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(No. 30 of 1951)

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THE MADHYA PRADESH PUBLIC TRUSTS ACT, 1951

(No. 30 of 1951)¹

(Received the assent of the President on the 19th November 1951; assent first published in the "Madhya Pradesh Gazette" on the 30th November 1951.)

An Act to regulate and to make better provisions for the administration of public religious and charitable trusts in the State of Madhya Pradesh.

Preamble.—Where as it is expedient to regulate and to make better provision for the administration of public religious and charitable trusts in the State of Madhya Pradesh.

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be cited as the Madhya Pradesh Public Trusts Act, 1951.

Short title, extent and operation.

[(2) It extends to the whole of Madhya Pradesh.

(3) This section shall come into force at once and section 2 to 38 shall be in force in the Mahakoshal region, and shall come into force in the other regions of the State on such date, as the State Government may, by notification in the official Gazette, direct.]²

2. In this Act, unless there is anything repugnant in the subject or context, —

Definitions.

(1) "court" means the principal Civil Court of original jurisdiction in the district;

(2) "math" means an institution for the promotion of the Hindu religion presided over by a person whose duty it is to engage himself in imparting religious instructions or rendering spiritual service to a body of disciples or who exercises or claims to exercise headship over such a body and includes places of religious worship or instruction which are appurtenant to the institution;

(3) "prescribed" means prescribed by rules made under this Act;

1. For Statement of Objects and Reasons, See "Madhya Pradesh Gazette" Extraordinary dated the 24th March 1951, page 139 to 154. For Report of the Select Committee, see "Madhya Pradesh Gazette" Extraordinary dated the 29th August 1951 pages 939 to 957. For proceedings in Assembly see Madhya Pradesh Legislative Assembly Proceedings, 1951, Vol. XI, Page 64 dated the 28th March 1951; pages 24 to 27, dated the 20th August 1951, pages 39 and 40, dated the 29th August 1951.

2. Subs. by M.P. Act 23 of 1958, S. 3 (3), Sch. Part A. item, 70.

THE MADHYA PRADESH PUBLIC TRUSTS ACT, 1951

(4) "public trust" means an express or constructive trust for a public, religious or charitable purpose and includes a temple, a math, a mosque, a church, a wakf or any other religious or charitable endowment and a society formed for a religious or charitable purpose;

(5) "register" means a register maintained under sub-section (2) of section 3 of the Act;

(6) "registrar" means the Registrar of Public Trusts;

(7) "trustee" means a person in whom either alone or in association with other persons, the trust property is vested and includes a manager;

(8) "wakf" means a permanent dedication by a person professing Islam of any movable or immovable property for any purpose recognized by the Islamic law as pious, religious or charitable and includes a wakf by user but does not include any wakf, such as is described in section 3 of the Musalman Wakf Validating Act, 1913 (VI of 1913), under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any of his family or descendants;

(9) "working trustee" means any person who for the time being either alone or in association with some other person or persons administers the trust property of any public trust and includes a manager of public trust and also includes:—

- (a) in the case of a math, the head of such math;
- (b) in the case of a wakf, a mutawalli of such wakf;
- (c) in the case of a public trust having its principal office or principal place of business outside [Madhya Pradesh]¹ the person in charge of the management of the property and administration of the public trust;

(10) words and expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882 (II of 1882), shall have the meanings assigned to them in that Act.

CHAPTER II

REGISTRATION OF PUBLIC TRUSTS

Registrar of public trusts.

3. (1) The [Collector]² shall be the Registrar of Public Trusts in respect of every public trust the principal office or the principal place of business of which as declared in the application made under sub-section (3) of section 4 is situate in his district.

1. Subs. by M.P. Act 23 of 1958, S.3(3), Sch. Part A. item 70, for "Mahakoshal region".

2. Subs. by M.P. A.O. 1956, for "Deputy Commissioner".

(2) The Registrar shall maintain a register of public trusts, and such other books and registers and in such form as may be prescribed.

4. (1) Within three months from the date on which this Act comes into force in any area or from the date on which a public trust is created, whichever is later, the working trustee of every public trust shall, apply to the Registrar having jurisdiction for the registration of the public trust.

Registration of public trusts.

(2) Such application shall be accompanied by such fees, if any, not exceeding five rupees as may be prescribed.

(3) The application shall be in such form as may be prescribed and shall among other things contain the following particulars, namely :—

- (i) the origin, nature and object of the public trust ;
- (ii) the place where the principal office or the principal of business of the public trust is situate ;
- (iii) the names and addresses of the working trustee and the manager ;
- (iv) the mode of succession to the office of the trustees ;
- (v) the list of the movable and immovable trust property [in the State] and such description and particulars as may be sufficient for the identification thereof ;
- (vi) the approximate value of the movable and immovable property ;
- (vii) the income derived from movable and immovable property and from any other source, if any, based on the gross annual income during the three years immediately preceding the date on which the application is made or of the period which has lapsed since the creation of trust whichever period is shorter and in the case of a newly created public trust the estimated income from such sources ;
- (viii) amount of the average annual expenditure in connection with such public trust estimated on the expenditure incurred within the period to which the particulars under clause (vi) relate ;

1. Subs. by M.P. Act 23 of 1958. S. 3(3), Sch, Part A item 70, for "in the Mahakoshal region"

- (ix) the address to which any communication to the working trustee or manager in connection with the public trust may be sent; and
- (x) such other particulars as may be prescribed :

Provided that the rules may provide that in the case of any or all public trusts it shall not be necessary to give the particulars of the trust property of such value and such kind as may be specified therein.

(4) No Registrar shall proceed with any application for the registration of a public trust in respect of which an application for registration has been filed previously before any other Registrar and the Registrar before whom the application was filed first shall decide which Registrar shall have jurisdiction to register the public trust.

(5) Any appeal against the order of the Registrar under sub-section (4) may be filed within thirty days of the order before such officer as the State Government may, by notification, appoint, and subject to the decision in such appeal the order of the Registrar under sub-section (4) shall be final.

(6) Every application made under sub-section (1) shall be signed and verified in accordance with the manner laid down in the Code of Civil Procedure, 1908 (V of 1908), for signing and verifying plaints. It shall be accompanied by a copy of an instrument of trust if such instrument had been executed and in existence and where the trust property includes immovable property, about which record is kept, a copy of the entries relating to such property in such record of rights.

Inquiry for registration.

5. (1) On receipt of an application under section 4 of upon an application made by any person having interest in a public trust or on his own motion the Registrar shall make an inquiry in the prescribed manner for the purpose of ascertaining:—

- (i) whether the trust is a public trust ;
- (ii) whether any property is the property of such trust ;
- (iii) whether the whole or any substantial portion of the subject-matter of the trust is situated within his-jurisdiction ;
- (iv) the names and the addresses of the trustees and the manager of such trust ;
- (v) the mode of succession to the office of the trustee of such trust ;
- (vi) the origin, nature and object of such trust ;

- (vii) the amount of gross average annual income and the expenditure of such trust; and
- (viii) the correctness or otherwise of any other particulars furnished under sub-section (3) of section 4.

(2) The Registrar shall give in the prescribed manner public notice of the inquiry proposed to be made under sub-section (1) and invite all persons interested in the public trust under inquiry to prefer objections, if any, in respect of such trust.

6. On completion of the inquiry provided for under section 5, the Registrar shall record his findings with reasons therefor as to the matter mentioned in the said section.

Findings of the Registrar.

7. (1) The Registrar shall cause entries to be made in the register in accordance with the findings recorded by him under section 6 and shall publish on the notice board of his office the entries made in the register.

Registrar to make entries in the register.

(2) The entries so made shall, subject to the provisions of this Act and subject to any change recorded under any provision of this Act or a rule made thereunder, be final and conclusive.

8. (1) Any working trustee or person having interest in a public trust or any property found to be trust property, aggrieved by any finding of the Registrar under section 6 may, within six months from the date of the publication of the notice under sub-section (1) of section 7, institute a suit in a Civil Court to have such finding set aside or modified.

Civil suit against the finding of the Registrar.

(2) In every such suit, the civil court shall give notice to the State Government through the Registrar, and the State Government, if it so desires, shall be made a party to the suit.

(3) On the final decision of the suit, the Registrar shall, if necessary, correct the entries made in the register in accordance with such decision.

9. (1) Where any change occurs in any of the entries recorded in the register, the working trustee shall, within ninety days from the date of the occurrence of such change or where any change is desired in such entries in the interest of the administration of the such public trust, report in the prescribed manner such change or proposed change to the Registrar.

Change.

(2) If, on receipt of such report and after making such enquiry as the Registrar may consider necessary, the Registrar is satisfied that a change has occurred or is necessary in any of the entries recorded in the register in regard to a particular public trust, he shall record a finding with the reason therefor and subject to the provisions contained in sub-section (3) amend the entries in the said register in accordance with such finding.

(3) The provisions of section 8 shall apply to any finding under this section as they apply to a finding under section 6.

Intimation to the [Collector] 1 about the trust property situated in his district.

10. (1) Where any part of the trust property of a public trust is situate within the limits of more than one district, the Registrar shall forward a copy of the entries recorded in the register in respect of that public trust to all [Collectors]¹ within whose jurisdiction any part of the trust property is situate.

(2) On receipt of any copy of entries under sub-section (1), the [Collector] 1 shall cause the particulars in such entries to be entered in a register prescribed in that behalf.

Public trusts by will.

11. In the case of the public trust which is created by a will the executor of such will shall, within one month from the date on which the probate of the will is granted or within six months from the day of the testator's death, make an application for the registration of the trust in the manner provided in section 4.

Notice to Registrar in a proceeding in which a document purporting to create a public trust is produced.

12. If, in any proceeding before a Civil Court or a Revenue Officer, any document purporting to create a public trust is produced or any question before such Court or officer is likely to effect any entry in the register such Court or officer shall give notice to the Registrar of such proceedings and shall, if the Registrar applies in that behalf, make him a party to such proceedings.

CHAPTER III

MANAGEMENT OF TRUST PROPERTY

Investment of public trust money.

13. All monies belonging to a public trust other than monies required for the day-to-day expenditure of the trust shall be kept in a scheduled bank or a Post Office Savings Bank or in any bank registered under the Co-operative Societies Act, 1912 (II of 1912),² or with the approval of the Registrar with any banker or person acting as a banker who has given such security for the safe custody and repayment on demand of the monies so deposited as the Registrar may in each case think sufficient:

Provided that the Registrar may, by general or special order, permit the trustee of any public trust or class of such public trust to invest the money in any other manner.

Previous sanction of Registrar, in cases of sale, etc., of property belonging to a public trust.

14. (1) Subject to the directions in the instrument of trust or any direction given under this or any other law by any court—

1. Subs. by M.P. A.O. 1956, for "Deputy Commissioner".

2. See now the M.P. Co-operative Societies Act, 1960 (17 of 1961).

- (a) no sale, mortgage, exchange of gift of any immovable property; and
- (b) no lease for a period exceeding seven years in the case of agricultural land or for a period exceeding three years in the case of non-agricultural land or building;

belonging to a public trust, shall be valid without the previous sanction of the Registrar.

(2) The Registrar shall not refuse his sanction in respect of any transaction specified in sub-section (1) unless such transaction will, in his opinion, be prejudicial to the interests of the public trust.

CHAPTER IV

AUDIT

15. (1) The working trustee or manager of a public trust, shall keep regular accounts of all movable and immovable property.

Maintenance of accounts.

(2) Such accounts shall be kept in such form as may be approved by the Registrar and shall contain such particulars as the Registrar may fix after hearing the working trustee.

16. (1) The accounts kept under section 15 shall be balanced each year on the 31st day of March or such other day, as may be fixed by the Registrar.

Balancing and auditing of accounts.

(2) The accounts shall be audited annually in such manner as may be prescribed and by a person who is a holder of a certificate granted under section 144 of the Indian Companies Act, 1913 (VII of 1913), or is a member of an institution or association, the members of which have been declared under that section to be entitled to act as auditors of companies or by such persons as may be authorised in this behalf by the State Government or in the case of a public trust, the gross annual income of which does not exceed one thousand rupees, by a person approved by the Registrar by a general or special order.

(3) Every auditor acting under sub-section (2) shall have access to the accounts and to all books, vouchers, other documents and records in the possession of, or under the control of the working trustee or the manager.

(4) Notwithstanding anything contained in sub-sections (1) and (2) to the contrary, the Registrar may direct a special audit of the accounts of any public trust whenever in his opinion such special audit is necessary.

The provisions of sub-sections (2) and (3) shall, so far as may be applicable, apply to such special audit. The Registrar may direct the payment of such fee as may be prescribed for such special audit and the working trustee or the manager shall be liable to pay the same from the trust property.

Auditor's duty to prepare balance sheet and to report irregularities, etc.

17. (1) It shall be the duty of every auditor auditing the accounts of a public trust under section 16 to prepare a balance sheet and income and expenditure account and to forward a copy of the same to the Registrar within whose jurisdiction a public trust has been registered.

(2) The auditor shall, in his report specify all cases of irregularities, illegal or improper expenditure or failure or omission to recover monies or other property belonging to the public trust or waste of money or other property thereof and state whether such expenditure, failure, omission, loss or waste was caused in consequence of a breach of trust, or misapplication or any other misconduct on the part of the trustees, or any other person.

Budget.

18. The working trustee of every public trust, the gross annual income of which exceeds one thousand rupees shall, in each year, submit to the Registrar before such date and in such form as may be prescribed a budget showing the probable receipts and disbursements of the trust property during the following year.

Inspection of the budget, etc.

19. The budget, the balance-sheet and the income and expenditure account and audit report, if any, of a public trust shall be open to inspection in the office of the Registrar by any person having interest in such trust on payment of such fee as may be prescribed.

Grant of certified copies.

20. Subject to such conditions and on payment of such fee as may be prescribed, the Registrar shall, on an application made by any person having interest in a public trust grant to such person a certified copy of all or any of the documents referred to in section 19.

Returns and Statements.

21. The working trustee of a public trust shall furnish to the Registrar such returns and statements as may be prescribed.

CHAPTER V

CONTROL

Power of the Registrar.

22. The Registrar shall have powers.—

- (a) to enter on and inspect or cause to be entered on and inspected any property belonging to a public trust;
- (b) to call for or inspect any extract from any proceedings of the trustees of any public trust or any book or account in the possession of or under the control of the trustees;
- (c) to call for any return, statement, account or report which he may think fit from the trustees or any person connected with a public trust:

Provided that in entering upon any property belonging to the public trust the officer making the entry shall give reasonable notice to the trustee and shall have due regard to the religious practices or usages of the trust.

Procedure after receipt of the report by the Register.

23. (1) If the report of the auditor made under section 17 shows, in the opinion of the Registrar, material defects in the administration of the public trust, the Registrar may require the working trustee to submit an explanation thereon within such period as he thinks fit.

(2) If on the consideration of the report of the auditor, the accounts and explanation, if any, furnished by the working trustee, the Registrar is, after holding an inquiry in the prescribed manner and giving opportunity to the person concerned, satisfied that the trustees or any other person has been guilty of gross negligence, a breach of trust, misapplication or misconduct which has resulted in the loss to the public trust he shall determine —

- (a) the amount of loss caused to the public trust ;
- (b) whether such loss was due to any breach of trust, misapplication, or misconduct on the part of any person ;
- (c) whether any of the trustees, or any other person is responsible for such loss ;
- (d) the amount which any of the trustees or any other person is liable to pay to the public trust for such loss.

(3) The amount surcharged on any trustee or other person in accordance with clause (d) of sub-section (2) shall, subject to any order of the Court under section 24, be paid by the trustee or person surcharged within such time as the Registrar may fix.

24. (1) Any person aggrieved by the decision of the Registrar under section 23 may, within ninety days from the date of the decision apply to the Court to set aside the said decision.

Appeal.

(2) The Court, after taking such evidence as it thinks fit, may confirm, reverse or modify the decision or remit the amount of the surcharge and make such orders as to cost as it thinks proper in the circumstances.

(3) Pending disposal of the application under sub-section (2) all proceedings for surcharge may, on sufficient reasons being shown for the grant of a stay order, be stayed.

(4) An appeal shall lie against the decision of the Court under sub-section (2) as if sub decision was a decree from which an appeal ordinarily lies.

Filling of vacancies.

25. (1) Where a public trust is under the management of a Board of Trustees, the working trustee shall, as soon as a vacancy occurs in the Board, inform the Registrar of such vacancy and the time within and the manner in which he proposes to fill the same.

(2) On receipt of such information the Registrar may, if he considers it necessary, issue any directions to the working trustee regarding the filling of such vacancy not inconsistent with any instrument of trust or the mode of succession specified in the register and the working trustee shall comply with any such direction.

(3) If the working trustee fails to give any such information or to fill the vacancy within the time specified by him or to comply with any direction issued by the Registrar, the Registrar may, by order passed in writing, fill the vacancy and any person having interest in the public trust who may be aggrieved by the order of the Registrar, may apply to the court for setting aside the order of the Registrar within thirty days from the date of such order.

Application to Court for directions.

26. (1) If the Registrar on the application of any person interested in the public trust or otherwise is satisfied that—

- (a) the original object of the public trust has failed ;
- (b) the trust property is not being properly managed or administered ; or
- (c) the direction of the court is necessary for the administration of the public trust ;

he may, after giving the working trustee an opportunity to be heard direct such trustee to apply to court for directions within the time specified by the Registrar.

(2) If the trustee so directed fails to make an application as required, or if there is not trustee of the public trust or if for any other reason, the Registrar considers it expedient to do so, he shall himself make an application to the court.

Courts power to hear application.

27. (1) On receipt of such application the court shall make or cause to be made such inquiry into the case as it deems fit and pass such orders thereon as it may consider appropriate.

(2) While exercising the power under sub-section (1) the court shall, among other powers, have power to make an order for :—

- (a) removing any trustee ;
- (b) appointing a new trustee ;

- (c) declaring what portion of the trust property or of the interest therein shall be allocated to any particular object of the trust;
- (d) providing a scheme of management of the trust property;
- (e) directing how the funds of a public trust whose original object has failed, shall be spent, having due regard to the original intention of the author of the trust or the object for which the trust was created;
- (f) issuing any directions as the nature of the case may require.

(3) Any order passed by the court under sub-section (2) shall be deemed to be a decree of such court and an appeal shall lie therefrom to the High Court.

(4) No suit relating to a public trust under section 92 of the Code of Civil Procedure, 1908 (V of 1908), shall be entertained by any court on any matter in respect of which an application can be made under section 26.

CHAPTER VI

MISCELLANEOUS

28. In holding inquiries under this Act, the Registrar shall have the same powers as are vested in courts in respect of the following matters, under the Code of Civil Procedure, 1908 (V of 1908), in trying a suit—

- (a) proof of facts by affidavits;
- (b) summoning and enforcing attendance of any person and examining him on oath;
- (c) compelling the production of documents;
- (d) issuing of commissions.

29. All inquiries under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

30. Save in so far as they may be inconsistent with any thing contained in this Act, the provisions of the Code of Civil Procedure, 1908 (V of 1908), shall apply to all proceedings before the Court in this Act.

31. All sums payable under sections 23 and 24 or under any rule, if not paid, shall, notwithstanding anything contained in any law and without prejudice to any action liable to be taken under this or any other Act, be recoverable as an arrear of land revenue.

Officers holding inquiries to have the powers of Civil Court.

Inquiry to be judicial inquiries.

Civil Procedure Code to apply to proceedings under this Act.

Recovery of sums due under sections 23 and 24 or rules.

Bar to hear or decide suits.

32. (1) No suit to enforce a right on behalf of a public trust which has not been registered under this Act shall be heard or decided in any court.

(2) The provisions of sub-section (1) shall apply to claim or set off or other proceeding to enforce a right on behalf of such public trust.

Penalty.

33. (1) Whoever contravenes any provision of sections 4, 9, 11, 13, or 15 shall be punished with fine which may extend to one thousand rupees.

(2) Whoever contravenes any of the provisions of this Act for which no specific penalty has been provided by this Act, shall be punished with fine which may extend to two hundred and fifty rupees.

Inquiries by Registrar.

34. Where in any case an enquiry is to be made by the Registrar under this Act, he may himself make the enquiry or may forward the case for investigation and report to any revenue officer not below the rank of a [Deputy Collector].¹

Delegation of powers by Registrar.

[34A. Subject to the provisions of this Act and to such restrictions and conditions, as may be prescribed, the Registrar may, by order in writing, delegate all or any of his powers and duties under this Act to any revenue officer of his district not below the rank of a Sub-Divisional Officer].²

Rules.

35. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely :—

- (a) the form of register of public trusts and the registers and books to be maintained by the Registrar under sub-section (2) of section 3 and their form;
- (b) the fee to be prescribed under sub-section (2) and the form of application and other particulars under sub-section (3) of section 4;
- (c) the manner of making enquiry under sub-section (1) and the manner of giving public notice under sub-section (2) of section 5 ;
- (d) the manner of report to be made under sub-section (1) of section 9;

1. Subs. by M.P. A. O. 1956, for "Extra Assistant Commissioner".

2. Ins. by M.P. Act. 17 of 1964, S. 2.

- (e) the form of register for entering particulars of entries under section 10;
- (f) the particulars to be entered in the accounts to be kept under sub-section (2) of section 15;
- (g) the manner of audit of the accounts under sub-section (2) and the fee for special audit under sub-section (4) of section 16;
- (h) the form of budget and the date of its submission to Registrar under section 18;
- (i) the fee for inspection of the budget, etc., under section 19;
- (j) the conditions and fees for the grant of certified copies under section 20;
- (k) the returns and statements to be furnished by the working trustee or manager under section 21;
- (l) the manner of holding enquiry under sub-section (2) of section 23;
- (m) any other matter which is to be or may be prescribed under this Act.

(3) In making rules under this section, the State Government may direct that a breach of any provision thereof shall be punishable with fine which may extend to two hundred rupees.

(4) All rules made under this section shall be subject to the condition of previous publication.

36. [(1) Nothing contained in this Act shall apply to—
- (a) a public trust administered by any agency acting under the control of the State or by any local authority,
 - (b) a public trust administered under any enactment for the time being in force, and
 - (c) a public trust to which the Muslim Wakfs Act, 1954 (29 of 1954) applies.]

Exemption.

(2) The State Government may exempt by notification, specifying the reasons for such exemption in the said notification, any public trust or class of public trusts from all or any of the provisions of this Act subject to such conditions, if any, as the State Government may deem fit to impose.

37. Notwithstanding anything contained in any Act rules or instrument, this Act shall prevail in respect of all matters for which provision has been made therein.

Saving.

38. The Central Provinces and Berar Religious and Charitable Trusts Act, 1937 (XVIII of 1937), is hereby repealed:

Repeal.

Provided that such repeal shall not affect the validity of anything done or omitted to be done in pursuance of the said Act.