



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष २, अंक १३ (५)]

गुरुवार, मार्च १०, २०१६/फाल्गुन २०, शके १९३७

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असाधारण क्रमांक १९

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Public Trusts (Amendment) Bill, 2016 (L. A. Bill No. VI of 2016), introduced in the Maharashtra Legislative Assembly on the 10th March 2016, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

P. H. MALI,
Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. VI OF 2016.

A BILL

further to amend the Maharashtra Public Trusts Act.

WHEREAS the Maharashtra Public Trusts (Amendment) Bill, 2015 was introduced in the Maharashtra Legislative Assembly as L.A. Bill No. LIX of 2015 on the 8th December 2015 in the winter session of the Maharashtra State Legislature ;

AND WHEREAS the said Bill could not be passed by both Houses of the State Legislature, as the said session of the State Legislature was prorogued on the 23rd December 2015 ;

(१)

AND WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Public Trusts Act, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Public Trusts (Amendment) Ordinance, 2016, on the 23rd February 2016 ;

XXIX of
1950.
Mah.
Ord. IV
of 2016.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Sixty-seventh Year of the Republic of India as follows :—

Short title
and commen-
cement.

1. (1) This Act may be called the Maharashtra Public Trusts (Amendment) Act, 2016.

(2) It shall be deemed to have come into force on the 23rd February 2016.

Amendment
of section 22
of XXIX of
1950.

2. In section 22 of the Maharashtra Public Trusts Act (hereinafter referred to as “the principal Act”), after sub-section (3), the following sub-sections shall be inserted, namely :—

XXIX of
1950.

“ (3A) The Deputy or Assistant Charity Commissioner may, after such detailed and impartial inquiry and following such procedure as may be prescribed, de-register the trust on the following grounds :—

(a) when its purpose is completely fulfilled ; or

(b) when its purpose becomes unlawful ; or

(c) when the fulfilment of its purpose becomes impossible by destruction of the trust-property or otherwise ; or

(d) when the trust, being revocable, is expressly revoked ; or

(e) when the trustees are found not doing any act for fulfilling object of the trust :

Provided that, no trust shall be de-registered under clause (e) unless its trustees have committed default in reporting the change under sub-section (1), in submission of the audited accounts as prescribed by sub-section (2) of section 33 or sub-section (1A) of section 34 or in making any other compliance prescribed by or under this Act for a period of five years from the last date of reporting the change, submission of the accounts or making the compliance, as prescribed by or under this Act or the rules made thereunder, as the case may be.

(3B) The Deputy or Assistant Charity Commissioner may take over the management of properties of the trust de-registered under sub-section (3A) and pass such necessary orders for the same as he deems fit and may, if he considers it expedient, dispose them of by sale or otherwise and deposit the sale proceeds in the Public Trusts Administration Fund established under section 57.”.

Amendment
of section
36A of XXIX
of 1950.

3. In section 36A of the principal Act, to sub-section (3), the following proviso shall be added, namely :—

“ Provided that, the Charity Commissioner or the Joint Charity Commissioner, as the case may be, shall decide the application for borrowing money from the Bank or Financial Institution forthwith and preferably within a period of fifteen days, if the Bank or the Financial Institution has provisionally sanctioned the loan.”.

Mah.
Ord. IV
of 2016.

4. (1) The Maharashtra Public Trusts (Amendment) Ordinance, 2016, is hereby repealed.

Repeal of
Mah. Ord. IV
of 2016 and
saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Maharashtra Public Trusts Act (XXIX of 1950) regulates and makes better provisions for the administration of public and religious and charitable trusts in the State of Maharashtra. As per clause (13) of section 2 of the said Act, "public trust" means an express or constructive trust for either a public, religious or charitable purpose or both and includes a temple, a math, a wakf, church, synagogue, agiary or other place of public religious worship, a *Dharmaday* or any other religious charitable endowment and a society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860 (21 of 1860).

As per the provisions of the said Act, large number of trusts are registered in the State. It was noticed by the Charity Commissioner Office that, the trustees were not functioning properly and the trusts were also not functioning properly in more than three lakh public trusts. The Charity Commissioner Office had to examine the records of such trusts causing excessive burden. The provisions of the said Act for amalgamation of such trusts or winding-up of such trusts were found to be inadequate. For effective management of such trusts, it was expedient to confer powers on the Deputy and Assistant Charity Commissioner to deal with such trusts effectively. Accordingly, new sub-section (3A) was proposed to be inserted in section 22 of the said Act, on the lines of section 77 of the Indian Trusts Act, 1882 (2 of 1882), providing that the Deputy or Assistant Charity Commissioner may, after such detailed and impartial inquiry and following such procedure as may be prescribed, de-register the trust on the following grounds :—

- (a) when its purpose is completely fulfilled ; or
- (b) when its purpose becomes unlawful ; or
- (c) when the fulfilment of its purpose becomes impossible by destruction of the trust-property or otherwise ; or
- (d) when the trust, being revocable, is expressly revoked ; or
- (e) when the trustees are found not doing any act for fulfilling object of the trust.

It was also proposed to provide that, no trust shall be de-registered under clause (e) unless its trustees have committed default in reporting the change under sub-section (1), in submission of the audited accounts as prescribed by sub-section (2) of section 33 or sub-section (1A) of section 34 or in making any other compliance prescribed by or under this Act for a period of five years from the last date of reporting the change, submission of the accounts or making the compliance, as prescribed by or under this Act or the rules made thereunder, as the case may be.

Consequent to the insertion of said sub-section (3A), it was also proposed to insert new sub-section (3B) in the said section 22, providing that the Deputy or Assistant Charity Commissioner may take over the management of properties of the trust de-registered under sub-section (3A) and pass such necessary orders for the same as he deems fit and may, if he considers it expedient, dispose them of by sale or otherwise and deposit the sale proceeds in the Public Trust Administration Fund established under section 57 of the said Act.

Sub-section (3) of section 36A of the said Act provides that, no trustee shall borrow moneys (whether by way of mortgage or otherwise) for the purpose of or on behalf of the trust of which he is a trustee, except with the previous sanction of the Charity Commissioner, and subject to such conditions and limitations as may be imposed by him in the interest or protection of the trust. The applications for granting such previous sanction for borrowing money remains pending in the Office of Charity Commissioner or Joint Charity Commissioner for longer period. Therefore, it was considered expedient to add proviso to sub-section (3), providing that the Charity Commissioner or the Joint Charity Commissioner, as the case may be, shall decide the application for borrowing money from the Bank or Financial Institution forthwith and preferably within a period of fifteen days, if the Bank or the Financial Institution has provisionally sanctioned the loan.

2. In this regard, the Maharashtra Public Trusts (Amendment) Bill, 2015 was introduced in the Maharashtra Legislative Assembly as L.A. Bill No. LIX of 2015 on the 8th December 2015 in the winter session of the Maharashtra State Legislature. However, the said Bill could not be passed by both Houses of the State Legislature, as the said session of the State Legislature was prorogued on the 23rd December 2015. It was, therefore, considered expedient to immediately carry out the amendments in the Maharashtra Public Trusts Act (XXIX of 1950), by incorporating therein certain further amendments, to regulate the power to de-register the trusts.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Public Trusts Act (XXIX of 1950), for the purposes aforesaid, the Maharashtra Public Trusts (Amendment) Ordinance, 2016 (Mah. Ord. IV of 2016), was promulgated by the Governor of Maharashtra on the 23rd February 2016.

4. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 9th March 2016.

DEVENDRA FADNAVIS,
Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of legislative power, namely :—

Clause 2.—Under this clause, which seeks to insert new sub-section (3A) in section 22 of the Maharashtra Public Trusts Act, power is taken to the State Government to prescribe by rules, the detailed and impartial inquiry and procedure to be followed therefor, by the Deputy or Assistant Charity Commissioner before de-registering any public trust on the grounds mentioned therein.

2. The above-mentioned proposal for delegation of legislative power is of a normal character.