the temple are far from satisfactory. Immediate steps in this behalf are necessary to keep the premises clean.

## CHAPTER XXI

## EPILOGUE

1. Having arrived at the end of the labours a few general remarks are necessary concerning the work of the Commission, the approach if adopted, the features of the recommendations and suggestions for early implementation of such of the recommendations as may be accepted by the Government.

2. Notwithstanding the public opinion against the priestly classes as voiced in the applications sent to the Government from time to time and Articles and letters that appeared in the Marathi Press, the Commission endeavoured to keep an open mind and adopted the principle that no violent shock should be given to the existing arrangements followed traditionally unless evidence came before the Commission that public interest of a large section of the Society and the welfare of the Institution cannot be sacrificed for the interest of a few and those few had by their conduct in relation to the institution had proved to have invited interference by the State. With that end in view the Commission extended every opportunity to those against whom there were complaints meticulously respecting the ends of justice. The Commission did not act on any evidence without an opportunity to those whose rights stood to be affected either to cross-examine or to meet the evidence except of course in respect of the material which the Commission gathered in the course of its visits to important temples all over India. The findings arrived at by the Commission on the approach that is adopted have been recorded in the Report.

3. The recommendations of the Commission will show, on a comparison with the Badrinath Temple Act, the Nathdwara Temple Act, the Jagannath Puri Temple Act, the special provisions of the Tirupati Devasthanams incorporated in the Andhra Pradesh Act, and the Central Government Act relating to Ajmer Durgah, that the only common feature between the recommendations of this Commission and the recommendations which resulted in those Acts are imposition of an administration by an Act of Legislature which is all the more necessary in the case of Pandharpur trusts, especially in view of the judicial decisions and the necessity for the State Government, to act under the provisions of the Constitution of India. But in several important respects the recommendations of this Commission differ from the provisions of the other Acts.

4. First of all while imposing new administration by Legislative enactments in respect of the temples referred to above, the Commission noticed that though hereditary rights of some were abolished, hereditary rights of important persons connected with those institutions have been maintained. The Commission found after its tour of the different places and discussions with the administrations that retention of hereditary rights whether in the original or in a restricted form is proving a source of constant disputes and litigations as in Nathdwara Temple, Jagannath Puri Temple and Tirupati Devasthanams etc. Pandharpur institutions, it appears to the Commission have had enough of these litigations as has been pointed out in the Report and, therefore, the Commission thought that as far as possible all those cases which might give rise to disputes and litigations should be removed, the main cause being the retention of the hereditary rights even in a restricted form. The Commission has dealt with this question in the appropriate Chapter.

5. In none of the enactments referred to above there is any mention or provision for payment of compensation to any party. The obvious reason is that the hereditary rights have been maintained presumably with the hope that there would not be future troubles. Having profited by the experience of others this Commission has proposed total abolition of the hereditary rights of all the classes connected with the trusts. Since those rights were based upon a long established custom and usages which had received recognition from the then Sovereign as well as the High Court of Bombay and had ripened into rights to property within the meaning of Article 19 of the Constitution of India provision had to be proposed for payment of compensation. Where a person has a right to property, it becomes a fundamental right, to acquire which, in the interests of the general public under Article 31, compensation has to be provided for and paid.

6. The Commission is fully aware of the trend of the decisions of the Supreme Court both on the question of adequacy of compensation and also on the question whether the question of adequacy is justiciable and the latest of the Supreme Court's pronouncements are to the effect that the compensation should not be illusory or the principles on which it is determined should not be irrelevant. Nowhere a rigid standard for determination of the compensation is laid down and the Commission has had to consider several enactments abolishing hereditary rights in quite a number of which about 7 times the income was considered to be appropriate. But between those hereditary rights and the hereditary rights claimed by the priestly classes

of Pandharpur the Commission found an essential difference viz. that the hereditary rights claimed in Pandharpur provided one of the main sources of the livelihood whereas Vatas and Service Inams provided a smaller portion of the income necessary for the maintenance of the families. The Commission gave due weight to the opinions of a section of the devotees whose sentiments for the Institution and for the priestly classes prompted them to espouse their cause. Where question of a religious institution is concerned sentimental respect for those who have so far run that institution is an aspect which cannot be ignored. Similarly there were indications in the old documents to show that Badves had tried to hide the idols for its protection at least twice during Muslim invasions. Then again while all the complaints against Badves, Utpats and Sevadhari are directed towards exploitation and harassment of the public, there was not a single complaint that any of the rituals or pujas were neglected except for a brief period in 1802 on account of a riot in the temple. At least before the Commission there was no allegations of any serious omission in the conduct of the worship. Having regard to all these considerations and retention of the original source for recruitment as far as possible the Commission considered 10 times the average income to be a reasonable compensation which errs on the liberal side and hence should not give any cause for complaint to the priestly classes.

7. The next important point of difference in the recommendations of this Commission and the recommendations of the Ajmer Durgah Committee and the considerations which prompted the other Legislatures is that in all other temples committees or boards are appointed by nomination either by the State Government or by the State Legislature or by certain Officers or persons holding Office of dignity or powers. In none of these the mode of election has been adopted. In its recommendations this Commission has deliberately departed from the mode adopted in the other institutions and enactments. In the Report the Commission has given reasons for such departure. Elections cannot take place without a definite electorate. Nominations are liable to create an embarrassing situation for the appointees, and nomination by the Legislatures or the Government would necessarily reflect the opinion of the party in power which is out of place in the administration of a religious institution. In a religious institution the sole consideration that should govern the selection of a Committee is the welfare of the institution and the object for which the institution stands particularly because religion is not a part of politics.

8. Having given the most anxious thought to all these aspects the Commission has recommended entrustment of the power to the judiciary in which even the Constitution has reposed confidence to safeguard the fundamental rights. The procedure proposed by the Commission in the draft legislation is a simple procedure assuring of no great strain on the judiciary that is over worked but at the same time ensures that all the sections of the public would be satisfied.

9. Having offered these remarks the Commission thinks it a part of its duty to suggest immediate implementation of the recommendations. To-day the institutions and their properties including ornaments of great value are in the custody of those whose rights are recommended to be abolished. As soon as the work of the Commission started letters and applications were received expressing a fear that the valuable ornaments in charge of the priestly classes are likely to be substituted or disposed of in anticipation of serious consequences following the recommendations of the Commission. Needless to say abolition of the hereditary rights is the worst that could be expected by the priestly classes who have been in enjoyment of those rights for centuries. By way of precaution the Commission ordered and got the valuation made by experts through the intervention of the Charity Commissioner of all the ornaments of Vithoba and Rukmini. But notwithstanding the value, no steps appear to have been taken so far to have them insured though the Commission sent a suggestion soon after the receipt of the Report. In any case in the interest of the institutions and their properties immediate steps are called for because regular implementation of the recommendations are sure to take time. The parties whose rights are recommended to be abolished will naturally offer resistance and litigations might ensue. The Commission ventures to think that if the amount of compensation is deposited and an Ordinance is issued appointing an Administrator directing him to take charge immediately pending enactment of an Act of the Legislature any danger to the property would be minimised. Such steps appear to have taken in Ajmer on the recommendation of the Commission.

10. It would not be out of place to point out particularly that Legislation proposed in Part II of the Report is intended not only to cover all aspects involved in acquisition by abolition of hereditary rights in the Vithoba and Rukmini Temples but also with a view to enable the Government to apply its provisions to other temples and endowments also with suitable alterations providing principles for determination of compensation which the Commission thinks would have applicability for any other Trust also.

11. Before closing this Report the Commission would be failing in its duty if it does not place on record the devoted service rendered to it by its Secretary Mr. G. V. Huprikar, who not only brought to bear his exceptional abilities and intelligence upon the task but devoted himself with missionary zeal towards the work of the Commission. The Commission could not expect any co-operation from those at Pandharpur whose connections and rights were the subject matter of enquiry. The Commission did not have any machinery for investigation and marshalling of the facts nay it did not have even legal assistance till the stage of arguments. Mr. Huprikar assumed all the responsibilities not only of collecting material and marshalling it but even instructing the Counsel when he appeared besides helping the Commission by discussion of many a knotty point and thus contributing not a little towards the ultimate result. The Commission owes a debt of gratitude to him. The Commission also wishes to place on record the extreme co-operation and assistance which it received from the Counsel appointed to advise the Commission and also all the Advocates who represented the various interests and contributed to the smooth conclusion of the work. Last but not the least the Commission must place on record with a grateful feeling the assistance and help given by Mr. C. P. Godsay the Charity Commissioner who in addition to lending experienced members of his department tried to do his utmost when the Commission had to meet with difficulties at every stage.

12. The Commission also places on record the hard and unstinted work rendered by the Bench Clerk Shri R. G. Shinde, whose strong memory in locating documents and keeping record of the progress upto date has been of great help. The Inspector Shri N. V. Misal whose services were lent to the Commission had to do in addition to that work which pertained to his post, the work of a typist to take down depositions of all the 253 witnesses examined by the Commission sitting on the typewriter with a straight back during all the full working days. The Commission wishes to acknowledge their efficient services. The stenographer Shri S. K. Satpute was lent to the Commission at the last stage of enquiry on the eve of the arguments, with the result that he had to bear the brunt of taking dictations during and such time as was available to the Secretary and the Commission beside the time required for hearing. He has had to finish the work within a short time and he has done it without complaint and with devoted industry paying all attention to clean typing and get up. Out of the Class IV servants who have rendered useful service special mention should be made of Shri G. S. Sathaye who faced all work cheerfully.

Poona, dated 31st January 1970.

B. D. NADKARNI,  
Commissioner

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PART II

DRAFT OF LEGISLATION PROPOSED-ALONG  
WITH EXPLANATORY NOTES

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**DRAFT OF LEGISLATION PROPOSED**  
**MAHARASHTRA ACT No. OF 1970**  
**THE PANDHARPUR TEMPLES ACT, 1970**

**AN ACT TO PROVIDE FOR BETTER ADMINISTRATION AND GOVERNANCE OF SHRI VITHAL TEMPLE, SHRI RUKMINI TEMPLE, OTHER PARIVAR DEVATAS, OTHER ALLIED AND CONNECTED TEMPLES, THEIR ENDOWMENTS AND THEIR AMALGAMATION.**

**PREAMBLE :**

WHEREAS the ancient temples of Lord Vithoba and his consort queen Goddess Rukmini have been institutions of unique public importance in the State of Maharashtra in which millions of Hindu devotees from regions far and wide have reposed their faith and belief and have regarded the same as the epitome of their tradition and culture.

AND WHEREAS these temples have been source of inspiration to Saints in all eras of Bhagwat Dharma right from Dnyaneshwar, Tukaram, Namdeo, Chokhamela etc. till to-day and has been the principal centre of religious activities in Maharashtra giving rise to the Warkari Cult and has been the main source of inspiration of Marathi literature and culture.

AND WHEREAS there have been litigations right from the 16th century till to-day amongst the various classes of priests (Badawes, Sevadharis, Utpats etc.) which have resulted in the neglect of management of these trusts to the detriment of the general body of Bhaktas who are the real beneficiaries.

AND WHEREAS the various decisions and warnings given by Courts or ruling powers have turned to be of no effect on the persons claiming rights of management, officiation at the time of religious upachars etc. and of appropriation of income.

AND WHEREAS there have been persistent complaints about mismanagement of these trusts and of harassment to the devotees at the hands of these priestly classes.

AND WHEREAS the Government of Maharashtra had appointed a Commission under the Commission of Inquiry Act, 1952 to enquire and report in this behalf and the said Commission has reported that the temples are mismanaged and has recommended a complete overhaul in the management by amalgamation of the various trusts and entrusting the management to a committee and in the interest of public acquisition of all rights of the priestly classes by the said committee after abolition of the said rights by paying compensation.

AND WHEREAS these temples are thus at present found to be completely mismanaged and the present mode of management has been found to be not suitable to meet the aspirations of the real beneficiaries and a situation has arisen rendering it expedient in the interest of the general public to reorganise the temples and amalgamate them together with their endowments, minor deities and other connected deities and to frame a common scheme of management to provide for better administration and governance of these temples in supersession of all previous laws and regulations, arrangements, decrees and customs or usages having force of law connected with these temples and their management and right of priestly classes in respect of officiation, management, emoluments and other perquisites.

AND WHEREAS it is necessary while doing so to eradicate for all times the sources giving rise to constant trouble and for that purpose to abolish all the hereditary rights of these priestly classes as regards management, officiation at the time of nitya or naimittik rituals, Jarshan, pujas etc. and perquisites and income therefrom and in necessary cases to provide for compensation to these classes for the loss of such rights.

It is hereby enacted by the legislature of the State in the \_\_\_\_\_ year of the Republic of India as follows :—

**CHAPTER I**

**PRELIMINARY**

1. (1) *Short title and commencement.*—This Act may be called “the Pandharpur Temples Act, 1970”.

(2) Section 1 shall come into force at once and the rest of the provisions shall come into force on such date as the State Government may by a notification in the Official Gazette specify in this behalf.

2. *Application of the Act.*—The provisions of this Act shall apply in the first instance to the temples and trusts mentioned in Schedule I to this Act and from that day all the said trusts in Schedule I shall be deemed to have been amalgamated and shall be governed and administered according to the provisions of this Act, in supersession of all previous laws, customs or usages in force, Sanads or Orders of sovereign powers or of Government or other authorities, decrees, Schemes, Constitutions, rules and regulations governing the same.

3. *Savings.*—The provisions of the Bombay Public Trusts Act, 1950 (as amended upto date) shall to the extent they are not inconsistent and conflicting with the provisions of this Act shall be applicable to the amalgamated trusts which shall be known by the name "The Pandharpur Temples of Vithoba and Rukmini" and "the committee" to be its trustees for the purposes of the said Bombay Public Trusts Act, 1950.

4. *Extension of the Act to other connected trusts or endowments.*—The State Government after considering the report of enquiry under section 10(2) may by Notification in the Official Gazette specify a date on which the provisions of this Act shall apply to any other public trust or any class of public trusts or endowments connected with the temples of Vithoba and Rukmini or other trusts if any connected with the pilgrimage at Pandharpur and different dates may be specified for such trust or trusts and from the date specified the said trust, trusts or endowments shall be respectively deemed to have been included in Schedule I to this Act and amalgamated with "the Pandharpur Temples of Vithoba and Rukmini" and shall be governed, administered and managed according to the provisions of this Act.

5. *Definition.*—In this Act unless there is anything repugnant to the subject context—

(i) "the committee" means "The Pandharpur Temples Committee" established and constituted under this Act.

(ii) "Endowment" means all property movable or immovable including jewellery and ornaments belonging to or given or endowed in any name for the maintenance or support of the deity or temples or for the performance of services or charity connected therewith or for the benefit, convenience or comfort of the pilgrims visiting the temples and includes (a) idols installed in the Vithoba and Rukmini main temples and all parivar devatas connected therewith, (b) the premises of all these temples, (c) all lands, inams, cash allowances and other properties moveable or immovable, encumbrances or charges created in favour of the deities on the properties wherever situate and all income derived from any source whatsoever and standing in any name dedicated to the idols, temple or places under the committee for any religious, pious or charitable purposes or purchased from out of the "temple fund" and all offerings in cash and kind or bhets, gifts or donations made for and received on behalf of the "temples".

(iii) "person having interest" shall also include the committee.

(iv) "prescribed" means prescribed by rules made under this Act.

(v) "Executive Officer" means the Executive Officer of the temples appointed under this Act.

(vi) "specific endowment" means any property, endowment or money donated or invested for the performance of any particular service or of any particular charity concerned or connected with the temple.

(vii) "temples" means the temple of Shri Vithoba at Pandharpur and includes the temples of Shri Rukmini, all parivar devatas and other trusts to which this Act applies and such other temples, endowments etc. as may be included in the amalgamated trusts by a notification under section 4 of this Act together with all accretions and additions thereto or alterations thereof which may be made from time to time after the commencement of this Act.

(viii) words and expressions used whether defined or not in this Act and defined in the Bombay Public Trusts Act, 1950 shall have the meanings assigned to them in that Act, to the extent it is not inconsistent with the provisions of this Act.

(ix) "Bye-laws" means the bye-laws made by "the Committee" as approved of and confirmed by the Charity Commissioner.

(x) "Temple fund" means the fund constituted by this Act.

(xi) "Rules" means the rules framed by State Government under this Act.

## CHAPTER II

## ABOLITION OF HEREDITARY AND OTHER RIGHTS ETC., AND PAYMENT OF COMPENSATION

6. *Abolition of rights, privileges, perquisites, duties etc. of priestly classes and others and its acquisition.*—Notwithstanding anything contained in any law, custom or usage having force of law, any sovereign or other order of any competent authority, decree of a court, scheme framed by a court, constitution adopted by the community and/or recognised by any authority or any rules, bye-laws or regulations for the time being in force in respect of the temples, trusts and endowments mentioned in Schedule I to this Act as regards the management of the "temples", officiation at the time of the religious functions such as pujas, upachars, festivals, ceremonies, etc., either nitya or naimittik (routine or occasional) and appropriation of income from the offerings to the deity, charges for pujas, etc., or dakshinas either given or demanded and from taking or accompanying the Yajaman in the temple by any of the priestly classes or a person professing yajamankritya, all rights, privileges, perquisites, duties, etc., of the priestly classes of Badves, Utpats, Sevadharis, Kshetropadyes, Kolis and others in connection with the aforesaid matters, stand abolished and acquired for the committee on compensation provided payable wherever necessary.

7. *Bar of Suit in respect of abolished rights etc.*—No court shall entertain or decide any suit or proceeding on behalf of any individual or class in connection with the aforesaid rights, privileges, perquisites, duties, etc., which stand abolished.

8. *Maintenance of source for services of priests and ministrants.*—Notwithstanding the abolition of rights, etc., as aforesaid and payment of compensation to certain classes, the committee while managing the amalgamated trust under the provisions of this Act shall, as far as possible, as far as may be available, and to the extent of the strength of services that may be sanctioned by the committee from time to time in this behalf: recruit persons for officiation and ministration at the time of upachars from among the classes who had been previously hereditarily performing such duties; provided that such persons acquire requisite qualification as may be prescribed by the committee by the bye-laws in connection with such services; provided further that it shall be within the powers of the committee to reduce or enhance the strength of the different posts of categories sanctioned by it or to regulate by bye-laws, duties to be carried out by incumbent of each post in connection with such services notwithstanding any custom, usage, practice or judicial decision as regards the respective duties or rights but without in any way affecting the dignity and paraphernalia of the deities as existing at present provided further that no suit or any proceeding shall lie in his behalf against the committee or any person.

9. *Principles for deciding the compensation—(A) (1).*—Every class or individual as the case may be shall be entitled to compensation equal to ten times the average net lawful income received by such class or individual after meeting the expenses which are bound to be met therefrom before distribution, along with an addition of 15% of the said compensation and solatium—

*Explanation.*—The average shall be the arithmetic mean over a period of 12 to 15 years previous to 1967 of the income received or receivable by the said class or individual.

(2) In case the income is farmed out the total receipts from such farming shall be taken to be the gross income of the said class or individual and not the actuals received by the auction purchasers.

(3) In case the income is farmed out for any part of the day, the receipts from such farming shall be taken as the basis for calculating the gross income throughout the day and the same shall be such multiple of the basic income as the total number of income earning hours of the day bear to the part for which the income is farmed out.

(4) Where the income is not farmed out by any class or individual, the same shall be calculated on the basis of the income of similar other class or individual whose income is farmed out.

(5) In respect of income from pujas the ratio of income of Badaves and Utpats shall be 5 to 1.

(6) In calculating the income of pujas to the respective classes the said income shall be taken as not more than 10% of the normal rates of pujas found prevailing including the cost of material.

(7) No compensation is payable for the profits made by the priestly classes for getting darshan done or the alleged rights to take one's own yajmanas for darshan as these are illegal gains under an awful custom.

(8) In respect of the right of giving prasad and gandha, etc., to the devotees the classes concerned shall be deemed to be getting 50% of the total income received by the said classes in respect of pujas.

(9) No compensation is payable to any of the classes for other alleged rights, privileges, perquisites, duties, etc.

(10) The sharers shall be entitled to such share in the compensation as they were entitled to under the law in force at the time of application of this Act to such trusts or temple or endowment as the case may be.

(B) *Amount of compensation payable to the priestly classes.*—On the basis of the principles enunciated above for all the rights, privileges, perquisites, duties, etc., acquired as per section 6 of this Act compensation shall be payable to the classes mentioned below for all their collective and individual rights:—

- (1) Badaves.
- (2) Utpats.
- (3) Pujaris.
- (4) Benaris (including Garud Temple).
- (5) Paricharaks.
- (6) Dingres.
- (7) Daags.
- (8) Devates.
- (9) Haridas.
- (10) Kolis.

10. *Inquiry for determining compensation, etc., before extending the Act to other trusts.*—(1) The State Government before extending the provisions of this Act to any trust or endowment by a notification under section 4 shall make an enquiry in the manner prescribed whether by such extension rights, privileges, perquisites or duties, etc., of any class or individual connected with the said trust or endowment are affected and whether any such rights, etc., should be curtailed or abolished and in case the same are to be abolished what compensation shall be payable to the class or individual on the principle enunciated in section 9 (a) and the source and manner in which the same shall be payable.

(2) The notification under section 4 shall also mention the extent of rights, etc., abolished and acquired for the committee, the amount of compensation payable, the class or persons entitled to it and the source from and the manner in which it shall be paid.

11. *Deposit of amount of compensation in court.*—(1) Within one month from the date of application of this Act the Government shall deposit the aforesaid amount of compensation with the District Court of Sholapur.

(2) Out of the amount so deposited half shall be a loan to the committee carrying on it such interest at such rate and shall be repayable in such manner as the State Government may decide and the remaining half shall be an outright grant given to the committee in public interest to meet the liability of payment of compensation for having acquired such rights.

(3) In case of extension of the Act to other trusts or endowments as mentioned in section 4 the amount of compensation if any payable under section 10 (2) shall be deposited by the Committee in the District Court within one month from the date of the notification.

12. *Filing of claim in respect of compensation.*—The respective bodies or individuals of the priestly classes or others as the case may be who are awarded compensation under this Act shall within one month from the date of the application of the Act or date of extension of this Act to any particular endowment or trust file a statement in the District Court stating details of the share to which he is entitled in the compensation awarded to the class.

13. *Notice of hearing of claims.*—The Court shall fix a date of hearing and also give a public notice to all having interest in the said claim as regards the date of hearing. Necessary costs in this behalf for publication of notice shall be deposited in the Court as per requisitions of the Court by the Executive Officer.

14. *Payment of Compensation.*—(1) After hearing all the claimants or such of them as may come forward, the Court shall apportion the compensation according to the share of each claimant and make an order of payment, in case and to the extent there is no dispute.

(2) Amounts in dispute shall be invested by the Court in the usual manner in which such investments are made till such time as the claims are adjudicated upon so that there is no loss to the claimants in case of delay in payment resulting from the pending disputes.

15. *Appeal from the Order.*—An order of payment of the Court in this behalf shall be appealable to the High Court as if it is a decree of the District Court.

16. *Limit of Jurisdiction of the Court in this behalf.*—While deciding the claim the Court shall ascertain only the share of the claimant and the person entitled thereto in the compensation awarded by or under this Act but shall have no jurisdiction or power to consider or decide whether the compensation awarded is just and proper or adequate.

### CHAPTER III

#### THE COMMITTEE—CONSTITUTION OF THE COMMITTEE—APPOINTMENT REMOVAL AND QUALIFICATIONS

17. *Composition of the Committee.*—(1) The Committee shall consist of eleven members and shall be constituted as follows:—

(a) The Executive Officer appointed under section 41 shall be an *ex-officio* member;

(b) The Deputy Collector of Pandharpur Prant shall be an *ex-officio* member;

(c) The Health Officer of the Sholapur District shall be an *ex-officio* member;

(d) The President of the Pandharpur Municipality shall be an *ex-officio* member and

(e) Seven other members to be appointed by the District Court as hereinafter provided.

(2) The District Court while appointing the members shall also appoint one amongst them as the Chairman of the Committee.

18. *Qualifications of the members of the Committee.*—A person shall not be eligible for appointment as a member of the Committee if:—

(a) he is of unsound mind and stands so declared by the competent Court or;

(b) he has been convicted of any offence involving moral turpitude or;

(c) he has applied for being adjudicated an insolvent or is an undischarged insolvent or;

(d) he is a minor or deaf, mute or suffering from leprosy or any other contagious disease or;

(e) he is in employment of the "temples" or the Committee or he is in receipt of any emoluments or perquisites from the temples or less;

(f) he is interested in subsisting contracts for making any supplies to or executing any work on behalf of the temples or as legal practitioner for or against the temple or;

(g) he does not profess Hindu Religion or is an agnostic or atheist or does not believe in the deities in the temples or the path of Bhaktimarga;

Provided that in case the *ex-officio* members, mentioned above in sub-clause (b), (c), (d) of sub-section (1) of section 17 are not qualified as specified in sub-clause (g) above, the heads of the departments of the said respective persons mentioned in sub-clause (b) and (c) and the Municipality in respect of sub-clause (d) shall nominate such other officer from their department or Municipality who would satisfy the aforesaid qualification and shall be of equal or next lower grade as of those persons respectively.

Provided further that the disqualification mentioned in sub-clause (e) above shall not be applicable to the Executive Officer and that mentioned in sub-clause (f) above shall not be applicable in respect of the other *ex-officio* members even if Government or Municipality whom they respectively represent may have interest as mentioned in the said sub-clause.

19. *Appointment of the member.*—(1) Within one month from the date of application of this Act or before six months from the day on which the term of office of the members appointed to the Committee as prescribed hereinafter expires the Executive officer shall apply to the Court to appoint members on the Committee as per provisions of this Act.

(2) On receipt of such application the Court shall cause a notice to be issued and published in the manner it deems fit so as to call for applications from persons desirous of being appointed or from persons having interest in the trust proposing names of persons to be appointed on the Committee.

(3) Each such application shall contain the following particulars viz., name, address, occupation of the applicant and also the name, address, occupation and qualifications of the person or persons proposed to be appointed on the Committee and such other particulars as may be prescribed together with the endorsement of the person proposed of his consent to be appointed as a member.

(4) After receipt of such applications within the time specified in the notice issued and published by the Court the Court shall cause a list of the names of all such persons desirous or proposed to be appointed published calling for affidavits in favour or against such persons *inter-alia* giving the reasons for the support or opposition.

(5) On receipt of affidavits if any in this behalf within the time specified by the Court the Court shall fix a date of hearing for appointing members on the Committee.

(6) The Court after hearing all the persons present or duly represented select and appoint seven members on the Committee nominating one of them to be the Chairman.

(7) While appointing seven members the Court shall appoint (a) three persons who are ordinarily the residents of Pandharpur or a place within the radius of 20 miles thereof (b) two persons who are ordinarily residents of the Sholapur district other than the areas mentioned in item (a) above and (c) two persons who are ordinarily residents of places other than Sholapur district.

Provided that in case in the opinion of the Court there is no sufficient number of qualified persons proposed from the areas mentioned above, the Court may choose other persons proposed from other areas notwithstanding the restrictions mentioned above.

Provided further that for a period of 15 years from the application of this Act no person from the families who are entitled to receive compensation under this Act shall be appointed on the Committee.

(8) The order of the Court in this behalf shall state reasons for the choice or the selection made and the same shall be subject to revision by the High Court as in the case of other orders of the Court which are subject to revisional jurisdiction.

(9) This proceeding shall be heard and disposed of by the District Judge himself notwithstanding anything contained in the Bombay Civil Courts Act.

Provided that if the District Judge is himself a non-Hindu, he may transfer the said proceeding to a Hindu senior most Joint or Assistant Judge as the case may be.

20. *Term of Office.*—The members of the Committee other than the *ex-officio* members shall hold office for a period of 5 years from the date of their appointment and the *ex-officio* members other than the Executive Officer to continue on the Committee till they hold their respective offices by virtue of which they are on the Committee.

Provided that the out-going members appointed by the Court shall continue in office till new appointments are made in the vacancies caused and are eligible for reappointment if found suitable by the Court.

21. *Filling up the casual vacancies.*—(1) If any vacancy arises on the Committee because of death or any of the disqualifications mentioned in section 18 of this Act or if the person appointed resigns or is removed or suspended by the Court, as hereinafter provided, the said vacancy shall also be filled in by the Court on an application made in

this behalf by the Executive Officer or Charity Commissioner without following the detailed procedure mentioned above and from amongst the persons that may be proposed either by the Committee or the Charity Commissioner in respect of the classes in which the said vacancy arises.

(2) A person appointed in such a casual vacancy shall continue to be in the office till the term of other members duly appointed expires.

(3) In all such applications whether of appointing or filling in a casual vacancy or of removing any member therefrom, the Executive Officer if he moves the Court shall make the Charity Commissioner a respondent and the Court shall pass no order in any such proceeding without hearing the Charity Commissioner.

22. *Removal of members.*—The Executive Officer is authorised by the Committee by a resolution passed in this behalf after giving an opportunity to a member concerned of being heard or the Charity Commissioner may apply to the Court for removal of one or more appointed members on the Committee on any of the following grounds:—

(a) the said member suffers from any of the disqualifications mentioned in section 18 of this Act,

(b) is found to be guilty of any breach of trust, negligence, misapplication or misappropriation of trust funds or,

(c) for having caused loss damage or wastage to the trust property or temple fund by his act or omissions or,

(d) for any other just and sufficient cause.

(2) The Court on the receipt of such application and after giving the respondent opportunity of being heard and after recording such evidence in this behalf as the Court may deem necessary pass an order either of removal of the said person or persons from the Committee and fill in the said vacancy as the case may be or otherwise.

(3) At the time of removing such person from the Committee it shall be lawful for the Court to determine the loss caused by the acts or omissions of such person removed and direct the recovery thereof from him or his estate.

(4) The order of the Court in behalf of removal of a person from the Committee and directing recovery of the loss or otherwise shall be deemed to be a decree of the said Court and an appeal shall lie to the High Court against such decree.

(5) In any such application it shall be lawful for the Court on just and sufficient cause to suspend such person from the Committee till the final disposal of the application and to direct such person to hand over immediate possession of any property, books, etc., held by him and no appeal or revision shall lie against such order.

## CHAPTER IV

### RIGHTS, POWERS, DUTIES, FUNCTIONS AND THE LIABILITY OF THE COMMITTEE AND ITS MEMBERS

23. *Committee a Corporation.*—The Committee shall be a body corporate by the name "The Pandharpur Temples Committee" and shall have perpetual succession and common seal.

24. *Power to hold, acquire, dispose of property.*—The Committee shall subject to the provisions of this Act have power to borrow money, acquire, hold, alienate, transfer or dispose of property both moveable and immovable.

25. *Legal Proceedings against the Committee.*—(i) The Committee may sue or be sued in its name.

(ii) In all legal proceedings by or against it or documents or contracts executed by or in its favour the Committee shall be represented through its Executive Officer.

(iii) If the proceeding is taken against the Executive Officer the Committee shall be represented through its Chairman.



26. *Administration, management and governance of the amalgamated trust to vest in the Committee.*—The administration, management and governance of the “temples and endowments” and of the “amalgamated trust” shall vest in the “Committee” and all the bodies in whom all such powers vested before the application of this Act shall cease to exist and have any connection therewith in any respect.

27. *Acquisition of the abolished rights etc.*—All hereditary rights, privileges, perquisites duties, etc. that are abolished by this Act or shall in future be abolished by the extension of this Act shall be deemed to have been acquired for the Committee and shall vest in it.

28. *Committee to act through the Executive Officer.*—The Committee shall exercise its powers of administration, control and management of the amalgamated trust, “temples” and “endowments” through the Executive Officer.

29. *Formation of sub-committee and advisory bodies.*—(1) The Committee shall be entitled to form sub-committees or advisory bodies of the Committee members or others from the devotees and experts to assist, help or to advise it in connection with the affairs of the amalgamated trusts and entrust to them such work or to abolish any such body as it may deem fit.

(2) The Executive Officer or any other sub-ordinate officer under the Committee as may be named by the Executive Officer shall be entrusted with the duties of the Secretary of the said respective bodies.

30. *The office of the Committee and meetings.*—(a) The Office of the Committee shall be at Pandharpur.

(b) The Committee may for the purpose of carrying out its duties open one or more sub-offices at such place or places as it may deem fit.

(c) Every meeting of the Committee shall be presided over by the Chairman or in his absence by a member to be chosen by the members present.

(d) The quorum for the meeting of the Committee shall be five.

(e) All questions arising at the meeting of the Committee shall be decided by a majority of the votes of the members present there and voting and in every case of equality of votes the Chairman or the person presiding shall have and exercise a casting vote.

(f) The Committee by bye-laws may regulate the internal working of the committees as regards notice of meeting, period of notice, requisition meeting, time and place of meetings maintaining record of the business transacted, adjournment of the meeting etc.

31. *Duties and functions of the Committee.*—(1) It shall be the duty and function of the Committee to exercise all reasonable care as a prudent man would exercise in his own affairs while discharging the duties cast on the Committee under this Act.

(2) It shall be the duty of the Committee ;—

(a) to afford facilities to the maximum number of devotees and pilgrims for a peaceful darshan atleast from a distance if not by touching the feet of the deities.

(b) to afford reasonable facilities to the devotees for performing pujas at the temples on reasonable terms and without curtailing for a sufficiently long time the darshan which is of utmost importance to the devotees and pilgrims visiting Pandharpur.

(c) to arrange for and carry on all proper religious services (nitya and naimittik upachars) to the deities in the temples and necessary festivals connected with the same.

(d) to provide a peaceful, decent, clean and orderly atmosphere in the temple so as to nourish the religious sentiments of the devotees.

(e) to protect, preserve and develop the “temples” and “endowments” and Pandharpur as a centre of pilgrimage with special care to protect the idols,

(f) to take steps to provide on reasonable rates, material for pujas, sevas etc. and prasad of the deities.

(g) to propagate Hindu Religion in general and the tenets of Bhagwat Dharmia and Wakari Cult and to satisfy the religious and spiritual need of the devotees visiting Pandharpur.

- (h) to take steps for training of priests, pracharaks, kirtankars and such other persons as may be necessary for propagation and practice of religion as aforesaid and provide amenities in this behalf,
- (i) to take steps to provide on payment of reasonable charges facilities of transport, accommodation, clothes, water, milk, food eatables, sanitation, medical help to the pilgrims and devotees visiting Pandharpur.
- (j) to make arrangement for the safe custody of the funds, valuable securities, jewelleryes and for preservation of the property vested in it,
- (k) to enquire into and take steps to recover properties and endowments belonging to the deities or dedicated for their upchars etc.,
- (l) to provide a clean administration of the amalgamated trust, "temples" and "endowments", and
- (m) to perform such other duties as are provided by this Act or prescribed by rules under this Act or under the bye-laws.

32. *Powers of the Committee.*—The Committee shall have *inter-alia* as provided in this Act the following powers:—

- (a) power to do and carry out the necessary duties and functions entrusted to it under the provisions of this Act,
- (b) power to raise loans or borrow money subject to the sanction of the Charity Commissioner as regards the extent and limitation in exercising this power,
- (c) power to alienate or transfer immovable property subject to sanction as provided by section 36 of the Bombay Public Trusts Act,
- (d) power to invest temple fund subject to sanction as provided by section 35 of the Bombay Public Trusts Act,
- (e) power to sell or dispose of moveable property including ornaments and jewellery which are not of daily use with the sanction of the Charity Commissioner as regards the extent and limitations in exercise of this power,
- (f) power to undertake new schemes and plans and execute them with the previous sanction of the Charity Commissioner in case the estimate is more than Rs. 10,000,
- (g) exclusive power to collect offerings, donations, dakshinas, bhogs or bhets for the deities and subscriptions, gifts either moveable or immovable, on terms not inconsistent with the provisions of this Act and practices in the "temples" for carrying out functions entrusted to it,
- (h) power to accept endowments for the temples,
- (i) power to accept as trustee either managing or custodian or both other trusts or institutions or endowments which are connected with Pandharpur and the "temples" and would facilitate discharge of duties entrusted to the Committee,
- (j) such other powers as may be provided by the rules or bye-laws.

33. *Power to sanction, appoint and punish staff.*—(1) The Committee shall have a right and power to appoint necessary staff to carry out the duties and functions entrusted to it under this Act and to determine the terms and conditions and other benefits entitled to such staff and to prescribe the duties of the various posts created by it.

(2) The Committee shall have power to remove, suspend, dismiss or reduce in rank or in any way punish all officers and servants including the priests and sevadharis appointed by it.

34. *Register of priority, preferences and honours.*—(1) In view of the abolition of all rights etc., as provided in section 6, the Committee shall prepare a register of priority, preferences and honours that are to be granted by way of concessions in future and shall have also right to effect any change therein including that of deletion of any such entry from the record in the interest of the public or which the Committee does not find it convenient or suitable in course of administration; and the Committee shall not accord any priority, preference or honour in the administration of the amalgamated trust, "temples" or "endowments", pujas, upchars, festivals or anything connected therewith unless such a claim is entered in the register.

(2) No person can claim vested right on the basis of any such entry occurring in such register and no suit shall lie against the Committee for establishing any such right.

26. *Administration, management and governance of the amalgamated trust to vest in the Committee.*—The administration, management and governance of the "temples and endowments" and of the "amalgamated trust" shall vest in the "Committee" and all the bodies in whom all such powers vested before the application of this Act shall cease to exist and have any connection therewith in any respect.

27. *Acquisition of the abolished rights etc.*—All hereditary rights, privileges, perquisites, duties, etc. that are abolished by this Act or shall in future be abolished by the extension of this Act shall be deemed to have been acquired for the Committee and shall vest in it.

28. *Committee to act through the Executive Officer.*—The Committee shall exercise its powers of administration, control and management of the amalgamated trust, "the temples" and "endowments" through the Executive Officer.

29. *Formation of sub-committee and advisory bodies.*—(1) The Committee shall be entitled to form sub-committees or advisory bodies of the Committee members or others from the devotees and experts to assist, help or to advise it in connection with the affairs of the amalgamated trusts and entrust to them such work or to abolish any such body as it may deem fit.

(2) The Executive Officer or any other sub-ordinate officer under the Committee as may be named by the Executive Officer shall be entrusted with the duties of the Secretary of the said respective bodies.

30. *The office of the Committee and meetings.*—(a) The Office of the Committee shall be at Pandharpur.

(b) The Committee may for the purpose of carrying out its duties open one or more sub-offices at such place or places as it may deem fit.

(c) Every meeting of the Committee shall be presided over by the Chairman or in his absence by a member to be chosen by the members present.

(d) The quorum for the meeting of the Committee shall be five.

(e) All questions arising at the meeting of the Committee shall be decided by a majority of the votes of the members present there and voting and in every case of equality of votes the Chairman or the person presiding shall have and exercise a casting vote.

(f) The Committee by bye-laws may regulate the internal working of the committees as regards notice of meeting, period of notice, requisition meeting, time and place of meetings maintaining record of the business transacted, adjournment of the meeting etc.

31. *Duties and functions of the Committee.*—(1) It shall be the duty and function of the Committee to exercise all reasonable care as a prudent man would exercise in his own affairs while discharging the duties cast on the Committee under this Act.

(2) It shall be the duty of the Committee ;—

(a) to afford facilities to the maximum number of devotees and pilgrims for a peaceful darshan atleast from a distance if not by touching the feet of the deities.

(b) to afford reasonable facilities to the devotees for performing pujas at the temples on reasonable terms and without curtailing for a sufficiently long time the darshan which is of utmost importance to the devotees and pilgrims visiting Pandharpur.

(c) to arrange for and carry on all proper religious services (nitya and naimittik upachars) to the deities in the temples and necessary festivals connected with the same.

(d) to provide a peaceful, decent, clean and orderly atmosphere in the temple so as to nourish the religious sentiments of the devotees.

(e) to protect, preserve and develop the "temples" and "endowments" and Pandharpur as a centre of pilgrimage with special care to protect the idols.

(f) to take steps to provide on reasonable rates, material for pujas, sevās etc. and prasād of the deities.

(g) to propagate Hindu religion in general and the tenets of Bhagwat Dharma and Wakari Cult and to satisfy the religious and spiritual need of the devotees visiting Pandharpur.

38. *Right of reimbursement.*—The members of the Committee or the persons associated by the Committee with the work of the trust shall be entitled out of the temple fund to all lawful and reasonable out of pocket expenses and reimbursements of all cost and expenses incurred by them for carrying out the lawful duties entrusted to them provided that this right shall not be available to the member or person to protect himself in case of any proceedings in a Court or before the Charity Commissioner or other authority for his acts or omissions.

39. *Travelling allowance and Daily allowance.*—(1) The members of the Committee except the Executive Officer shall not be entitled to any remuneration for their work on the Committee but shall be entitled to such travelling and daily allowance as may be prescribed by the bye-laws for attending the meetings of the Committee or other work connected with the affairs of the amalgamated trust.

(2) The Committee may by bye-laws provide for the travelling and daily allowance to persons associated with the Committee for attending to the work of the trust.

40. *Liability for loss.*—The members of "the Committee" (including the *ex-officio* members) or any person associated by the same with any sub-committee formed by it shall respectively be liable for the loss, waste or misapplication of any money or other property belonging to the "temples" and the "endowments" or "the fund" if such loss, waste or misapplication is a direct consequence of his wilful act or omission or breach of trust or negligence while holding office and the Committee with the permission of the Charity Commissioner or the Charity Commissioner after making necessary enquiry may institute a suit in the district Court against the said members or persons associated if such loss is not compensated at the time of removal of any member by the District Court under section 22 or has come to the notice after his ceasing to be a member of the Committee.

## CHAPTER V

### EXECUTIVE OFFICER AND ESTABLISHMENT

41. *Appointment and qualifications of the Executive Officer.*—The State Government shall appoint an Executive Officer for the amalgamated trust and "temples", possessing such qualifications as may be prescribed and either deputed from the civil services of the State or otherwise by direct recruitment. The Executive Officer so appointed shall be person professing Hindu Religion and not an atheist or agnostic and shall cease to hold office when he ceases to have these qualifications.

42. *Term of appointment.*—A person so appointed shall hold office for a period of three years unless sooner removed by Government for sufficient cause. An outgoing Executive Officer shall be eligible for re-appointment for a second period of three years.

43. *Temporary vacancy.*—When a temporary vacancy occurs in the office of the Executive Officer the Committee may temporarily fill up the vacancy till regular appointment is made by the State Government.

44. *Removal.*—The State Government *suo-moto* or on a requisition made by the Committee and approved of by the Charity Commissioner may remove or suspend the Executive Officer, provided that if the Court in an application for advice or directions directs the Committee to seek removal of the Executive Officer the State Government shall remove him forthwith.

45. *Powers and duties of the Executive Officer.*—(1) The Executive Officer in his *ex-officio* capacity shall act as member secretary of the Committee and its chief executive officer and shall subject to the control of the Committee have powers to carry out its decision in accordance with the provisions of this Act.

(2) The Executive Officer shall be responsible for the custody, preservation and safety of all records and properties of the "temples" including the jewellery and valuables and shall ~~arrange for~~ proper collections of offerings made in "the temples" :—

(3) The Executive Officer shall have power,—

(a) to appoint all officers and employees of "the temples" including those from the priestly or sevadharis classes as hereinbefore provided and subject to the bye-laws made by the Committee.

(b) to lease out for a period not exceeding one year at a time any land, site and building of the "temples" which are ordinarily leased out.

(c) to call for tenders for works or supplies and accept such tenders when the amount or value does not exceed Rs. 1,000.

(d) to order for emergency repairs.

(e) to decide disputes between the servants or sevaks of different classes.

(f) to require various servants and sevaks and other persons connected with the temples to do the duties prescribed by bye-laws in connection with the management or carrying out of the religious ceremonies or pujas etc.

(g) to frame regulations and prescribe duties for the proper custody and safety of the ornaments and jewellery belonging to the temple.

(4) Any person aggrieved by the decision of the Executive Officer in the aforesaid matters connected with the temples shall have right to appeal within a period of 30 days to the Committee whose decision shall be final.

(5) The Executive Officer shall perform such other duties and exercise such other powers as provided by this Act or prescribed by rules framed under this Act or by the bye-laws approved by the Charity Commissioner as may be delegated to him by the Committee.

46. *Extraordinary powers of the Executive Officer.*—The Executive Officer may in cases of emergency direct the execution of any work of the doing of any act which is not provided for in the budget for the year and immediate execution or the doing of which is in his opinion necessary for the preservation of the properties of "the temples" and its "endowments" or for the service or safety of the devotees and pilgrims visiting the temples or for the due performance of the religious practices therein; and may direct that the expenses of executing such work or doing the act shall be paid from the "temple fund". The Executive Officer shall forthwith report to the Committee the action taken under this section and reasons therefor. A copy of such report along with the decision of the Committee shall form part of the record and proceedings of the Committee.

47. *Executive Officer to be a Government Servant.*—The Executive Officer shall be a Government Servant.

48. *Remuneration of the Executive Officer.*—The Executive Officer shall draw his pay and allowances (including travelling allowance and daily allowance) from the Government consolidated fund and the Committee shall reimburse to Government in this behalf as directed by the Government.

49. *Investing powers of Executive Magistrate.*—It shall be permissible for the Government to invest the Executive Officer with powers of Executive Magistrate as provided in the Criminal Procedure Code to be exercised within the town of Pandharpur in general and the temple premises in particular with such restrictions as the Government may choose to impose so as to enable the Executive Officer to maintain order and peace within the temple premises and during the fairs at Pandharpur.

50. *Bank account and operation.*—(1) All monies belonging to or vested in the Committee shall be deposited in the Bank or Banks or Post Offices in the name of the Committee except such cash in hand upto the limits as may be decided by the Committee from time to time with the approval of the Charity Commissioner.

(2) All such accounts shall be operated by the Executive Officer or such other person or persons as he may nominate in this behalf in consultation with the Committee.

## CHAPTER VI

## BUDGET, ACCOUNTS, AUDIT AND REPORT

51. *Preparation of Budget.*—The Committee shall within three months from taking charge of its office and thereafter atleast one month before the commencement of each official year as may be determined by the Committee with the approval of the Charity Commissioner prepare or cause to be prepared as budget for the succeeding year and shall consider and pass the same at a meeting before the commencement of the year.

52. *Filing a copy of Budget with the Charity Commissioner.*—A copy of the said budget so passed shall be sent to the Charity Commissioner within a week of the date of passing the same.

53. *Sanction of the Budget.*—The budget so passed shall subject to the changes that may be ordered by the Charity Commissioner within a month from the date of the receipt of the same be deemed to have been approved if no communication is received from the Charity Commissioner within a month from the date of receipt of the copy of the budget by the Charity Commissioner provided that the Charity Commissioner shall give an opportunity to the Committee of being heard before ordering any changes in the said budget.

54. *Manner of maintaining accounts.*—The Committee shall cause the Accounts of the trust maintained as provided in and prescribed under the Bombay Public Trusts Act and such other orders as the Charity Commissioner may specially pass in respect of this trust regarding the method of maintaining the accounts, passing the receipts and other connected things. The registers, account books, receipts, vouchers etc. shall be maintained as per bye-laws framed.

55. *Appointment of the Auditor by the Charity Commissioner.*—At the time of approving the budget or within two months from the commencement of the financial year the Charity Commissioner shall appoint an auditor to audit the accounts.

56. *Audit of accounts.*—The Auditor shall during the year at such time or periods as he may deem fit and within three months from the date of closing of the official year of the trust, audit the accounts.

57. *Fees of the Auditor.*—The Auditor shall be paid such fee and out of pocket expenses as may be decided by the Charity Commission after hearing the auditor and the Committee after submission of the audit report provided that the Committee shall deposit with the Auditor an advance for out of pocket expenses of the Auditor as may be directed by the Charity Commissioner.

58. *Appointment of internal Auditor.*—It shall be lawful for the Charity Commissioner to appoint a local internal auditor apart from the professional Auditors to audit the accounts from time to time.

59. *Report of Auditor.*—The Auditor shall submit his report to the Committee and send a copy thereof to the Charity Commissioner.

60. *Facility to the Auditor for Audit.*—It shall be the duty of the Committee and all its officers and subordinates to afford all facility to the Auditors for the purpose of carrying out the audit.

61. *Directions on report of Auditor.*—The Charity Commissioner shall give such directions and pass such orders on the report of the Auditor or otherwise as he may deem fit and the Committee shall carry them out.

62. *Proceedings on failure to carry out directions.*—If the directions given are not carried out within a period of three months the Charity Commissioner may institute such inquiries or proceedings as he may deem fit.

63. *Administration Report.*—(1) The Committee shall annually prepare and submit to the State Government through the Charity Commissioner a report on administration of the affairs of the temples within six months of the close of the financial year.

(2) An abstract of such report along with an abstract of the accounts and reports of the Auditors as approved by the Charity Commissioner shall be published and released to the public for information.

64. *Powers of State Government to call for report, documents, etc.*—Notwithstanding the powers of the Charity Commissioner and other officers under section 37 of the Bombay Public Trusts Act, 1950, the State Government shall have power to call for all such information, accounts or report as may, in its opinion, be reasonable necessary to satisfy it that the temples are being properly maintained and endowments thereof are being properly administered and the funds of the temples are being duly appropriated to the purposes for which they exist and the Committee on such requisition furnish forthwith such information, accounts or report to the State Government.

65. *Inspection by Government.*—The State Government may depute any person to inspect any moveable or immovable property, records, correspondence, plans, accounts and other documents relating to the temples, their endowments and the Committee and its officers and servants shall be bound to afford all facilities to such persons for such inspection.

## CHAPTER VII

### PROPERTIES, FUNDS AND UTILIZATION

66. *Ownership of the properties.*—All properties whether moveable or immovable or in cash or kind belonging to or given or endowed to the respective idols or institutions or endowments shall be owned by the said idols or institutions or endowments.

67. *Register of properties.*—The Committee shall maintain registers in the manner prescribed by bye-laws of such properties which are of a permanent nature either moveable or immovable and shall keep them upto-date.

68. *Vesting of property.*—All such properties shall vest in the Committee for the purposes of management, governance and administration.

69. *Temples Fund.*—There shall be constituted a fund to be called "the Pandharpur Temples fund" which shall be vested in and be administered by the Committee and shall consist of,

- (a) the offerings in cash received or collected before the different deities in the "temples" under the management of the Committee,
- (b) the sale proceeds or auction proceeds of the offerings in kind received or collected before the different deities in the aforesaid "temples",
- (c) the income derived from the moveable or immovable properties of the idols, temples, endowments, institutions,
- (d) contributions by the State Government either by way of grant or by way of loan,
- (e) all receipts, collections, donations, solicited, received or collected by the Committee,
- (f) all fines and penalties imposed under this Act,
- (g) all recoveries under this Act,
- (h) any other gifts or contributions made by the public, local authorities or institutions,
- (i) sale proceeds of moveable or immovable properties vested in the Committee,
- (j) all receipts received by the Committee under any scheme undertaken by it,
- (k) monies borrowed by the Committee either secured or unsecured, but shall not include monies received by the Committee for distribution amongst the priests or ministrants or the income or receipts of trusts or institutions received by the Committee as a trustee but the trust not being amalgamated with the main trust under the Committee and such sums shall be accounted for separately by the Committee.

70. *Utilization of funds.*—(1) The said fund shall in the first instance be utilized for the following purposes:—

- (a) maintenance of the "temples" and customary religious worships therein,
- (b) carrying on the religious functions and festivals therein,
- (c) providing facilities for darshan and pujas,
- (d) payments of rates cesses, taxes, contributions, charges, premiums and administrative expenses including remuneration and allowances to the servants,
- (e) repayment of Government or other loans.

(2) The surplus of the temple fund after providing for the above referred essential things may be utilized for all or any of the following purposes:—

(i) propagation of Hindu Religion in general and religious tenets of the Pandharpur Temples of Vithoba and Rukmini, the Bhagwat Dharma as propagated by the Saints in the Warkari fold and others and the religious culture of Maharashtra.

(ii) training of sevaks or servants to perform the religious worship and ceremonies in the temples.

(iii) providing on reasonable rates the materials for puja and prasad to the devotees.

(iv) providing transport, accommodation, clothing, milk, food, water and sanitary arrangements and medical help to the devotee visiting Pandharpur and establishment and maintenance of any of the institutions to provide these facilities on nominal profit basis.

(v) providing facilities to the devotees to satisfy their spiritual urges by arranging lectures, bhajans, pravachans, symposia, kirtans, music performances or providing library and/or cheap books in this behalf and training of personnel for such work.

(vi) for establishing separate institution or endowments or foundations for the above mentioned purposes and giving adequate grant to the same every year.

(vii) for giving grants to the Hospitals, Orphanages, rescue homes or Homes for old, Infirm and destitutes or establishing such institutions, and

(viii) for any charitable, religious or education purpose not inconsistent with objects of the temples.

## CHAPTER VIII

### MISCELLANEOUS

71. *Rights of devotees and pilgrims.*—(a) Every Hindu whether male or female without any distinction of caste or creed shall have right of entry in the "temples" for the purpose of darshan, pujas, making offerings to the idols or participating in other practices of religion followed therein subject to the byelaws framed by the Committee in this connection.

(b) It shall be permissible to a devotee to bring his own priest at his own cost inside the temple with special permission from the Executive officer for reciting the mantras during the pujas to be performed by him provided that the puja proposed to be done is not inconsistent with the usual pujas done in the "temples" and the practices followed therein and the devotee pays the prescribed fees and charges of the official priest as per bye-laws.

(c) It shall be lawful for the yajaman to give through the Committee or its authorised representative within the premises of the temple to the priests or sevadhari participating in the pujas any sums or dakshinas which he may voluntarily choose to give in addition to the rates or fees fixed by the bye-laws. All such sums shall be received by the Committee under a receipt and then given to the respective person as per desire of the devotee.

72. *Acts of Committee and Executive Officer not to be invalidated.*—(1) No act or proceeding of the Committee or of any person acting as a member of the Committee either in the transitional period or during the tenure by appointment of Court or as an *ex-officio* member, shall be deemed to be invalid by reason only of a defect in the establishment or constitution of the Committee or on the ground that any member of the Committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his appointment or by reason for such act having been done or proceeding taken during the period of any vacancy in the office of the member of the Committee.

(2) No act or proceeding of the Executive Officer shall be deemed to be invalid by reason only of a defect or irregularity in his appointment or on the ground that he was not entitled to hold or continue in office by reason of any disqualification.

73. *Public officers to furnish copies.*—All public officers having custody of any record, register, report or other documents relating to the "temples" or "endowments" connected with the same or any moveable or immovable property thereof shall furnish such copies or extracts from the same as may be required by the Executive Officer.



74. *Committee to be in possession of the "temples" and its properties and "endowments".—*

(1) The Committee shall be entitled to take and be in possession of all moveable and immovable property of the amalgamated trust including the jewellery, records, documents and other assets belonging to the temple and the Pandharpur Temple Fund.

(2) If in obtaining such possession the Committee or any person authorised in this behalf by the Committee is resisted or obstructed by any one,

(a) it may make a requisition in the prescribed form to the Collector of the District in which any such property is situated to deliver its possession to the Committee. On receipt of requisition the Collector shall hold a summary inquiry into the facts of the case and if satisfied that the resistance or the obstruction was without any just cause shall comply with the said requisition; and in exercising the powers under this section the Collector shall be guided by rules made under this Act or

(b) it may make an application to the District Judge who shall treat the same as an application for delivery of possession under the Civil Procedure Code, 1908 and shall dispose of it in accordance with the provisions made thereunder.

(3) No suit, prosecution or other legal proceedings shall lie against the Committee or any person acting under its instructions or authorised by it for anything done in good faith under sub-section (.).

(4) Every person authorised by the Committee or acting under its instructions in pursuance of this section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

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

75. *Recovery of sum due to the Committee.*—All sums payable to the temples fund or the Committee, "temples" or "endowments" under the provisions of this Act or rules or bye-laws framed thereunder, if not paid, shall notwithstanding anything contained in any law be recoverable as an arrear of land revenue in the manner provided and prescribed under the Bombay Public Trusts Act, 1950 and rules framed thereunder on a requisition sent to the Collector by the Executive Officer under his signature and seal of the Committee.

Provided that nothing contained in this section shall bar the institution of a suit in a Civil Court of competent jurisdiction by any person aggrieved by an order of recovery made by the Collector on a requisition received from the Executive Officer as regards the illegality of the recovery requisitioned; provided further that no suit shall be entertained in this behalf by the Civil Court unless a receipt from the Collector or the Committee for having paid the amount requisitioned is attached to the plaint.

76. *Bar of suit.*—No suit or proceeding shall lie in any Court against the Charity Commissioner or State Government for anything done or purported to be done by it under the provisions of this Act.

77. *Proceedings and Court fees.*—(1) The provisions of the Civil Procedure Code, 1908 shall apply to the proceeding in the Court under this Act except to the extent as hereinbefore provided.

(2) All applications made under this Act to the District Court shall bear a Court fee stamp of Rs. 10.

(3) In any proceedings under this Act before the Charity Commissioner he shall follow the procedure prescribed by the Bombay Public Trusts Act.

(4) All applications or motions made under this Act to the Charity Commissioner shall bear a Court fee stamp of Rs. 5.

78. *Transitional provision.*—(1) The State Government may after commencement of this Act and before the constitution of the full committee by appointment by the District Court, appoint one or more persons in addition to the Executive officer to discharge all or any of the duties of the Committee, as may be mentioned in the order of appointment.

(2) Such persons shall cease to be on the Committee when members of the Committee are appointed by the Court.

79. *Powers to make rules.*—(1) The State Government may make rules consistent with this Act for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice such rules may provide :—

(a) the manner of making inquiry before extending the Act, the qualifications of the person to whom the inquiry could be entrusted and the procedure to be followed under Section 10 ;

(b) the manner, mode and contents of notice to be given to the public and Executive Officer under Section 13 and 19 ;

(c) the manner of issuing and publishing notices at the time of appointing members to the Committee under Section 19 ;

(d) particulars of application for appointment under Section 19 ;

(e) other duties to be performed by the Committee under Section 31 ;

(f) other powers that could be exercised by the Committee under Section 32 ;

(g) procedure to be followed by the Charity Commissioner before granting sanctions or schemes, borrowing and sale of jewellery etc. under Section 32 ;

(h) qualifications of the Executive Officer under Section 41 ;

(i) other powers and duties of Executive Officer under Section 45 ;

(j) form of requisition and the procedure to be followed by the Collector in holding inquiry under Section 74 ;

(k) any other matter which is to be or may be prescribed under this Act.

(c) All such rules shall be subjected to the condition of previous publication.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall, from the date of such notification have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or amendment shall be without prejudice to the validity of any thing previously done or omitted to be done under this rule.

80. *Powers of the Committee to make bye-laws.*—(1) The Committee may frame bye-laws consistent with the provisions of this Act and rules framed thereunder to carry out the duties and functions entrusted and powers invested in it.

(2) In particular and without prejudice such bye-laws may provide :—

(a) qualifications for priest and ministrants under section 8,

(b) duties of priests and ministrants under section 8,

(c) internal working of the Committee under section 30 (f),

(d) procedure to be followed for sale of jewellery and exercise of the powers under section 31,

(e) terms and conditions of services under the Committee and the recruitment and disciplinary rules and procedure to be followed before awarding punishment under section 33,

(f) procedure for accepting any priority, preference or honour and making any change in the register under section 34,

(g) regulating order, darshan, pujas, demand of dakshina, fees or charges of puja, prohibition for begging and soliciting customers, licences to the professionals under section 35,

(h) procedure to be followed and the details of the schemes to be undertaken to enhance the income of the trust under section 36,

(i) travelling allowance and daily allowance payable to members and others under section 39,

(j) other powers and duties of the Executive Officer under section 45,

(k) forms of registers, account books, receipts, vouchers, etc. under sections 54 and 67,

(l) and any other matter which is or may be regulated under this Act by bye-laws.

(3) All bye-laws shall not come into force unless they are approved of and confirmed by the Charity Commissioner and while doing so the Charity Commissioner may make any change therein which appears to be necessary after hearing the Committee and representatives of the public, if any, who desirous of being heard.

(4) All bye-laws framed and approved of and confirmed by the Charity Commissioner shall have the same force of law as if they form the part of this Act.

81. The Court, Charity Commissioner and other subordinate officers may exercise powers vested in them under the Bombay Public Trusts Act, 1950 which are not conflicting or inconsistent with the provisions of this Act and it shall be the duty of the Committee and its subordinates to comply with all lawful directions issued by the said authorities in exercising such powers provided that no Court, Charity Commissioner or other subordinate authority shall pass any decree or order conflicting or inconsistent with the provisions of this Act.

82. *Power for removal of difficulty.*—If any difficulty arises in giving effect to any of the provisions of this Act the State Government may by order published in the official gazette, do anything, not inconsistent with the provisions of this Act which appears to it to be necessary or expedient for the purposes of removing difficulty.

### SCHEDULE I

1. Shri Vithoba Temple, Pandharpur, P. T. R. No. A-379 (Sholapur).
2. Shri Rukmini Temple, Pandharpur (along with all its parivar devatas), P. T. R. No. A-365 (Sholapur).
3. The Parivar Devatas of Vithoba, Pandharpur (all the parivar devatas registered under a separate trust) P. T. R. No. A-378 (Sholapur).
4. Shri Vithal Rukmini Deosthan Committee, P. T. R. No. A-324 (Sholapur) (along with P. T. R. No. A-161, A-162 and A-163 (Sholapur) amalgamated with the Deosthan Committee by an order of the Court.
5. Shri Garud Deosthan, P. T. R. No. A-334 (Sholapur).
6. Shrines of Shiv situated within the precinct of the Vithoba and Rukmini Temple.

### EXPLANATORY NOTES

In proposing this draft for legislation, though it might appear long and detailed the Commission considers it necessary to provide for all future emergencies. Firstly having regard to the importance of Pandharpur and the constant increase in the number of pilgrims visiting from year to year the Commission expects not only an increase in the income but also in the scope of management and responsibilities of the Committee of Administration. Secondly a number of trusts directly or indirectly connected with Vithoba and Rukmini have been left out from the scope of this enquiry though the Commission had pointed out this fact at an early stage. Thirdly there are a number of institutions in Pandharpur—particularly Dharmashalas whose management could be conveniently co-ordinated with the Temples Trust. Lastly there are many important temples in Maharashtra whose administration may need being looked into. This draft is proposed to facilitate inclusion of the trusts left out without necessitating appointment of separate Commissions of Enquiry in respect of those and also to enable other independent institutions to transfer their management to the Committee of Pandharpur Temples. The provisions are also so proposed as to enable the Government to adopt them with suitable modifications for application to other Temples in Maharashtra if the Government thinks necessary to impose an administration in those temples. The Explanatory Notes and the provisions could be read from the aspects just mentioned.

*Preamble.*—Normally the preamble happens to be a short one. However in the Jagannath Temple Act, 1954 the Commission came across a detailed one. The Commission having found it convenient to follow that pattern has drafted a detailed preamble so as to give a complete idea of the Legislation.

## CHAPTER I

*Section 1.*—No comments are necessary.

*Section 2.*—Reference is made to the Schedule to the Act so that in future other connected trusts and endowments can be included in the same while extending the Act under section 4.

*Section 3.*—In spite of this Act the Commission feels that the Charity Commissioner should exercise his powers under B. P. T. Act and hence the saving clause.

*Section 4.*—This is an enabling provision to extend the Act to connected Trusts or Charities.

*Section 5.*—Definitions of "Endowments" "Temples" and "Specific Endowment" are new. These definitions are on the lines as in the Nathdwara Temple Act, 1959 and Badrinath Temple Act, 1939 as amended in 1964.

## CHAPTER II

*Section 6.*—This is statement of abolition of all rights, privileges, perquisites and duties etc. of the priestly classes and others connected with the "Temples". This positive statement is necessary so as to give a clean slate to the Committee.

*Section 7.*—This is necessary to avoid suits and legal proceedings in respect of the abolished rights.

*Section 8.*—This incorporates the recommendation of the Commission to preserve as far as possible and practicable the source for recruitment for services of priests and ministrants. It is however made clear that the Committee shall have complete freedom in prescribing the duties notwithstanding the previous litigations and disputes, in view of abolition of rights. It is further provided that no suit or proceeding shall lie against the Committee in this behalf and duty is cast on the Committee to maintain the dignity and paraphernalia of the deities.

*Section 9-A.*—The principles applied by the Commission are summarised with a view that the same could be followed while extending the Act to other endowments.

*Section 9-B.*—This gives the figures of compensation recommended by the Commission so that it is not necessary to provide machinery to determine the same on the principles stated.

*Section 10.*—This is an enabling provision making it possible for Government to make enquiries and determine compensation before extending the Act to connected trusts and endowments.

*Section 11.*—This provides for deposit of amount of compensation in Court and the source from which it is to be paid initially at the time of application of the Act. This is in accordance with recommendation of the Commission.

*Section 12.*—This is an enabling provision so as to enable the claimants to prefer their claims.

*Section 13.*—Since the number of sharers are many a public notice is provided so that all concerned may have an opportunity to prefer their claims.

*Section 14.*—This is an enabling provision to invest the compensation in dispute. In other cases the same is provided to be paid immediately.

*Section 15.*—Order of the District Court is made appealable to the High Court as this involves the title of the sharers to the amount payable.

*Section 16.*—This is provided to make it clear that the jurisdiction of the Court is limited in this proceeding to the distribution of the amount declared to be payable as compensation.

*Section 17.*—This incorporates the recommendations of the Commission that the District Court is to appoint 7 members including Chairman and others as ex-officio Members.

*Section 18.*—This provides the qualifications which is a normal feature. The same is followed on the lines as in Nathdwara Act, 1959. The proviso itself clarifies its purpose.

*Section 19.*—This section gives the procedure to be followed for appointment of members as recommended by the Commission. It also embodies the recommendation as to the areas from which the members are to be appointed and the exclusion of priestly classes entitled to Compensation for the first 15 years. Since under the Bombay Civil Courts Act the matter can be tried by the Assistant Judges a special mention is made that the matter shall be heard by

the District Judge himself as normally he is senior and experienced and as such most suitable to make selection. Since the temple is of Hindus a Hindu Judge can be expected to know and find out suitable persons as members of the Committee.

*Section 20.*—This embodies recommendation of the Commission that the term of Office of the Members should be 5 years so that they could do something useful during that period.

*Section 21.*—Since the Commission thinks that even appointment of casual vacancies should not be left to the Committee itself, this provision is made empowering the Court to do so. It is further provided that Charity Commissioner should be heard in all such matters so that the Court could get the benefit of the submissions of the Charity Commissioner based on information obtained independently through his own agencies.

*Section 22.*—Provides a speedy remedy for removal of the Members on the grounds stated apart from the right of the public to file a suit under section 50 of the B. P. T. Act, 1950 for removal and other reliefs mentioned therein which are not conflicting with the provisions of this Act. This section further provides suspension as an immediate relief and order of recovery of loss caused while remaining. It is further clarified that such an order is appealable to the High Court as it affects the person removed in all respects.

#### CHAPTER IV

*Section 23.*—Since the Committee would be a statutory body it is made a corporation to have continuity through members and Executive Officer may change. Such provisions are found in Nathadwara and Jagannath Puri Acts.

*Sections 24 and 25.*—This explains the normal powers of the corporate body and how it is to be represented.

*Section 26.*—This declares that the administration management and governance shall vest in the Committee and all previous bodies cease to exist and have any connection with management.

*Section 27.*—This declares that all the abolished rights are acquired by the Committee and shall vest in it.

*Section 28.*—This provides that the committee is to act through the Executive Officer.

*Section 29.*—This is an enabling provision made with a view that the committee should form sub-committees and get advice of persons other than members appointed to the committee. For instance while appointing servants from priests for officiation, etc., or for providing qualifications, duties, etc., of the concerned posts it requires expert advice. So also while carrying out different schemes it may require public co-operation and expert advice.

*Section 30.*—This provides for the rules of business of the committee.

*Section 31.*—This section makes the duties of the Committee clear and also makes it clear that the field of operation of the Committee is wide and the importance of the darshan at Pandharpur. The other duties are normal ones necessary for management.

*Section 32.*—This section provides for the powers and restrictions on the exercise of such powers as recommended in the Report. The restrictions are necessary as the powers of borrowing or sale of movables are likely to be misused if no restrictions are provided. Since there are many trusts and Dharmashalas at Pandharpur which could in future be co-ordinated and connected with the Committee the Committee is empowered to accept any trust for management as trustees.

*Section 33.*—This provides for powers of the Committee over the staff.

*Section 34.*—In spite of abolition of rights, etc., as per custom there are many priorities, preferences and honours which are or would be observed by way of concessions without these being in right vested in any one in this behalf. With a view that there should be record of all these things this provision is made. Powers of revision are conferred on the Charity Commissioner with a view that the Committee should not unnecessarily create such new cases or if created by some committee the same could be stopped by the successors.

*Section 35.*—It is not possible to incorporate all these rules in details in the Act and as such power is conferred on the committee to frame bye-laws in this behalf subject to confirmation by the Charity Commissioner. These are restrictions to be provided with a view to stop all harassment to the devotees and give a peaceful darshan and facility for pujas. Power

of the Charity Commissioner to confirm the bye-laws is a sufficient safeguard to protect excessive use of powers by the Committee. Such rules and bye-laws are within the limits of restrictions that can be placed on the exercise of rights by the devotees and others subject to order, health and morality and with a view to carry out the trusts. Such rules are held to be legal in Badrinath Temple case.

*Section 36.*—This section provides for ways and means to enhance the income of the fund as recommended in the main Report of the Commission.

*Section 37.*—This provides that though this Act is a special Act the committee shall have all powers and obligations vested in the trustees under B. P. T. Act, 1950.

*Section 38.*—This is a reimbursement clause normally provided in trust deeds or schemes.

*Section 39.*—This makes it clear that the members of the committee are not entitled to remuneration but they can draw T. A. and D. A. for work of the committee.

*Section 40.*—This is a liability clause. In section 22 a speedier remedy is provided which can be resorted to if there is a proceeding for removal. However if liability is noticed afterwards there should be a remedy and that is why this provision. Such a provision is normally made in constitutions of societies.

## CHAPTER V

*Section 41.*—This embodies the recommendation of the Commission. The provision that he should be a Hindu, etc., is as per Article 16 (5) of the Constitution.

*Section 42.*—This also embodies the recommendation of the Commission.

*Section 43.*—This is for temporary vacancy.

*Section 44.*—The Executive Officer should not have a position which cannot be questioned. Hence this power of removal in the Government. The Committee may approach the Court for advice under section 56-A of the P. P. T. Act and if the Court directs there is provision for the Government to remove the Executive Officer. This provision is made for satisfaction of the public that the Executive Officer is liable to be removed if directed by the Court.

*Section 45.*—These are powers of the Executive Officer. Such powers are granted under Nathdwara and Jagannath Temple Acts. An appeal is provided to the committee against the orders of the Executive Officer to ensure that justice would be done.

*Section 46.*—These are extraordinary powers necessary for the Executive Officer. Such powers are conferred under the Jagannath Temple Act.

*Section 47.*—The Executive Officer in order that he should not be at the mercy of the committee and that he should act with a sense of responsibility is required to be an officer of the Government.

*Section 48.*—If he is a Government Officer it is but natural for him to draw his pay and allowances from Government consolidated funds. Such provision is found in B. P. T. Act, 1950.

*Section 49.*—This embodies recommendation of the Committee. Such powers are conferred at Puri and Badrikedar.

*Section 50.*—This relates to operation of bank account and reasonable restrictions.

## CHAPTER VI

*Section 51.*—This provides for preparation of budget. There is no such provision in B. P. T. Act but all other Acts of different States make it compulsory to prepare a budget.

*Section 52.*—Since there should be somebody to sanction the budget power is conferred on Charity Commissioner. It will not be possible for Court to spare time for such things that is why all such powers are conferred on the Charity Commissioner.

*Section 53.*—This places an obligation on the Charity Commissioner to consider the budget early after hearing the committee.

*Section 54.*—The provisions of B. P. T. are supplemented as in this case detailed directions would be necessary.

*Section 55.*—Normally the trustees appoint the auditor. However they themselves being the appointing authorities it is usually noticed that the auditors as far as possible try to shield them; since in such a big institution it is expected that the audit should be strict. This power is conferred on the Charity Commissioner who is expected to be in know of so many auditors. Government auditors are not proposed as it would not be convenient and the audits would be delayed.

*Section 56.*—This is an enabling provision so that there could be checks during the year.

*Section 57.*—The fees of the auditors are also left to the Charity Commissioner.

*Section 58.*—This is an enabling provision to appoint local internal auditor.

*Sections 59 and 60.*—No comments are necessary.

*Sections 61 and 62.*—This casts duty on the Committee to comply with directions given on audit Report and the power of the Charity Commissioner to deal further if directions are not complied with.

*Section 63.*—This being a special Act a Report of its working and the charity is necessary not only to Government but also to the public.

*Section 64.*—This is a safeguard empowering Government to satisfy itself about the working.

*Section 65.*—This is necessary to enable Government to inspect. However it may be noted that no direct power is conferred on Government to give directions to the Committee. This is done to avoid criticism of public about interference of Government in the affairs of the trust though such power is inherent in the Government.

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## CHAPTER VII

*Section 66.*—Notwithstanding the consolidation and amalgamation the ownership of the property is that of the deities or institutions and as such it has to be kept intact by this specific declaration to remove doubts about intention of Government.

*Section 67.*—This is necessary so as to show a clear picture of the properties with the Committee.

*Section 68.*—Since all the properties are to be vested in the Committee for management etc. this specific clause is proposed.

*Section 69.*—The common fund would be a new one and as such it is constituted and vested in the Committee. The section shows all sources of receipts to the fund.

*Section 70.*—This is the enabling clause to extend the fund. This embodies all recommendations in this behalf.

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## CHAPTER VIII

*Section 71.*—The rights of the devotees are specifically declared so as to remove any doubt in the mind of the devotees. Such declarations are made in schemes framed by Courts.

*Section 72.*—This is a validating clause so as to validate acts *bona fide* done. Such provisions are found in Jagannath Temple Act.

*Section 73.*—Since the committee is expected to peruse the endorsements this provision is made on the lines as in Jagannath Temple Act.

*Section 74.*—It is necessary that the committee should be able to get possession by a summary procedure. Such provisions are found in Jagannath and Nathadwara Act. However a suit is provided for a person aggrieved.

## APPENDIX IX

## LITIGATIONS

(A) *Before the British regime :—*

1. Bijapur Sthal Prat (935 Hizari, i.e. 1519 A. D.). A Vatan Zada after a dispute about management. Ex. 92A and Ex. 663.
2. Indapur Sthal Prat (1568 A.D.). A list of duties of each of the classes—in a dispute between Badaves and Utpata. Ex. 92B.
3. Attachment order (Shako 1667) by the Ruling power in view of disputes in the temple. Ex. 569.
4. Another attachment order (8th November 1752) by the Ruling power in view of complaints about temple and management. Ex. 670 and Ex. 671.
5. Head of Account (1154 Sur, i.e. 1754 A. D.) referred to as Sanad in the Scheme Judgment issued by Balaji Bajirao Peshwa. Ex. 113 and Ex. 727.
6. Jat Muchalka i.e. Surety Bond (19th July 1754) given by Badavo to the ruling power. Ex. 570.
7. Attachment of the temple by Ruling power (Shako 1681) .. .. Ex. 675.
8. Niwada of Madhavrao Narayan Peshwa in dispute about keys of the temple (1780 A.D.). Ex. 105.
9. Order of Peshwas (2nd November 1790) about maintaining order at (page 12 and 13) the time of pujas after a dispute. Ex. 106.
10. Attachment by Farashurambhau Patwardhan (Shako 1713) .. .. Ex. 675 and Ex. 568.
11. Order of Maharaja of Satara in a dispute about prakshalpuja, Yajamanpuja etc. (1838). Ex. 106.

(B) *East India Company regime :—*

12. Suit No. 272 of 1850 in the East India Company Court in a dispute between Utpata and Benaris Ex. 92O and Ex. 92D.
13. Suit No. 638 of 1850 in the East India Company Court by Badves against Kolis regarding income of Amriteshwar Rath. Ex. 214.
14. Suit No. 305 of 1856 in the East India Company Court by Benari and Badavo about Vatan offered to Vithoba. Ex. 857.
15. Enquiry made by the Commissioner through the Mamlatdar, Pandharpur and report of Phadnis Anantya (2010/1851). Ex. 856.
16. Promulgation dated 7th January 1857 prohibiting darshan by entering the Gabhara and touching the feet for 38 days. Ex. 578.
17. Order dated 3rd February 1857 restricting entry in the Gabhara of 10 Sovadhari only. Ex. 578.
18. Application by Sovadhari dated 27th June 1857 in respect of promulgation .. Ex. 578.

(C) *After the Proclamation of Queen Victoria about non-interference in religious affairs— During the British regime and after Independence.*(i) *First Series :—*

19. Proceedings under Criminal Procedure Code in the grant riot and order of Magistrate in 1879 directing parties to approach Civil Court. Ex. 59.
20. Suit by Pujari against Badaves for declaration of rights .. ..
  - (a) District Court Suit No. 1 of 1882 .. .. Ex. 59.
  - (b) High Court Appeal No. 90 of 1886, (10th April 1891). .. Ex. 60.
  - (c) Review Application by Badavo in High Court No. 370 of 1891 .. Ex. 82 and 83.
21. Suit by Benaris for rights against Badavo :—
  - (a) District Court Suit No. 2 of 1882 .. .. Ex. 01.
  - (b) Appeal No. 81 of 1888 .. .. Ex. 02.
  - (c) Review Application No. 369 of 1891 in High Court by Badavo .. —
22. Suit by Paricharaks against Badaves for rights :—
  - (a) Suit No. 5 of 1881 (District Court) .. .. Ex. 03.
  - (b) Judgment in High Court Appeals 1 and 5 of 1890 .. .. Ex. 04.
23. Suit by Dingres against Badaves for rights :—
  - (a) Suit No. 3 of 1881 (District Court) .. .. Ex. 65.
  - (b) Judgment in High Court Appeal Nos. 130 of 1890 and 5 of 1891 .. Ex. 06.
24. Suit by Haridas against Badaves for rights :—
  - (a) Suit No. 4 of 1881 (District Court) .. .. Ex. 67.
  - (b) Judgment in High Court Appeal 144 of 1888 .. .. Ex. 68.
  - (c) Review application and order .. .. Ex. 567 and 568.



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25. Suit by Danges against Badaves for rights :—
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| (a) Suit No. 62 of 1891 .. .. .                      | Ex. 71. |
| (b) Judgment in Appeal No. 37 and 44 of 1893 .. .. . | Ex. 72. |
| (c) H. C. second Appeal No. 108 of 1895 .. .. .      | Ex. 73. |
26. Suit by Diwate against Badaves for rights :—
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| (a) Suit No. 61 of 1892 .. .. .                         | Ex. 69. |
| (b) Appeal No. 29 and 45 of 1893 .. .. .                | Ex. 70. |
| (c) H. C. Second Appeal Nos. 70 and 109 of 1895 .. .. . | —       |
27. Scheme Suit by Sevadhari :—
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2. A.I.R. 1964 S.C. p. 107 .. .. Ahmad Adam's case under section 92, C. P. C. (scheme not binding on those who were not represented).
3. A.I.R. 1962 S.C. p. 1329 .. .. Kallimata Thakurani of Kalighat (scheme under section 92 C. P. C. and provision for pujaris and Shebaita). *Thackersey vs. Hurthum*.
4. I.L.R. 8 Bom. p. 432 .. .. (Idol a juristic person).
5. 52 Indian Appeals p. 245 .. .. Pramatha Nath vs. Pradyumna Kumar (legal status of an idol).
6. A.I.R. 1948 P.C. p. 25 .. .. N. Shankarnarayana vs. Board of Commissioners (special trustee of a special or specific endowments can have no claim on surplus)
7. A.I.R. 1960 S.C. p. 100 .. .. N. R. Gosavi vs. Gopal Vinayak. (Decision regarding property not binding on the deity if it is not a party to the dispute).
8. 52 Indian Appeals, p. 245-27 Bom. L.R. p. 1064 (P.C.). .. .. Mallick vs. Mallick (necessity of deity being represented by a disinterested person appointed by Court when Shebaita have adverse interest—Shobaitship requires foundation).
9. (i) A.I.R. 1958 Madras p. 528  
(ii) A.I.R. 1955 Raj. p. 201 (F. B.)  
(iii) A.I.R. 1961 S.C. p. 504. .. .. } Custom contravening the fundamental rights is void.
10. A.I.R. 1951 H.P. p. 32 .. .. Baijnath vs. Ramnath (custom under which hereditary yogis could force their ministrations on their yajamans in void as violating Article 25 of the Constitution viz. practice of religion)
11. A.I.R. 1961 S.C. p. 1402 .. .. Ajmer Dargah Case (validity of special Act under Section 14, 25, 26, 31, etc., of the Constitution).
12. A.I.R. 1963 S.C. p. 1038 .. .. Nathadwara Case of Tilakayat (validity of special Act under Section 14, 25, 26, etc., of the Constitution).
13. A.I.R. 1964 S.C. p. 1501 .. .. Jagannathpuri case (validity of the special Act under the Constitution).
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15. 70 I.A. p. 57 .. .. Bhabatarini vs. Ashalata (Shobaitship).
16. A.I.R. 1951 S.C. p. 293 .. .. Angurbala vs. Debabrata (Shobaitship).  
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17. A.I.R. 1960 Calcutta. p. 235 .. .. (Review of all cases of shobaitship as property).
18. A.I.R. 1954 S.C. p. 558 .. .. Bela Banerji's case (meaning of compensation).
19. A.I.R. 1965 S.C. p. 1017 .. .. Vajravellus' case (meaning of compensation not changed after 14th amendment to the Constitution).
20. A.I.R. 1967 S.C. p. 637 .. .. Metal Corporation Case (Vajravellus' case followed).
21. LXXI Bom. L.R. (Issue Nos 11-12 June 1969) Notes on recent Supreme Court decisions. Note 62 page 54-55. .. .. The State of Gujarat vs. Shantilal Mangaldas (Metal Corporation case is overruled).
22. A.I.R. 1954 S.C. p. 282 .. .. Shirur Math Case (validity of Madras Act—Religious denomination).
23. A.I.R. 1954 S.C. p. 388 .. .. Ratilal Panachand's case (validity of public trust Act).
24. A.I.R. 1952 Mad. p. 613 .. .. Shirur Math and Chidambaram Temple case (Dixitars at Chidambaram a religious denomination).
25. A.I.R. 1956 Mad. p. 491 .. .. Sudhindra Tirth Swamiar vs. Commissioner (discussion about Math but does not apply to temple and Priests).
26. A.I.R. 1967 Pat. p. 114 .. .. (Offering of food whether a religious practice).
27. A.I.R. 1958 S.C. p. 255 .. .. Venkatraman Devaru vs. State of Mysore (Religious denomination—conflict between Article 25 (2) and Article 26).
28. A.I.R. 1952 S.C. p. 245 .. .. Narhari vs. Badrinath Temple (Right of entry into a public temple and restrictions that can be placed by the managements).
29. 13 Bom. L.R. p. 1171, I.L.R. 30 Bom. p. 94. .. .. (Vritti explained).
30. 29 Bom. L.R. p. 102 .. .. (Vritti of Utpata).
31. Bombay High Court Reports Vol. 11 (1874) (Succession of Vritti amongst Utpata). p. 249.

32. A.I.R. 1959 S.C. p. 798 .. .. (Alandi Temple Case. Gurus lost right because of limitation).
33. 65 Bom. L.R. p. 27 .. .. Taloda Municipality case (powers of the Charity Commissioner in respect of charities).
34. 53 Bom. L.R. p. 739 .. .. (Clash between two sets of fundamental rights).
35. A.I.R. 1962 S.C. p. 853 .. .. Mullaji Saheb's case (Religious denomination explained).
36. L.L.R. 12 Bom. 247 .. .. Dakore case (jurisdiction of Civil Courts in respect of charities sevaks not owners).
37. 28 Bom. L.R. p. 309 (P.C.) .. .. Shankarlal vs. temple committee (deity has a separate identity from the person acting for it). No scheme is irrevocable.
38. A.I.R. 1958 S.C. p. 538 .. .. (Powers of a Commission under Commission of Inquiry Act).
39. I.L.R. 1955 Mad. p. 253 .. .. Narayan Namboodripad vs. State of Madras. (Powers of the State to legislate—property whether includes hereditary trusteeship—Articles 25, 26, 27, 28 and 282 Religion and State discussed).
40. I.L.R. 24 Bom. p. 50 .. .. (Dakore case Scheme suit and amendment).
41. I.L.R. 39 Bom. (P.C.) p. 289 .. .. Government to decide what is a public purpose.
42. A.I.R. 1952 Mad. p. 756 .. .. P. Thumbiran vs. State of Madras. What is a public purpose—Review of case law.
43. A.I.R. 1957 S.C. p. 133 1956 S.C.R. p. 756 Deokinandan vs. Muralidhar. (Distinction between a private and public temple).
44. 1904 Appeal cases p. 616 (House of Lords). Case of Free Church of Scotland. (Denomination requires a bond of religious discipline).
45. A.I.R. 1956 Madras, p. 541 .. .. Udapi Math and Krishna Devaru Temple case. (Distinction between Math and temple, Harijan entry in the temple).
46. 1906 (2) S.C.J. p. 502 .. .. Swaminath Temple case. (What is Hindu Religion explained).
47. 43 Indian Appeals (P.C.) p. 127 .. .. Mohamed Ismail Ariff vs. Ahmed Moolla. (In a scheme court can alter the mode of management—primary consideration interest of the general body of the public for whose benefit the trust stands).
48. A.I.R. 1952 S.C. p. 252 .. .. State of Bihar vs. Kameshwar. (Scope of public purpose explained).
49. I.L.R. 49 Calcutta p. 388 (1922) P.C. .. .. Amulchandra vs. Corporation. (Acquisition for building a dharmashala for a Hindu Temple is a public purpose).

## APPENDIX XI

## OTHER ACTS, SCHEMES FRAMED BY COURT OR TRUST DEEDS USED FOR DRAFT OF THE LEGISLATION PROPOSED

## (a) Other Acts

1. Bombay Public Trusts Act, 1950 (Bom. Act XXIX of 1950).
2. The United Provinces Shri Badrinath Temple Act, 1939 (U. P. Act XVI 1939).
3. The Uttar Pradesh Shri Badrinath Temple (Sanshodhan) Adhiniyam 1964 (U. P. Act VIII of 1964).
4. The U. P. Shri Badrinath and Kedarnath Temple Rules, 1967.
5. The Dargah Khwajasahab Act, 1955 (Government of India Act No. 36 of 1955).
6. The Jagannath Temple Act, 1954 (Orissa Act No. 11 of 1955).
7. The Nathdwara Temple Act, 1959 (Rajasthan Act No. 13 of 1959).
8. The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966 (Andhra Pradesh Act No. 17 of 1966) and Rules under the Act.
9. The various Acts mentioned in Appendix to the Hindu Law of Religious and Charitable Trust by B. K. Mukherjee, second edition (1962).
10. Draft Bill for administration of Yellamma Hills Area Soundathi, District Belgaum (1966).

## (b) Schemes framed by Courts

11. Scheme of Dakore Temple framed by High Court of Bombay along with Rules framed by the District Court of Ahmedabad.
12. Scheme of Yellamma Devasthan in Suit No. 318 of 1935.
13. Revised Scheme of management of Balaji of Deulgaon Raja, dated 25th October 1961.

*Section 75.*—This is on the lines of recoveries under B. P. T. Act to enable the committee to effect recoveries. Though a suit is provided to persons aggrieved precondition of payment is imposed so that it should not be easy to delay payments by filing suits.

*Section 76.*—Since Charity Commissioner and Government have no direct concern with the administration, this provision is made on the lines of Nathdwara Act.

*Section 77.*—This prescribes procedure before Charity Commissioner and Courts.

*Section 78.*—This is Transitional provision. This is necessary to impose the administration early.

*Section 79.*—This is normal rule making power.

*Section 80.*—This is normal bye-laws making power to the committee. Confirmation of Charity Commissioner is provided so as to restrict the arbitrary use of these powers by the Committee.

*Section 81.*—This is made clear so that Charity organisation can exercise its normal powers in this case also.

*Section 82.*—This is a normal clause in such legislation.

महोदयजी अन्तर्गत १२/४

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PART III

APPENDICES

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APPENDIX I  
GOVERNMENT OF MAHARASHTRA  
LAW AND JUDICIARY DEPARTMENT

Sachivalaya, Bombay-32, dated 21st October 1968

COMMISSIONS OF INQUIRY ACT, 1952.

No. 27518-P.—Whereas, complaints have been received by the Government of Maharashtra regarding mismanagement of the Vitthoba Temple, the Rukmini Temple, the Pariwar Devatas and the Vithal Rukmini Deosthan Committee all at Pandharpur and registered as public trusts under the Bombay Public Trusts Act, 1950 (Bom. XXIX of 1950) (hereinafter collectively referred to as "the said public trusts") ;

And whereas, the Government of Maharashtra is of the opinion that it is necessary to appoint a Commission of Inquiry to inquire into the report on the alleged mismanagement of the said public trusts, and to suggest ways and means to ensure proper management thereof and matter connected with the purposes aforesaid ;

Now, therefore, in exercise of the powers conferred by sections 3 and 5 of the Commissions of Inquiry Act, 1952 (LX of 1952) and of all other powers enabling it in this behalf, the Government of Maharashtra hereby appoints a Commission of Inquiry consisting of Shri B. D. Nadkarni retired District Judge.

2. The Commission shall inquire into and report on the following matters, namely :—
  - (a) the alleged mismanagement of the said public trusts ;
  - (b) the sources of income of the said public trusts ;
  - (c) the persons (other than the said public trusts) who claim that they are entitled to such income (including any offerings made before the deities or any portion thereof ; and their rights in relation thereto) ;
  - (d) the manner in which the income of the said public trusts is being utilised or appropriated at present, regard being had to the Judgment of the High Court at Bombay in Appeal Nos. 141 and 168 of 1892, reported in the Bombay High Court Judgments, 1896, p. 644 ;
  - (e) the manner in which the office bearers for the management of the said public trusts are chosen ;
  - (f) the rights of all persons having or claiming interest in the said public trusts, such as Badawas, Utpats, Sevadhars and Kshotra Upadhyayas, in the management of the said public trusts or in the appropriation of the income thereof ;
3. The Commission of Inquiry may suggest—
  - (a) ways and means to ensure proper management of the said public trusts, and for the proper utilisation of the income of those trusts ;
  - (b) ways and means for improving the existing manner of choosing office bearers for the management of the said trusts so as to secure effective supervision, regulation, control and management of those trusts ;
  - (c) whether the existing rights of the persons entitled to the management of the said public trusts and appropriation of the income thereof should be abolished and, if so, the quantum of compensation to be paid for such abolition, together with the machinery for the determination and payment of compensation, and the sources from which such compensation shall be paid ; or in the alternative, if such rights are to be preserved, then the manner in which the exercise of such rights may be regulated ;
  - (d) a scheme of management of the said public trusts (including amalgamation thereof, if necessary), and for the utilisation of any surplus balance of the said public trusts for allied religious objects after making provision for Reserve Fund and the like ;
  - (e) whether any legislation is necessary and, if so, the proposals for legislation ; and
  - (f) any other relevant or connected matter.
4. The Government of Maharashtra further directs that having regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of sub-sections (2), (3) (4) and (5) of the said section 5 shall apply to the said Commission.
5. The Commission shall report to the Government of Maharashtra within a period of four months from the date of its appointment\*.

\*Note.—The period of submitting the report was extended from time to time and ultimately upto 31st January 1970.

APPENDIX II (A)

The Government of Maharashtra have appointed a Commission of Enquiry consisting of Shri B. D. NADKARNI to enquire into the management of the Vitthoba Temple, Rukmini Temple, Pariwar Devatas and Vithal Rukmini Deosthan Committee, Pandharpur. In this connection the Commission has prepared the following questionnaire to elicit information from the general public :—

QUESTIONNAIRE

- (1) Have you got any historical information in respect of the origin and the development of all the Deosthans in respect of which inquiry is to be made, especially the Vitthoba Temple and the Rukmini Temple ? If so, give particulars of the documents on which your information is based. If you possess any original documents attach true copies thereof.
- (2) How, in what way and from what time the Badawas, Utpats, Sevadhars, Kshetropadhyas, Kolis or others came in contact with the temples ?
- (3) Do you know of any instances of mismanagement of these temples ? If so, furnish particulars of such instances.
- (4) What are the difficulties, experienced by the devotees in getting peaceful darshan of the deities and whether there are any obstructions or hindrances in having the darshan ? If so, what is its nature ? What remedies you suggest for improvement in this respect ?

- (5) What are the difficulties experienced by the devotees in performing different kinds of Pujas and Upachars and how they should be overcome ?
- (6) Whether Dakshana is demanded at different places in the Temples ? Is there any compulsion in this respect ?
- (7) Whether offeratory boxes should be kept before the deities ?
- (8) Whether the demand of Dakshana in the Temples should be completely prohibited ?
- (9) Whether scales of fees for different kinds of pujas, Upchars etc. should be prescribed ?
- (10) How many persons annually visit the Temples according to your information and what is your estimate of the annual income of these Temples ?
- (11) Have you any information as regards the dedication of Inams, lands or such other kind of generous donations in the past, for the Puja, Upchar, Naivadya and other services and general management in respect of the Devasthanas ? If so, state full particulars thereof.
- (12) What are the present sources of income of these Devasthanas ? Furnish particulars in that respect and also mention the sources from which the income ought to go to the Devasthanas but does not actually go to the Devasthan.
- (13) What is the intention of the devotees in offering articles, ornaments, clothes, Dakshana etc. before the deities ?
- (14) Whether the existing management should be changed ?
- (15) What, according to you, would be the ideal management ?
- (16) In what way and for what purposes, other than the actual management of the Temple, the present and future income of the Devasthanas should be utilized ?

Note.—If you want to furnish any relevant information on the points not covered in the questionnaire or if you desire to make any suggestions, you can do so by attaching a separate supplement to the questionnaire.

प्रेषक :—

श्री. गो. वि. हुपरीकर,  
अम्. अस्ती., अल्. अम्.,  
सचिव.

जा. क्र. चा १९६८,  
पंढरपूर देवस्थान चौकशी आयोग कार्यालय,  
द्वारा सहाय्यक धर्मादाय आयुक्त, पुणे प्रदेश,  
४९-अ, सर भांडारकर मार्ग, पुणे क्रमांक १.  
दिनांक :

प्रति :—

महोदय,

महाराष्ट्र शासनाने पंढरपूर येथील श्री विठ्ठल मंदिर, श्री रुक्मिणी मंदिर, परिवार देवता व विठ्ठल रुक्मिणी देवस्थान कमिटी या संबंधात चौकशी करून सदर देवस्थानासंबंधी योग्य व्यवस्था घुचविण्यासाठी श्री. वी. डी. नाडकर्णी यांचे चौकशी आयोग नेमले आहे याची आपणास माहिती आहेच. सदरवाचत शासनाचा आदेश महाराष्ट्र शासन राजपत्र असाधारण-ता. ९९ ऑक्टोबर १९६८ भाग ४ अ मध्ये प्रकाशित झालेला आहे. त्यासंबंधात लोचत प्रश्नावली आपणाकडे याबाबत तस असणारे अेक नागरिक/भक्त/समाज कार्यकर्ता/सदर देवस्थानमध्ये हितसंबंध गुंतलेले— या नात्याने पाठविली आहे. तरी सदर प्रश्नाची उत्तरे स्वतंत्र कागदावर आपले नाव, पूर्ण पत्ता व प्रश्नाचा क्रमांक लिहून, सचिव, पंढरपूर देवस्थान चौकशी आयोग यांचे नावावर वर नमूद केलेल्या पत्त्यावर ३१ डिसेंबर १९६८ पूर्वी पाठविण्याची कृपा करावी या संबंधात आयोगाने नोटावल्यात स्वतः साक्ष देण्याची आपली तयारी असेल तर तसेही कळवावे. तसेच या संबंधात आपले माहिती-प्रमाणे अन्य कोणते जास्त माहिती असेल वा त्याचेजवळ यासंबंधी असलेल कागदपत्र वा पुरावे असतील वा त्याची या काभी साक्ष देण्याची इच्छा असेल तर याबाबत तपशील कळविल्यास सदर सदर देवस्थानाकडे विचारणा करणे मुलभ होईल. कळवावे.

आपला,

सचिव,

पंढरपूर देवस्थान चौकशी आयोग, पुणे.

महाराष्ट्र शासनाने पंढरपूर येथील विठोबा मंदिर, रुक्मिणी मंदिर, परिवार देवता व विठ्ठल रुक्मिणी देवस्थान कमिटी याबाबतच्या व्यवस्थेसंबंधी चौकशी करण्यासाठी म्हणून श्री. बी. डी. नाडकर्णी यांची आयोग म्हणून नियुक्ती केलेली आहे. या कामी आयोगाने आम जनतेकडून माहिती गोळा करण्यासाठी म्हणून तयार केलेली प्रश्नावली.

## APPENDIX II (B)

### प्रश्नावली

(१) या कामी अंतर्भूत असलेल्या प्रत्येक देवस्थानसंबंधी व विशेषतः विठ्ठल मंदिर व रुक्मिणी मंदिर यांचे मूळ स्थापनेसंबंधी व त्यांचे वार्दासंबंधी आपणास ऐतिहासिक माहिती आहे काय ? माहिती असल्यास ती ज्या कागदपत्रावर आधारित आहे त्यासंबंधी तपशील द्यावा. जर आपणाकडे काही असंल कागदपत्र असेल तर त्याची खरी नकल सोबत जोडावी.

(२) या मंदिराशी बडवे, उत्पात, अन्य सेवाधारी, क्षेत्रोपाध्ये, कोळी वा इतरांचा केव्हापासून वा कशा रीतीने व कोणत्या नात्याने संबंध आला आहे ?

(३) या मंदिराचे व्यवस्थेसंबंधी गैरप्रकार आपल्या नजरेस आले आहेत काय ? व तसे असल्यास त्यांचा तपशील द्यावा.

(४) भक्तांना सुलभपणे दर्शन मिळण्यास काय अडचणी येतात वा त्यांची अडवणूक होत असल्यास ती कशा प्रकारे होते, व याबद्दल सुधारणा होण्यास काय उपाय योजावेत ?

(५) भक्तांना निरनिराळ्या पूजा व उपचार करण्याचे बाबतीत काय अडचणी येतात ? त्यांचे निवारण कसे करावे ?

(६) देवळामध्ये निरनिराळ्या ठिकाणी दक्षिणा मागितली जाते का ! याबाबतीत सक्ती केली जाते का !

(७) मंदिरामध्ये देवापुढे पेढ्या ठेवाव्यात काय ?

(८) मंदिरामध्ये दक्षिणा मागण्यास पूर्णपणे बंदी करण्यात यावी काय ?

(९) निरनिराळ्या पूजेचे व उपचारांचे दर ठरवून दिले जावेत काय ?

(१०) आपल्या माहितीप्रमाणे मंदिरामध्ये दरसाल किती लोक येतात व मंदिरांना दरसाल काय उत्पन्न मिळत असते ?

(११) देवस्थानचे पूजा, उपचार, नैवेद्य वा अन्य सेवा व सर्वसाधारण व्यवस्थेसाठी लोकांनी इनाम, जमिनी अगर अन्य मोठ्या स्वरूपात देणग्या वगैरे पूर्वी दिल्यासंबंधी माहिती आहे काय ? माहिती असल्यास त्यासंबंधी संपूर्ण तपशील द्यावा.

(१२) देवस्थानला सध्या कोणत्या मार्गाने उत्पन्न मिळते ? त्यासंबंधी तपशील व तसेच ज्या बाबींपासून देवस्थानला उत्पन्न मिळावयास हवे पण सध्या मिळत नाही त्याचा तपशील द्यावा.

(१३) मनु जे देवापुढे दक्षिणा ठेवतात वा वस्तू, दागिने, कापड-चोपड वगैरे अर्पण करतात त्यांचा उद्देश काय असतो ?

(१४) सध्याची व्यवस्था बदलली जावी काय ?

(१५) आपल्या कल्पनेने चांगली व्यवस्था कशी असावी ?

(१६) देवस्थानचे जे उत्पन्न आहे व येणार आहे त्याचा उपयोग देवस्थानचे प्रत्यक्ष व्यवस्थेशिवाय अन्य कशाकडे व कशा रीतीने करावा ?

सूचना :—प्रश्नावलीत नमूद असलेल्या मुद्यांव्यतिरिक्त आपणांस आणखी काही संबंधित माहिती पुरविणे असल्यास अगर इतर काही सूचना करावयाच्या असतील तर त्या बाबतचा मजकूर पुरवणीचे स्वरूपात पाठवावा.

## APPENDIX III

*Statement showing the number of questionnaire issued to general public and the number of statements received in reply to them*

1. No. of questionnaire issued .. .. .	1,250
2. No. of replies by way of statements received as per the questionnaire .. .. .	301
3. Stenotyped printed cards advocating maintenance of statusquo in respect of present management received from individuals.	396
4. Printed statements of similar contents signed by individuals collectively mentioning items of mis-management and advocating change in the management.	28
5. Individual statements advocating that there should be no change in the present management ..	32
6. Cyclostyled and hand-written individual and collectively signed statements advocating complete change in the present management (thousands of signatures on a single statement).	306
7. Printed statements of similar contents bearing signatures in hundreds intending that there should be no change in the present management.	593
Total ..	1,656

## APPENDIX IV

*(A) Programme of sittings by the Commission at various places.*

Serial No.	Place of sittings	Period		Remarks
		Dates	Days	
1	Poona .. .. .	6th January 1969 to 8th January 1969.	3	Preliminary hearing.
2	Poona .. .. .	15th January 1969 to 17th January 1969.	3	Do.
3	Pandharpur .. .. .	13th February 1969 to 15th February 1969 and 17th February 1969 to 20th February 1969.	7	Evidence of public recorded.
4	Poona .. .. .	24th February 1969 to 27th February 1969.	4	Do.
5	Pandharpur .. .. .	11th March 1969 to 15th March 1969 and 17th March 1969 to 18th March 1969.	7	Do.
6	Nagpur .. .. .	27th March 1969 to 29th March 1969.	3	Do.
7	Jalgaon .. .. .	31st March 1969 to 1st April 1969.	2	Do.
8	Nasik .. .. .	3rd April 1969 to 4th April 1969.	2	Do.
9	Bombay .. .. .	15th April 1969 to 19th April 1969 and 21st April 1969 to 22nd April 1969.	7	Do.
10	Satara .. .. .	28th April 1969 to 30th April 1969.	3	Do.
11	Kolhapur .. .. .	2nd May 1969 to 3rd May 1969.	2	Do.
12	Pandharpur .. .. .	19th May 1969 to 22nd May 1969.	4	Do.
13	Aurangabad .. .. .	29th May 1969 to 30th May 1969.	2	Do.
14	Poona .. .. .	1st June 1969, 7th June 1969, 9th June 1969 to 13th June 1969 and 16th June 1969 to 18th June 1969.	10	Do.
15	Poona .. .. .	7th July 1969 to 12th July 1969 and 14th July 1969 to 19th July 1969.	12	Do.
16	Poona .. .. .	18th August 1969 to 23rd August 1969 and 25th August 1969 to 28th August 1969 and 2nd September 1969 to 6th September 1969 and 8th September 1969 to 10th September 1969.	18	Arguments heard.
Total ..			89	

## (B) Visits to places for collecting information

Serial No.	Place	Date	Days	Remarks
1	Pandharpur	13th November 1968 25th July 1969 to 27th July 1969.	1 3	Preliminary. At Ashudini Wari.
2	Alandi (Maharashtra)	8th August 1969	1	Visit to Temple.
3	Badrinath (Uttar Pradesh)	28th October 1969 and 29th October 1969.	2	Do.
4	Ajmer (Rajasthan)	5th November 1969	1	Visit to Dargah.
5	Nathdwara (Rajasthan)	6th November 1969 and 7th November 1969.	2	Visit to Temple.
6	Mangeshi and Kavala (Goa)	13th November 1969 to 15th November 1969.	3	Do.
7	Puri (Orissa)	24th November 1969 to 26th November 1969.	3	Do.
8	Chidambaram (Tamilnadu)	28th November 1969 and 29th November 1969.	2	Do.
9	Tirupati (Andhra Pradesh)	30th November 1969 to 2nd December 1969.	3	Do.

## APPENDIX V

## OFFICE OF THE COMMISSION OF ENQUIRY INTO THE AFFAIRS OF VITHOBA TEMPLE AND OTHER TEMPLES AT PANDHARPUR, POONA

## ORDER

In furtherance of order dated 6th January 1969 (Ex. 40) and on a perusal of the complaints received by the Government and the Charity Commissioner and grievances voiced by the Press and the public and also in the statements recorded previously in 1964 which are made available for perusal to the persons concerned the following among others are the allegations with reference to clause (2)(a) in the notification :-

- (1) That the objects of the foundation namely the temples, the endowments and trusts are not being fulfilled to the satisfaction of the beneficiaries by various acts of commission and omission.
- (2) Those connected with management and services at the temples, are not behaving properly in the temple.
- (3) All these persons resort to physical harassment to devotees and mental annoyance by demands of dakshina or offerings in numerous places at numerous stages and in numerous ways.
- (4) Difficulties are voiced by the devotees in getting access for pujas and sevras chosen by them on account of interference on the part of those claiming rights in the temples.
- (5) In the absence of fixed rates for various sevras sought to be performed by devotees exorbitant demands are made resulting in exploitation of devotees.
- (6) Preference of favour is shown for consideration in money or kind in the matter of facilitating darshan at the cost of other devotees awaiting their turn for a free and peaceful darshan in the queue and also during the night taking advantage of their position.
- (7) Steps are shown to have been taken consistently over a long period of years to introduce various new ways and means to eke out from the devotees and pilgrims gifts, offerings etc. by playing upon their sentiments.
- (8) Scant regard is shown to sentiments with which the devotees and pilgrims and warkaris visit the place.
- (9) Endowments and offerings in cash and kind not properly accounted for and/or misappropriated.
- (10) Neglect of the temple surroundings by allowing insanitary conditions and indifference to the upkeep of the structures and repairs from time to time.
- (11) Unco-operative attitude in the matter of developing the surrounding areas of the temples in such a manner as to make them attractive and suitable for practice of religion.
- (12) No provision is made for religious education or discourses which are among the main objects of the foundation.
- (13) No proper accounts are maintained of ornaments and offerings in cash and kind and are not audited regularly and filed with the authorities in time.
- (14) No change reports are filed from time to time.
- (15) No contributions are paid though due.
- (16) There has been a history of constant litigations among the various persons connected with the temples on many occasions on allegations of encroachment of each others' rights even on trifling matters in spite of warnings from the Courts so as to affect the very objects and proper and smooth management of these foundations.
- (17) The method adopted and followed for management of the trusts are not conducive to a smooth management.
- (18) Mode of management and rules or constitution or scheme are all out dated having regard to the necessities of the present time.
- (19) No attention has ever been paid towards improvement and development of these trusts.
- (20) Hereditary rights to officiate as priests are allowed to be claimed and continued without the necessary educative equipment for performance of priestly duties in the conduct of worship.
- (21) Such other allegations relating to the terms referred to the Commission as may be disclosed by the Commission.

Dated 10th February 1969.

COMMISSION.

APPENDIX VI

(A) List of Witnesses examined by the Commission

Serial No.	Name and Address	Occupation	Ex. No.	Date
1	2	3	4	5
PANDHARPUR				
1	Aradhye, Gajanan Yadneshwar, Pandharpur.	Priest	201	19th February 1969.
2	Abhangrao, Vasudeo Kerba, Pandharpur.	Retd. School Teacher	213	20th February 1969.
3	Adhatrao, Baburao Appaji, Pandharpur.	Pujari	528	21st May 1969.
4	Badave, Narayan Vithal, Pandharpur.	Pleader and Badvepana	193	19th February 1969.
5	Badave, Balkrishna Pandharinath, Pandharpur.	Badavepana and Agriculturist	199	19th February 1969.
6	Banirat, Bhalchandra Pandharinath, Pandharpur.	Trade and Agriculturist	281	13th March 1969.
7	Badave, Dattatraya Balwant, Pandharpur.	Yajmankritya	288	13th March 1969.
8	Benare, Trimbak Govind, Pandharpur.	Service	309	15th March 1969.
9	Bhate, Dattatraya Krishnaji, Pandharpur.	Agriculturist	331	18th March 1969.
10	Dingre, Vithal Keshav, Pandharpur.	Advocate	187	18th February 1969.
11	Deshmukh, Yeshwant Dattatraya, Kad.	Agriculturist	254	11th March 1969.
12	Dhongade, Vasudeo Sitaram, Kar-kamb.	Agriculturist	265	12th March 1969.
13	Durugkar, Pandit Govind, Pandharpur.	Yajmankritya and manager of Tukaram Mandir.	267	12th March 1969.
14	Deahpande, Madhav Sadashiv, Pandharpur.	Sweet Meets Shop.	295	14th March 1969.
15	Deshmukh, Ganpatrao Balwantrao, Sangli.	District Government Pleader and Agriculturist.	305	15th March 1969.
16	Dandavate, Govind Hari, Kasbe Tadvale.	Agriculturist	507	19th May 1969.
17	Gurjar, Gangaram Mahadeo, Pandharpur.	Retd. Bank Manager	128	14th February 1969.
18	Ghalsasi, Krishnaji Narayan, Pandharpur.	Printing Press	182	18th February 1969.
19	Ghodake, Vithal Babu, Pandharpur.	Parit	257	11th March 1969.
20	Gotekar, Hari Ramchandra, Pandharpur.	Sarfoe	319	17th March 1969.
21	Ghodake, Jalindhar Muriidhar, Pandharpur.	Trade	335	18th March 1969.
22	Gore, Gopal Pandurang, Pandharpur.	Adhyapak Pathshala, Pandharpur.	511	20th May 1969.
23	Horne, Vasant Ranganath, Pandharpur.	Merchant of brass utensils	274	12th March 1969.
24	Haridas, Prabhakar Digambar, Pandharpur.	Agriculturist	515	20th May 1969, 21st May 1969, 22nd May 1969.
25	Joshi, Ganesh Waman, Pandharpur.	Advocate	144	17th February 1969.
26	Johagirdar, Ajitainha Balasaheb, Piliiv.	Agriculturist	272	12th March 1969.
27	Kulkarni, Pandharinath Govind, Pandharpur.	Advocate	130	13th February 1969.

Serial No.	Name and Address	Occupation	Ex. No.	Date
1	2	3	4	5
28	Karandikar, Ramchandra Ganesh, Mangalvedhe.	Advocate	134	14th February 1969.
29	Kadam, Murlidhar Narayan, Pandharpur.	Government Servant	251	11th March 1969.
30	Khare, Saraschandra Laxman, Pandharpur.	Teacher	263	11th March 1969.
31	Kulkarni, Savitribai alias Kashibai Laxman, Sholapur.	Household, Social work	299	14th March 1969.
32	Kane, Madhukar Vishnu, Pandharpur.	Advocate	324	18th March 1969.
33	Kange, Nagoah Dnyaneshwar, Pandharpur.	Yajmankritya	528	21st March 1969.
34	Londhe, Baburao Raoji, Pandharpur	Government Service	270	12th March 1969.
35	Lokurte, Tukaram Govind, Sholapur.	Mill worker	279	13th March 1969.
36	Mangalurkar, Laxmanrao Krishnaji, Pandharpur.	Rly. Service	259	11th March 1969.
37	More, Sukhadeo Ramchandra, Pandharpur.	Teacher	201	11th March 1969.
38	Mirasdar, Krishnaji Malhar, Pandharpur.	Pleader	307	15th March 1969.
39	Manthalkar, Malhar Vithal, Sholapur	Government Service	327	18th March 1969.
40	Namdas, Namdeo Pandharinath, Pandharpur.	Bhajan Pujan	137	15th February 1969.
41	Nikte, Gangadhar Tukaram, Pandharpur.	Cloth Shop	180	19th February 1969.
42	Nirali, Ramchandra Thakurdas, Bhalwani.	Agriculturist	286	13th March 1969.
43	Navalakhe, Bapuji Eknath, Pandharpur.	Yajmankritya	313	17th March 1969.
44	Netrao, Kondiba Eknath, Pandharpur.	Boatman	321	17th March 1969.
45	Nadgauda, Bhalchandra Dattatraya, Pandharpur.	Doctor	524	21st May 1969.
46	Nadkarni, Durgaprasad Sadashiv, Pandharpur.	Retd. University Employee	322	18th March 1969.
47	Parakh, Mulji Ratansi, Pandharpur.	Service	138	15th February 1969.
48	Paricharak, Narayan Govind, Pandharpur.	Agriculturist	297	14th March 1969.
49	Pakhare, Eknath Sadashiv, Pandharpur.	Mechanical Engineer	301	14th March 1969.
50	Parakhe, Vasant Laxman, Pandharpur.	Repair of Utensils	311	15th March 1969.
51	Panse, Govind Madhav, Sholapur	Professor, Dayanand College Sholapur.	505	19th May 1969.
52	Paricharak, Sakharan Vithal, Pandharpur.	Sevadharpita and Yajmankritya.	203	19th February 1969 and 20th February 1969.
53	Rajput, Raghuvirsing Gulabsing, Pandharpur.	Trade	284	13th March 1969.
54	Surnia, Narsinha Pandurang, Pandharpur.	Private Service	146	17th February 1969 and 18th February 1969.
55	Solvat, Netaji Bhimrao, Barsi	Student	315	17th March 1969.
56	Shinde, Yeshwant Tukaram, Pandharpur.	Social worker	513	20th May 1969.



Serial No.	Name and Address	Occupation	Ex. No.	Date
1	2	3	4	5
57	Sonna, Sidramappa Madavalappa, Sholapur.	Service .. ..	520	20th May 1969.
58	Salgarkar, Harihar Sholapur.	Gurunath, Agriculturist and publisher ..	322	21st May 1969.
59	Tathe, Trimbak Pandharpur.	Ranganath, Agriculturist and Yajaman-kritya.	303	15th March 1969.
60	Utpat, Pradyumna Pandharpur.	Dattatraya, Utpatpana .. ..	208	20th February 1969.
61	Do.	Do. .. ..	209	20th February 1969.
62	Utpat, Ramkrishna Pandharpur.	Gangadhar, Utpatpana .. ..	276	12th March 1969.
63	Warkhedkar, Vyankatesh Pradyumnacharya, Pandharpur.	Editor and Preaching ..	141	15th February 1969.
64	Waikar, Dagaaduram Pandharpur.	Baloba, Trade .. ..	329	18th March 1969.
65	Yellatikar Waman Mangalvedhe.	Laxman, Agriculturist .. ..	509	19th May 1969.
POONA				
66	Apte, Shivram Shankar ..	Gen. Secretary, Vishwa Hindu Parishad.	607	6th June 1969.
67	Athare, Suryabhan Balaji, Kopar-gaon.	Advocate .. ..	636	17th June 1969.
68	Bedekar, Dinkar Keshav, Poona ..	Service .. ..	224	24th February 1969.
69	Bhide, Balwant Narayan, Poona ..	Advocate .. ..	235	27th February 1969.
70	Battellu, Vithal Piraji, Poona ..	Packer in D.O.D. .. ..	246	27th February 1969.
71	Bangale, Pandharinath, Poona.	Tukaram, Pensioner .. ..	614	7th June 1969.
72	Babar Sarojini, Poona ..	M.P. and Social Worker .. ..	616	9th June 1969.
73	Bhagwat, Kamalabai, Poona.	Krishnaji, Political worker .. ..	639	10th June 1969.
74	Borale, Prabhakar, Poona.	Pandurang, Government Service .. ..	682	18th June 1969.
75	Chino, Rayabhan Gamaji, Kopar-gaon.	Advocate .. ..	685	17th June 1969.
76	Dahiwal, Narayan Madhav, Poona.	Goldsmith .. ..	609	7th June 1969.
77	Dumbare, Tukaram, Otur.	Pandurang, Agriculturist .. ..	643	11th June 1969.
78	D. Ramchandran, Sholapur ..	D.S.P., Sholapur .. ..	700	10th July 1969.
79	Phugo, Tukaram Babu, Dabheda.	Talegaon, Flower Merchant .. ..	652	13th June 1969.
80	Gawaskar, Jayant, Poona.	Dwarkanath, Government Service .. ..	226	25th February 1969.
81	Gore, Narayan Ganesh, Poona ..	Social worker .. ..	229	20th February 1969.
82	Ghatpande, Shripad, Bellhe.	Ramchandra, Agriculturist .. ..	645	11th June 1969.
83	Gholap, Ramchandra, Poona.	Mahadeo, Merchant .. ..	643	12th June 1969.
84	Gondare, Sarjemo, Divachi.	Tanaji, Alandi Municipality. .. ..	679	16th June 1969.
85	Gupte, Madhukar Shankar, Poona ..	Engineer .. ..	688	18th June 1969.

Serial No.	Name and Address	Occupation	Ex. No.	Date
1	2	3	4	5
86	Harshe, Ramkrishna Ganesh, Poona.	Retired Professor	220	24th February 1969.
87	Joshi, Vinayak Krishna, Poona	Retired Government Servant	218	24th February 1969.
88	Joshi, Venutai, Poona ..	House-Hold	647	12th June 1969.
89	Joshi, Ramchandra Ambadas, Poona.	Editor	650	12th June 1969.
90	Kulkarni, Laxman Ganesh, Poona	Sarafa Shop	240	27th February 1969.
91	Khare, Ganesh Hari, Poona	Itihas Samashodhak	248	27th February 1969 and 10th June 1969.
92	Kshirsagar, Shrikrishna Keshav, Poona.	Professor	631	10th June 1969.
93	Kate, Rambhau Laxman, Poona	Agriculturist	651	12th June 1969.
94	Kulkarni, Madhav Nathaji, Pandharpur.	Chief Officer, Municipality.	604	8th July 1969.
95	Mehandale, Mahadeo Vasudeo, Poona.	Advocate	611	7th June 1969.
96	Mansukh Ramdas Maruti, Savargaon	Agriculturist	641	11th June 1969.
97	Neurgaonkar, Sadashiv Keshav, Poona.	Pensioner	233	26th February 1969.
98	Nagarkar, Shripad Shankar, Poona.	Sarafa business	239	27th February 1969.
99	Nalavade Ganapat Mahadeo, Poona.	Printing Press and Social Worker.	684	17th June 1969.
100	Narawade Baburao Arjunrao, Kopargaon.	Agriculturist	687	17th June 1969.
101	Patil Anantrao Vithalrao, Poona	Editor	215	24th February 1969.
102	Parekh Narottamdas Girikhardas, Poona.	Business	228	25th February 1969.
103	Paricharak Bhikaji Damodar, Pandharpur.	Service	601	6th June 1969.
104	Potdar, Datto Waman, Poona	Itihas Samashodhak	605	6th June 1969.
105	Patakar, Hari Vinayak, Poona	Vice Chancellor, Poona University.	691	18th June 1969.
106	Rahirkar, Radhabai Gopal, Poona.	Household	637	10th June 1969.
107	Rahirkar Gopal Shankar, Poona	Bhajan Kirtan	654	13th June 1969.
108	Shikhar, Damodar Narahar, Poona.	Secretary Gandhi Smarak Nidhi	231	26th February 1969.
109	Shinde, Laxman Ramchandra, Baramati.	Circle Police Inspector	603	6th June 1969.
110	Sharma, Kanhaiyalal Bhikhand, Bavi.	Agriculturist and Shop	624	9th June 1969.
111	Sau Satho, Tarabai Ramchandra, Poona.	Social worker	634	10th June 1969.
112	Sanghavi, Surajmal Ramchandra, Poona.	Merchant	635	10th June 1969.
113	Thatte, Narayan Parshuram, Poona.	Retd. Supdt., Burmah-Shell	222	25th February 1969.
114	Tungar, Narayan Vasudeo, Poona.	Pensioner Teacher	237	27th February 1969.
115	Tantak, Mahadeo Dagadu, Poona	Business	243	27th February 1969.
116	Ujeda, Charandas Gopalrao, Pimpalgaon.	Precharak, Gadage Maharaj Mission.	644	11th June 1969.
117	Vanarase, Yeshwant Dattatraya, Poona.	Supdt., P.T.R.O., Poona	618	9th June 1969.
118	Yeole, Baburao Chindho, Bombay.	Asstt. Director of Accounts	690	9th July 1969, 10th July 1969 and 11th July 1969.
119	Zankar, Jamarlan Nilkanth, Poona.	Retd. Electric Engineer	241	27th February 1969.

Serial No.	Name and Address	Occupation	Ex. No.	Date
1	2	3	4	5
<b>NAGPUR</b>				
120	Askar, Shankarrao Bapuji, Nagpur.	Sanchalak, Adhyatma yog	345	28th March 1969.
121	Dhume, Govind Jayaram, Vani ..	Advocate .. ..	341	27th March 1969.
122	Joshi, Govind Bapurao, Nagpur ..	Pensioner .. ..	339	27th March 1969.
123	Janve, Jagannath Vithoba, Varoda.	Head Master of High School ..	352	29th March 1969.
124	Kasture, Rajeshwar Narayan, Akola.	Pravaahan .. ..	348	29th March 1969.
125	Kondewar, Vasudeo Madhav, Tumsar.	Trade .. ..	350	29th March 1969.
126	Tamhan, Rajeshwar Krishnaji, Nagpur.	Retd. .. ..	343	27th March 1969.
127	Wankar Balaji Govind, Vani ..	Teacher .. ..	337	27th March 1969.
<b>JALGAON</b>				
128	Ambodekar, Keshav Mahadeo, Jalgaon.	Social Work .. ..	367	31st March 1969.
129	Benare, Rangnath Vasudeo, Bhusaval.	Government Service ..	358	31st March 1969.
130	Bhavsar, Keshav Shankar, Jalgaon.	Business .. ..	378	1st April 1969.
131	Bhatkalkar, Dattatraya Sakharan, Akola.	Supdt., P.T.R.O., Akola ..	380	1st April 1969.
132	Chaudhari, Pandharinath Baksu, Jalgaon.	Agriculturist .. ..	379	1st April 1969.
133	Damle, Dinkar Keshav, Jalgaon ..	Mechanical Engineer ..	366	31st March 1969.
134	Kohe, Radhabai Nago Tukaram, Jalgaon.	Household .. ..	355	31st March 1969.
135	Khadake, Govind Dagsadu, Jalgaon.	Agriculturist .. ..	357	31st March 1969.
136	Khadake, Ramchandra Bhadu, Jalgaon.	Service in Post Office ..	361	31st March 1969.
137	Kulkarni, Vinayak Balkrishna, Chalisgaon.	Pensioner .. ..	362	31st March 1969.
138	Kumavat, Kaniram Laxman, Waghali.	Bhajan and Kirtan .. ..	373	1st April 1969.
139	Mali, Kashinath Tatfram, Jalgaon ..	Service in Mill .. ..	360	31st March 1969.
140	Murathe, Trimbak Shivram, Jalgaon.	Agriculturist .. ..	372	31st March 1969.
141	Mshajan, Ukhadu Sonna, Bhusaval	Agriculturist and Trade ..	375	1st April 1969.
142	Narkhede, Eknath Ramu, Jalgaon..	Agriculturist .. ..	371	31st March 1969.
143	Patil, Manjulahai Kautik, Jalgaon.	Household .. ..	356	31st March 1969.
144	Patil, Nilkanthrao Shripad, Jalgaon.	Editor, Janzovak .. ..	364	31st March 1969.
145	Phadnis, Vasudeo Narayan, Jalgaon.	Editor, Prabodhebandra ..	365	31st March 1969.
146	Shrivast, Madhav Hari, Jalgaon ..	Medical Practitioner .. ..	354	31st March 1969.
147	Salunkhe, Dattu Keshav, Jalgaon..	Mill work .. ..	370	31st March 1969.
<b>NASIK</b>				
148	Chavan, Pandurang Sakharan, Nasik.	Hair Cutting Saloon .. ..	393	3rd April 1969.
149	Dhatangan, Suresh Shankar, Nasik.	Service .. ..	383	3rd April 1969.
150	Divate, Bhimashankar Vishwanath, Nasik.	Retd. Teacher .. ..	393	4th April 1969.

Serial No.	Name and Address	Occupation	Ex. No.	Date
1	2	3	4	5
151	Garge, Eknath Rangnath, Nasik	Priest	385	3rd April 1969.
152	Kelkar Vishnu Ramchandra, Nasik.	Service	398	4th April 1969.
153	Pagare, Bhima Ganpat, Nasik	Government Service	387	3rd April 1969.
154	Pitribhakte, Pandurang Shrivani, Zudge.	Business	391	3rd April 1969.
155	Potnis, Dattatraya Shankar, Nasik.	Editor, Gaonkari	399	4th April 1969.
156	Ratnaparkhi, Murlidhar Govind, Nandgaon.	Pensioner	389	3rd April 1969.
157	Shirwadkar, Vishnu Waman, Nasik.	Editor and Writer..	400	4th April 1969.
158	Yajnik, Jayantilal Nandlal, Nasik..	Advocate	394	3rd April 1969.
BOMBAY				
159	Bhave, Moroshwar Gopal, Amber-nath, Bombay.	Nil	428	17th April 1969.
160	Barot, Jayadeolal Mohanlal, Bombay	Retd. Chief Presidency Magistrate.	436	18th April 1969.
161	Bharde, Trimbak Shivram, Bombay.	Speaker, Legislative Assembly.	450	21st April 1969.
162	Dhamale, Vishnu Ganpat, Bombay.	Machine Operator..	412	16th April 1969.
163	Darekar, Mahadeo Shankar, Bombay	Service in Mill	430	18th April 1969.
164	Ghule, Tukaram Krishnaji, Bombay.	Supdt., F. D.	435	18th April 1969.
165	Gondkar, Manohar Eknath, Bombay.	Service in L. I. C.	445	21st April 1969.
166	Jadhav, Sopan Balwant, Bombay ..	Retd. Police Constable	407	15th April 1969.
167	Jagdale, Laxman Pandurang, Bombay.	Teacher	419	16th April 1969.
168	Joshi, Sudashiv Krishna, Bombay.	Service in Burma Shell	423	17th April 1969.
169	Joshi, Ramkrishna Laxman, Bombay.	Service	455	22nd April 1969.
170	Kadam, Sakharum Bhaurao, Bombay.	Officiating Registrar, Sessions Court.	440	19th April 1969.
171	Karandikar, Shankar Govind, Bombay.	Student	443	21st April 1969.
172	Mangudkar, Dinanath Bapuji, Bombay.	Pensioner	421	17th April 1969.
173	Mankar, Manohar Balaram, Bombay.	Business	448	21st April 1969.
174	Nerurkar, Dwarkanath Ganpat, Bombay.	Retired Superintendent, Custom Department.	415	16th April 1969.
175	Page, Vithal Sakharum, Bombay ..	Chairman, Legislative Council.	414	16th April 1969.
176	Prabhu, Balmukund Shivram, Bombay.	Retired Government Servant ..	417	16th April 1969.
177	Patil, Prakash Pandurang, Kalyan.	Student	444	21st April 1969.
178	Premani, Prabhulal Hirachand, Bombay.	Manager, Central Bank	451	21st April 1969.
179	Pradhan, Ganesh Prabhakar, Bombay.	M.L.C.	452	21st April 1969.
180	Paralkar, Narayan Moreswar, Bombay.	Executive Engineer, P. W. D.	459	22nd April 1969.
181	Ranchhoddas Gokuldas, Bombay ..	Clearing Agent	438	18th April 1969.
182	Satarakar, Nilkanth Dnyaneshwar, Bombay.	Warkari	405	15th April 1969.
183	Shanbhag Mahabaleswar Dhanedar, Bombay.	Deputy Secretary, Finance Department, Sachivalaya.	433	18th April 1969.

Serial No.	Name and Address	Occupation	Ex. No.	Date
1	2	3	4	5
184	Shah, Amritlal Bhikanbhai, Bombay.	Social worker .. ..	454	22nd April 1969.
185	Shirke, Ganpat Bayaji, Bombay ..	Service .. ..	458	22nd April 1969.
186	Tamhane, Waman Ganesh, Bombay.	Advocate .. ..	409	15th April 1969.
187	Thosar, Shridhar Mahadeo, Bombay.	Pensioner .. ..	432	18th April 1969.
198	Waralikar, Vasudeo Balkrishna, Bombay.	Social Worker and Life Member of Educational Institution.	426	17th April 1969.
189	Walawalkar, Sitaram Govind, Bombay.	Retired Deputy Secretary ..	442	19th April 1969.
190	Welkar, Shankar Gajanan, Bombay.	Landlord .. ..	446	21st April 1969.
SATARA				
191	Athalye, Varudeo Vishwanath, Satara.	Doctor .. ..	400	28th April 1969.
192	Bahulkar, Ramkrishna Vithal, Satara.	Retired .. ..	471	29th April 1969.
193	Dhongade, Ramidas Krishna, Satara.	Asstt. Post Master .. ..	462	28th April 1969.
194	Halabe, Maruti Atmaram, Satara ..	Retired from L.I.C. .. ..	464	28th April 1969.
195	Haridas, Bhikaji Kashinath, Jalgaon.	Agriculturist .. ..	477	30th April 1969.
196	Inamdar, Pandharinath Atmaram, Aundh.	Retired Education Inspector ..	475	29th April 1969.
197	Patil, Maruti Navji, Kival ..	Agriculturist .. ..	479	30th April 1969.
198	Rode, Sushilabai Vasantrao, Satara.	Teacher .. ..	473	29th April 1969.
199	Shirodkar, Vithal Tukaram, Satara.	Retd. Asstt. Commissioner, D.N.	463	29th April 1969.
200	Tile, Vishnu Vinayak, Satara ..	Pensioner .. ..	466	28th April 1969.
KOLHAPUR				
201	Athavale, Sharad Damodar, Ratnagiri.	Service in post office .. ..	483	2nd May 1969.
202	Bhonsale, Mrs. Malti Madhavrao, Kolhapur.	Mun. Councillor, Kolhapur ..	482	2nd May 1969.
203	Gondkar, Dhondiram Eknath, Ichalkaranji.	Agriculturist and Trade .. ..	500	3rd May 1969 and 16th June 1969. (Kolhapur and Poona).
204	Jagdale, Keshavrao Balwant, Kolhapur.	Agriculturist .. ..	492	2nd May 1969.
205	Jamdar, Bapu Govind, Kapsi ..	Kirtan Pravachan .. ..	493	2nd May 1969.
206	Khuperkar, Balacharya Madhava-charya, Kolhapur.	Pensioner .. ..	490	2nd May 1969.
207	Mane, Devdas Keshav, Kolhapur ..	Sarafa .. ..	495	2nd May 1969.
208	Nigade, Vasant Laxman, Kolhapur.	President, Kolhapur Municipality.	498	3rd May 1969.
209	Patil Thorat, Shankar Pandurang, Kolhapur.	Retd. Chief of Army Staff ..	497	3rd May 1969.
210	Sohoni, Mrs. Sushila Raghunath, Kolhapur.	Vice-President, Kolhapur Mun.	481	2nd May 1969.
211	Vayachal, Shankar Dattatraya, Kolhapur.	Cloth Merchant and Tailor ..	487	2nd May 1969.
212	Yadav, Namasheb Balasheb, Kolhapur.	Mun. Councillor .. ..	486	2nd May 1969.

Serial No.	Name and Address	Occupation	Ex. No.	Date
1	2	3	4	5
AURANGABAD				
213	Deglurkar <i>alias</i> Dhundamaharaj, Dhundiraj Ramchandra, Deglur.	Agriculturist .. ..	594	29th May 1909.
214	Ghate, Balwantrao Girirao, Aurangabad.	Retd. District Judge .. ..	592	29th May 1909.
215	Kulkarni, Laxman Shankar, Aurangabad.	Advocate .. ..	597	29th May 1909.
216	Khardekar, Ambadas Chhaganram, Jalna.	Student .. ..	600	30th May 1909.
217	Manvatkar, Shankarrao Eknathrao, Parbhani.	Advocate .. ..	590	29th May 1909.
218	Pethak, Dattatraya Laxman, Aurangabad.	Social worker .. ..	598	30th May 1909.
<i>List of witnesses on behalf of Badvees</i>				
POONA				
1	Arole, Gopal Ganesh, Poona ..	Trade .. ..	700	17th July 1909.
2	Bhat, Ramchandra Sadashiv, Poona.	Social worker .. ..	770	18th July 1909.
3	Bhimsingbuwa, Kuru Bhagwan-buwa, Kharvandi.	Kirtan, Pravachan .. ..	779	18th July 1909.
4	Dharurkar, Yeshwant Jagannath, Poona.	Professor, Fergusson College ..	764	17th July 1909.
5	Dhadage, Ganpat Kondiba, Poona.	Trade .. ..	705	17th July 1909.
6	Gandhi, Krishnaji Sripad, Poona.	Government Servant .. ..	701	18th July 1909.
7	Gokhale, Balkrishna Damodar, Poona.	Photographer .. ..	763	17th July 1909.
8	Gurjar, Raghunath Vishnu, Pandharpur.	Agriculturist .. ..	773	18th July 1909.
9	Gosavi, Jagadishgir Laxmangir, Pandharpur.	Trade .. ..	777	18th July 1909.
10	Honrao, Somnath Balheth, Poona.	Social Worker .. ..	750	16th July 1909.
11	Joshi, Dattatraya Bapu, Poona ..	Pensioner .. ..	707	17th July 1909.
12	Kavaro, Haribhau Maruti, Poona ..	Trade .. ..	702	17th July 1909.
13	Khaladkar, Gajanan Vishwanath, Poona.	Trade .. ..	760	18th July 1909.
14	Katap, Shankar Baburao, Pandharpur.	Trade .. ..	775	18th July 1909.
15	Kandarkar, Rajabhat Narayan, Pandharpur.	Trade .. ..	770	18th July 1909.
16	Kendre, Ramkrishna Damodar, Nande.	Kirtan Pravachan .. ..	778	18th July 1909.
17	Limaye, Ramchandra Dattatraya, Poona.	Pensioner .. ..	730	16th July 1909.
18	Mamdo, Murlidhar Narayan, Mukhed.	Agriculturist and Merchant, Cloth ..	698	9th July 1909.
19	Manjulshastri, Baburao Trimbakraj, Pandharpur.	Puran and Kirtan, .. ..	771	18th July 1909.
20	Manjane, Vishwanath Audumber, Pandharpur.	Trade .. ..	774	18th July 1909.
21	Nagarkar, Damodar Ganesh, Poona.	Income-Tax Practitioner .. ..	772	18th July 1909.
22	Pandhare, Mhaskuji Balwant, Poona.	Flower Merchant .. ..	765	16th July 1909.

Serial No.	Name and Address	Occupation	Ex. No.	Date
1	2	3	4	5
23	Risbud Gopal Purushottam, Poona.	Trade	766	17th July 1969.
24	Sohoni, Sitaram Ganesh, Poona	Pensioner	753	18th July 1969.
25	Shikchi, Nandlal Harilal, Bid	Grocery	754	18th July 1969.
26	Salunkhe, Kashinath Govind, Poona.	Landlord	768	18th July 1969.
27	Tembekar, Namdeo Hariram, Pandharpur.	Bhajan Pujan etc.	697	9th July 1969.
28	Valsangkar, Nivrutti Pandharpur.	Tukaram, Warkari and Agriculturist	696	9th July 1969.
29	Zanjale, Vasant Narayan, Poona	Landlord	759	17th July 1969.

*List of witnesses on behalf of Utpata.*

POONA

1	Apte, Kusum Vishnu, Poona	Assistant Director of Rani Laxmi Mandal.	785	18th July 1969.
2	Gokhale, Shantabai Sakharam, Poona.	Household	784	18th July 1969.
3	Patil, Vishnu Ramrao, Sholapur	M.L.A.	786	19th July 1969.
Names of persons connected with temple management whose preliminary evidence is recorded by the Commission :—				
1	Narayan, Dattatraya Pandharpur.	On behalf of Badves	97	7th January 1969.
2	Pandurang, Namdeo Pujari, Pandharpur.	On behalf of Pujaris	100	18th January 1969.
3	Vasudeo, Narayan Utpat, Pandharpur.	On behalf of Utpata	103	17th January 1969.

(B) *Statistical statistics of witnesses examined*

Serial No.	Status	On behalf of Commission	On behalf of Badves	On behalf of Utpata
1	2	3	4	5
1	M.Ps., M.L.As., M.L.Cs., Speakers and Chairmen of Legislative Council.	5	....	1
2	Social Workers	12	2	1
3	Vice-Chancellors of Universities	1	....	....
4	Public Servants	20	1	....
5	Advocates, Pleaders, etc.	17	....	....
6	Doctors, Engineers, etc.	6	....	....
7	Editors, Research Workers, Writers etc.	8	....	....
8	Presidents of Municipalities and Municipality Councillors, etc.	5	....	....
9	Pensioners	25	3	....
10	Professors, Teachers, etc.	13	1	....
11	Agriculturists	25	3	....
12	Businessmen and Traders	24	12	....
13	Others	45	7	1
14	Representatives of priests	3	....	....
Total		221	29	3

APPENDIX VII

(A) Properties situated inside the Temple premises (and which should really belong to the Temple)

Serial No.	Description of property, S. No., Part, Area etc.	Name of the person in possession of	Name of witness making a mention	Ex. No. of Deposition	Remarks
1	2	3	4	5	6
1	Shri Vitthoba Temple, C. T. S. No. 2392, Samasta Badves Sq. Yards 3940.	Samasta Badves	N. D. Badve..	97	In spite of declaration of Court, Badves claim that the Vitthoba Temple is of Badaves. (Ex. 542 and 543).
2	Higug Property, C. T. S. No. 2946, Sq. Yards 173	Samasta Badves	N. D. Badve	97	This is outside the temple and known as Terkar Wada and has been shown as of Vitthoba's endowed gift.
3	Shri Rukmini Temple, C. T. S. No. 2393, Sq. Yards 510.	Samasta Utpats	V. N. Utpat..	103	In spite of decisions, Utpats claim to be the owners of the temple. (Ex. 542 and 549).
4	Nava, rija in Rukmini Temple, C. T. S. No. 2393, Sq. Yards 510.	Samasta Utpats	P. D. Haridas	518	Under Regd. Agreement (Ex. 542, dated 10th January 1947) the Navagrības are removed from this place to Badawew place. (see Ex. 547 also).
5	Bhate's Ori, C. T. S. No. 2393	K. B. Bhate and D. K. Bhate	P. D. Haridas and D. K. Bhate	518 and 331	This is part of the Rukmini Temple.
6	Ori in C. T. S. No. 2392	N. V. Badve, Pender	N. V. Badve	193	Claimed to be of his ownership by adverse possession though situated in Vitthoba Temple.
7	Bhadhade Bawa's 2 Oris in North corner of big Sabhanandap, C. T. S. No. 2392.	Temple	B. K. Badave	199	No right of ownership over the property is claimed but right of user claimed.
8	Property C. T. S. No. 2893/1, 2893/2, 2893/3 Sq. Yards 22, 9, 21, 30	V. V. Badve..	P. D. Haridas	518	Prima facie appears to be parts of Vitthoba Temple. (see Ex. 544).
9	Property C. T. S. No. 2893A (An Ori in the temple which really forms part of C. T. S. No. 2392).	D. V. Deshmukh, Kadekar	V. D. Deshmukh	254	This Ori has been given on agreement to samasta Sevachari for use reserving rights of ownership by V. D. and D. V. Deshmukh. (see agreement dated 24th December 1949).



Serial No.	Description of property, S. No., Part, Area etc.	Name of the person in possession of	Name of witness making a mention	Ex. No. of Deposition	Remarks
1	2	3	4	5	6
10	Nagarkhana C. T. S. No. 2392	Deosthan Community	N. P. Sarnis	146	Claimed to be in possession of Deo. Committee though it being in Temple premises.
11	All Mahadeo Temples in C. T. S. No. 2392	Vithoba Temple	V. K. Abhangrao	213	Kolis are claiming right of income over all Mahadeo Temples in Vithoba Temple.
12	The Story on the Khandoba Temple situate in the Vithoba Temple premises, C. T. S. No. 2392.	Smt. Parvatibai w/o, Mahadeo Badave	P. D. Haridas	518	This is a part of Vithoba as per Ex. 551(2).
13	Property : C. T. S. No. 2388	Sq. Yards 20 V. N. Badave	P. D. Haridas	518	Serial Nos. 13 to 17 are prima facie within the Vithoba Temple but now stand in different names in C. T. S. with separate numbers.
14	Property : C. T. S. No. 2389	Sq. Yards 12 L. G. Lad	P. D. Haridas	518	
15	Property : C. T. S. No. 2390	Sq. Yards 24 P. N. Badave and B. H. N. Badave	P. D. Haridas	518	
16	Property : C. T. S. No. 2391	Sq. Yds. 24 V. N. Badave	P. D. Haridas	518	
17	Property : C. T. S. No. 2394	Sq. Yds. 3 (1) Gajanan Laxman m. by g. Jankibai w/o Laxman Lad. (2) S. G. Lad, m. by g. mother Chandrabai w/o Gyanu Lad. (3) Smt. Rakhambai Narayan Lad.	Do.	518	
18	Property : C. T. S. No. 1892	Sq. Yds. 85 K. M. Badave, m. by g. father Trimbak Balkrishna Badave.	Do.	518	Ex. 544 and 545 shows this to be property of the Temple but as per will dated 15th July 1926 executed by Smt. Parvatibai w/o Mahadeo Babaji Badave, the same was got entered in a different name.

This trust is separately regd. at Sr. No. A-220 (Sl.) under the B.P.T. Act, 1930. However it is within the temple and there was a litigation about a tree, Maruti and income, between Bedwas and Bairagi. This requires to be included under the administration proposed.

This trust is separately regd. at Sr. No. A-334 (Sl.) under the B.P.T. Act, 1930. This being in the Sabhamandap is a part of Vitoba Temple. This also requires to be included under the administration proposed.

19 Tehatis Koti Devache Devalaya Matha Sans. Laldas Guru Laxmandas Bairagi than. H. No. 3562, Pandharpur.

- Properties
- (1) Moveable Utensils of wor. ship. (1) Tehatis Koti Devalaya in Vitoba Temple, H. No. 2395.
  - (2) Clothes of God. (2) H. No. 2378 and 2378A.
  - (3) H. No. 3562.

20 Shri Garud Deosthan Properties Gopal Vitthal Benare. ...

- Properties
- Moveable: Shri Garud Deo. Silver Ornaments of Temple with stops in C.T.S. No. 3292 in the Pandurang Devalaya Sabhamandap.

(B) Properties endowed but not registered as trust properties

Serial No.	Description of property	Name of person in possession	Name of witness or otherwise	Ex. No.	Remarks
		3	4	5	6
1	House at Pandharpur, C.T.S. No. 2022 Sq. Yda. 128.	Badave Committee, Pandharpur	N. D. Badave	97	These properties were reported to the A.C.C. Poona vide C.R. No. 412 of 1963 for inclusion in the trust properties but the said C.R. has been ordered to be filed by A.C.C. vide his order, dated 14th November 1961 as no evidence was produced to substantiate the change.
2	A shop at Pandharpur, C.T.S. No. 2278	do.	Do.	97	
3	A land at manje Bhisnur, Taluka Katol, District Nagepur. Arva Share	do.	Do.	97	

107  
 A.C. 23 60  
 (As per mutation entry extract)

Serial No.	Description of property	Name of person in possession	Name of witness or otherwise	Ex. No.	Remarks
1				5	6
4	A land at Bhilai, Taluka Darva, District Ycot. Not known mal (no particulars).	..	.. N. D. Badavo	97	Badav's did not give any further particulars nor have taken any steps to recover this property.
5	A small land at Kapsu Talani which fetches income of Rs. 20 p.a.	Do.	.. N. D. Badavo	97	
6	House No. 2313 at Kumbharghat, Pandharpur.	S. G. Paraswar	.. G. T. Nikte	190	It is stated by the witness that one Chandra bhagabai Narayan Gangashottivar had created a charge on this property, that out of the income of the House, Rs. 25 p.m should be given to Badvas and Rs. 25 p.m to Utpats for Naivedya of Vitthoba and Rukmini but both Badvas and Utpats consented to surrender the charge each of them taking Rs. 2,500 from Paraswar. Shri V. K. Utpat, Advocate accepted the amount for the Utpats and by Shri Keshav Bhagwan Badve for Badvas and the amounts are not shown in accounts.
7	80 acres of land in Manjo Bhalvani, Taluka Pandharpur, District Sholapur.	Tenants	.. G. Y. Aradyo	201	This land has been endowed for the purpose of Naivedya to Rukmini. The said land stands in the name of Shri Kashinath Baburao Utpat but is explained that the said land is not actually in possession of Utpats.
8	Survey No. 52/1, admeasuring 39 gunthas at Village Takli, Taluka Pandharpur.	Trimbak Vitthal and Shankar Vitthal Pujari.	Murlidhar Narayan Kadam	251 and 252	It is stated that the said land is given to Shri Pandurang God on which a burden of Naivedya to Vitthoba was thrown. It is also stated that the said land at present is being cultivated by one Shri Shankar Desharath Khapale and the Devasthan does not get any income therefrom.
9	House property C. T. S. Nos. 1432A, 1432A/1, 1432A/2, 1432A/3, near Zandujbawa math.	V. V. Badavo	B. P. Bahirat and S. K. Shrivastav	281	These properties alleged to have been endowed by one Smt. Krishnabai Hirabai Jamadar to God Vitthoba by executing a deed, wherein it was directed that the income that may derive from these properties should be utilized for Naivedya of Shri Vitthoba and other service, but these properties have been got entered on V. V. Badvo's name.
10	A house where Shri Muley, a hotel owner now resides valued Rs. 25,000.				Statement Survey No. 179, (which is not exhibited).
11	House near Shri Phoskar, Advocate's house in which Jamadarabai herself was living valued Rs. 3,000.				

12	Village Umbergaon ..	D. B. Bedave and K. B. Utpat ..	D. B. Bedave ..	288	Village of Umbergaon was endowed for Nai-vedya by Raja of Aundh which is standing in D. B. Bedave's name to the extent of a share of 10 annas and 8 pies remaining 3rd stands in the name of Utpat.
13	Property Survey No. 340, 4 acres 30 gunthas in Village Wakhari, Taluka Pandharpur.	Jaganath Balkrishna Utpat, D. L. D. K. Utpat Utpat and S. R. Utpat.	..	331	This property gifted to Utpats under Gift-deed, dated 8th February 1945 for Na-vedya of Rukmini.
14	Cash Allowance of Rs. 400 to Vithoba and Cash Allowance of Rs. 200 : Rukmini.	Badaves and Utpats ..	P. A. Inamdar ..	475	These cash allowances are stated to have been granted by the Aundh State.
15	Two Villages viz., (1) Sunderpur, (2) Anavali in Pandharpur Taluka, (3) 100 acres of land in Jalgaon, Taluka Khatav, District Satara.	Tenants .. Haridas ..	B. K. Haridas Inamdar ..	477	
16	100 acres of land in Village Bohak, Taluka Pandharpur.	V. V. Badave ..	G. P. Goro ..	511	This property stated to have been given for Naivedya to Vithoba.
17	Survey No. A. G. (1) 325 4-7 Narghane; Taluka B. A. Paricharak District Sangli. (2) 222/1 0-20 Do. (3) 222/2 0-20 Do. (4) 222/4 0-20 Do. (5) 222/5 1-0 Do. (6) 223/3 0-20 Do. (7) 308/1 1-11 Do.	Paricharak ..	P. D. Haridas ..	518 and 581	These properties stated to have been endowed for Naivedya of Vithoba.
18	One Gold Arti, 80 tolas in weight.	Paricharak ..	B. D. Paricharak ..	601	This Arti stated to have been given by a Sardar of Baroda for daily Upachars and the same has been kept in the custody of Bhausaheb Paricharak but after his death the said Arti is claimed to be of his own by his son.
19	Lana Survey No. 12/2, 25 acres and 35 gunthas in the village Monje Dapur, Gaon No. 175, Pragam Talgaon, Taluka Kolapur, District Yestmal.	Smt. Jankibai w/o Kake Benare.	Ramchandra D. S. Ujavano	Statement Survey No. 222	It is stated that the property was gifted on 5th January 1924 to Pandurang and one Smt. Jankibai w/o Ramchandra Kale was shown as waliwadkar. She is now dead. It is also stated that 12 acres of land out of the total acreage has been sold for Rs. 12,000 and for rest of the property application for regn. under B. P. T. Act 1920 has been preferred to A. C. Akola Region, Akola.

Serial No.	Description of property	Name of person in possession	Name of witness or otherwise	Ex. No.	Remarks
1	2	3	4	5	6
20	(1) Endowment in Shree 1516 of Rs. 2,100 for Rajbhag endowed by ancestors of Nagnath Bhimayya Shetti Talasahallwar of Karkheli, Taluka Mulhel, District Nanded. (2) Endowment in Shree 1797 of Rs. 3,000 under an agreement for Anandachitra. (3) H. Property of 8 Khans purchased for Rs. 200 for Gangebhar Ramchandra, adjacent to his house for Anandachitra.	G. R. Badve ..	N. P. Surnis	146	Copies of agreement received by Deosthan Committee along with letters of the heirs of endower produced at Ex. 153.
21	Cash Allowance	H. V. Badve ..	N. D. Badve	97 (pat 99)	Admitted in examination by the Commission.
22	Endowment of Rs. 461 granted by Maharaj of Gwalior by Sanad of Pujas of Vitthoba, Rukmini; and fees and material.	T. B. Badve ..		705	There was a litigation being suit No. 371/41, F. A. No. 270/44 and H.C.A. No. 130-47. It is held that it is an endowment and the Badavo is trustee thereof.

(2) Endowments Registered separately and connected with Vitthoba and Rukmini Temples.

Serial No.	Name and registration number of the trust	Names of trustees	Objects of the trust	Properties	Remarks
1	1	3	4	5	6
1	Mathurabai Namdeo Teji Trust, Pandharpur, A-163(Sh.)	(1) Dr. G. G. Patwardhan (2) Shri B. B. Patwardhan (3) Shri N. P. Surnis (4) Shri V. M. Karandikar (5) Shri A. H. Khasgiwale	Daily Naivedya to Vitthoba.	Pandharpur Mun. No. 2400(A), Shop, 2 Khans, Bargaji Khans 2 and bear Khan 1.	These three trusts bearing regn. Nos. A-102, A-163 and A-161 (Sh.) have now been amalgamated in P. T. R. No. A-324 (Sh.) i.e. Deosthan Committee, Pandharpur.
2	Shanabai Bhikoba Vinale Trust, Pandharpur, A-163(Sh.)	(1) Dr. G. G. Patwardhan (2) Shri B. B. Patwardhan (3) Shri N. P. Surnis (4) Shri V. M. Karandikar (5) Shri A. H. Khasgiwale	Daily Naivedya to Vitthoba	Government Promissory Notes, dated 16th September 1946 at 3 per cent interest. Dt. FY-055395 Rs. 055396 055397 2100 055398	

3	Paricharak Trust, Pandharpur. (Sh.)	A-161	(1) Dr. G. G. Patwardhan (2) Shri B. B. Patwardhan (3) Shri N. P. Surris (4) Shri V. M. Karandikar (5) Barrister A. H. Khargiwale	(4) Daily puja-archya, Naivedya, Nandadeep at Shri Anuriteshwar Mahadeo, Pandharpur. (2) Shivraatri Utsav and Deepotsav in Kartiki Mith at Shri Rameshwar Mahadeo in Bhadgaonkar Mandir.	C. T. S. Nos. 4089, 4089/1, 4089/2.
4	Shri Vithal Deo, Pandharpur Inam. (Sh.)	A-344	Shri S. D. Badve	For daily Naivedya to Shri Rukmini and Pandurang.	S. No. A. G. 23 5 23 at Yedur Manji, Taluka Chikodi, District Belgaun.
5	Shri Vithal Deo Inam, Pandharpur. (Sh.)	A-361	(1) Shri H. N. Badve (2) Shri P. N. Badve	For Naivedya of Vithoba	(1) Rev. S. No. 117, (8 annas share), present No. 117/1 to 117/6, (1 acre and 11 guntas) at Vadgaon, Taluka Karad, District Satara. (2) S. No. A. G. 305 (4 bighas) 75 (4 bighas) at Ving. (3) S. Nos. 874, 891 and 892 (16 acres) (4 annas share).
6	Shri Vithal deity Endowment, Pandhar. (Sh.)	A-362	Shri V. G. Badve	For arrangements of Naivedya in Vithal deity.	(1) At Belwade, Taluka Karad :- S. No. A. G. 52 1 21 (2) At Kalavado, Taluka Karad :- S. No. A. G. 14 4 3 12 7 31 (3) At Kale, Taluka Karad :- S. No. A. G. 874 11 25 (11th share) 891 10 4 (11th share) 892 17 29 (11th share). (4) At Holwag, Taluka Hakeri :- S. No. A. G. 83 4 5 109/8 3 20 203/1 4 14
7	Shri Vithal Kshetra Endowment Inam, Pandharpur. (Sh.)	A-363	(1) Shri V. V. Badve (2) Shri K. V. Badve (3) Shri D. V. Badve (4) Shri P. V. Badve	For arrangement of Naivedya for deity.	(1) At Galeshwar, Taluka Karad :- S. No. A. G. 237 2 14 (2) At Alake, Taluka Karad :- S. No. A. G. 232 2 22 373 2 7

Serial No.	Name and registration number of the trust	Names of trustees	Objects of the trust	Properties	Remarks
1	2	3	4	5	6

(3) At Shero and Dusero :-  
S. No. A. G.  
41 (3 1/2 bighas).

(4) At Kado, Taluka Karad :-  
S. No. A. G.  
774 } 30  
891 } 0  
892 } (9 annas share).

(5) Kundel, Maujo Pail, Amudh State :-  
S. No. A. G.  
34/1 - 25  
34/2 - 17  
34/3 - 25

At Bolanki, Taluka Miraj, District Sangli :-  
S. Nos. 20 and 21.

(1) At Kholapur, District Umraoti :-  
Open plot with Well (half share).

(2) Maujo Kutasa, Taluka Akot, District Akola :-  
S. No. A. G.  
141/1 17 23 (half share).

(3) Maujo Papal, Taluka Murtujapur, District Akola :-  
S. No. A. G.  
38/2 15 35  
(only 4 acres on the southern side).

(1) Mun. No. 981, Wada Vassia No. 2,  
21 Khans including upper storey,  
open Court yard—verandah.

(2) Encumbrance on H. No. 721.

(1) Committee No. 981, 51 Khans  
(open space).

To expend for religious rituals as well  
as for Rukmini Devi at Pandharpur.

To arrange for Naivedya and religious  
purposes of Rukmini and Pandurang.

8 Nakta Nemruk Shri Vithal Deo, Pan-  
darpur, Naivedya. A-394(Sh.).

9 Shri Vithoba Deodhan-Naivedya Trust,  
Pandharpur. A-399(Sh.).

Shri D. E. Bahirat, Badaro

(1) Shri D. A. Utpat  
(2) Shri N. D. Utpat  
(3) Shri H. D. Utpat

Shri Gangabai Aai Rakhambai Nasikka-  
rin Yancha Rukmini Trust, Pandhar-  
pur. A-418(Sh.).

Shri Gangabai Aai Rakhambai Nasikka-  
rin Yancha Endowment, Pandharpur.  
A-420(Sh.).

(1) Shri B. T. Hirvo  
(2) Shri R. W. Ghoro  
(3) Shri W. G. Patwardhan  
(4) Shri N. V. Dike

## (D) Valuation of Ornaments, Jewellery and other valuables

Serial No.	Description	Of Vithoba	Of Rukmini
		Rs.	Rs.
1	Ornaments set with precious Stones	10,00,650	99,000
2	Gold Ornaments	2,70,510	1,38,230
3	Silver Articles	49,265	31,024
Total		13,86,425	2,00,450

*Note.*—This valuation includes ornaments shown to and valued by the Jewellers and mentioned in the valuation report (Ex. 810) and not all the valuables belonging to the deities.

## APPENDIX VIII-A

*Badee's income at the feet of Vithoba and offerings in kind and Distribution thereof after meeting the expenses as per scheme Judgment for a period of 12 years (from Ex. No. 717)*

Shako	Income at foot	Sanag	Total income	Total expenditure	Distributed
	Rs.	Rs.	Rs.	Rs.	Rs.
1878-79	41,702.33	2,063.00	43,765.33	23,099.79	20,665.54
1879-80	41,980.41	2,743.00	44,723.41	25,372.09	19,351.32
1880-81	37,368.47	2,081.00	39,449.47	26,229.26	13,220.21
1881-82	41,156.52	1,556.30	42,712.82	22,941.51	19,771.31
1882-83	58,167.42	2,200.00	60,367.42	30,436.53	29,930.80
1883-84	51,170.56	.....	51,170.56	27,408.21	23,672.35
1884-85	54,667.99	3,385.00	58,552.99	32,017.37	25,635.62
1885-86	56,004.55	3,009.54	60,814.09	24,494.54	30,319.55
1886-87	86,414.52	5,493.00	91,907.52	42,530.01	49,376.91
1887-88	1,15,539.49	4,476.58	1,20,016.07	52,183.27	67,832.80
1888-89	1,12,792.06	6,600.00	1,19,392.06	64,334.03	55,058.03
1889-90	1,14,854.07	8,490.00	1,23,344.07	78,070.50	45,243.57
Total	8,12,718.39	43,467.42	8,56,185.81	4,50,107.71	4,06,078.10
Average over a period of 12 years.	67,725.70	3,622.29	71,348.82	37,508.98	33,839.84



## APPENDIX VIII-B

Statement regarding the pujas performed in the Vithoba Temple during the year shake—1876-1891 and income thereof to the Badaves

(As per Ex. 734 and rates as mentioned in the Report)

Shako	Mahapujas	Padyapujas	Kapur Arti and Tulsi Archan	Others	Total
1	2	3	4	5	6
1876-77 .. ..	290	2,917	2,003	....	6,149
1877-78 .. ..	424	3,952	3,294	16	7,686
1878-79 .. ..	323	3,489	3,015	37	6,864
1879-80 .. ..	401	4,625	3,260	....	8,372
1880-81 .. ..	382	4,404	3,289	29	8,084
1881-82 .. ..	468	4,923	3,412	42	8,845
1882-83 .. ..	606	5,880	3,152	60	9,788
1883-84 .. ..	590	5,464	2,808	49	8,911
1884-85 .. ..	592	5,600	2,620	48	8,860
1885-86 .. ..	876	6,728	3,006	54	10,754
1886-87 .. ..	751	6,305	2,866	40	9,962
1887-88 .. ..	1,017	7,187	2,351	51	10,506
1888-89 .. ..	891	6,424	1,979	62	9,356
1889-90 .. ..	1,048	8,013	2,398	46	11,503
1890-91 .. ..	1,016	6,570	1,921	54	9,570
Total Pujas ..	9,832	82,520	42,350	558	1,35,210
Income over a period of 15 years at the rates mentioned	Ra. 98,320 @ Rs. 10 per puja.	Ra. 1,65,040 @ Rs. 2 per puja.	Ra. 42,350 @ Rs. 1 per puja.	Ra. 558 @ Rs. 1 per puja.	Ra. 3,06,268

\*Average income per year : Rs. 20,418.

## APPENDIX C

Parivar Devalas of Vithoba under the Management of Badaves, income of Badaves (A-378 (SH) from Exs. 171 and 321)

Shako	Income	Expenditure	Amount distributed
	Ra.	Ra.	Ra.
1878-79 .. ..	16,418-81	2,738-81	13,680-00
1879-80 .. ..	15,117-24	963-24	14,154-00
1880-81 .. ..	10,507-00	2,843-00	13,664-00
1881-82 .. ..	16,834-24	2,864-74	13,969-50
1882-83 .. ..	17,135-42	2,972-42	14,163-00
1883-84 .. ..	21,013-37	4,759-37	16,854-00
1884-85 .. ..	20,840-93	1,143-03	19,697-00
1884-85 .. ..	19,416-12	8,599-62	10,816-50
1885-86 .. ..	20,152-44	1,018-44	19,134-00
1886-87 .. ..	22,810-69	4,510-69	18,300-00
1887-88 .. ..	28,454-80	510-80	27,844-00
1888-89 .. ..	29,906-17	3,590-17	26,386-00
1889-90 .. ..			
1890-91 .. ..			
Total .. ..	2,45,207-23	20,445-23	2,08,762-00
Average per year of amount distributed over a period of 12 years .. ..			Ra. 17,396-00

## APPENDIX VIII-D

*Income of Pujaria over a period of 12 years (from Ex. 826 (17))*

Years	Amount of bid for four hours		Amount received from Savadhari Committee
	1	2	3
		Rs.	Rs.
1956-57	.. ..	1,297.00	322.40
1957-58	.. ..	1,751.19	418.02
1958-59	.. ..	1,648.00	384.22
1959-60	.. ..	1,929.00	430.02
1960-61	.. ..	2,412.00	648.91
1961-62	.. ..	1,963.00	485.09
1962-63	.. ..	1,797.00	487.79
1963-64	.. ..	2,435.00	638.01
1964-65	.. ..	2,895.00	675.02
1965-66	.. ..	3,129.00	690.31
1966-67	.. ..	2,144.00	607.38
1967-68	.. ..	3,270.00	733.03
Total	.. ..	26,760.19	6,332.20
Average over 12 years	.. ..	2,230.00	527.08
Five time average to cover all periods	.. ..	11,150.00	
Total average income from all sources	.. ..	11,677.68	

## APPENDIX VIII-E

*Income of bids and receipts from Savadhari Committee received by the Haridas, Benaris and Paricharak*

Years	Haridas (from Ex. 826 (10))	Benaris (inclusive of Garud income) (from Ex. 826 (14))	Paricharak	
	1	2	3	
		Rs.	Rs.	
1956-57	.. ..	1,317.40	3,402.40	1,551.15
1957-58	.. ..	1,508.02	3,588.62	1,607.04
1958-59	.. ..	1,724.14	3,464.14	1,063.51
1959-60	.. ..	1,724.02	4,499.62	1,948.02
1960-61	.. ..	1,053.00	3,528.90	2,055.59
1961-62	.. ..	1,900.69	3,665.69	1,858.19
1962-63	.. ..	2,087.78	3,467.78	1,712.00
1963-64	.. ..	2,308.00	3,728.00	2,440.00
1964-65	.. ..	2,200.02	3,765.02	2,249.56
1965-66	.. ..	2,425.31	3,980.31	2,354.60
1966-67	.. ..	2,462.38	3,897.38	2,698.08
1967-68	.. ..	2,538.03	3,923.03	3,063.45
Total of 12 years	.. ..	24,272.09	44,811.79	25,103.74
Average over 12 years	.. ..	2,022.67	3,734.31	2,091.69

## APPENDIX VIII-F

Income of dingres over a period of 12 years received from auction and received from Sevadhari Committee, [from Ex. 826 (4)]

Years							Dingres
							Rs.
1956-57	..	..	..	..	..	..	735.40
1957-58	..	..	..	..	..	..	698.62
1958-59	..	..	..	..	..	..	816.14
1959-60	..	..	..	..	..	..	743.84
1960-61	..	..	..	..	..	..	932.90
1961-62	..	..	..	..	..	..	752.69
1962-63	..	..	..	..	..	..	806.78
1963-64	..	..	..	..	..	..	974.90
1964-65	..	..	..	..	..	..	939.02
1965-66	..	..	..	..	..	..	1,257.31
1966-67	..	..	..	..	..	..	915.38
1967-68	..	..	..	..	..	..	1,039.03
Total							10,812.09
Average over 12 years							884.34

## APPENDIX VIII-G

Income of divale and dange each assessed over a period of 12 years from income of Dingres [from Ex. 826 (4)]

Years	Auction equal to that of Dingres		Received from Sevadhari Committee $\frac{1}{4}$ of Dingres' share	
	Rs.		Rs.	
1956-57	..	..	413.00	161.20
1957-58	..	..	280.00	209.31
1958-59	..	..	432.00	192.07
1959-60	..	..	304.00	219.96
1960-61	..	..	384.00	274.45
1961-62	..	..	267.00	242.85
1962-63	..	..	310.00	243.89
1963-64	..	..	336.00	319.45
1964-65	..	..	364.00	287.51
1965-66	..	..	567.00	345.15
1966-67	..	..	368.00	302.69
1967-68	..	..	308.00	366.52
Total		4,280.00	3,106.08	
Average over 12 years		356.00	262.84	
Total yearly income of each class		618.84		

## APPENDIX VIII-H

Income of Utpats over a period of 11 years (from Ex. 822)

Samsat year	Income		Total
	At foot	Other	
	Rs.	Rs.	
2013	10,188.17	7,215.51	23,403.08
2014	21,180.44	10,053.43	31,233.87
2015	18,042.25	12,807.38	31,749.63
2016	21,041.50	14,300.43	30,241.93
2017	13,800.25	10,038.73	23,928.98
2018	10,800.75	5,024.51	21,825.26
2019	24,814.75	12,878.14	37,692.89
2020	25,032.75	4,260.00	29,292.75
2021	30,790.51	5,019.85	35,810.36
2022	37,431.25	3,572.25	41,003.50
2023	52,311.00	2,980.50	55,291.50
		Total	3,67,489.35

Average of Vatan vatani to Utpats half of the income per year over a period of 11 years (as per decision in F.A. No. 62 of 1960) 10,704.00

APPENDIX VIII-I

Some information about the priests

Serial No.	Class	Veda	Shakha	Gotra	Kuladevata	Number of families in 1966	Number of sharors
1	Bardro	.. Shukla Yajurvedi	.. Kanwa	.. Kashyap	.. Ekvira	.. 82	295 (112) [Vide Ex. 830.]
2	Fujari	.. Do.	.. Do.	.. Koushik	.. Banashankari	.. 8	10 [Vide Ex. 826 (4) ]
3	Benari	.. Do.	.. Do.	.. Bharadwaja	.. Renuka	.. 22	30 [Vide Ex. 828 (5) ]
4	Dingro	.. Do.	.. Do.	.. Goutam	.. Brahmdco, Ganesh, Maruti, Narashinva.	.. 22	34 [Vide Ex. 826 (3) ]
5	Diwato	.. Do.	.. Do.	.. Atri	.. Narashinva	.. 3	5 [Vide Ex. 828 (12) ]
6	Dango	.. Do.	.. Madhandin	.. Gargya	.. Maruti	.. 1	4 [Vide Ex. 826 (9) ]
7	Haridas	.. Do.	.. Do.	.. Shandhya	.. Renuka	.. 48	118 [Vide Ex. 826 (15) ]
8	Paricharak	.. Rigved	.. Ashvalayan	.. Atri	.. Banashankari	.. 24	21 [Vide Ex. 826 (7) ]
9	Utpat	.. Do.	.. Do.	.. Vashista	.. Information not available	.. 71	100 [Vide Ex. 823.]
			(A)		(B)	(C)	

Note :-(A) From page 214 of Dr. Dingro's Thesis.

(B) From page 205 of Dr. Dingro's Thesis.

(C) From page 215 of Dr. Dingro's Thesis.

## APPENDIX IX

## LITIGATIONS

## (A) Before the British regime :—

1. Bijapur Sthal Prat (935 Hizari, i.e. 1519 A. D.). A Vatan Zada after a dispute about management. Ex. 92A and Ex. 663.
2. Indapur Sthal Prat (1568 A.D.). A list of duties of each of the classes—in a dispute between Badaves and Utpats. Ex. 92B.
3. Attachment order (Shake 1667) by the Ruling power in view of disputes in the temple. Ex. 599.
4. Another attachment order (8th November 1752) by the Ruling power in view of complaints about temple and management. Ex. 670 and Ex. 671.
5. Head of Account (1154 Sur, i.e. 1754 A. D.) referred to as Sanad in the Scheme Judgment issued by Halaji Bajirao Peshwa. Ex. 113 and Ex. 727.
6. Jat Muchalka i.e. Surety Bond (19th July 1754) given by Badave to the ruling power. Ex. 570.
7. Attachment of the temple by Ruling power (Shake 1681) .. .. Ex. 675.
8. Niwada of Madhavrao Narayan Peshwa in dispute about keys of the temple (1780 A.D.). Ex. 105.
9. Order of Peshwas (2nd November 1790) about maintaining order at (page 12 and 13) the time of pujas after a dispute. Ex. 106.
10. Attachment by Parashurambhau Patwardhan (Shake 1713) .. .. Ex. 675 and Ex. 568.
11. Order of Maharaja of Satara in a dispute about prakasha puja, Yajamanpuja etc. (1838). Ex. 106.

## (B) East India Company regime :—

12. Suit No. 272 of 1850 in the East India Company Court in a dispute between Utpats and Benaris Ex. 92C and Ex. 92D.
13. Suit No. 638 of 1850 in the East India Company Court by Badves against Kolis regarding incomes of Amriteshwar Rath. Ex. 214.
14. Suit No. 305 of 1856 in the East India Company Court by Benari and Badave about Vatan offered to Vithoba. Ex. 857.
15. Enquiry made by the Commissioner through the Maimlatdar, Pandharpur and report of Phadnis Amatya (2010/1851). Ex. 856.
16. Promulgation dated 7th January 1857 prohibiting darshan by entering the Gabhara and touching the feet for 38 days. Ex. 578.
17. Order dated 3rd February 1857 restricting entry in the Gabhara of 10 Sevadhari only. Ex. 578.
18. Application by Sevadhari dated 27th June 1857 in respect of promulgation .. Ex. 578.

(C) After the Proclamation of Queen Victoria about non-interference in religious affairs—  
During the British regime and after Independence.

## (i) First Series :—

19. Proceedings under Criminal Procedure Code in the grant riot and order of Magistrate in 1879 directing parties to approach Civil Court. Ex. 59.
20. Suit by Pujari against Badaves for declaration of rights .. ..  
 (a) District Court Suit No. 1 of 1882 .. .. Ex. 59.  
 (b) High Court Appeal No. 90 of 1886, (10th April 1891). .. Ex. 60.  
 (c) Review Application by Badave in High Court No. 370 of 1891 .. Ex. 82 and 83.
21. Suit by Benaris for rights against Badave :—  
 (a) District Court Suit No. 2 of 1882 .. .. Ex. 61.  
 (b) Appeal No. 81 of 1888 .. .. Ex. 62.  
 (c) Review Application No. 369 of 1891 in High Court by Badave .. —
22. Suit by Paricharaks against Badaves for rights :—  
 (a) Suit No. 5 of 1881 (District Court) .. .. Ex. 63.  
 (b) Judgment in High Court Appeals 1 and 5 of 1890 .. .. Ex. 64.
23. Suit by Dingres against Badaves for rights :—  
 (a) Suit No. 3 of 1881 (District Court) .. .. Ex. 65.  
 (b) Judgment in High Court Appeal Nos. 130 of 1890 and 5 of 1891 .. Ex. 66.
24. Suit by Haridas against Badaves for rights :—  
 (a) Suit No. 4 of 1881 (District Court) .. .. Ex. 67.  
 (b) Judgment in High Court Appeal 144 of 1888 .. .. Ex. 68.  
 (c) Review application and order .. .. Ex. 587 and 588.

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25. Suit by Danges against Badaves for rights :—
- |  |         |         |         |         |
|--|---------|---------|---------|---------|
| (a) Suit No. 62 of 1891 .. .. .                      | .. .. . | .. .. . | .. .. . | Ex. 71. |
| (b) Judgment in Appeal No. 37 and 44 of 1893 .. .. . | .. .. . | .. .. . | .. .. . | Ex. 72  |
| (c) H. C. second Appeal No. 108 of 1895 .. .. .      | .. .. . | .. .. . | .. .. . | Ex. 73. |
26. Suit by Diwate against Badaves for rights :—
- |   |         |         |         |         |
|---|---------|---------|---------|---------|
| (a) Suit No. 61 of 1892 .. .. .                         | .. .. . | .. .. . | .. .. . | Ex. 69. |
| (b) Appeal No. 29 and 45 of 1892 .. .. .                | .. .. . | .. .. . | .. .. . | Ex. 70. |
| (c) H. C. Second Appeal Nos. 70 and 169 of 1895 .. .. . | .. .. . | .. .. . | .. .. . | —       |
27. Scheme Suit by Sevadhari :—
- |  |         |         |         |                  |
|--|---------|---------|---------|------------------|
| (a) Suit No. 3 of 1888 (District Court) .. .. .                    | .. .. . | .. .. . | .. .. . | Ex. 801          |
| (b) High Court Judgment in Appeal Nos. 141 and 168 of 1892 .. .. . | .. .. . | .. .. . | .. .. . | Ex. 113 and 179. |
| (c) Review Application in High Court .. .. .                       | .. .. . | .. .. . | .. .. . | Ex. 876.         |
- (ii) *Second Series* :—
28. Criminal Proceedings between Benaris and Badaves :—
- |   |         |         |         |  |
|---|---------|---------|---------|--|
| (a) In re : Pandurang (1900) 2 Bom. L. R. p. 84.    | .. .. . | .. .. . | .. .. . |  |
| (b) In re : Dnyaneshwar (1901) 3 Bom. L. R. p. 416. | .. .. . | .. .. . | .. .. . |  |
| (c) In re : Pandurang (1902) 4 Bom. L. R. p. 438.   | .. .. . | .. .. . | .. .. . |  |
29. Criminal Proceedings under Section 144 of Criminal Procedure Code against all Sevadhari :—
- |  |         |         |         |          |
|--|---------|---------|---------|----------|
| (a) Order of the Magistrate .. .. .                                | .. .. . | .. .. . | .. .. . | Ex. 724. |
| (b) Order of High Court in Criminal Appeal No. 114 of 1902 .. .. . | .. .. . | .. .. . | .. .. . | Ex. 725. |
30. Suit by Deosthan Committee for declaration of its right to do Nitya puja when puja was stopped for 11 days :—
- |  |         |         |         |          |
|--|---------|---------|---------|----------|
| (a) Suit No. 264 of 1902 .. .. .                                     | .. .. . | .. .. . | .. .. . | —        |
| (b) District Court Appeal No. 91 of 1906 .. .. .                     | .. .. . | .. .. . | .. .. . | —        |
| (c) High Court Appeal Nos. 454, 585 and 488 of 1907—Judgment .. .. . | .. .. . | .. .. . | .. .. . | Ex. 709. |
31. Suit by Kshetropadhyas in respect of their rights and Yajamanpuja :—
- |  |         |         |         |          |
|--|---------|---------|---------|----------|
| (a) Suit No. 64 of 1906 .. .. .                            | .. .. . | .. .. . | .. .. . | Ex. 64.  |
| (b) District Court Appeal Nos. 215 and 216 of 1909 .. .. . | .. .. . | .. .. . | .. .. . | Ex. 704. |
| (c) High Court Appeals Nos. 238 and 778 of 1914 .. .. .    | .. .. . | .. .. . | .. .. . | Ex. 703. |
32. Mangalarti Suits by five Sevadhari against the Badaves.
- |   |         |         |         |         |
|---|---------|---------|---------|---------|
| (a) Suits Nos. 40, 41, 44, 43 and 179 of 1907. Judgement in 40 of 1907 .. .. .  | .. .. . | .. .. . | .. .. . | Ex. 74. |
| (b) District Court Appeals by Badves Nos. 68, 69, 70, 71 and 72 of 1910 .. .. . | .. .. . | .. .. . | .. .. . | Ex. 75. |
| (c) High Court Appeals Nos. 750, 751, 752, 753 and 754 of 1913 .. .. .          | .. .. . | .. .. . | .. .. . | Ex. 76. |
33. Remand of Suit No. 179 of 1907 by Diwates about Yajamanpuja.
- |  |         |         |         |          |
|--|---------|---------|---------|----------|
| (a) After Remand Appeal No. 92 of 1910 .. .. . | .. .. . | .. .. . | .. .. . | Ex. 110. |
| (b) High Court Appeal No. 888 of 1914 .. .. .  | .. .. . | .. .. . | .. .. . | Ex. 117. |
- (iii) *Third Series*.
34. Pacharti Tiitha and Shudhodak suit by Pujari against Badave.
- |  |         |         |         |          |
|--|---------|---------|---------|----------|
| (a) Suit No. 509 of 1918 .. .. .                     | .. .. . | .. .. . | .. .. . | Ex. 894. |
| (b) District Court Appeal No. 41 of 1919 .. .. .     | .. .. . | .. .. . | .. .. . | Ex. 118. |
| (c) High Court Appeal Nos. 5 and 277 of 1924 .. .. . | .. .. . | .. .. . | .. .. . |          |
35. Kakada (before minor deities) suit by Paricharks against Badves.
- |   |         |         |         |          |
|---|---------|---------|---------|----------|
| (a) Suit No. 690 of 1918 .. .. .                  | .. .. . | .. .. . | .. .. . | Ex. 845. |
| (b) District Court Appeal No. 201 of 1921 .. .. . | .. .. . | .. .. . | .. .. . | Ex. 845. |
| (c) High Court Appeal No. 794 of 1924 .. .. .     | .. .. . | .. .. . | .. .. . | Ex. 885. |
36. Diwate Palakhi Suit.
- |                                    |         |         |         |         |
|------------------------------------|---------|---------|---------|---------|
| (a) No. 664 of 1919 .. .. .        | .. .. . | .. .. . | .. .. . | Ex. 80. |
| (b) Appeal No. 275 of 1920 .. .. . | .. .. . | .. .. . | .. .. . | Ex. 81. |
- (iv) *Fourth Series*.
37. Criminal proceedings in respect of Tulashi Archan and Magistrate directing the Badaves to Civil Court. Reference in Ex. 78.
38. Tulashi archan Suit by Badave.
- |  |         |         |         |         |
|--|---------|---------|---------|---------|
| (a) Pandharpur Court Suit No. 1465 of 1941 .. .. . | .. .. . | .. .. . | .. .. . | Ex. 77. |
| (b) District Court Appeal No. 162 of 1946 .. .. .  | .. .. . | .. .. . | .. .. . | Ex. 78. |
| (c) High Court Appeal No. 648 of 1950 .. .. .      | .. .. . | .. .. . | .. .. . | Ex. 79. |
39. Dispute about Gangodak-Bhagirathi and Shudhodak. Criminal Proceedings under Section 144 of Criminal Procedure Code. No. 1 of 1944. Ex. 84 and 85.
- (v) *Allied Series*.
40. Proceedings by the Deosthan Committee for amendment of the Scheme.
- |   |         |         |         |                  |
|---|---------|---------|---------|------------------|
| (a) Civil Application in High Court No. 127 of 1913 .. .. .   | .. .. . | .. .. . | .. .. . | Ex. 152.         |
| (b) Civil Revision Application No. 548 of 1927 in High Court .. .. .                                  | .. .. . | .. .. . | .. .. . | Ex. 164.         |
| (c) Rev. Application by Badave in High Court No. 64 of 1938 against warning by District Court .. .. . | .. .. . | .. .. . | .. .. . | Ex. 165 and 166. |
| (d) Rev. Application No. 210 of 1944 .. .. .  | .. .. . | .. .. . | .. .. . | Ex. 167.         |

41. Endowment by Maharaja of Gwalior Suit by Pujari against Badave.  
 (a) Suit No. 371 of 1941 .. .. . Ex. 705.  
 (b) Appeal No. 270 of 1944 .. .. .  
 (c) High Court Appeal No. 180 of 1947 .. .. .
42. Nagarkhana dispute between Badave and Deasthan Committee.  
 (a) Suit No. 263 of 1911 .. .. .  
 (b) District Court Appeal No. 316 of 1912 .. .. .  
 (c) High Court Appeal No. 310 of 1915 .. .. . Compromised.
43. Pimpalpar dispute between Badave and Utpat.  
 (a) Suit No. 592 of 1933 .. .. .  
 (b) District Court Appeal No. 300 of 1935 .. .. .  
 (c) High Court S. A. No. 191 of 1938. .. .. .
44. Wall dispute between Badave and Utpat—  
 (a) Suit No. 524 of 1944 (Compromised) .. .. . Ex. 542.
45. City Survey Enquiry in 1921 about temple and its properties .. .. . Ex. 549, 544 and 545.
46. Namdeo Pauri Suit by Shimpie—  
 (a) Suit No. .... .. .. .  
 (b) District Court Appeal No. 405 and 391 of 1926 .. .. . Ex. 120 and 573.  
 (c) H. Court Appeal No. 127 of 1932 .. .. . Ex. 120.
47. Badaves Suit against Balragi—  
 (a) Suit No. 1341 of 1938 .. .. . Ex. 121.  
 (b) District Court Appeal No. 240 of 1944 .. .. . Ex. 122.
48. Suit between Kahetropadya, Koli and Badave about Mahadeo Temple—  
 (a) Suit No. 376 of 1922 .. .. . Ex. 585.  
 (b) Appeal No. 247 and 249 of 1926 .. .. . Ex. 583.  
 (c) H. Court Appeal Nos. 96 and 152 of 1930 .. .. . Ex. 584.
49. Badave against Haridas about Rokdoba a parivar devata—  
 (a) Suit No. 191 of 1915 .. .. .  
 (b) Appeal No. 92 of 1917 .. .. .  
 (c) H. Court Appeal No. 462 of 1921 .. .. . Ex. 580.
50. Darkhasta in Suit No. 41 of 1907 by Benari about Mantras of awakening the God as part of Mangalarti—  
 (a) Darkhasta No. 721 of 1927 .. .. . Ex. 745.  
 (b) Appeal No. 320 of 1928 .. .. . Ex. 746.  
 (c) S.A. in H. Court No. 1054 of 1931 .. .. . Ex. 747.
51. Suits between Diwate and Badave about succession in female line—  
 (i) (a) Suit No. 381 of 1880 — went upto High Court in 1888 .. .. . Reference Ex. 741.  
 (ii) (a) Suit No. 88 of 1947 by Diwate .. .. . Do.  
 (b) District Court Appeal No. 323 of 1949 .. .. . Do.  
 (c) High Court Appeal No. 1257 of 1950 .. .. . Do.  
 (iii) (a) Suit No. 44 of 1956 by Diwate .. .. . Ex. 729.  
 (b) Appeal No. 425 and 426 of 1959 .. .. . Ex. 740.  
 (c) High Court Appeal No. 481 of 1961 .. .. . Ex. 741.  
 (iv) (a) Suit 36 of 1965 (Sholapur Court) by Badave Samaj for declaration that no succession to female line. Ex. 860.  
 (b) Appeal pending .. .. .
52. Suits of Utpata about succession in female line and vritti of Utpat—  
 (a) Bombay High Court Reports Vol. XI (1874) page 249.  
 (b) Utpata Vritti, 29, Bom. L.R. p. 102.
53. (i) Harijan entry in temple and position of Badave Committee—  
 (a) Misc. Application Nos. 39 (along with 40 to 43) of 1947 .. .. . Ex. 535.  
 (b) High Court Revision Application No. 435 of 1948 .. .. . Ex. 742.  
 (ii) Attempts by Sanatanis to prohibit Harijana—  
 (a) Suit No. 175 of 1965 in Pandharpur Court by two sanatanis against pujari. Ex. 892.  
 (b) Misc. Appeal No. 15 of 1966 by the plaintiffs.
- (vi) Amongst the Badaves about Committee, Mandal, Accounts, distribution etc.
54. Suit No. 725 of 1944 by Trimbak Gopal vs. Samasta Badave (Compromised).
55. (a) Suit No. 90 of 1947 .. .. .  
 (b) District Court Appeal No. 204 of 1949 .. .. .
56. Suit No. 93 of 1952, by Mandal against the Ex-chairman Trimbak Gopal .. .. . Ex. 556.
57. Suit No. 95 of 1952 by Trimbak Gopal against Mandal (withdrawn with leave to file a fresh one). Ex. 561.
58. Suit No. 120 of 1963 (Pandharpur Court) by Mandal against three members of Karja Niwaran Samiti. Ex. 567.



59. Pandharpur Suit No. 185 of 1963 by President of Samaj against Samasta Mandal and receiver appointed. Ex. 564.
60. Spl. Suit No. 12 of 1963 by Chairman of Mandal against seven previous members for misappropriation accounts and possession. Ex. 563.
61. Suit No. 52 of 1966 by Dnyaneshwar Eknath vs. Samasta Badave Mandal (about illegal existence of mandal) (withdrawn). Reference Ex. 324 to 326.  
(vii) Amongst Utpats about the management, Committee, Accounts, ornaments etc.
62. Election to the Committee—  
(a) Change Report No. 249 of 1962 before Asstt. Charity Commissioner Reference Ex. 629.  
(b) Appeal to the Charity Commissioner, No. 14 of 1963
63. Election to the Committee—  
(a) Suit No. 33 of 1966  
(b) Suit No. 34 of 1966  
(c) Misc. Civil Appeals Nos. 16 and 17 of 1966 Reference Ex. 324.
64. Suit No. 322 of 1964 by R. G. Utpat about ornaments and Commissioner appointed (withdrawn). Reference Ex. 276.
65. Complaint to the Police about misappropriation of income of Rukmini by Utpat. Ex. Reference 276.
66. Suit No. 6 of 1966 under section 50 of the B.P.T. Act, 1950 for framing a scheme with consent of Charity Commissioner by two Utpats (not pursued by plaintiffs). Ex. 849 and 848.
67. (a) Change Report No. 4 of 1967 after Suit No. 6 of 1966 about new body.  
(b) Appeal pending before Charity Commissioner as stated at the Bar. (pending).
68. (a) Change Report No. 136 of 1969 after appointment of this Inquiry Commission about new body.  
(b) Appeal pending before the Charity Commissioner as stated at the Bar. (pending).
69. (a) Suit No. 50 of 1969 about management of Temple Reference Ex. 891.  
(b) Civil Misc. Appeal No. 62 of 1969 (pending).
70. Suit No. 151 of 1969, Injunction regarding ornaments (pending) Ex. 891.
- (viii) Trust Registration proceedings
71. Vitthal Temple, Badave Committee and Badave Mandal—  
(a) Inquiry No. 1041 of 1952 before Asstt. Charity Commissioner Ex. 807.  
(b) Appeal No. 57 of 1954 before Charity Commissioner Ex. 805.  
(c) Civil Application No. 96 of 1954 under section 72 of B.P.T. Act, in District Court. Ex. 804.  
(d) High Court Appeal No. 28 and 42 of 1960 Ex. 123.
72. Parivar Devata of Vitthoba—  
(a) Inquiry No. 1042 of 1952 before Asstt. Charity Commissioner Ex. 805.  
(b) Appeal No. 58 of 1954 before Charity Commissioner Ex. 805.  
(c) Application No. 95 of 1954 before District Court Ex. 805.  
(d) High Court Appeal No. 29 of 1960, matter remanded on one point and pending before the Asstt. Charity Commissioner. Ex. 123.
73. Rukmini and Utpats—  
(a) Application No. 269 of 1952, before Asstt. Charity Commissioner Ex. 93 and 841.  
(b) Appeal No. 7 of 1954 before Charity Commissioner Ex. 93 and 842.  
(c) District Court Application 57 of 1954 Ex. 93.  
(d) High Court Appeal No. 62 of 1960 Ex. 92.
- (ix) New Series of Suits by Badaves against Sevadharia
74. Suit Nos. 233, 242, 252 of 1962, against Benare, Paricharak and Dingre respectively for injunction restraining them from demanding dakshana in the Temple (pending). Ex. 802.
- (x) Criminal Proceedings about Badave
75. Sessions Case No. 89 of 1962 against Badave conviction under section 342, I.P.C. for detaining minor girls visiting the temple for darshan. Ex. 536.
76. Criminal Case No. 160 of 1943, conviction under section 342, I.P.C. to two Badaves for acts in the temple. Ex. 539.
77. Criminal Case under section 323, I.P.C. against Badave ending in conviction. Ex. 540.
78. Criminal complaint by D. B. Badave against others for obstruction to pujas of Vajsan. Ex. 282.

## APPENDIX X

## Cases cited and/or referred to

1. A.I.R. 1961 S.C. p. 1206 .. .. Raje Anandran's case under section 92, C.P.C. (scheme whether *resjudicata*).
2. A.I.R. 1964 S.C. p. 107 .. .. Ahmad Adam's case under section 92, C. P. C. (scheme not binding on those who were not represented).
3. A.I.R. 1962 S.C. p. 1329 .. .. Kalimata Thakurani of Kalighat (scheme under section 92 C. P. C. and provision for pujaris and Shobaita). *Thackersey vs. Hurbhum*.
4. I.L.R. 8 Bom. p. 432 .. .. (Idol a juristic person).
5. 52 Indian Appeals p. 245 .. .. Pramatha Nath vs. Pradyumna Kumar (legal status of an idol).
6. A.I.R. 1948 P.C. p. 25 .. .. N. Shankararayana vs. Board of Commissioners (special trustee of a special or specific endowments can have no claim on surplus)
7. A.I.R. 1960 S.C. p. 100 .. .. N. B. Gosavi vs. Gopal Vinayak. (Decision regarding property not binding on the deity if it is not a party to the dispute).
8. 52 Indian Appeals, p. 245-27 Bom. L.R. p. 1064 (P.C.). *Mallick vs. Mallick* (necessity of deity being represented by a disinterested person appointed by Court when Shobaita have adverse interest—Shobaitship requires foundation).
9. (i) A.I.R. 1958 Madras p. 528  
(ii) A.I.R. 1955 Raj. p. 201 (F. B.)  
(iii) A.I.R. 1961 S.C. p. 564. .. } Custom contravening the fundamental rights is void.
10. A.I.R. 1951 H.P. p. 32 .. .. Baijnath vs. Ramnath (custom under which hereditary rogis could force their ministrations on their yajamans in void as violating Article 25 of the Constitution viz. practice of religion)
11. A.I.R. 1961 S.C. p. 1402 .. .. Ajmer Dargah Case (validity of special Act under Section 14, 25, 26, 31, etc., of the Constitution).
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15. 70 I.A. p. 57 .. .. Bhabatarini vs. Ashalata (Shobaitship).
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29. 13 Bom. L.R. p. 1171, I.L.R. 36 Bom. p. 94. (Vritti explained).
30. 29 Bom. L.R. p. 102 .. .. (Vritti of Utpata).
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32. A.I.R. 1959 S.C. p. 798 .. .. (Alandi Temple Case. Gurus lost right because of limitation).
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34. 53 Bom. L.R. p. 739 .. .. (Clash between two sets of fundamental rights).
35. A.I.R. 1962 S.C. p. 853 .. .. Mullaji Saheb's case (Religious denomination explained).
36. I.L.R. 12 Bom. 247 .. .. Dakore case (jurisdiction of Civil Courts in respect of charities sevaks not owners).
37. 28 Bom. L.R. p. 309 (P.C.) .. .. Shankarlal *vs.* temple committee (deity has a separate identity from the person acting for it). No scheme is irrevocable.
38. A.I.R. 1958 S.C. p. 538 .. .. (Powers of a Commission under Commission of Inquiry Act).
39. I.L.R. 1955 Mad. p. 253 .. .. Narayan Namboodripad *vs.* State of Madras. (Powers of the State to legislate—property whether includes hereditary trusteeship—Articles 25, 26, 27, 28 and 282 Religion and State discussed).
40. I.L.R. 24 Bom. p. 50 .. .. (Dakore case Scheme suit and amendment).
41. I.L.R. 39 Bom. (P.C.) p. 289 .. .. Government to decide what is a public purpose.
42. A.I.R. 1952 Mad. p. 756 .. .. P. Thumbiran *vs.* State of Madras. What is a public purpose—Review of case law.
43. A.I.R. 1957 S.C. p. 133 1956 S.C.R. p. 756 Deokinandan *vs.* Muralidhar. (Distinction between a private and public temple).
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45. A.I.R. 1956 Madras, p. 541 .. .. Udapi Math and Krishna Devaru Temple case. (Distinction between Math and temple, Harijan entry in the temple).
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47. 43 Indian Appeals (P.C.) p. 127 .. .. Mohamed Ismail Ariff *vs.* Ahmed Moolla. (In a scheme court can alter the mode of management—primary consideration interest of the general body of the public for whose benefit the trust stands).
48. A.I.R. 1952 S.C. p. 252 .. .. State of Bihar *vs.* Kameshwar. (Scope of public purpose explained).
49. I.L.R. 49 Calcutta p. 388 (1922) P.C. .. Amulchandra *vs.* Corporation. (Acquisition for building a dharmashala for a Hindu Temple is a public purpose).

## APPENDIX XI

## OTHER ACTS, SCHEMES FRAMED BY COURT OR TRUST DEEDS USED FOR DRAFT OF THE LEGISLATION PROPOSED

## (a) Other Acts

1. Bombay Public Trusts Act, 1950 (Bom. Act XXIX of 1950).
2. The United Provinces Shri Badrinath Temple Act, 1939 (U. P. Act XVI 1939).
3. The Uttar Pradesh Shri Badrinath Temple (Sanshodhan) Adhinyam 1964 (U. P. Act VIII of 1964).
4. The U. P. Shri Badrinath and Kedarnath Temple Rules, 1967.
5. The Dargah Khwajasahab Act, 1955 (Government of India Act No. 36 of 1955).
6. The Jagannath Temple Act, 1954 (Orissa Act No. 11 of 1955).
7. The Nathdwara Temple Act, 1959 (Rajasthan Act No. 13 of 1959).
8. The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966 (Andhra Pradesh Act No. 17 of 1966) and Rules under the Act.
9. The various Acts mentioned in Appendix to the Hindu Law of Religious and Charitable Trust by B. K. Mukherjee, second edition (1962).
10. Draft Bill for administration of Yellamma Hills Area Soundathi, District Belgaum (1966).

## (b) Schemes framed by Courts

11. Scheme of Dakore Temple framed by High Court of Bombay along with Rules framed by the District Court of Ahmedabad.
12. Scheme of Yellamma-Devasthan in Suit No. 318 of 1935.
13. Revised Scheme of management of Balaji of Deulgaon Raja, dated 25th October 1961.

14. Scheme of Chinchwad Dovaathan framed by the High Court, Bombay in F. A. No. 71 of 1886. (Amended in Civ. Appeal No. 1991 of 1960).
15. Scheme of Sanathan of Shri Ramdas of Chapbal and Sajjangad framed in Spl. Civil Suit No. 36 of 1947 (amended upto 10th January 1956).
16. Scheme of Sanathan of Dhyaneswar Maharaj at Alandi (suit No. 7 of 1934 and Bombay High Court S. A. No. 92 of 1938).
17. General draft of schemes adopted by the Charity Commissioner, Maharashtra State.

(c) *Trust-deed*

18. Deed of settlement of Somnath Trust dated 21st January 1950 and Employees' Provident Fund Rules.

## APPENDIX XII

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