



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

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असाधारण क्रमांक १०९

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, 2017 (L. A. Bill No. XXXIX of 2017), introduced in the Maharashtra Legislative Assembly on the 27th July 2017, is hereby published under the authority of the Governor.

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

N. J. JAMADAR,

Principal Secretary and R. L. A. to Government,
Law and Judiciary Department.

L. A. BILL No. XXXIX OF 2017.

A BILL

further to amend the Maharashtra Public Trusts Act.

XXIX of
1950.

WHEREAS it is expedient further to amend the Maharashtra Public Trusts Act, for the purposes hereinafter appearing; it is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Public Trusts (Amendment) Act, 2017. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

XXIX of
1950.

2. For section 41C of the Maharashtra Public Trusts Act (hereinafter referred to as "the principal Act"), the following section shall be substituted, namely :— Substitution of section 41C of XXIX of 1950.

Persons (other than public trust) collecting money, subscription or donation, etc.

“41C. (1) Notwithstanding anything contained in this Act, no person (other than public trust) shall, after the commencement of the Maharashtra Public Trusts (Amendment) Act, 2017, collect or cause to be collected any money, contribution, subscription or donation, in cash or kind, for religious or charitable purposes, without seeking prior permission of the Assistant Charity Commissioner or the Deputy Charity Commissioner upon a written application in such form as may be prescribed, either online or directly to the Assistant Charity Commissioner or the Deputy Charity Commissioner :

Mah. of 2017.

Provided that, in the exigencies for aiding, assisting or giving relief to the persons affected by natural disaster, war, riots, accidents or similar cause, the collection may be made by giving intimation in the form prescribed to the Assistant Charity Commissioner or the Deputy Charity Commissioner.

(2) The Assistant Charity Commissioner or the Deputy Charity Commissioner shall, after making an enquiry as deem fit, decide the application and may issue a certificate in form prescribed, subject to such terms and conditions as he deems fit, within seven days from the date of receipt of application, for an application received online; and within fifteen days from the date of receipt of application, for an application received in writing :

Provided that, if the permission is not granted to the applicant within the stipulated period, the permission shall be deemed to have been granted under this section for the purpose for which the application is made.

(3) In case the intimation as specified under the first proviso to sub-section (1) is given, the Assistant Charity Commissioner or the Deputy Charity Commissioner shall satisfy that the collection is done for valid reason and purpose and may issue a certificate in form prescribed, subject to such terms and conditions as he deem fit, within fifteen days from the date of receipt of intimation. If the Assistant Charity Commissioner or the Deputy Charity Commissioner has reason to believe that there is a possibility of fraud, misappropriation or other abuse, he shall direct such person to stop making such collection forthwith and require such person to render an account of the collections made by him and deposit the amount so collected in the Public Trusts Administration Fund.

(4) The certificate issued under sub-section (2) or (3) shall be valid for a period of six months from the date of its issue; and shall not be renewable. The applicant or the person to whom the certificate is issued under sub-section (2) or (3) shall submit the audited accounts of such collections or receipt of contribution and remaining amount, if any, within a period of two months next after expiry of the said period.

(5) The remaining amount so collected shall be credited in the Public Trusts Administration Fund.”.

3. After section 41E of the principal Act, the following section shall be inserted, namely :—

Insertion of section 41F in XXIX of 1950.

Attachment of property in certain cases.

“41F. (1) Wherein it is brought to the notice of the Charity Commissioner by any Assistant Charity Commissioner or Deputy Charity Commissioner or two or more persons having interest in the trust property that disobedience of any of the orders passed under any of the

sections in the Chapter VI is committed, the Charity Commissioner may after hearing the parties concerned, order the property of such person guilty of such disobedience or breach, to be attached and may also order such person to be detained in jail for a term not exceeding six months. No attachment under this sub-section shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold, and out of the proceeds, the Charity Commissioner may award such compensation as he thinks fit, and shall pay the balance, if any, to the person entitled thereto, and thereupon, any order passed by the Charity Commissioner, under this section, if in force shall stand vacated, or as the case may be, cancelled.

(2) A trustee or a person against whom the order under this section is passed, may, within ninety days of the date of communication of each order, appeal to the High Court against such order.”.

4. After section 66B of the principal Act, the following section shall be inserted, namely :—

Insertion of section 66C in XXIX of 1950.

“66C. Whoever contravenes the provisions of section 41C shall, on conviction, be punished with simple imprisonment for a term which may extend to three months or with fine, which may extend to one and half times the amount or contribution collected without seeking prior permission under sub-section (1) of section 41C or intimation under the proviso to sub-section (1) of section 41C, as the case may be, or with both.”.

Punishment for contravention of section 41C.

5. In section 70 of the principal Act, in sub-section (1), after clause (c), the following clause shall be inserted, namely :—

Amendment of section 70 of XXIX of 1950.

“(c-1) the order under section 41C;”.

6. In section 72 of the principal Act,—

Amendment of section 72 of XXIX of 1950.

(a) in sub-section (1), the figures, letter and word “, 41C and” shall be deleted;

(b) in the marginal note, the figures, letter and word “, 41C and” shall be deleted.

7. In the Schedule B appended to the principal Act, in column (1) regarding ‘Section’,—

Amendment of Schedule B appended to XXIX of 1950.

(a) in entry relating to section 70 (1), in column (2), for the words “or order” the words, figures and letter “or order under section 41C or order” shall be substituted;

(b) in entry relating to section 72 (1), in column (2), the figures and letter “, 41C” shall be deleted.

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. Sub-section (1) of section 41C provides that any person (not being a public trust registered under this Act) collecting any money, subscription, donation or other property for religious or charitable purpose shall forthwith inform the Charity Commissioner in writing of such collection and the purpose for which such collection is made. Sub-section (2) thereof provides that on receipt of such information, the Charity Commissioner may, on making such inquiry as he deems fit, permit such collection to be continued subject to such condition as he deems fit, or may, after recording his reasons in writing in that behalf, direct such person to stop making such collection forthwith and require such person to render an account of the collections made by him. Sub-section (3) thereof provides that it shall be the duty of every such person to comply with the directions or any order made by the Charity Commissioner under the said sub-section (2). In the case of *Sharad Baburao Patil Vs. the State of Maharashtra and others* (PIL No. 148/2009), the Hon'ble Bombay High Court has directed the State Government to consider the amendment of said section 41C suitably, for regulating the collection of money or other articles donated for natural disasters or like purposes for preventing its misuse. In the case of *Smt. Swati Patil Vs. the State of Maharashtra* (PIL No. 56/2014) along with PIL No. 95/2014 and PIL No. 97/2014 (L), the Hon'ble Bombay High Court has directed the State Government to ensure that the amount collected or gifts received during the *Dahihandi* is appropriately used and consider the amendment of the said section 41C. Therefore, it is proposed to substitute section 41C of the Maharashtra Public Trusts Act providing,—

(a) for the procedure for obtaining the permission of the Assistant Charity Commissioner or Deputy Charity Commissioner for collecting or cause to be collecting any money, contribution, subscription or donation, in cash or kind, for religious or charitable purposes; and for granting the permission therefor ;

(b) for the procedure for giving intimation to the Assistant Charity Commissioner or Deputy Charity Commissioner for collecting or cause to be collecting any money, contribution, subscription or donation, in cash or kind, in the exigencies for aiding, assisting or giving relief to the persons affected by natural disaster, war, riots, accidents or similar cause; and for granting the permission therefor ;

(c) for the provisions for deem granting of permission by the Assistant Charity Commissioner or Deputy Charity Commissioner, if not given within stipulated period ;

(d) that the certificate issued for granting permission shall be valid only for six months ; and

(e) other matters connected therewith.

2. New section 41F is proposed, which provides for issuance of order for attachment of property of the trust for disobedience of any of the orders passed under any section of Chapter VI of the Act and the provision for appeal to the High Court against such orders.

3. New section 66C is proposed, which provides for punishment for contravention of the provisions of section 41C of the Act.

4. Consequent to the substitution of section 41C, the suitable amendments are also proposed to section 70, section 72 and Schedule B of the said Act.

5. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 20th July, 2017.

DEVENDRA FADNAVIS,
Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

Clause 1(2).—Under this clause, power is taken to the State Government to bring the Act into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Clause 2.—Under this clause, which seeks to substitute section 41C of the Maharashtra Public Trust Act, power is taken to the State Government to prescribe by rules,—

(1) in sub-section (1) thereof, the form of a written application which may be made, either online or directly, to the Assistant Charity Commissioner or the Deputy Charity Commissioner for obtaining prior permission for collecting or cause to be collected any money, contribution, subscription or donation, in cash or kind, for religious or charitable purposes ;

(2) in the proviso to sub-section (1) thereof, the form for giving intimation to the Assistant Charity Commissioner or Deputy Charity Commissioner for collecting or cause to be collecting any money, contribution, subscription or donation, in cash or kind, in the exigencies for aiding, assisting or giving relief to the persons affected by natural disaster, war, riots, accidents or similar cause ;

(3) in sub-section (2) thereof, the form of a certificate that may be issued by the Assistant Charity Commissioner or Deputy Charity Commissioner granting prior permission under sub-section (1) thereof ;

(4) in sub-section (3) thereof, the form of a certificate that may be issued by the Assistant Charity Commissioner or Deputy Charity Commissioner granting permission under proviso to sub-section (1) thereof.

2. The above-mentioned proposals for delegation of legislative power are of normal character.