

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

THURSDAY, THE 14<sup>TH</sup> DAY OF AUGUST 2025 / 23RD SRAVANA, 1947

WP(C) NO. 24012 OF 2023

PETITIONER/S:

REV.FR.DR.ABRAHAM THALOTHIL,  
AGED 60 YEARS  
DIRECTOR BROOK INTERNATIONAL SCHOOL, RAJAGIRI, SASTHAMCOTTA  
P.O, KOLLAM DT., PIN - 690521

BY ADV SHRI.H.RAMANAN

RESPONDENT/S:

- 1 STATE OF KERALA,  
REP BY ITS CHIEF SECRETARY, GOVT.SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 2 SECRETARY,  
FINANCE DEPT(EDUCATION-A), GOVT.SECRETARIAT,  
THIRUVANATHAPURAM, PIN - 695001
- 3 SECRETARY,  
DEPT OF REVENUE & TAXES GOVT.SECRETATIAT, THIRUVANANTHAPURAM,  
PIN - 695001
- 4 SECRETARY,  
LOCAL SELF GOVERNMENT ,GOVT.SECRETARIAT, THIRUVANANTHAPURAM,  
PIN - 695001

BY ADVS.

SMT.DEEPA K.R. , SPL. GOVT. PLEADER FOR THE STATE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11.06.2025,  
ALONG WITH WP(C) NO.11697/2025, 24150/2023 AND CONNECTED CASES, THE COURT  
ON 14.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57923

WP(C)No.24012 of 2023 & Con.cases 2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

**THURSDAY, THE 14<sup>TH</sup> DAY OF AUGUST 2025 / 23RD SRAVANA, 1947**

WP(C) NO. 11697 OF 2025

PETITIONER/S:

SARVODAYA VIDYALAYA  
REP BY BURSAR (FINANCE MANAGER) MAR IVANIOS VIDYA NAGAR,  
NALANCHIRA THIRUVANANTHAPURAM REP BY FR.JOJI M, PIN - 695004

BY ADVS.  
SHRI.H.RAMANAN  
SHRI.ALAN PHILIP ALEX

RESPONDENT/S:

- 1 STATE OF KERALA  
REPRESENTED BY SECRETARY, LOCAL SELF GOVT DEPT GOVT.  
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 2 THIRUVANANTHAPURAM MUNICIPAL CORPORATION REP BY SECRETARY  
PMG, VELLAYAMBALAM ROAD THIRUVANANTHAPURAM, PIN - 695033
- 3 THE SECETARY  
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, PMG,  
VELLAYAMBALAM, THIRUVANANTHAPURAM, PIN - 695033

BY ADV SHRI.SUMAN CHAKRAVARTHY, SC, THIRUVANANTHAPURAM  
CORPORATION  
SMT. DEEPA K.R. , SPL. GOVT. PLEADER FOR THE STATE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11.06.2025  
ALONG WITH WP(C)No.24012/2023 AND CONNECTED CASES, THE COURT ON  
14.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57923

WP(C)No.24012 of 2023 & Con.cases 3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

**THURSDAY, THE 14<sup>TH</sup> DAY OF AUGUST 2025 / 23RD SRAVANA, 1947**

WP(C) NO. 24150 OF 2023

PETITIONER/S:

- 1 NAZARETH SCHOOL,  
CALICUT ROAD, MANJERI, MALAPPURAM-676121, REP BY ITS  
PRINCIPAL SR CIJI. P.P.
- 2 ALPHONSA ENGLISH MEDIUM SCHOOL,  
THAMARASSERY, KOZHIKODE - 673573, REP BY ITS PRINCIPAL  
FR.JILSON JOSEPH
- 3 ST.MARY'S ENGLISH MEDIUM SCHOOL,  
KODANCHERY P.O, THAMARASSERY, KOZHIKODE- 673580, REP BY ITS  
PRINCIPAL SOUMYA JOSEPH
- 4 LITTLE FLOWER ENGLISH MEDIUM,  
SENIOR SECONDARY SCHOOL, KARUVANCHAL P.O, KANNUR- REP BY  
ITS PRINCIPAL SR.REENA GEORGE, PIN - 670571
- 5 MARIA AGNES ENGLISH MEDIUM CONVENT SCHOOL,  
KUREEPUZHA, PERINAD P.O, KOLLAM - 691601, REP BY ITS PRINCIPAL  
USHA SUNITHA MARY
- 6 DELTA CENTRAL SCHOOL,  
AYLARA, YEROOR, KOLLAM- REP BY ITS MANAGER MOHANAN PILLAI N,  
PIN - 691312
- 7 KARICKAM INTERNATIONAL PUBLIC SCHOOL (KIPS),  
KARICKAM P.O, KOTTARAKKARA, KOLLAM, REP BY ITS MANAGER, DR.  
ABRAHAM KARICKAM, PIN - 691531
- 8 VIMALA HRIDAYA ISC SCHOOL,  
PAZHAYATTINKUZH, VADAKKEVILA P.O KOLLAM- REP BY ITS PRINCIPAL  
SR. NORMA MARY, PIN - 691010
- 9 CARMELGIRI ENGLISH MEDIUM SCHOOL,  
THALANJI, POOKOTTUMANNA, MALAPPURAM- REP BY ITS PRINCIPAL SR.



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JOHNCY JACOB, PIN - 679334

- 0 SACRED HEART SCHOOL,  
KUREEPUZHA P.O, PERINAD KOLLAM, REP BY ITS ACADEMIC DIRECTOR  
FREDERIC LEON FERNANDEZ, PIN - 691601
- 11 INFANT JESUS ENGLISH MEDIUM HIGH SCHOOL,  
THIRUVAMPADY P.O, KOZHIKODE, REP BY ITS HEADMISTRESS SR  
SANCTA MARIA, PIN - 673603
- 12 NAVAJYOTHI ENGLISH MEDIUM SCHOOL,  
EDATHOTTY, KAKKAYANGAD P.O KANNUR- REP BY ITS PRINCIPAL SR  
LALI THOMAS A., PIN - 670673
- 13 SANJOS ENGLISH MEDIUM SCHOOL,  
TALIPARAMBA P.O, KANNUR- REP BY ITS PRINCIPAL SR. MANJU P.A., PIN  
- 670141
- 14 MAR THOMA CENTRAL SCHOOL,  
CHADAYAMANGALAM P.O, AYUR KOLLAM- REP BY ITS SECRETARY M.A.  
ABRAHAM, PIN - 691534
- 15 MARYGIRI ENGLISH MEDIUM SCHOOL,  
PODIKKALAM, KOOTTUMUGHAM P.O, KANNUR- REP BY ITS PRINCIPAL  
BRO. REGY SCARIA, PIN - 670631
- 16 ANAND BHAVAN CENTRAL SCHOOL,  
ANCHAL, KOLLAM REP BY ITS MANAGER ADV G. SURENDRAN, PIN -  
691306
- 17 INFANT JESUS ENGLISH MEDIUM SCHOOL,  
KENICHIRA P.O, WAYANAD- REP BY ITS PRINCIPAL SR. LINCY THOMAS,  
PIN - 673596
- 18 ASSUMPTION PUBLIC SCHOOL,  
ANTONYKKAD, KAVALAMUKKATTA P.O POOKKOTTUMPADAM,  
MALAPPURAM- REP BY ITS PRINCIPAL SR. SHEELAMMA JOSEPH, PIN -  
679332
- 19 ST.GEORGE SCHOOL,  
AMPALATHUMKALA P.O EZHUKONE, KOLLAM- REP BY ITS MANAGER FR.  
VARGHESE KARIMPALIL, PIN - 691505
- 0 DON BOSCO CENTRAL SCHOOL (CBSE),  
PUTHUPPALLY, KOTTAYAM- REP BY ITS PRINCIPAL FR. JOSH  
KANJOOPARAMBIL, PIN - 686011
- 21 DON BOSCO HIGHER SECONDARY SCHOOL (STATE),



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- PUTHUPPALLY, KOTTAYAM, REP BY ITS PRINCIPAL FR. MARTIN  
KURUVANMAKAL, PIN - 686011
- 22 ST.JOSEPH'S NAZARETH SCHOOL,  
MANAMPUZHA P.O, KUNNATHOOR, KOLLAM- REP BY ITS PRINCIPAL SR.  
MERCY CLG, PIN - 691553
- 23 ST.MARY'S SCHOOL NARIPPIL,  
PAPPANAMCODE, THIRUVANANTHAPURAM REP BY ITS PRINCIPAL SR.  
JOLLY JOSEPH P., PIN - 695018
- 24 ST.FRANCIS ASSISI EM SCHOOL,  
KOTTAVATTOM JN, ELAMPAL P.O KOLLAM, REP BY ITS MANAGER FR.  
SUNNY THOMAS, PIN - 691501
- 25 WOODLEMPARK PUBLIC SCHOOL,  
CHERUKULAM P.O, CHUNDA, KOLLAM REP BY ITS PRINCIPAL RENJINI T.,  
PIN - 691306
- 26 MARY MATHA PUBLIC SCHOOL,  
KODUMTHARA, AZHOOR ROAD, PATHANAMTHITTA- REP BY ITS  
PRINCIPAL SR. DAISE MARIA, PIN - 689645
- 27 SARVODAYA CENTRAL VIDYALAYA,  
MAR IVANIOS VIDYA NAGAR, NALANCHIRA P.O,  
THIRUVANANTHAPURAM- REP BY ITS MANAGER FR. KOSHY  
CHIRAKKAROTTU, PIN - 695015
- 28 MAR BASELIOS SCHOOL,  
MARUTHAMONPALLY, POOYAPALLY P.O KOLLAM- REP BY ITS MANAGER  
FR. MATHEWS KUZHIVILA, PIN - 691537
- 29 CHRIST CMI PUBLIC SCHOOL,  
KALYAN LN ROAD, MAVUNGAL BALLA P.O, KANHANGAD, KANNUR- REP  
BY ITS PRINCIPAL FR. GEORGE PUNCHAYIL, PIN - 671531
- 0 CARMALGIRI CENTRAL SCHOOL,  
11TH MILE,BHARATHEEPURAM KOLLAM- REP BY ITS PRINCIPAL SHALI  
XAVIER, PIN - 691312
- 31 FATIMAGIRI ENGLISH SCHOOL,  
NILAMBUR RSPO, MALAPPURAM REP BY ITS MANAGER SR ANNIE M.I.,  
PIN - 679330
- 32 ST.ANTONY'S PUBLIC SCHOOL,  
NEAR FCI, VALIYATHURA, VALLAKADAVU, THIRUVANANTHAPURAM- REP  
BY ITS PRINCIPAL SR. JOAN DIPHEN, PIN - 695008



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- 33 AUXILIUM ENGLISH MEDIUM SCHOOL,  
KOTTIYAM P.O, KOLLAM- REP BY ITS PRINCIPAL SR. JAICY ANTONY, PIN  
- 691020
- 34 VIMALA CENTRAL SCHOOL,  
KARAMCODU, KOLLAM- REP BY ITS MANAGER FR.LIJO P.CHACKO, PIN -  
691579
- 35 UNAIDED SCHOOLS MANAGEMENT CONSORTIUM (USMAC),  
REG. NO.2/2018/IV, RAJAGIRI, SASTHAMCOTTA, KOLLAM, REP BY ITS  
CHAIRMAN REV.FR.DR.ABRAHAM THALOTHIL, PIN - 690521

BY ADV SHRI.H.RAMANAN

RESPONDENT/S:

- 1 STATE OF KERALA,  
REP BY ITS CHIEF SECRETARY, GOVT. SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 2 SECRETARY,  
FINANCE DEPT (EDUCATION - A), GOVT. SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 3 SECRETARY,  
DEPT OF REVENUE & TAXES, GOVT. SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 4 SECRETARY,  
LOCAL SELF GOVERNMENT, GOVT. SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001

SMT. DEEPA K.R., SPL. GOVT. PLEADER FOR THE STATE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11.06.2025  
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14.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57923

WP(C)No.24012 of 2023 & Con.cases 7

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

**THURSDAY, THE 14<sup>TH</sup> DAY OF AUGUST 2025 / 23RD SRAVANA, 1947**

WP(C) NO. 34856 OF 2023

PETITIONER/S:

KOTTAYAM DON BOSCO SOCIETY,  
REG NO.K 101/92, DON BOSCO, PUTHUPPALLY P.O, KOTTAYAM  
DISTRICT -686011, REPRESENTED BY ITS PRESIDENT FR. DEVASSY  
CHIRAKEL

BY ADV SHRI.H.RAMANAN

RESPONDENT/S:

- 1 STATE OF KERALA,  
REP BY ITS CHIEF SECRETARY, GOVT. SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 2 SECRETARY,  
PUTHUPPALLY GRAMA PANCHAYAT, PUTHUPPALLY P.O, KOTTAYAM, PIN -  
686011

BY ADV SHRI.K.S.ARUN KUMAR  
SMT. DEEPA K.R., SPL. GOVT. PLEADER FOR THE STATE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11.06.2025  
ALONG WITH WP(C)No.24012/2023 AND CONNECTED CASES, THE COURT ON  
14.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57923

WP(C)No.24012 of 2023 & Con.cases 8

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

**THURSDAY, THE 14<sup>TH</sup> DAY OF AUGUST 2025 / 23RD SRAVANA, 1947**

WP(C) NO. 9941 OF 2024

PETITIONER/S:

MAR BASELIOS SCHOOL,  
MARUTHAMONPALLY, POOYAPALLY P.O, KOLLAM, REP BY FR. MATHEWS  
KUZHIVILA, PIN - 691537

BY ADV SHRI.H.RAMANAN

RESPONDENT/S:

- 1 STATE OF KERALA,  
REP .BY ITS CHIEF SECRETARY, GOVT.SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE SECRETARY,  
LOCAL SELF GOVERNMENT DEPARTMENT GOVT. SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 3 THE SECRETARY,  
POOYAPPALLY GRAMA PANCHAYAT, KOLLAM, AYOOR ROAD, KOLLAM, PIN  
- 691537

BY ADV SIJU KAMALASANAN, SC, POOYAPPALLY GRAMA PANCHAYATH  
SMT.DEEPA K.R., SPL.GOV. PLEADER FOR THE STATE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11.06.2025  
ALONG WITH WP(C) No.24012/2023 AND CONNECTED CASES, THE COURT ON  
14.08.2025 DELIVERED THE FOLLOWING:





2025:KER:57923

WP(C)No.24012 of 2023 & Con.cases 9

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

**THURSDAY, THE 14<sup>TH</sup> DAY OF AUGUST 2025 / 23RD SRAVANA, 1947**

WP(C) NO. 10344 OF 2024

PETITIONER/S:

ST.GEORGE SCHOOL,  
AMPALATHUMKALA P.O., EZHUKONE, KOLLAM, REP BY FR. VARGHESE  
KARIMPALIL, PIN - 691505

BY ADV SHRI.H.RAMANAN

RESPONDENT/S:

- 1 STATE OF KERALA,  
REP BY ITS CHIEF SECRETARY, GOVT. SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE SECRETARY,  
LOCAL SELF GOVERNMENT DEPARTMENT, GOVT. SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 3 SECRETARY,  
NEDUVATHUR GRAMA PANCHAYAT, NEDUVATHUR, KOLLAM, PIN -  
691334

SMT. DEEPA K.R., SPL. GOVT. PLEADER FOR THE STATE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11.06.2025  
ALONG WITH WP(C) No.24012/2023 AND CONNECTED CASES, THE COURT ON  
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## **JUDGMENT**

[WP(C) Nos.24012/2023, 11697/2025, 24150/2023,  
34856/2023, 9941/2024, 10344/2024]

...

In all these cases, the petitioners are unaided schools or the trust/organizations conducting unaided educational institutions, which are imparting education upto the standard twelve. The common issue raised in all these writ petitions, pertains to the amendment made to the provisions of the Kerala Panchayat Raj Act, 1994 and Kerala Municipality Act, 1994, which deal with the exemption from paying the property tax, to the buildings exclusively used for educational purposes or educational allied purposes under the ownership of such educational institutions. The relevant provisions are Sections 207 of the Kerala Panchayat Raj Act and Section 235 of the Kerala Municipality Act. Those provisions, before the amendment, as per the Kerala Finance (No.2) Act, 2023 with effect from 01.04.2023 stood as follows:

### ***Kerala Panchayath Raj Act, 1994***

*"207. Exemption from Tax, Cess etc.- (1) The following buildings and lands shall be exempted from property tax as may be levied under Section 203 and service cess as may be levied under sub-section (2) of Section 200, namely:-*



(a) xxxx    xxxx    xxxx    xxxx

*(b) building exclusively used for educational purposes or allied purposes under the ownership of educational institutions owned by the Government, aided or functioning with the financial assistance of the Government and the hostel buildings wherein the students of the said institutions reside;*

*(ba) building exclusively used for educational purposes under the ownership of educational institutions having the recognition of the Government and upto the level of Higher Secondary and hostel buildings in which the students of such institutions reside;*

(c) xxxx    xxxx    xxxx

### **Kerala Municipality Act, 1994**

*235. Exemption from property tax, service cess etc.- The following buildings and lands shall be exempted from the property tax as may be levied under section 233 and service cess as may be levied under sub-section (4) of section 230, namely:-*

*(a) buildings set apart for public worship and actually so used or used for incidental purposes, religious study centres.*

*(b) buildings exclusively used for educational purposes or allied purposes under the ownership of educational institutions owned by the Government, aided or functioning with the financial assistance of the Government and the hostel buildings wherein the students of the said institutions reside.*

*(ba) buildings exclusively used for educational purposes and upto the level of Higher Secondary under the ownership of educational institutions having recognition of the Government and hostel buildings in which the students of such institutions reside*

(c) xxxx    xxxx    xxxx    xxxx



Now as per the Amendment Act (Act 18 of 2023), amendments were made in the said provisions as follows:

In section 207 sub section 1(b) was substituted with the following:

*"(b) buildings exclusively used for educational purposes or educational allied purposes under the ownership of educational institutions, owned by the Central Government or State Government, aided or functioning with the financial assistance of the Central Government or the State Government, and the hostel buildings wherein the students of the said institutions reside.*

*Apart from the above clause (ba) of sub section (1) of section 207 was omitted."*

Similar, amendments were made in clause (b) of section 235 and clause (ba) of section 235 of Municipality Act was omitted.

2. The consequence of such amendment as far as the petitioners are concerned is that, they were deprived of the exemption from payment of building tax for the buildings in which they are conducting educational institutions. In other words, the exemption enjoyed by them until 31.03.2023 was taken away by the Government, as per the aforesaid amendment. This writ petition is submitted by the petitioners in such circumstances, challenging the Constitutional validity of



such amendment, on the ground that the said amended provision is ultra vires of the Constitution, in view of the fact that the same creates an unreasonable classification and thus violative of the mandate contemplated under Art.14 of the Constitution of India.

3. A counter affidavit was submitted by the Government opposing the reliefs sought and justifying the amendment.

4. I have heard Sri. H. Ramanan, the learned counsel for the petitioners and Smt. Deepa K.R., the learned Special Government Pleader for the State.

5. The specific contention raised by the learned counsel for the petitioner is that the exclusion of unaided schools from the purview of exemption of tax, while retaining the exemption to the schools owned, managed and aided by the Government, is amounting to unreasonable classification and, thus, violates the principles of equality before law, as contemplated under Art.14 of the Constitution of India. The specific case of the learned counsel for the petitioners is that, the Government did not provide any specific reasons, for excluding the unaided schools



from the purview of exemption and there is no intelligible differentia in classifying the unaided schools on one part and the Government owned, managed and Government aided school on the other part. The learned counsel places reliance upon various decisions rendered by Hon'ble Supreme Court, including, **State of Punjab & Others v. Davinder Singh and Others [(2025)1 SCC 1]**, **Aashirwad Films v. Union of India & Others [(2007) 6 SCC 624]**, **State of Andhra Pradesh & Anr. v. Nalla Raja Reddy & Others [AIR 1967 SC 1458]** and **Deepak Sibal & Another v. Punjab University & Another [(1989)2 SCC 145]**.

6. On the other hand, the learned Special Government Pleader opposes the said contention by pointing out that, the reason for exempting the Government owned, managed and aided schools from payment of building tax is in view of the fact that, the infrastructure and the maintenance of such schools are provided at the expense of the State and, therefore, a further levy of tax upon such buildings would create an additional burden upon them. The said reason is sufficient to satisfy the



requirement of intelligible differentia for the purpose of creating a classification between Government owned, managed and aided schools and the unaided schools. The learned Government Pleader also brought to the attention of this Court, the decision rendered by another Single Bench of this Court in the **Manager, Vimal Jyothi Engineering College v. State of Kerala [WP(C)No.18185/2019]** and connected cases where the challenge of the very same provisions were repelled when made at the instance of self-financing colleges.

7. Besides, the learned Government Pleader also relied on the decision rendered by the Hon'ble Supreme Court in **R.K. Garg v. Union of India and Others [(1981)4 SCC 675]**, where, the parameters to be considered while considering the challenge against Constitutional validity of a statute alleging unreasonable classification, particularly against a taxing statute were laid down.

8. It is well settled that, as far as a challenge raised against the constitutional validity of a statutory provision is concerned, the grounds on which such challenge could be raised are (i) *the enactment was beyond the legislative competence of the*



*Government and (ii) the provision under challenge violates any of the Articles in Part III of Constitution of India.* In this case, there is no dispute with regard to the competence of the Government in bringing the amendment of this nature and the challenge is solely on the ground that, the provision violates Part III of the Constitution of India; particularly, Art.14.

9. On carefully going through the contentions raised by the petitioners, one of the main grounds raised is that, the Government could not provide any justifiable reason to establish an intelligible differentia in the classification made as mentioned above. While considering the aforesaid aspect, the decisions relied on by the learned counsel for the petitioners, are to be referred to. In **Nalla Raja Reddy's** case (supra) the Hon'ble Supreme Court considered the question of classification while assessing and collecting land revenue under the provisions of the Andhra Pradesh Land Revenue (Additional assessment) and Cess Revision Act, 1962 (Act 22 of 1962). In the said case, it was observed that, in order to decide the challenge against a statutory provision, two tests are mentioned





to ascertain whether a classification is permissible or not viz.,  
*(i) the classification must be founded on an intelligible differential which distinguishes persons or things that are grouped together from others left out of the group; and (ii) that the differential must have a rational relation to the object sought to be achieved by the statute in question.* It was in this context, the contentions raised by the petitioners are to be considered.

10. To understand the matters to be considered when a challenge is made against a statutory provision on the ground of unreasonable classification, it is profitable to refer to the observations made by the Hon'ble Supreme Court in

**Kunnathat Thathunni Moopil Nair v. The State of Kerala**

**[(1961) 3 SCR 77]** and the said observations reads as follows:

*"Though a law ex facie appears to treat all that fall within a class alike, if in effect it operates unevenly on persons or property similarly situated, it may be said that the law offends the equality clause. It will then be the duty of the court to scrutinize the effect of the law carefully to ascertain its real impact on the persons or property similarly situated. Conversely, a law may treat persons who appear to be similarly situated differently, but on investigation they may be found not to be similarly situated. To state it differently, it is not the phraseology of a statute that governs the situation but the effect of the law that is decisive. If there is equality and uniformity*



*within each group, the law will not be condemned as discriminative, though due to some fortuitous circumstances arising out of a peculiar situation some included in a class get an advantage over others, so long as they are not singled out for special treatment. Taxation law is not an exception to this doctrine.... But in the application of the principles, the courts, in view of the inherent complexity of fiscal adjustment of diverse elements, permit a larger discretion to the Legislature in the matter of classification, so long it adheres to the fundamental principles underlying the said doctrine. The power of the Legislature to classify is of 'wide range and flexibility' so that it can adjust its system of taxation in all proper and reasonable ways."*

11. In **Aashirwad Films's** case (supra), it was observed that, the State undoubtedly enjoys a greater latitude in the matter of taxing statute. It may impose a tax on a class of people, whereas, it may not do so in respect of the other class. A taxing statute, however, as is well known, is not beyond the pale of challenge under Article 14 of the Constitution of India. A taxing statute, however, enjoys a greater latitude. An inference in regard to contravention of Article 14 would, however, ordinarily be drawn if it seeks to impose on the same class of persons or occupations similarly situated or an instance of taxation which leads to inequality.

12. Thus, it was observed in the said decision that, the classification must be reasonable and the extent of reasonability



of any taxation statute lies in its efficiency to achieve the object sought to be achieved by the statute. Thus, the classification must bear a nexus with the object sought to be achieved. In **Deepak Sibal's** case (supra) the Hon'ble Supreme Court considered the restrictions imposed by the Punjab University in the matter of admission in the evening classes of the three year LL.B. Degree Course, where admission was confined to regular employees of government/semi-government institutions/affiliated colleges/statutory corporations and government companies. After referring to large number of decisions, interference was made by the Hon'ble Supreme Court holding that such classification is not reasonable and it is discriminatory in nature and thus violates Art.14 of the Constitution of India. It was observed in the said decision that, if the object of the amendment is illogical, unfair and unjust, such classification will have to be held as unreasonable.

13. In **Davinder Singh's** case (supra) it was observed that, for a classification to be reasonable, it will have to be established that any group or sub group carved out in the larger



group is significantly different than the larger group and that the classification has a nexus with the object to be achieved.

14. In these cases, the contention raised by the petitioners by relying upon the aforesaid observations is that, by segregating unaided schools from the educational institutions as a whole, a different class was created, for the purpose of building tax, which is not at all justifiable. However, the justification offered by the Government for introducing such a classification is that, the Government is spending amounts from the public exchequer to create the infrastructure required for educational institutions by constructing buildings and other facilities, spending amounts for maintaining such infrastructure, by making appointments of teachers and staff, providing salaries to them etc. Therefore, imposing tax of such buildings, which are created, maintained and utilized by hiring teachers and staff after spending amounts from the State funds, would become an additional burden. Moreover, it was also pointed out that, as far as the Government owned, managed and aided schools are concerned, the fees collected from the students is either nil or



meagre, whereas in the private schools/aided schools, the services are provided by such schools after collecting fees from the students. Therefore, it was contended that, that aspect makes out the case of intelligible differentia which justifies the classification.

15. After carefully going through the entire aspects, I find merits in the said submissions made on behalf of the Government. It is a well settled position that, as far as the taxing statutes are concerned, the Government has wider powers and the interference in such statutes could be made by the courts only in exceptional cases, where, a clear case of unreasonable classification is made out. In this case, the fact that the Government owned, managed and aided schools are established by the Government at their funds in order to provide education to all classes of persons by collecting nil or meagre fees, is a crucial factor which distinguishes such establishments from an unaided school, where fees is collected from the students for rendering the services. Since imparting free education or at very low expenses, is one of the primary



functions of the State, giving incentives to building where such primary functions are carried out, so as to make it more feasible, by providing tax exemptions, can only be understood to be in furtherance of the objects of the enactments. Even in respect of the property tax, the purpose is to generate funds for the activities of the Government, but, at the same time, it is also to be ensured that the obligations of the Government to provide for welfare of citizens, including the obligation to provide education to all, are fulfilled without over burdening the institutions that are instrumental for fulfilling that obligations. Therefore, the creation of such classification is in tune with the objectives sought to be achieved by the statute.

16. When coming to the question of intelligible differentia as mentioned above, the petitioner's contention is that, by virtue of the amendment, the educational institutions are treated as two separate classes based on the ownership as well as the manner in which such institutions are imparting education. Going by the statutory provision impugned in this case, the exemption is contemplated, based on the purpose for which the



building is used and also the ownership of such building. Even though the purpose for which such buildings are used is one and the same, irrespective of the persons/institutions owned, managed and aided such institutions, the fact that, the manner in which the institution is rendering services makes out a crucial distinction. As mentioned above, when the Government owned, managed aided institutions are providing free education or education at very low cost, the unaided institutions are collecting fees from the students for rendering their services. This itself could be a basis for such classification which would in clear terms, would come within the purview of intelligible differentia.

17. In fact this question was considered by this Court in **Vimal Jyothi Engineering College's** case (supra) where after referring to a large number of decisions of the Hon'ble Supreme Court on the question of matters to be considered for deciding the classification, the validity of such provision was upheld. In the said decision, yet another decision rendered by a learned Single Bench of this Court in **Sreenarayana Gurukulam**



**College of Engineering, Kolenchery v. State of Kerala and Another [2016(4) KHC 482]** was followed where the following observations were made:

*"8. In the instant case whether the buildings and hostels for the purpose of education and stay owned or financed by the Government and owned by the private management of Self-financing Educational Institutions can be treated alike. Whether there is any intelligible differentia which distinguishes the buildings owned by the Government and owned by private management of self-financing institutions. The matter in issue involved in the instant case falls exclusively in the domain of taxation and has no connection with the academic affairs. Therefore, the extent of enquiry is confined to the fiscal status of institutions only. What is the basis of the classification? In my view, this classification is made, by granting exemption to the building owned or financed by the Government, on the basis that public money is utilised for the construction and maintenance of such buildings; whereas in the case of the buildings and hostels owned and maintained by private management of self-financing institutions, the public money has not been involved. Put it differently, this exemption is a privilege granted to the public money and it can be said that buildings and hostels constructed and maintained by using public money is exempted from payment of property tax and the people, as a whole, is the beneficiary of this exemption. If property tax is imposed on buildings and hostels owned by the Government, that amount also will be taken from the public fund. More importantly, exemption is given to the institutions, functioning under the administrative control of the Government and to which Governmental auditing of funds and expenditure is made compulsory, whereas, the case of self-financing institutions, such control and auditing of funds are absent.*

*9. Secondly the exemption 'self-financing' itself shows that such institutions are having their own fee structure, which cannot be compared with fees of a Government College. Though, it is regulated and controlled by the above referred Statute, it is much higher than that of*





*Government Colleges, wherein a nominal fee alone is collected from the students and certain rooms are reserved for students from socially and economically backward classes, in the hostels owned by the Government. In my view, this classification on the aforesaid basis is a rational one and there is an intelligible differentia in this classification. Self-financing Educational Institutions form a separate class, different from the Educational Institutions owned and financed or aided by the Government and the discrimination made under Section 207(b) of Panchayat Raj Act is marked by intelligible differentia.*

10. *Thirdly, it is the case of the petitioner that, the petitioner's institution is also governed and regulated by the Kerala Professional Colleges or Institutions (Prohibition of Capitation Fees, Regulation of Admission, Fixation of Nonexploitative fee and other measures to ensure equity and excellence in professional Education) Act, 2006. The preamble of the above Act says that it is an Act to provide for prohibition of capitation fee, regulation of admission, fixation of non-exploitative fee, allotment of seats to Scheduled Castes, Scheduled Tribes and other socially and economically backward classes and other measures to ensure equity and excellence in professional education and for matters connected therewith or incidental thereto. The said Act is a preventive legislation to curb illegality and exploitation in the functioning of the self-financing institutions. Merely on the reason that the receipt of capitation fee is prohibited and the admission and fixation of fee are regulated, it cannot be said that the self-financing colleges are owned or administered by the Government and the financial transactions are subjected to governmental scrutiny. So, such institutions are not entitled to get the privilege of the institution owned and administered by the Government. The petitioner institution is not the creation of a Statute; but the functioning of the institute alone is regulated by several Statutes, covering different field of activity and the Kerala Professional colleges or institutions (Prohibition of Capitation Fees, Regulation of Admission, Fixation of Nonexploitative fee and other measures to ensure equity and excellence in professional Education) Act, 2006 is one among various such Statutes and on that reason the self-financing Educational Institutions cannot be equated with the Educational Institutions owned and administered by the*



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*Government, having the privilege under Section 207 of the Kerala Panchayat Raj Act, 1994. The concept of 'sovereign immunity' is the basis of this privilege of tax exemption granted to the institutions owned or aided and administered by the Government."*

18. I have no reason to take a different view than taken by this Court in **Sreenarayana Gurukulam College of Engineering, Kolenchery** and **Vimal Jyothi Engineering College's** case (supra) and thus I fully concur with the observations in the said decision.

19. Thus, after carefully going through all the statutory provisions, the contentions raised, precedents on the point, I find no reason to interfere with the statutory scheme contemplated as per the amendment brought to the statutory stipulations contained in the Kerala Panchayat Raj Act and Kerala Municipality Act as per the Act of 18 of 2023.

Accordingly, these writ petitions are dismissed.

Sd/-

ZIYAD RAHMAN A.A.  
JUDGE

pkk



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APPENDIX OF WP(C) 11697/2025

PETITIONER EXHIBITS

EXHIBIT P-1	TRUE COPY OF EXTRACT OF FINANCE ACT 2023
EXHIBIT P-2	TRUE COPY OF PROPERTY TAX DEMAND NOTICE DT 21.02.25 RELATING TO BUILDING NO 2563
EXHIBIT P-3	TRUE COPY OF PROPERTY TAX DEMAND NOTICE DT 21.02.25 RELATING TO BUILDING NO 2565



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WP (C) No.24012 of 2023 & Con.cases 28

APPENDIX OF WP(C) 24150/2023

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE RELEVANT PAGES EXTRACTED FROM THE KERALA FINANCE ACT 2023 EVIDENCING THE SAID AMENDMENTS
EXHIBIT P2	TRUE COPY OF THE LETTER DATED 09.06.2023



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APPENDIX OF WP(C) 34856/2023

PETITIONER EXHIBITS

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|------------|---|
| Exhibit P1 | THE TRUE COPY OF THE INTERIM ORDER DATED 15.12.2019 IN W.P.(C) NO.33060/2019 OF THIS HON'BLE COURT  |
| Exhibit P2 | TRUE COPY OF THE RELEVANT PAGES EXTRACTED FROM THE KERALA FINANCE ACT, 2023   |
| Exhibit P3 | TRUE COPY OF THE DEMANT NOTICE OF PROPERTY TAX ISSUED BY THE 2ND RESPONDENT FOR THE YEARS 2013-14 TO 2023-24 DATED 22.08.2023 RELATING TO THE BUILDING NO.29                                  |
| Exhibit P4 | TRUE COPY OF THE DEMAND NOTICE OF PROPERTY TAX ISSUED BY THE 2ND RESPONDENT FOR THE YEARS 2013-14 TO 2023-24 DATED 22.08.2023 RELATING TO THE BUILDING NO.230                                 |
| Exhibit P5 | TRUE COPY OF THE DEMANT NOTICE DATED 22.08.2023 FOR THE YEARS 2013-14 TO 2023-24 RELATING TO BUILDING NOS. 229,230,231 (2 NOS), 232 AND 233 OF THE PETITIONERS SCHOOLS ALONG WITH TRANSLATION |
| Exhibit P6 | TRUE COPY OF THE DEMANT NOTICE DATED 22.08.2023 FOR THE YEARS 2013-14 TO 2023-24 RELATING TO BUILDING NOS. 229,230,231 (2 NOS), 232 AND 233 OF THE PETITIONERS SCHOOLS ALONG WITH TRANSLATION |
| Exhibit P7 | TRUE COPY OF THE DEMANT NOTICE DATED 22.08.2023 FOR THE YEARS 2013-14 TO 2023-24 RELATING TO BUILDING NOS. 229,230,231 (2 NOS), 232 AND 233 OF THE PETITIONERS SCHOOLS ALONG WITH TRANSLATION |
| Exhibit P8 | TRUE COPY OF THE DEMANT NOTICE DATED 22.08.2023 FOR THE YEARS 2013-14 TO 2023-24 RELATING TO BUILDING NOS. 229,230,231 (2 NOS), 232 AND 233 OF THE PETITIONERS SCHOOLS ALONG WITH TRANSLATION |

RESPONDENT EXHIBITS

- |            |                   |
|------------|-------------------|
| Exhibit R3 | TRANSLATION OF R2 |
|------------|-------------------|

PETITIONER EXHIBITS

- |            |   |
|------------|---|
| Exhibit P9 | TRUE COPY OF DEMAND NOTICE DATED 22.08.2023 FOR THE YEAR 2023-24 ALONE RELATING TO BUILDING NO.228 RELYING ON EXT P2 ALONG WITH TRANSLATION |
|------------|---|

RESPONDENT EXHIBITS

- |            |   |
|------------|---|
| Exhibit R1 | A true copy of the letter from the Don Bosco Society School Manager                           |
| Exhibit R2 | A true copy of the letter with bearing Number 400509/PTDC01/GPO/2023/5010(1) dated 09/06/2023 |



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APPENDIX OF WP(C) 9941/2024

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF RELEVANT PAGES EXTRACTED FROM THE KERALA FINANCE ACT 2023 EVIDENCING THE AMENDMENTS
EXHIBIT P2	TRUE COPIES OF THE DEMAND NOTICES ISSUED BY THE 3RD RESPONDENT, ALL DT 15.09.23 RELATING TO BUILDING NOS 175
EXHIBIT P3	TRUE COPIES OF THE DEMAND NOTICES ISSUED BY THE 3RD RESPONDENT, ALL DT 15.09.23 RELATING TO BUILDING NOS 176
EXHIBIT P4	TRUE COPIES OF THE DEMAND NOTICES ISSUED BY THE 3RD RESPONDENT, ALL DT 15.09.23 RELATING TO BUILDING NOS 177
EXHIBIT P5	TRUE COPIES OF THE DEMAND NOTICES ISSUED BY THE 3RD RESPONDENT, ALL DT 15.09.23 RELATING TO BUILDING NOS 178
EXHIBIT P6	TRUE COPIES OF THE DEMAND NOTICES ISSUED BY THE 3RD RESPONDENT, ALL DT 15.09.23 RELATING TO BUILDING NOS 179
EXHIBIT P7	TRUE COPIES OF THE DEMAND NOTICES ISSUED BY THE 3RD RESPONDENT, ALL DT 15.09.23 RELATING TO BUILDING NOS 180
EXHIBIT P8	TRUE COPIES OF THE DEMAND NOTICES ISSUED BY THE 3RD RESPONDENT, ALL DT 15.09.23 RELATING TO BUILDING NOS 494
EXHIBIT P9	TRUE COPIES OF THE DEMAND NOTICES ISSUED BY THE 3RD RESPONDENT, ALL DT 15.09.23 RELATING TO BUILDING NOS 495
EXHIBIT P10	TRUE COPIES OF THE DEMAND NOTICES ISSUED BY THE 3RD RESPONDENT, ALL DT 15.09.23 RELATING TO BUILDING NOS 525



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APPENDIX OF WP(C) 10344/2024

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF RELEVANT PAGES EXTRACTED FROM THE KERALA FINANCE ACT 2023 EVIDENCING THE AMENDMENTS
EXHIBIT P2	TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT, DATED 17.09.23 RELATING TO BUILDING NOS 327
EXHIBIT P3	TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT, DATED 17.09.23 RELATING TO BUILDING NOS 328
EXHIBIT P4	TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT, DATED 17.09.23 RELATING TO BUILDING NOS 566
EXHIBIT P5	TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT, DATED 17.09.23 RELATING TO BUILDING NOS 609
EXHIBIT P6	TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT, DATED 17.09.23 RELATING TO BUILDING NOS 704