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TAMIL NADU GOVERNMENT GAZETTE

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Part IV—Section 2

Tamil Nadu Acts and Ordinances

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 27th November 2018 and is hereby published for general information:—

ACT No. 44 OF 2018.

An Act to provide for protection and maintenance of the public charitable trusts and endowments created and administered by the persons or organisations of Vanniyakula Kshatriya community in the State of Tamil Nadu and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-ninth Year of the Republic of India as follows:-

CHAPTER- I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Tamil Nadu Vanniyakula Kshatriya Public Charitable Trusts and Endowments (Protection and Maintenance) Act, 2018.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the Government may, by notification, appoint.

Application of the Act.

2. This Act shall apply to all public charitable trusts and endowments created and administered by the persons or organisations of Vanniyakula Kshatriya community.

Definitions.

3. In this Act, unless the context otherwise requires,-

(a) "*Administrative Officer*" means an officer appointed by the Board under sub-section (1) of section 34;

(b) "*beneficiary*" means a person or an institution for whose benefit a trust or endowment is created and includes charitable objects and any other objects of public utility;

(c) "*Boar*d" means the Board constituted under section 8;

(d) "*Chief Administrative Officer*" means the officer appointed under sub-section (1) of section 19;

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(e) "*Chairperson*" means the Chairperson appointed under clause (a) of sub-section (1) of section 9;

(f) "*charitable purpose*" includes relief of the poor, education, medical relief, advancement of any other object of utility or welfare or the like purposes to the general public or a section thereof;

(g) "*Court*" means,-

(i) in relation to a property of the trust and endowment situated in the city of Chennai, the Chennai City Civil Court;

(ii) in relation to a property of the trust and endowment situated elsewhere, the Court of Civil Judge (Senior Division) having jurisdiction over the area in which the property of the trust and endowment is situated, or if there is no such Court, the District Court having such jurisdiction;

(iii) in relation to a property of trust and endowment situated within the ambit of two or more Courts, any Court which would have jurisdiction as aforesaid in relation to either all or any of such properties;

(h) "endowment" means all property given or endowed for the benefit of, or used as of right by, the Vanniyakula Kshatriya community or any section thereof for the support or maintenance of objects of utility to the said community or section, such as rest-houses, choultries, patasalas, schools and colleges, houses for feeding the poor and institutions for the advancement of education, medical relief and public health or other objects of a like nature; and includes the institution concerned;

(i) "*Government*" means the State Government;

(j) "*hereditary trustee*" means the trustee of a charitable trust, the succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force;

(k) "*member*" includes the member, *ex-officio*; Member Secretary and Chairperson of the Board;

(l) "*person interested*" means any person who is entitled to receive any pecuniary or other benefits from the trust or endowment and includes a person who is entitled to attend or is in the habit of attending the performance of service or charity connected with the institution or who is entitled to partake or is in the habit of partaking in the benefit of any charity or the distribution of gifts thereat;

(m) "*prescribed*" means prescribed by rules;

(n) "*Survey Officer*" means an officer appointed under sub-section (1) of section 4;

(o) "*Trust*" means a trust created by a person or group of organisation belonging to Vanniyakula Kshatriya to fulfill charitable purposes as envisaged by the author of the trust;

(p) "*trustee or administrator*" means any person appointed to manage or administer any trust or endowment;

(q) "*Vanniyakula Kshatriya"* means the community of Vanniyakula Kshatriya (including Vanniyar, Vanniya, Vannia Gounder, Gounder or Kandar, Padayachi, Palli and Agnikula Kshatriya), as notified by the Government under the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the services under the State) Act, 1993.

Tamil Nadu Act 45 of 1994

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CHAPTER-- II.

LISTING OF PROPERTIES OF TRUST AND ENDOWMENT.

Preliminary survey of properties of trusts and endowments.

4. (1) The Government may, by order, appoint a Survey Officer not below the rank of Tahsildar for surveying the properties belonging to the trust and endowment existing within such area as may be specified in such order on the date of the commencement of this Act.

(2) The Survey Officer shall, after making such enquiry as may be necessary, submit his report in respect of the properties of trust and endowment to the Board containing the following particulars, namely:-

(a) the number of trusts and endowments available in the area;

(b) the nature and object of the formation of each trust and endowment;

(c) the gross income from each trust and endowment;

(d) the amount of land revenue, charges and taxes payable in respect of each trust and endowment;

(e) the expenses incurred by each trust and endowment; and

(f) such other particulars relating to each trust and endowment as may be prescribed.

(3) The Survey Officer shall, while making any enquiry, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

Central Act V of 1908

(a) summoning and examining any witness;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record from any Court or office;

(d) issuing commissions for the examination of any witness or accounts;

(e) making any local inspection or local investigation;

(f) such other matters as may be prescribed.

(4) If, during any such enquiry, any dispute arises as to whether a particular trust or endowment is a private trust or endowment or public trust or endowment and there are clear indications in the deed of trust or endowment as to its nature, the dispute shall be decided on the basis of such deed.

(5) The Government may, by order, direct the Survey Officer to make a second or subsequent survey of trust and endowment properties in any area and the provisions of sub-sections (2),(3) and (4) shall apply to such survey as they apply to a survey directed under sub-section (1):

Provided that no such second or subsequent survey shall be made until the expiry of a period of twenty years from the date on which the report in relation to the immediately previous survey was submitted under sub-section (2).

Publication of list of properties of trust and endowment.

5. The Board shall examine the report submitted to it under sub-section (2) of section 4 and publish in the *Tamil Nadu Government Gazette*, a list of properties of each trust and endowment in the State.

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Disputes regarding properties belonging to trust and endowment.

6. (1) If any question or dispute arises whether a particular property specified in the list of properties belongs to a trust or endowment, any person interested therein may institute a suit in a Court for the decision of the question or dispute:

Provided that no such suit shall be entertained by the Court after the expiry of one year from the date of the publication of the list of properties belonging to trust and endowment.

(2) The Survey Officer shall not be made a party to any suit under sub-section (1) and no suit, prosecution or other legal proceeding shall lie against him in respect of anything which is done in good faith or intended to be done in pursuance of this Act or any rules made thereunder.

(3) The list of properties belonging to a trust or endowment shall, unless it is modified in pursuance of a decision of the Court under sub-section (1), be final and conclusive.

Recovery of cost of survey.

7. (1) The total cost of making a survey including the cost of publication of the list of properties belonging to trust and endowment under this Chapter shall be borne by the respective trust or endowment in proportion to the net annual income of the trust or endowment as assessed by the Chief Administrative Officer.

(2) Notwithstanding anything contained in the deed or instrument by which the trust or endowment was created, the trustee or administrator thereof may pay from the income of the properties of the trust or endowment any sum due from the trust or endowment under sub-section (1).

CHAPTER-III.

ESTABLISHMENT OF VANNIYAKULA KSHATRIYA PUBLIC CHARITABLE TRUSTS AND ENDOWMENTS BOARD AND ITS FUNCTIONS.

Incorporation.

8. (1) With effect from such date as the Government may, by notification, appoint in this behalf, there shall be established by the name "Vanniyakula Kshatriya Public Charitable Trusts and Endowments Board" or in such other name as may be specified in the notification.

(2) The Board shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property and to transfer any such property subject to such conditions and restrictions as may be prescribed and shall, by the said name, sue and be sued.

Composition of the Board.

9. (1) The Board shall consist of,—

(a) a Chairperson, who shall be a person belonging to the Vanniyakula Kshatriya community;

(b) the following members who shall belong to the Vanniyakula Kshatriya community, namely:-

(i) one person from among the retired Judges of the Supreme Court or High Court or District Court;

(ii) one person from the All India Service;

(iii) two persons from among the Member of the Legislative Assembly;

(iv) one person from among the trustees of trusts and administrator of the endowments;

(v) one person representing Vanniyakula Kshatriya community organizations;

(vi) two eminent persons having good reputation in the field of legal profession, auditing, business, education, engineering and industry;

(vii) two women who have served the cause of Vanniyakula Kshatriya community ;

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(c) the following *ex-officio* members, namely:-

(i) Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department; and

(ii) Commissioner or Director of Most Backward Classes and Denotified Communities Welfare Department:

Provided that it shall not be necessary that *the ex-officio* members belong to Vanniyakula Kshatriya community.

(d) the Member-Secretary.

(2) Subject to the provisions of this Act, the Government shall, by notification, constitute or re-constitute the Board, appointing the Chairperson and the members from such date as may be specified therein.

Term of office.

10. The Chairperson and every member of the Board shall hold office for such period, not exceeding three years, as may be specified by the Government in this behalf.

Disqualification for being appointed, or for continuing as, a member of the Board.

11. A person shall be disqualified for being appointed, or for continuing, as member of the Board other than the *ex-officio* members referred to in clause (c) of sub-section (1) of section 9, if,

(i) he is less than twenty-one years of age;

(ii) he is found to be a person of unsound mind;

(iii) he is an un-discharged insolvent;

(iv) he has been convicted for an offence involving moral turpitude and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

(v) he has been on previous occasions,-

(a) served as a Chairperson or member of the Board for two terms.

Explanation.- For the purpose of computing the period of two terms referred to in this clause, the period during which a person held office either as a Chairperson or member or as both shall be taken into account;

(b) removed from his office as a member or as a trustee or administrator of any trust or endowment which is in the purview of the Board; or

(c) removed by an order of a competent Court from any position of any trust or endowment either for mismanagement or for corruption.

Meetings of the Board.

12. (1) The Board shall meet for the transaction of business at such time and place as may be prescribed by regulations.

(2) The Chairperson, or in his absence, any member chosen by the members from amongst themselves, shall preside at a meeting of the Board.

(3) Subject to the provisions of this Act, all questions which come before any meeting of the Board shall be decided by a majority of votes of the members present, and in the case of equality of votes, the Chairperson or, in his absence, any other person presiding shall have a second or casting vote.

Quorum.

13. The quorum for any meeting of the Board shall be not less than fifty per cent of members including Chairperson, but excluding the number of vacancies.

Committee of the Board.

14. (1) The Board may, whenever it considers necessary, constitute either generally or for a particular purpose or for any specified area, committees for supervision of the property of trust or endowment;

(2) The constitution, functions and duties and the terms and conditions of office of such committees shall be determined by the Board:

Provided that it shall not be necessary for the members of such committees to be members of the Board.

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Resignation of Chairperson and members.

15. The Chairperson or any other member, other than *ex-officio* member may, at any time, by writing and addressed to the Government, resign from the office of the Chairperson or member, as the case may be but shall continue in office until his resignation is accepted.

Removal of Chairperson and members.

16. The Government may, by notification, remove the Chairperson of the Board or any member thereof, other than *ex-officio* member, if he-

(i) is or becomes subject to any disqualification specified in section 11; or

(ii) refuses to act or is incapable of acting or acts in a manner which the Government, after hearing any explanation that he may offer, considers to be prejudicial to the interest of trust or endowment; or

(iii) fails, in the opinion of the Board, to attend three consecutive meetings of the Board without sufficient excuse.

Filling of a vacancy.

17. When the seat of Chairperson or a member becomes vacant by his removal, resignation, death or otherwise, a new Chairperson or a new member shall be appointed in his place and the Chairperson or such member shall hold office so long as the Chairperson or member, whose place he fills would have been entitled to hold office, if such vacancy had not occurred.

Vacancies, etc., not to invalidate proceedings of the Board.

18. No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy amongst its members, or any defect in the constitution thereof.

Appointment of Chief Administrative Officer and his term of office and other conditions of service.

19. (1) There shall be a Chief Administrative Officer of the Board not below the rank of Deputy Secretary to Government who shall be a person belonging to Vanniyakula Kshatriya community, and shall be appointed by the Government in consultation with the Board.

(2) The term of the office and other conditions of service of the Chief Administrative Officer shall be such as may be prescribed.

(3) The Chief Administrative Officer shall be the Member- Secretary of the Board and shall be under the administrative control of the Board.

Officers and other employees of the Board.

20. (1) For efficient performance of the functions of the Board under this Act, the Board may appoint such number of officers and other employees as may be necessary, with the permission of the Government.

(2) The appointment, term of office and conditions of service of officers and other employees shall be such as may be provided by the regulations.

Duties and powers of Chief Administrativ Officer.

21. (1) Subject to the provisions of this Act and of the rules made thereunder and the directions of the Board, the functions of the Chief Administrative Officer shall include—

(i) to investigate carefully the nature and extent of the properties of trust and endowment and whenever necessary to call for an inventory of properties of trust and endowment and to call for accounts, returns and informations from the trustee and administrator;

(ii) to inspect or to cause inspection of property of trust and endowment and accounts, records, deeds or related documents;

(iii) to do generally such acts as may be necessary for the control, maintenance and superintendence of trust and endowment.

(2) In exercising the powers of giving directions under sub- section (1) in respect of any trust or endowment, the Board shall act in conformity with the directions found in the deed of the trust or endowment.

(3) Save as otherwise expressly provided in this Act, the Chief Administrative Officer shall exercise such powers and perform such duties as may be assigned or delegated to him under this Act.

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Power of Chief Administrative Officer in respect of orders or resolutions of the Board.

22. (1) Where the Chief Administrative Officer considers that an order or resolution passed by the Board-

(i) has not been passed in accordance with the law; or

(ii) is in excess of, or is an abuse of, the powers conferred on the Board by or under this Act or by any other law; or

(iii) if implemented, is likely to-

(a) cause financial loss to the Board or to the concerned trust or endowment; or

(b) lead to a riot or breach of peace; or

(c) cause danger to human life, health or safety; or

(d) is not beneficial to the Board or to trust or endowment generally, he may, before implementing such order or resolution, place the matter before the Board for its re-consideration.

(2) The Board may constitute a committee under section 14 to consider the aspects pointed out by the Chief Administrative Officer and on the suggestions of the committee, the Board may reconsider the matter or refer the matter to the Government along with the committee's report, Chief Administrative Officer's remarks and the order or resolution of the Board and the decision of the Government thereon shall be final.

Delegation of powers of the Board.

23. The Board may, by a general or special order in writing, delegate to the Chairperson, any other member, or any other officer or employee of the Board or any committee subject to such conditions and limitations as may be specified in the said order, such of its powers and duties under this Act, as it may deem necessary.

Chief Administrative Officer to exercise powers through Collectors, etc.

24. (1) Subject to the provisions of this Act and of the rules made thereunder, the Chief Administrative Officer may,-

(a) exercise all or any of the powers conferred on him by or under this Act with the previous approval of the Board through the Collector of the District in which the concerned trust or endowment is situated or through any other responsible officer whom the Collector may appoint for such purpose;

(b) delegate, from time to time, any of his power to any Collector or any such officer appointed by him; and

(c) revoke at any time the delegation so made by him.

(2) Where any delegation of powers is made by the Chief Administrative Officer under sub-section (1), the person to whom such delegation is made, may exercise those powers in the same manner and to the same extent, as if they have been conferred on him directly by this Act and not by way of delegation.

Powers of Chief Administrative Officer to inspect records, registers, etc.

25. The Chief Administrative Officer or any officer of the Board duly authorized by him, shall subject to such conditions and restrictions as may be prescribed and subject to the payment of such fees, if any, levied under any law for the time being in force, be entitled at all reasonable time to inspect, in any public office, any records, registers or other documents relating to a trust or endowment or movable or immovable properties which are trust or endowment properties or are claimed to be properties of trust or endowment.

Inspection of records.

26. (1) The Board may allow inspection of its proceedings or other records in its custody and issue copies of the same on payment of such fees and subject to such conditions as may be prescribed.

Central Act I of 1872.

(2) All copies issued under this section shall be certified by the Chief Administrative Officer of the Board in the manner provided in section 76 of Indian Evidence Act, 1872.

(3) The powers conferred on the Chief Administrative Officer by sub-section (2) may be exercised by such other officer or officers of the Board as may either generally or specially be authorized in this behalf by the Board.

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Powers and functions of the Board

27. (1) Subject to any rules that may be made under this Act, the general superintendence of all trust and endowment shall vest with the Board and it shall be the duty of the Board to exercise its powers under this Act, as to ensure that the trust and endowment under its superintendence are properly maintained, controlled and administered and the income thereof is duly applied to the objects and for the purposes for which such trust and endowment were created or intended:

Provided that in exercising its powers under this Act, in respect of any trust or endowment, the Board shall act in conformity with the directions of the trust deed or the documents through which the property was dedicated to charitable purposes.

Explanation.- For the removal of doubts, it is hereby declared that in this sub-section, trust or endowment includes a trust or endowment in relation to which any scheme has been made by any Court of law, whether before or after the commencement of this Act.

(2) Without prejudice to the generality of the foregoing power, the functions of the Board shall be-

(i) to maintain a record containing information relating to the origin, income, object and beneficiaries of every trust and endowment;

(ii) to ensure that the income and the property of trust and endowment are applied for the objects and for the purposes for which such trust and endowment were intended or created;

(iii) to give directions for the administration of trust or endowment;

(iv) to settle schemes for management of trust and endowment:

Provided that no such scheme shall be settled without giving an opportunity of being heard to the affected parties;

(v) to scrutinize and approve the budgets submitted by the trustee or administrator and to arrange for auditing of accounts of the trust or endowment;

(vi) to appoint and remove the trustees and administrators in accordance with the provisions of this Act;

(vii) to take measures for the recovery of lost properties of any trust or endowment;

(viii) to institute and defend suits and proceedings relating to property of any trust or endowment;

(ix) to sanction any transfer of immovable property of any trust or endowment by way of sale, gift, mortgage, exchange or lease in accordance with the provisions of this Act:

Provided that no such sanction shall be given, unless at least two thirds of the total members of the Board vote in favour of such transaction;

(x) to administer the Vanniyakula Kshatriya Public Charitable Trusts and Endowments (Protection and Maintenance) Fund;

(xi) to call for such returns, statistics, accounts and other informations from the trustees or administrators with respect to the property of trust or endowment as the Board may, from time to time, requires;

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(xii) to inspect or cause inspection of the property of trust and endowment, accounts, records or deeds and documents relating thereto;

(xiii) to investigate and determine the nature and extent of trust and endowment and its property and to cause, whenever necessary, a survey of the property of such trust and endowment;

(xiv) to direct-

(a) the utilization of the surplus income of a trust and endowment consistent with the objects of trust and endowment;

(b) in what manner the income of a trust or endowment, the objects of which are not evident from any written instrument, shall be utilized for the benefit of poor Vanniyakula Kshatriya Community for their economic, social, educational upliftment and livelihood activities.

(c) in any case where any object of trust or endowment has ceased to exist or has become incapable of achievement, that so much of the income of the trust or endowment as was previously applied to that object shall be applied to any other object which shall be similar, or nearly similar or to the original object or for the benefit of the poor Vanniyakula Kshatriya Community for their economic, social, educational upliftment and livelihood activities:

Provided that no direction shall be given under this clause without giving opportunity of being heard to the affected parties;

(xv) generally do all such acts as may be necessary for the control, maintenance and administration of trust and endowment.

(3) Where the Board has settled any scheme of management under clause (iv) or given any direction under clause (xiv) of sub-section (2), any person interested in the trust or endowment or affected by such settlement or direction may institute a suit in a Court for setting aside such settlement or directions and the decision of the said Court thereon shall be final.

(4) Where the Board is satisfied that any land belonging to trust or endowment offers a feasible potential for development as a shopping centre, market, housing flats and the like, it may serve upon the trustee or administrator of the concerned trust or endowment a notice requiring him to convey its decision whether they are willing to execute such development as may be specified in the notice within such time, but not less than sixty days, as may be specified in the said notice.

(5) On consideration of the reply, if any, received to the notice issued under sub-section (4), if the Board is satisfied that the trustee or administrator is not willing or is not capable of executing the works required to be executed as specified in the notice, the Board may, with prior approval of the Government, take over the property, clear it of any building or structure thereon, and execute such works from the funds of the trusts or endowments or by raising funds on the security of the concerned trust or endowments property and control and manage the properties, till such time as all the expenses incurred by the Board together with interest thereon, the expenditure on maintenance of such works and other legitimate charges incurred on the property are recovered from the income derived from the property:

Provided that the Board shall compensate annually the trustee or administrator of the concerned trust or endowment to the extent of the average annual net income derived from the property during the three years immediately preceding the takeover of the property by the Board.

(6) On recouping all the expenses as detailed in sub-section (5), from the income of the developed property, the developed property shall be handed over to the trustee or administrator of the concerned trust or endowment.

Powers of inspection by Chief Administrative Officer or persons authorized by him.

28. (1) The Chief Administrative Officer with the prior approval of the Board either himself or any other person authorized by him in writing in this behalf, may inspect all movable and immovable properties, which are property of trust or endowment and all records, correspondences, plans, accounts and other documents relating thereto, for the purpose of examining whether, by reason of any failure or negligence on the part of the trustee or administrator in the performance of his administration or administrative duties, any loss or damage has been caused to the property of trust or endowment.

(2) Whenever any such inspection as referred to in sub-section (1) is made, the concerned trustee or administrator and all officers and other employees working under him and every person connected with the administration of trust or endowment shall extend all such assistance and facilities as may be necessary and reasonably required by the person making such inspection to carry out his work, and shall also produce any movable property or documents relating to trust or endowment as may be called for by the person making the inspection and furnish to him such information relating to trust or endowment as may be required by him.

(3) Where after any such inspection, it appears that the trustee or administrator or any officer or other employee who was working under him had misappropriated, misapplied or fraudulently retained, any money or property of trust or endowment, or had incurred irregular, unauthorized or improper expenditure from the funds of trust or endowment, the Chief Administrative Officer may after giving reasonable opportunity to the trustee or administrator to show cause as to why an order for recovery of the amount or property, should not be passed against him, after considering such explanation, if any furnished by him, determine the amount or the property, which has been misappropriated, misapplied or fraudulently retained, or the amount of the irregular, unauthorized or improper expenditure incurred by such person and make an order directing such person to pay the amount so determined and to restore the said property to the trust or endowment, within such time as may be specified in the order.

(4) The trustee or administrator or other person aggrieved by such order may, within thirty days of the receipt of order by him, make an appeal to the Court:

Provided that no such appeal shall be entertained by the Court unless the appellant first deposits with the Chief Administrative Officer, the amount which has been determined under sub-section (3) as being payable by the appellant and pending disposal of appeal, the Court shall have no power to make any order of stay of the operation of the order made by the Chief Administrative Officer under sub-section (3).

(5) The Court after taking evidence as it may think fit, may confirm, reverse, or modify the order made by the Chief Administrative Officer under sub-section (3), or may remit either in part, or in whole, the amount specified in such order and may make such orders as to cost as it may think appropriate.

(6) The order made by the Court under sub-section (5) shall be final.

Recovery of the amount determined under section 28.

29. Where any trustee or administrator or other person who has been ordered under sub-section (3) or sub-section (5) of section 28 to make payment or restore possession of any property, omits or fails to do so within the time specified in such order, the Chief Administrative Officer with the prior approval of the Board, shall take such steps, as he may think fit, to recover possession of the property aforesaid and shall also send a certificate to the Collector of the district in which the property of the trustee or administrator or other person situate, stating therein the amount that has been determined by Chief Administrative Officer or by the Court, as the case may be, under section 28, as being payable by the trustee or administrator or other person, and thereupon, the Collector shall recover the amount specified in such certificate, as if, it was an arrear of land revenue and on the recovery of such amount, pay the same to the Chief Administrative Officer who shall credit the amount to the funds of the concerned trust or endowment.

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CHAPTER-IV.

REGISTRATION OF TRUST AND ENDOWMENT.

Registration of trust and endowment.

30. (1) Every trust and endowment, whether created before or after the commencement of this Act, shall be registered at the office of the Board.

(2) Application for registration shall be made by the trustee or administrator of trust or endowment:

Provided that such application may be made by trust or endowment or a beneficiary of it or the descendants of the testator or any person belonging to Vanniyakula Kshatriya community.

(3) An application for registration shall be made in such form and in such manner and at such place as the Board may by regulation provide from time to time and such application shall contain the following particulars:-

(a) description of trust or endowment sufficient for identification thereof;

(b) annual gross income from property of trust or endowment;

(c) the amount of land revenue, cesses, rates and taxes payable annually for the property of trust or endowment;

(d) an estimate of the expenses annually incurred in realization of the income from the property of trust or endowment;

(e) the amount set apart for the following:-

(i) the salary and other allowances to the officers and other employees of trust or endowment,

(ii) for charitable purposes,

(iii) for the beneficiaries, and

(iv) for such other purposes;

(f) any other particulars as may be prescribed by the Board by regulation.

(4) Such application shall be accompanied by a copy of trust deed or will, or if no such deed has been executed or a copy thereof cannot be obtained, shall contain the particulars as far as they are known to the applicant, of the origin, nature and object of the trust or endowment; and particulars regarding beneficiaries, if any.

Central Act V of 1908

(5) Such application made under sub-section (2) shall be signed and verified by the applicant in the manner provided in the Code of Civil Procedure 1908, for the signing and verification of the pleadings.

(6) The Board may require the applicant to supply any further particulars or information that the Board may consider necessary.

(7) The Board may, on receipt of application for registration, make such enquires as it thinks fit in respect of genuineness and validity of the application and correctness of the particulars therein and when the application is made by any person other than the person administering the trust or endowment, and shall hear him if he desires to be heard.

(8) In the case of trust or endowment created before the commencement of this Act, every application for registration shall be made, within three months from such commencement and in the case of trust or endowment created after such commencement, within three months from the date of creation of trust or endowment.

Register of trust and endowment.

31. The Board shall maintain a register of trust and endowment, with such particulars as may be provided by regulations.

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Decision as to whether a property is trust or endowment.

32.(1) Where the Board has reason to believe that any property of any trust or endowment, is a Vanniyakula Kshatriya Public Charitable Trust or Endowment, the Board may, notwithstanding anything contained in any Act, hold an enquiry in regard to such property and, if after such enquiry, the Board is satisfied that such property is trust or endowment property, call upon the trust or endowment, as the case may be, either to register such property under this Act as Vanniyakula Kshatriya Public Charitable Trust or Endowment or show cause why such property should not be so registered:

Provided that in all such cases, notice of action proposed to be taken under this sub-section shall be given to the authority by whom the trust or endowment had been registered.

(2) The Board shall, after duly considering such cause as may be shown in pursuance of notice issued under sub-section (1), pass such orders as it may think fit and the order so made by the Board shall be final, unless it is revoked or modified by a competent Court under this Act.

Power to cause registration of trust and endowment and to amend the register.

33. The Board may direct the trustee or administrator to apply for the registration of trust or endowment and to supply any information regarding a trust or endowment or may itself cause the trust or endowment to be registered or may at any time amend the register of trust and endowment.

CHAPTER-V.

ADMINISTRATION OF TRUST AND ENDOWMENT.

Board to appoint Administrative Officer for trust or endowment.

34. (1) Notwithstanding anything contained in this Act, the Board may, if it is of the opinion that it is necessary so to do in the interests of trust or endowment, appoint an Administrative Officer, on whole time or part-time basis with salary or in honorary capacity, with such terms and conditions as may be specified therefor:

Provided that the person to be chosen as Administrative Officer should be a person from Vanniyakula Kshatriya Community.

(2) The Administrative Officer so appointed under sub-section (1) shall exercise such powers and discharge such duties pertaining to the administration of the property of trust or endowment for which he has been appointed and shall exercise those powers and discharge those duties under the direction, control and supervision of the Board.

(3) The salaries and allowances of the Administrative Officer and his staff shall be fixed by the Board having due regard to the income of the trust or endowment and the nature of the duties of the Administrative Officer and his staff.

(4) The salaries and allowances of the Administrative Officer and his staff shall be paid by the Board from its fund and if the trust or endowment generates any additional income due to the appointment of the Administrative Officer, the Board may claim reimbursement of the amount spent towards the salaries and allowances from the fund of the concerned trust or endowment.

(5) The Board may, for sufficient reasons and after giving a reasonable opportunity of being heard to the Administrative Officer or a member of his staff, remove or dismiss the Administrative Officer, or a member of his staff from his post.

(6) Any Administrative Officer or a member of his staff who is aggrieved by any order of removal or dismissal made under sub-section (5) may, within thirty days from the date of communication of the order, prefer an appeal against the order to the Court and the Court may, after considering such representation as the Board may make in the matter, and after giving a reasonable opportunity to the Administrative Officer or a member of his staff of being heard, confirm, modify or reverse the order.

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Board to cause enquiry in relation to trust or endowment.

35. (1) The Board shall, if it is satisfied that the objects or any part thereof, of a trust or endowment have ceased to exist, where such cessation took place before or after the commencement of this Act, cause an inquiry to be held by the Chief Administrative Officer, in the prescribed manner, to ascertain the property and funds pertaining to such trust or endowment.

(2) On receipt of the enquiry report of the Chief Administrative Officer, the Board shall pass an order—

(a) specifying the property and funds of such trust or endowment;

(b) directing that the property and funds of such trust or endowment which have been recovered shall be applied or utilized for the renovation of trust or endowment and when there is no need for making any such renovation or where the utilization of the funds for such renovation is not possible, be appropriated, to any of the purposes specified in sub-clause (c) of clause (v) of sub-section (2) of section 27.

(3) The Board may, if it has reason to believe that any building or other place which was being used for charity has, whether before or after the commencement of this Act, ceased to be used for that purpose, make an application to the Court for an order directing the recovery of possession of such building or other place.

(4) The Court may, after making such enquiry as it may think fit and satisfied that such building or other place,—

(a) is the property of trust or endowment;

(b) has not been acquired under any law for the time being in force relating to acquisition of land or is not under any process of acquisition under any such law, or has not vested in the Government under any other law for the time being in force relating to land reforms; and

(c) is not in the occupation of any person who has been authorized by or under any law for the time being in force to occupy such building or other place, make an order,-

(i) directing the recovery of such building or place from any person who may be in unauthorized possession thereof, and

(ii) directing that such property, building or place be used for charitable purpose or instruction as before, or if such use is not possible, be utilized for any purpose as given in sub-clause (c) of clause (v) of sub-section (2) of section 27.

Change in the manage ment of trust and endowment to be informed.

36. (1) In case of any change in the management of a registered trust or endowment due to death or retirement or removal of the trustee or administrator, the incoming trustee or administrator shall forthwith, and any other person, may cause notice of the change to the Board.

(2) In case of any other change in any of the particulars mentioned in section 30, the trustee and administrator shall, within three months from the date of occurrence of the change, cause notice of such change, to the Board.

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CHAPTER-VI.

BUDGET OF TRUST AND ENDOWMENT.

Budget of trust or endowment not under direct manage-ment of Board.

37. (1) Every trustee or administrator of trust or endowment shall prepare a budget for the next financial year showing the estimated receipts and expenditure in such form as may be specified.

(2) Every trustee or administrator of trust or endowment shall submit such budget at least ninety days before the beginning of the financial year to the Board and shall make adequate provision for the following:-

(i) for carrying out the objects of the trust and endowment;

(ii) for the protection and maintenance of the properties of trust and endowment;

(iii) for discharge of all liabilities and subsisting commitments binding on the trust or endowment under this Act or any other law for the time being in force.

(3) For making alterations, omissions or additions in the budget as it may deem fit, the Board may give such direction consistent with the objects of the trust or endowment and the provisions of this Act.

(4) If in the financial year, the trustee of trust or administrator of endowment finds it necessary to modify the provision made in the budget in regard to the receipt or to distribution of the amount to be expended under the different heads, he may submit to the Board a supplementary or a revised budget and the provision of sub-section (3) shall, as far as may be, apply to such supplementary or revised budget.

Budget of trust and endowment under direct management of the Board.

38. (1) Budget showing the estimated receipt and expenditure for the next financial year for each of trust and endowment under direct management of the Board, shall be prepared by the Chief Administrative Officer in such form and at such time as may be prescribed and the same to be submitted by him to the Board for its approval.

(2) The Chief Administrative Officer shall submit statement of details of increase of income, if any, for each trust and endowment under the direct management of the Board and the steps taken for its better management during the year, while submitting the budget under sub-section (1).

(3) The Chief Administrative Officer shall keep regular accounts and be responsible for the proper management of every trust and endowment under the direct management of the Board.

(4) Every budget submitted by the Chief Administrative Officer under sub-section (1) shall comply with the requirements of section 37 and, for this purpose, references therein to the trustee of trust or administrator of endowment shall be construed as reference to the Chief Administrative Officer.

(5) The audit of accounts of trust and endowment under the direct management of the Board shall be undertaken by the State Examiner of Local Funds or any other officer appointed by the Government for this purpose, irrespective of the income of the trust and endowment.

(6) The provisions of sub-sections (2) and (3) of section 40 and the provisions of sections 41 and 42 shall, in so far as they are not inconsistent with the provisions of this section, apply to the audit of accounts referred to in this section.

(7) Where any trust or endowment is under the direct management of the Board, such administrative charges, as may be specified by the Chief Administrative Officer, shall be payable by the trust or endowment to the Board:

Provided that the Chief Administrative Officer shall not collect more than ten per cent of the gross annual income of the trust or endowment under the direct management of the Board as administrative charge.

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CHAPTER-VII.

ACCOUNTS OF TRUST AND ENDOWMENT.

Submission of accounts of trust and endowment.

39. (1) Every trustee and administrator shall keep regular accounts of all transactions relating to the trust and endowment.

(2) In every year, every trustee and administrator shall prepare and furnish to the Board a full and true statement of accounts, in such form and containing such particulars as may be provided by regulations of the Board, of all the monies received or expended by the trustee or administrator on behalf of the trust or endowment during the period of twelve months ending on the thirty-first day of March and thereafter the same shall be submitted to the Board on or before thirtieth day of April:

Provided that the date on which the annual accounts are to be closed may be varied at the discretion of the Board.

Audit of accounts of trust and endowment.

40. (1) The accounts of trust and endowment submitted to the Board under section 39 shall be audited and examined in the following manner, namely:-

(a) in the case of a trust or endowment having no income or a net annual income not exceeding ten thousand rupees, the submission of a statement of accounts shall be a sufficient compliance with the provision of section 39 and the accounts of ten per cent of such trust and endowment shall be audited annually by an auditor appointed by the Board;

(b) the accounts of the trust or endowment having net annual income exceeding ten thousand rupees shall be audited annually, or at such other intervals as may be prescribed, by an auditor appointed by the Board from out of the panel of auditors prepared by the Government and while drawing up such panel of auditors, the Government may specify the scale of remuneration of auditors.

(2) The Government may, at any time, cause the account of any trust or endowment audited by the State Examiner of Local Funds or by any other officer designated for that purpose by the Government.

(3) The auditor shall submit his report to the Board and the report of the auditor shall, among other things, specify all cases of irregular, illegal or improper expenditure or of failure to recover money or other property caused by neglect or misconduct and any other matter which the auditor considers it necessary to report; and the report shall also contain the name of any person, who, in the opinion of the auditor, is responsible for such expenditure or failure and the auditor shall, in every such case, certify the amount of such expenditure or loss as due from such person.

(4) The cost of the audit of the accounts of a trust or endowment shall be met from the funds of that trust or endowment:

Provided that the remuneration of the auditors appointed from out of the panel drawn by the Government in relation to trust and endowment having a net annual income of more than ten thousand rupees but less than fifteen thousand rupees shall be paid in accordance with the scale of remuneration specified by the Government in clause (b) of sub-section (1):

Provided further that where the audit of the accounts of any trust or endowment is made by the State Examiner of Local Funds or any other officer designated by the Government in this behalf, the cost of such audit shall not exceed one and a half per cent of the net annual income of such trust or endowment and such costs shall be met from the funds of the trust or endowment concerned.

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Board to pass orders on auditor's report.

41. (1) The Board shall examine the auditor's report, and may call for the explanation of any person in regard to any matter mentioned therein, and shall pass such orders as it thinks fit including orders for the recovery of the amount certified by the auditor under sub-section (3) of section 40.

(2) The trustee or administrator or any other person aggrieved by any order made by the Board may, within thirty days of the receipt of the order by him, apply to the Court to modify or set aside the order and the Court may, after taking such evidence as it may think necessary, confirm or modify the order or remit the amount so certified, either in whole or in part, and may also make such order as to costs as it may think appropriate in the circumstances of the case.

(3) No application made under sub-section (2) shall be entertained by the Court unless the amount certified by the auditor under sub-section (3) of section 40 has first been deposited in the Court and the Court shall not have any power to stay the operation of the order made by the Board under sub-section (1).

(4) The order made by the Court under sub-section (2) shall be final.

(5) Every amount for the recovery of which any order has been made under sub-section (1) or sub-section (2), shall, where such amount remains unpaid, be recoverable in the manner specified in section 28 or section 29 as if the said order were an order for the recovery of any amount determined under sub-section (2) of section 42.

Dues recoverable as arrears of land revenue.

42. (1) Every sum certified to be due from any person by an auditor in his report under section 40 unless such certificate is modified or cancelled by an order of the Board or of the Court made under section 41, and every sum due on a modified certificate shall be paid by such person within sixty days after the service of a demand for the same issued by the Board.

(2) If such payment is not made in accordance with the provisions of sub-section (1), the sum payable may, on a certificate issued by the Board after giving the person concerned an opportunity of being heard, be recovered in the same manner as an arrear of land revenue.

CHAPTER-VIII.

MANAGEMENT OF TRUST AND ENDOWMENT.

Duties of trustee and administrator.

43. It shall be the duty of every trustee and administrator-

(i) to carry out the directions of the Board in accordance with the provisions of this Act or of any rule or order made thereunder;

(ii) to furnish such returns and supply such information or particulars as may, from time to time, be required by the Board in accordance with the provision of this Act or of any rule or order made thereunder;

(iii) to allow inspection of trust and endowment properties, accounts or records or deeds and documents relating thereto by the Board;

(iv) to discharge all public dues; and

(v) to do any other act which he is lawfully required to do so by or under this Act.

Trustee and administrator entitled to pay certain costs from income of the property of trust or endowment.

44. Notwithstanding anything contained in the trust or endowment deed, every trustee or administrator may pay from the income of the property of trust or endowment any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 30 or any accounts under section 39 or any other information or documents required by the Board or for the purpose of enabling him to carry out the directions of the Board.

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Alienation of property of trust and endowment without sanction of Board to be void.

45. (1) Notwithstanding anything contained in the trust and endowment deed, any gift, sale, exchange or mortgage of any immovable property of trust and endowment, shall be void unless such gift, sale, exchange or mortgage is effected with the prior sanction of the Board.

Explanation.- If any *inam* property was granted to the trust, and included in the trust property, the provision under sub-section (1) above shall apply for any alienation of that property.

(2) The Board may, after publishing in the *Tamil Nadu Government Gazette*, the particulars relating to the transaction referred to in sub-section (1) and inviting any objections and suggestions with respect thereto and considering all objections and suggestions, if any, that may be received by it from the concerned trustee or administrator or any other person interested in the trust or endowment, accord sanction to such transaction, if it is of opinion that such transaction is,—

(i) necessary or beneficial to the trust or endowment;

(ii) consistent with the objects of the trust or endowment;

(iii) the consideration thereof is reasonable and adequate:

Provided that the sale of the property sanctioned by the Board shall be effected by public auction and shall be subject to confirmation by the Board within such time as may be prescribed:

Provided further that the Court may, on the application of the aggrieved trustee or administrator or other person, for reasons to be recorded by it in writing, permit such sale to be made otherwise than by public auction, if it is of opinion that it is necessary so to do in the interest of the trust or endowment.

(3) The utilization or investment of the amount realized by sale or exchange, mortgage of any property shall be made by the trustee or administrator subject to the approval of the Board, and where any amount has been raised by mortgage of any such property, the trustee or administrator or other person shall make repayment of the mortgage-debt and obtain a discharge of the mortgage-debt from the mortgagee within such reasonable time as the Board may specify.

(4) Every approval given by the Board under sub-section (3) shall be communicated to the trustee or administrator and shall also be published in the manner prescribed.

(5) The trustee or administrator or any other person having an interest in the trust and endowment, who is aggrieved by the decision given under sub-section (3), may within ninety days from the date of communication to him of such decision or the publication of the decision, as the case may be, prefer an appeal to the Court against such decision, and thereupon, the Court may, after giving the appellant and the Board, a reasonable opportunity of being heard, confirm, modify or set aside such decision.

(6) Where, before the commencement of this Act, any sale, exchange, or mortgage of any immovable property belonging to any trust or endowment was effected, without the prior sanction from appropriate authority or Court detriment to the interest of the trust or endowment, such transaction shall be null and void and shall be deemed never to have been effected and accordingly no right or title in such property shall vest in any person acquiring the property by such transaction and any such property shall be deemed to be the property of the trust or endowment concerned and any person in possession of such property shall be deemed to be an encroacher and thereafter the provisions of sections 51 and 52 shall apply.

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Recovery of property of trust and endowment transferred in contravention of section 45.

46. (1) If the Board is satisfied, after making any inquiry in such manner as may be prescribed, that any immovable property of a trust or endowment entered as such in the register of trust and endowment maintained under section 31, has been transferred without the previous sanction of the Board in contravention of the provision of section 45, it may send a requisition to the Collector within whose jurisdiction the property is situated to obtain and deliver possession of the property to it.

(2) On receipt of a requisition under sub-section (1), the Collector shall pass an order directing the person in possession of the property, to deliver the property to the Board within a period of thirty days from the date of the service of the order.

(3) Every order passed under sub-section (2) shall be served-

(i) by giving or tendering the order, or by sending it by post to the person for whom it is intended; or

(ii) if such person cannot be found, by affixing the order on some conspicuous part of his last known place of abode or business, or by giving or tendering the order to some adult male member or servant of his family or by causing it to be affixed on some conspicuous part of the property to which it relates:

Provided that where the person on whom the order is to be served is a minor, service upon his guardian or upon any adult male member or servant of his family shall be deemed to be the service upon the minor.

(4) Any person aggrieved by the order of the Collector under sub-section (2) may, within a period of thirty days from the date of the service of the order, prefer an appeal to the Court within whose jurisdiction the property is situate and the decision of the Court on such appeal shall be final.

(5) Where an order passed under sub-section (2) has not been complied with and the time for appealing against such order has expired without an appeal having been preferred or the appeal, if any, preferred within that time has been dismissed, the Collector shall obtain possession of the property in respect of which the order has been made, taking such police assistance, as may be necessary for the purpose and deliver it to the Board.

(6) In exercising his functions under this section, the Collector shall be guided by such rules as may be prescribed.

Restrictions on purchase of property on behalf of trust or endowment.

47. Notwithstanding anything contained in a trust and endowment deed, no immovable property shall be purchased for or on behalf of any trust or endowment from the funds of any trust or endowment except with the prior sanction of the Board, and the Board shall not accord such sanction unless it considered that the acquisition of such property is necessary or beneficial to the trust or endowment and that the price proposed to be paid therefor is adequate and reasonable:

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in the *Tamil Nadu Government Gazette* inviting objections and suggestions with respect thereto and the Board shall, after considering the objections and suggestions that may be received by it from the trustee or administrator or any other person interested in the trust and endowment make such orders as it may deem fit.

Restriction on power to grant lease of the properties of trust or endowment.

48. (1) A lease for any period exceeding three years of any immovable property which is property of trust or endowment shall, notwithstanding anything contained in the deed or instrument of trust or endowment or in any other law for the time being in force, be void and of no effect.

(2) A lease for a period exceeding one year and not exceeding three years of any immovable property which is the property of trust or endowment shall, notwithstanding anything contained in the deed or instrument of trust or endowment or in any other law for the time being in force, be void and of no effect unless it is made with the previous sanction of the Board.

(3) The Board shall, in granting sanction for lease or sub-lease or renewal thereof under this section, review the terms and conditions on which the lease or sub-lease is proposed to be granted or renewed and make its approval subject to the revision of such terms and conditions in such manner as it may direct.

(4) Every trust and endowment shall inform the Board about the lease of its property and obtain permission to continue the lease and for grant of sanction for lease or renewal thereof, subject to provision of this section.

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Trustee or administrator not to spend any money belonging to trust and endowment for self-defence.

49. No trustee or administrator shall spend any money out of the funds of the trust or endowment of which he is the trustee or administrator, for meeting any costs, charges, or expenses which are or may be, incurred by him, in relation to any suit, appeal or any other proceeding for, or incidental to, his removal from office or for taking any disciplinary action against himself.

Duties of trustee or administrator or committee to deliver possession of records, etc.

50. (1) Where any trustee or administrator or committee of management has been removed by the Board in accordance with the provision of this Act, or of any scheme made by the Board, the trustee or administrator or the committee so removed from the office (hereinafter in this section referred to as the removed trustee or administrator or committee) shall hand over charge and deliver possession of the records, accounts and all properties of the trust and endowment (including cash) to the successor trustee or the successor committee, within one month from the date specified in the order.

(2) Where any removed trustee or administrator or committee fails to deliver charge or deliver possession of the records, accounts and properties (including cash) to the successor trustee or administrator or committee within the time specified in sub-section (1), or prevents or obstructs such trustee or administrator or committee, from obtaining possession thereof after the expiry of the period aforesaid, the successor trustee or administrator or any member of the successor committee may make an application accompanied by a certified copy of the order appointing such successor trustee or administrator or committee, to any Judicial Magistrate within the local limits of whose jurisdiction any part of the trust or endowment property is situate and, thereupon, such Judicial Magistrate may, after giving notice to the removed trustee or administrator or members of the removed committee, make an order directing the delivery of charge and possession of such record, accounts and properties (including cash) of the trust or endowment, to the successor trustee or administrator or the committee, as the case may be, within such time as may be specified in the order.

(3) Where the removed trustee or administrator or any member of the removed committee, omits or fails to deliver charge and possession of the records, accounts and properties (including cash) within the time specified by the Judicial Magistrate under sub-section (2), the removed trustee or administrator or every member of the removed committee, as the case may be, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees, or with both.

(4) Whenever any removed trustee or administrator or any member of the removed committee omits or fails to comply with the orders made by the Judicial Magistrate under sub-section (2), the Judicial Magistrate may authorize the successor trustee or administrator or committee to take charge and possession of such records, accounts, properties (including cash) and may authorize such person to take such police assistance as may be necessary for the purpose.

(5) No order of appointment of the successor trustee or administrator or committee shall be called in question in the proceedings before the Judicial Magistrate under this section.

(6) Nothing contained in this section shall bar the institution of any suit in a Court by any person aggrieved by any order made under this section, to establish that he has right, title and interest in the properties specified in the order made by the Judicial Magistrate under sub-section (2).

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CHAPTER-IX.

REMOVAL OF ENCROACHMENT.

Removal of encroach ment from the property of trust and endowment.

51. (1) Whenever the Chief Administrative Officer considers whether on receiving any complaint or on his own motion that there has been an encroachment on any land, building, space or other property, which is the property of trust or endowment and, which has been registered as such under this Act, he shall cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling upon him to show cause before a date to be specified in such notice, as to why an order requiring him to remove the encroachment before the date so specified should not be made and shall also send a copy of such notice to the concerned trustee or administrator.

(2) The notice referred to in sub-section (1) shall be served in such manner as may be prescribed.

(3) If, after considering the objections, received during the period specified in the notice, and after conducting an inquiry in such manner as may be prescribed, the Chief Administrative Officer is satisfied that the property in question is property of trust or endowment and that there has been an encroachment on any such property of trust or endowment, he may, by an order, require the encroacher to remove such encroachment and deliver possession of the land, building, space or other property encroached upon, to the trustee of the trust or administrator of the endowment, within such time as may be specified in the order.

(4) Nothing contained in sub-section (3) shall prevent any person aggrieved by the order made by the Chief Administrative Officer under that sub-section from instituting a suit in a Court to establish that he has right, title or interest in the land, building, space or other property:

Provided that no such suit shall be instituted by a person who has been let into possession of the land, building, space or other property as a lessee, licensee or mortgagee by the trustee of the trust or administrator of the endowment or by any other person authorized by him in this behalf.

Enforcement of the order made under section 51.

52. (1) Where the person, ordered under sub-section (3) of section 51 to remove any encroachment, omits or fails to remove such encroachment, within the time specified in the order or, as the case may be, fails to vacate the land, building, space or other property to which the order relates, within the time aforesaid, the Chief Administrative Officer may apply to the Judicial Magistrate within the local limits of whose jurisdiction the land, building, space or other property is situate for evicting the encroacher, and, thereupon, such Judicial Magistrate shall make an order directing the encroacher to remove the encroachment, or as the case may be, vacate the land, building, space or other property and to deliver possession thereof to the concerned trustee or administrator and in default of compliance with the order, remove the encroachment or, as the case may be, evict the encroacher from the land, building, space or other property and may, for the purpose, take such police assistance as may be necessary.

(2) (a) Any person who, on or after the commencement of this Act, continues to be in occupation, otherwise than by a lawful possession of a land belonging to a charitable trust or endowment shall be guilty of an offence under this Act.

(b) Whoever contravenes the provisions of clause (a) shall, on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine which may extend to five thousand rupees.

(c) No Court shall take cognizance of an offence punishable under clause (b) except on the complaint in writing of the Chief Administrative Officer.

(d) No offence punishable under clause (b) shall be inquired into or tried by any Court inferior to that of a Judicial Magistrate of the first class.

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CHAPTER-X.

POWER OF BOARD IN THE ADMINISTRATION OF TRUST OR ENDOWMENT.

Power of Board to pay dues in case of default by trustee or administrator.

53. (1) Where a trustee or administrator refuses to pay or fails to pay any revenue, charges or taxes due to the Government, any local authority or any statutory Board or any Government Company, the Board may discharge the dues from the Board Fund and may recover the amount so paid from the trust or endowment property and may also recover damages not exceeding twelve and a half per cent of the amount so paid.

(2) Any sum of money due under sub-section (1) may, on a certificate issued by the Board after giving the trustee or administrator concerned an opportunity of being heard, be recovered in the same manner as an arrear of land revenue.

Creation of reserve fund.

54. For the purpose of making provision for the payment of rent, land revenue, charges and taxes due to the Government or any local authority or any statutory board or any Government Company for the discharge of the expenses of the repair of the property of trust and endowment and for the preservation of the property of trust and endowment, the Board may direct the creation and maintenance, in such manner as it may think fit, of a reserve fund from the income of a trust and endowment.

Extension of time.

55. The Board may, if it is satisfied that it is necessary so to do, extend the time within which any act is required to be done by the trustee and administrator under this Act.

Penalties.

56. (1) If a trustee or administrator fails to-

(i) apply for the registration of the trust or endowment;

(ii) furnish statements of particulars or accounts or returns as required under this Act;

(iii) supply information or particulars as required by the Board;

(iv) allow inspection of the properties of trust and endowment, accounts, records or deeds and documents relating thereto;

(v) deliver possession of any trust and endowment property, if ordered by the Board or Court;

(vi) carry out the directions of the Board;

(vii) discharge any public dues; or

(viii) do any other act which he is lawfully required to do by or under this Act,

he shall, unless he satisfies the Board or the Court that there was reasonable cause for his failure, be punishable with fine which may extend to five thousand rupees.

(2) Notwithstanding anything contained in sub-section (1), if-

(a) a trustee or administrator omits or fails, with a view to concealing the existence of a trust or endowment, to apply for its registration under this Act,-

(i) in the case of a trust or endowment created before the commencement of this Act, within the period specified therefor in sub-section (8) of section 30;

(ii) in the case of any trust or endowment created after such commencement, within three months from the date of the creation of the trust or endowment; or

(b) a trustee or administrator furnishes any statement, return or information to the Board, which he knows or has reason to believe to be false, misleading, untrue or incorrect in any material particular,

he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to fifteen thousand rupees.

(3) No Court shall take cognizance of an offence punishable under this Act save upon a complaint made by the Board or an officer duly authorized by the Board in this behalf.

(4) No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

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(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the fine imposed under sub-section (1), when realized, shall be credited to the fund specified under section 70. Central Act 2 of 1973.

(6) In every case where offender is convicted of an offence punishable under sub-section (1) and sentenced to a fine, the Court shall also impose such term of imprisonment in default of payment of fine as is authorized by law for such default.

Power to appoint Administrative Officer in certain cases.

57. When there is a vacancy in the office of the trustee and administrator of a trust and endowment and there is no one to be appointed under the terms of the deed of the trust and endowment, or where the right of any person to act as trustee or adminstrator is disputed, the Board may appoint any person belonging to Vanniyakula Kshatriya community to act as Administrative Officer for such period and on such condition as may be prescribed.

Removal of trustee and administrator.

58. (1) Notwithstanding anything contained in any other law or the deed of trust or endowment, the Board may remove a trustee or administrator from his office if such trustee or administrator-

(a) has been convicted for an offence punishable under section 56; or

(b) has been convicted of any offence of criminal breach of trust or any other offence involving moral turpitude, and such conviction has not been reversed and he has not been granted full pardon with respect to such offence; or

(c) is of unsound mind or is suffering from other mental or physical defect or infirmity which would render him unfit to perform the functions and discharge the duties of a trustee; or

(d) is an undischarged insolvent; or

(e) is proved to be addicted to drinking liquor or other spirituous preparations, or is addicted to the taking of any narcotic drugs; or

(f) is employed as a paid legal practitioner on behalf of, or against, the trust or endowment; or

(g) has failed, without reasonable excuse, to maintain regular accounts for two consecutive years or has failed to submit, in two consecutive years, the yearly statement of accounts, as required by sub-section (2) of section 39; or

(h) is interested, directly or indirectly, in a subsisting lease in respect of the property of the trust or endowment, or in any contract made with, or any work being done for the trust or endowment, or is in arrears in respect of any sum due by him to such trust or endowment; or

(i) continuously neglects his duties or commits any misfeasance, malfeasance, misapplication of funds or breach of trust in relation to the trust or endowment, or in respect of any money or property of trust or endowment; or

(j) willfully and persistently disobeys the lawful orders made by the Government, Board under any provision of this Act or rule or order made thereunder; or

(k) misappropriates or fraudulently deals with the property of the trust or endowment.

(2) The removal of a person from the office of the trustee shall not affect his personal rights, if any, in respect of the property of the trust or endowment either as a beneficiary or in any other capacity.

(3) No action shall be taken by the Board under sub-section (1), unless it has held an inquiry into the matter in a prescribed manner and the decision has been taken by a majority of not less than two-third of the members of the Board.

(4) A trustee, who is aggrieved by an order passed under any of the clauses (c) to (i) of sub-section (1), may, within one month from the date of the receipt by him of the order, appeal against the order to the Court and the decision of the Court on such appeal shall be final.

(5) Where any inquiry under sub-section (3) is proposed, or commenced, against any administrator or trustee, the Board may, if it is of opinion that it is necessary so to do in the interest of the trust or endowment, by an order suspend such trustee or administrator until the conclusion of the inquiry:

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Provided that no suspension for a period exceeding ten days shall be made except after giving the trustee or administrator a reasonable opportunity of being heard against the proposed action.

(6) Where any appeal is filed by the trustee to the Court under sub-section (4), the Board may make an application to the Court for the appointment of a receiver to manage the trust or endowment, pending the decision of the appeal, and where such an application is made, the Court shall, notwithstanding anything contained in the Code of Civil procedure, 1908, appoint a suitable person as receiver to manage the trust or endowment, and direct the receiver so appointed to ensure that the customary rights of the trustee and of the trust or endowment, are safeguarded.

Central Act V of 1908.

(7) Where a trustee or administrator has been removed from his office under sub-section (1), the Board may, by order, direct the trustee or administrator to deliver possession of the property of trust or endowment, to the Board or any officer duly authorized in this behalf or to any person or committee appointed to act as the trustee of the trust or administrator of the endowment.

(8) A trustee or administrator of a trust or endowment removed from his office under this section shall not be eligible for re-appointment as a trustee of the trust or administrator of an endowment, for a period of five years from the date of such removal.

Assumption of direct management of certain trust and endowment, by the Board.

59. (1) Where no suitable person is available for appointment as a trustee or administrator of a trust or endowment, or where the Board is satisfied, for reasons to be recorded by it in writing, that the filling up of the vacancy in the office of trustee or administrator is prejudicial to the interests of the trust or endowment, the Board may, by notification, assume direct management of the trust or endowment, for such period or periods, not exceeding five years in the aggregate, as may be specified in the notification.

(2) The Government, may, on its own motion or on the application of any person interested in the trust or endowment, call for the records of any case for the purpose of satisfying itself as to the correctness, legality or propriety of the notification issued by the Board under sub-section (1) and pass such orders as it may think fit and the orders so made by the Government shall be final and shall be published in the manner specified in sub-section (1).

(3) As soon as possible after the close of every financial year, the Board shall send a detailed report to the Government in regard to every trust and endowment, under its direct management, giving therein-

(i) the details of the income of the trust and endowment for the year immediately preceding the year under report;

(ii) the steps taken to improve the management and income of the trust and endowment;

(iii) the period during which the trust and endowment has been under the direct management of the Board and explaining the reasons as to why it has not been possible to entrust the management of the trust and endowment to the trustee or administrator or any committee of management during the year; and

(iv) such other matters as may be prescribed.

(4) The Government shall examine the report submitted to it under sub-section (3), and after such examination issue such directions or instructions to the Board as it may think fit and the Board shall comply with such directions or instructions on receipt thereof.

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Supervision and supersession of committee of management.

60. (1) Whenever the supervision or management of trust or endowment is vested in any committee appointed by the trust deed, then, notwithstanding anything contained in this Act, such committee shall continue to function until it is superseded by the Board or until the expiry of its term as may be specified by the trust deed, whichever is earlier:

Provided that such committee shall function under the direction, control and supervision of the Board and abide by such directions as the Board may issue, from time to time:

Provided further that if the Board is satisfied that any scheme for the management of a trust or endowment, by a committee is inconsistent with any provision of this Act or of any rule made thereunder or with the directions of the trust deed, it may, at any time, modify the scheme in such manner as may be necessary to bring it in conformity with the directions of the trust deed, or of the provisions of this Act and the rules made thereunder.

(2) Notwithstanding anything contained in this Act and in the deed of the trust or endowment, the Board may, if it is satisfied for reason to be recorded in writing, that a committee, referred to in sub-section (1) is not functioning properly and satisfactorily, or that the trust or endowment, is being mismanaged and that in the interest of its proper management, it is necessary so to do, by an order, supersede such committee, and, on such supersession, any direction of trust deed, in so far as it relates to the constitution of the committee, shall cease to have any force:

Provided that the Board shall, before making any order superseding any committee, issue a notice setting forth therein the reasons for the proposed action and calling upon the committee to show cause within such time, not being less than one month, as may be specified in the notice, as to why such action shall not be taken.

(3) Every order made by the Board under sub-section (2) shall be published in the prescribed manner and on such publication shall be binding on the trustee or administrator and all persons having any interest in the trust or endowment.

(4) Any order made by the Board under sub-section (2) shall be final:

Provided that any person aggrieved by the order made under sub-section (2) may, within sixty days from the date of the order, appeal to the Court.

(5) The Board shall, whenever it supersedes any committee under sub-section (2), constitute a new committee of management simultaneously with the order made by it under sub-section (2).

(6) Notwithstanding anything contained in the foregoing sub-sections, the Board may, instead of superseding any committee under sub-section (2), remove any member thereof if it is satisfied that such member has abused his position as such member or had knowingly acted in a manner prejudicial to the interests of the trust or endowment, and every such order for the removal of any member shall be served upon him by registered post:

Provided that no order for the removal of the member shall be made unless he has been given a reasonable opportunity of showing cause against the proposed action:

Provided further that any member aggrieved by any order for his removal from the membership of the committee may, within a period of thirty days from the date of service of the order on him, prefer an appeal against such order to the Court and the Court may, after giving a reasonable opportunity to the appellant and the Board of being heard, confirm, modify or reverse the order made by the Board and the order made by the Court in such appeal shall be final.

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Power of Board to frame scheme for administration of trust or endowment.

61. (1) Whenever the Board is satisfied, whether on its own motion or on the application of not less than five persons interested in any trust or endowment, that it is necessary or desirable to frame a scheme for the proper administration of the trust or endowment, it may, by an order, frame such scheme for the administration of the trust or endowment after consultation with the trustee or administrator or the applicant in the prescribed manner.

(2) A scheme framed under sub-section (1) may provide for the removal of the trustee and administrator of the trust and endowment, holding office as such immediately before the date on which the scheme comes into force:

Provided that where any such scheme provides for the removal of any hereditary trustee, the scheme shall also provide for the appointment of the person next in hereditary succession to the trustees removed, as one of the members of the committee appointed for the proper administration of the trust or endowment.

(3) Every order made under sub-section (2) shall be published in the prescribed manner. Such publication shall be final and binding on the trustee and administrator and all persons interested in the trust or endowment:

Provided that any person aggrieved by an order made under this section may, within sixty days from the date of the order, prefer an appeal to the Court and after hearing such appeal, the Court may confirm, reverse or modify the order:

Provided further that the Court shall have no power to stay the operation of the order made under this section.

(4) The Board may, at any time by an order, whether made before or after the scheme has come into force, cancel or modify the scheme.

(5) Pending the framing of the scheme for the proper administration of the trust or endowment, the Board may appoint an Administrative Officer to perform all or any of the functions of the trustee or administrator thereof and to exercise the powers, and perform the duties, of such trustee or administrator.

Inquiry relating to administration of trust and endowment

62. Any person interested in a trust or endowment, may make an application to the Board supported by an affidavit to institute an inquiry relating to the administration of the trust or endowment, and if the Board is satisfied that there are reasonable grounds for believing that the affairs of the trust or endowment, are being mismanaged, it shall take such action thereon as it thinks fit.

Manner of holding inquiry

63. (1) The Board may, either on an application received under section 62, or on its own motion,-

(a) hold an inquiry in such manner as may be prescribed; or

(b) authorize any member of the Board in this behalf to hold an inquiry into any matter relating to a trust or endowment, and take such action as it thinks fit.

Central Act V of 1908.

(2) For the purposes of an inquiry under this section, the Board or any member of the Board authorized by it in this behalf, shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 for enforcing the attendance of witnesses and production of documents.

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CHAPTER-XI.

POWER OF THE GOVERNMENT TO APPOINT OR REMOVE A TRUSTEE OR ADMINISTRATOR IN CONSULTATION WITH BOARD.

Power of appointment and removal of trustee or administrator when to be exercised by the Government.

64. Where a deed of trust or endowment, or any decree or order of a Court or any scheme of management of any trust or endowment provides that a Court or any authority other than a Board may appoint or remove a trustee or administrator or settle or modify such scheme of management or otherwise exercise superintendence over trust or endowment, then, notwithstanding anything contained in such deed of trust or endowment, decree, order or scheme, such powers aforesaid shall be exercisable by the Government:

Provided that where a Board has been established, the Government shall consult the Board before exercising such powers.

CHAPTER-XII.

FINANCE OF THE BOARD.

Grants by the Government

65. The Government may pay to the Board by way of grants such sums of money as the Government may think fit.

Annual contribution payable to Board.

66. (1) The trustee or administrator of every trust or endowment, the net annual income of which is not less than ten thousand rupees, shall pay annually, out of the net annual income derived by the trust or endowment, such contributions, not exceeding ten per cent of such annual income, as may be prescribed, to the Board for the services rendered by such Board to the trust or endowment.

Explanation I. - For the purposes of this Act, "net annual income" shall mean the gross income of the trust or endowment, from all sources, including donations which do not amount to contribution to the corpus of the trust or endowment in a year, after deducting therefrom the following, namely:-

(i) the land revenue paid by it to the Government;

(ii) the charges, taxes and licence fees, paid by it;

(iii) expenditure incurred for all or any of the following purposes, namely:-

(a) maintenance of, or repairs to, irrigation works, which shall not include the capital cost of irrigation;

(b) seeds or seedlings;

(c) manure;

(d) purchase and maintenance of agricultural implements;

(e) purchase and maintenance of cattle for cultivation;

(f) wages for ploughing, watering, sowing, transplanting, harvesting, threshing and other agricultural operations:

Provided that the total deduction in respect of all expenditure incurred under this clause shall not exceed twenty-five per cent of the income derived from lands belonging to the trust or endowment;

(iv) expenditure on sundry repairs to rented buildings, not exceeding ten per cent of the annual rent derived therefrom, or the actual expenditure, whichever is less;

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(v) sale proceeds of immovable properties or rights relating to, or arising out of, immovable properties, if such proceeds are re-invested to earn income for the trust or endowment:

Provided that the following items of receipts shall not be deemed to be income for the purposes of this section, namely:-

(a) advances and deposits recovered and loans taken or recovered;

(b) deposits made as security by employees, lessees or contractors and other deposits, if any;

(c) withdrawals from banks or of investment;

(d) amounts recovered towards costs awarded by Courts;

(e) donations in cash or kind made by the donors as contributions to the corpus of the trust and endowment:

Provided that the interest on income, if any, accruing from such donations shall be taken into account in calculating the gross annual income;

(f) voluntary contributions received in cash or kind for a specified service to be performed by the trust and endowment, and expended on such service;

(g) audit recoveries.

Explanation II. - In determining the net annual income for the purposes of this section, only the net profit derived by any trust or endowment, from its remunerative undertaking, if any, shall be taken as income, and in respect of its non-remunerative undertakings, such as, schools, colleges, hospitals, poor homes, orphanages or any other similar institutions, the grants given by the Government or any local authority or donations received from the public or fees collected from the pupils of educational institutions shall not be taken as income.

(2) The trustee or administrator of a trust or endowment, may realize the contributions payable by him under sub-section (1) from the various persons entitled to receive any pecuniary or other material benefit from the trust or endowment, but the sum realizable from any one of such persons shall not exceed such amount as shall bear to the total contribution payable the same proportion, as the value of the benefits receivable by such person bears to the entire net annual income of the trust or endowment:

Provided that if there is any income of the trust or endowment, available in excess of the amount payable as dues under this Act, other than the contribution under sub-section (1), and in excess of the amount payable under the deed of such trust and endowment, the contribution shall be paid out of such income.

(3) The contribution payable under sub-section (1) in respect of a trust or endowment, shall, subject to the prior payment of any dues to the Government or any local authority or of any other statutory first charge on the property of trust or endowment, or the income thereof and shall be recoverable, on a certificate issued by the Board after giving the trustee or administrator concerned an opportunity of being heard, as an arrear of land revenue.

(4) If a trustee and administrator realizes the income of the trust or endowment and refuses to pay or does not pay such contribution he shall also be personally liable for such contribution which may be realized from his person or property in the manner aforesaid.

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(5) Where, after the commencement of this Act, the trustee of a trust or administrator of the endowment, fails to submit a return of the net annual income of the trust or endowment, within the time specified therefor or submits a return which, in the opinion of the Chief Administrative Officer is incorrect or false in any material particular, or which does not comply with the provisions of this Act or any rule or order made thereunder, the Chief Administrative Officer may assess the net annual income of the trust and endowment, to the best of his judgment or revise the net annual income as shown in the return submitted by the trustee and administrator and the net annual income as so assessed or revised shall be deemed to be the net annual income of the trust or endowment, for the purposes of this section:

Provided that no assessment of net annual income or revision of return submitted by trustee or administrator shall be made except after giving a notice to the trustee or administrator calling upon him to show cause, within the time specified in the notice, as to why such assessment or revision of the return shall not be made and every such assessment or revision shall be made after considering the reply, if any, given by the trustee or administrator.

(6) Any trustee or administrator who is aggrieved by the assessment or revision made by the Chief Administrative Officer under sub-section (5) may prefer an appeal to the Board within thirty days from the date of the receipt of the assessment or revision of return and the Board may, after giving the appellant a reasonable opportunity of being heard, confirm, reverse or modify the assessment or revision of the return and the decision of the Board thereon shall be final.

(7) If, for any reason, the contribution or any portion thereof leviable under this section has escaped assessment in any year, whether before or after the commencement of this Act, the Chief Administrative Officer may, within five years from the last date of the year to which such escaped assessment relates serve upon the trustee or administrator a notice assessing him with the contribution or portion thereof which had escaped assessment, and demanding payment thereof within thirty days from the date of service of such notice, and the provisions of this Act and the rules made thereunder, shall, as far as may be, apply as if the assessment were made under this Act, in the first instance.

Power of Chief Administrative Officer to direct any person to make payments.

67. (1) Notwithstanding anything contained in any other law for the time being in force, the Chief Administrative Officer, if he is satisfied that it is necessary and expedient so to do, make an order directing any person with whom any money belonging to a trust or endowment, is deposited, to pay the contribution, leviable under section 66, out of such money, as may be standing to the credit of the trust and endowment, by way of deposit, or in any other manner and on receipt of such orders, such person, shall, where no appeal has been preferred under sub-section (3), comply with such orders or where an appeal has been preferred under sub-section (3), shall comply with the orders made by the Court on such appeal.

(2) Every payment made by a person in pursuance of any order made under sub-section (1), shall operate as a full discharge of the liability of such person in relation to the sum so paid.

(3) Any person who is ordered under sub-section (1) to make any payment may, within thirty days from the date of the order, prefer an appeal against such order to the Court and the decision of the Court on such appeal shall be final.

(4) Every person who fails, without any reasonable excuse to comply with the order made under sub-section (1) or, as the case may be, under sub-section (3), shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to eight thousand rupees, or with both.

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Power of Board to borrow.

68. (1) For the purpose of giving effect to the provisions of this Act, the Board may, with the prior sanction of the Government, borrow such sum of money and on such terms and conditions as the Government may determine.

(2) The Board shall repay the money borrowed, together with any interest or costs due in respect thereof, according to the terms and conditions of the loan.

. Trustee and administrator not to lend or borrow moneys without sanction.

69. (1) No trustee, administrator or other person in charge of the administration of a trust or endowment, shall lend any money belonging to the trust or endowment, or any property of trust or endowment, or borrow any money for the purposes of the trust or endowment, except with the prior sanction of the Board.

(2) The Board may, while according sanction, specify any terms and conditions subject to which the person referred to in sub-section (1), is authorized by him to lend or borrow any money or lend any other property of trust or endowment.

(3) Where any money is lent or borrowed, or other property of trust or endowment, is lent in contravention of the provisions of this section, it shall be lawful for the Chief Administrative Officer,-

(i) to recover an amount equal to the amount which has been so lent or borrowed, together with interest due thereon, from the personal funds of the person by whom such amount was lent or borrowed;

(ii) to recover the possession of the property of trust or endowment, lent in contravention of the provisions of this Act, from the person to whom it was lent, or from person who claim title to such property through the person to whom such property was lent.

Vanniyakula Kshatriya Public Charitable Trusts and Endowments (Protection and Maintenance) Fund.

70. (1) All moneys received or realized by the Board under this Act and all other moneys received as donations, benefactions or grants by the Board shall form a fund to be called the Vanniyakula Kshatriya Public Charitable Trusts and Endowments (Protection and Maintenance) Fund and vest with the Board.

(2) All moneys received by the Board, as donations, benefactions and grants for the purposes of the Board shall be deposited and accounted for.

(3) The fund specified under sub-section (1) of this section shall be applied to,—

(a) repayment of any loan borrowed by the Board and payment of interest thereon;

(b) payment of the cost of audit of the Fund and the accounts of trust and endowment;

(c) payment of the salary and allowances to the officers and staff of the Board;

(d) payment of travelling allowances to the Chairperson, members of the Board and officers and staff of the Board;

(e) payment of all expenses incurred by the Board in the performance of the duties imposed, and the exercise of the powers conferred by, or under this Act;

(f) payment of all expenses incurred by the Board for the discharge of any obligation imposed on it by or under any law for the time being in force.

(4) If any balance remains after meeting the expenditure referred to in sub-section (4), the Board may use any portion of such balance for the preservation and protection of the properties of trust and endowment, or for such other purpose as it may deem fit.

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CHAPTER-XIII.

BUDGET, ACCOUNTS AND AUDIT OF THE BOARD.

Budget of Board.

71. (1) The Board shall, in every year, prepare, in such form and at such time as may be prescribed, a budget for the next financial year showing the estimated receipts and expenditure during that financial year and forward a copy of the same to the Government.

(2) On receipt of the budget forwarded to it under sub-section (1), the Government shall examine the same and suggest such alterations, corrections, or modifications to be made therein as it may think fit and forward such suggestion to the Board for its consideration.

(3) On receipt of the suggestions from the Government, the Board may make written representations to the Government with regard to the alterations, corrections or modifications suggested by the Government and the Government shall, after considering such representations, communicate, within a period of three weeks from the date of receipt thereof, to the Board its final decision in relation to the matter and the decision of the Government shall be final.

(4) On receipt of the decision of the Government under sub-section (3), the Board shall incorporate in its budget all the alterations, corrections, modifications finally suggested by the Government and the budget as so altered, corrected or modified, shall be the budget which shall be passed by the Board.

Accounts of Board.

72. The Board shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may be prescribed.

Audit of accounts of Board.

73. (1) The accounts of the Board shall be audited and examined annually by such auditor as may be appointed by the Government.

(2) The auditor shall submit his report to the Government and the report of the auditor shall, among other things, specify whether the accounts of every trust or endowment, under the direct management of the Board have been kept separately and whether such accounts have been audited annually by the State Examiner of Local Funds and shall also specify all cases of irregular, illegal or improper expenditure or of failure to recover money or other property caused by neglect or misconduct and any other matter which the auditor considers it necessary to report; and the report shall also contain the name of any person who, in the opinion of the auditor is responsible for such expenditure or failure and the auditor shall, in every such case, certify the amount of such expenditure or loss as due from such person.

(3) The cost of the audit shall be paid from the fund specified under section 70.

Government to pass orders on auditor's report.

74. The Government shall examine the auditor's report and may call for the explanation of any person in regard to any matter mentioned therein, and shall pass such orders on the report as it thinks fit.

Dues of Board to be recovered as arrears of land revenue.

75. (1) Every sum certified to be due from any person by an auditor in his report under section 73, be paid by such person within thirty days after the service of a demand notice by the Board.

(2) If such payment is not made in accordance with the provisions of sub-section (1), the sum payable may, on a certificate issued by the Board, after giving the person concerned an opportunity of being heard, be recovered as an arrear of land revenue.

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Central Act V of 1908.

Appointment of a Receiver in certain cases.

76. Notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, where any suit or other legal proceeding is instituted or commenced-

(i) by or on behalf of a Board-

(a) to set aside the sale of any immovable property, which is the property of trust or endowment, in execution of a decree or order of a Court;

(b) to set aside the transfer of any immovable property, which is the property of trust or endowment, made by the trustee or administrator thereof, whether for valuable consideration or not, without or otherwise than in accordance with, the sanction of the Board;

(c) to recover possession of the property referred to in clause (a) or clause (b) or to restore possession of such property to the trustee or administrator of the concerned trust or endowment; or

(ii) by a trustee or administrator to recover possession of immovable property, which is the property of trust or endowment, which has been transferred by a previous trustee or administrator whether for valuable consideration or not, without otherwise than in accordance with the sanction of the Board, and which is in the possession of the defendant, the Court may, on the application of the plaintiff, appoint a receiver of such property and direct such receiver to pay from time to time to the plaintiff, out of the income of the property, such amount as the Court may consider to be necessary for further prosecution of the suit.

Bar to the enforcement of right on behalf of unregistered trust or endowment.

77. (1) Notwithstanding anything contained in any other law for the time being in force, no suit, appeal or other legal proceeding for the enforcement of any right on behalf of any trust or endowment, which has not been registered in accordance with the provisions of this Act, after its commencement, or where any such suit, appeal or other legal proceeding had been instituted or commenced, before such commencement, no such suit, appeal or other legal proceeding shall be continued, heard, tried or decided by any Court after such commencement unless such trust or endowment, has been registered, in accordance with the provisions of this Act.

(2) The provision of sub-section (1) shall apply, as far as may be, to the claim for set-off or any other claim made on behalf of any trust or endowment, which has not been registered in accordance with the provisions of this Act.

Notice of suits by parties against Board.

78. No suit shall be instituted against the Board in respect of any act purporting to be done by it, in pursuance of this Act or of any rules made thereunder, until the expiration of two months next after notice in writing has been delivered to, or left at, the office of the Board, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims and the plaint shall contain a statement that such notice has been so delivered or left.

Notice of suits, etc., by Courts.

79. (1) In every suit or proceeding relating to a title to or possession of property of trust or endowment, or the right of a trustee or administrator or beneficiary, the Court shall issue notice to the Board at the cost of the party instituting such suit or proceeding.

(2) Whenever any property of trust or endowment, is notified for sale in execution of a decree of a Court or for the recovery of any revenue, charges or taxes due to the Government, any local authority, any statutory Board or any Government Company, notice shall be given to the Board by the Court, Collector or other person under whose order the sale is notified.

(3) In the absence of a notice under sub-section (1), any decree or order passed in the suit or proceeding shall be deemed to be void, if the Board, within one month of its coming to know of such suit or proceeding, applies to the Court in this behalf.

(4) In the absence of a notice under sub-section (2), the sale shall be deemed to be void, if the Board, within one month of its coming to know of the sale, applies in this behalf to the Court or other authority under whose order the sale was held.

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Board to be party to suit or proceeding.

80. In any suit or proceeding in respect of a trust or endowment, or any property of trust or endowment, the Board may appear and plead as a party to the suit or proceedings.

Bar to compromise of suit by or against trustee or administrator.

81. No suit or proceeding in any Court by or against the trustee or administrator of a trust or endowment, relating to title to property of trust and endowment, property or the rights of the trustee or administrator shall be compromised without the prior sanction of the Board.

CHAPTER-XIV.

MISCELLANEOUS.

Power to supersede Board.

82. (1) If the Government is of opinion that the Board is unable to perform or has persistently made default in the performance of its duty, or abused its powers, or has willfully and without sufficient cause failed to comply with any direction issued by the Government or if the Government is satisfied on consideration of any report submitted after annual inspection, that the Board's continuance is likely to be injurious to the interests of the trust or endowment, the Government may, by notification, supersede the Board for a period not exceeding six months:

Provided that before issuing a notification under this sub-section, the Government shall give a reasonable time to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1) superseding the Board-

(a) all the members of the Board shall, as from the date of supersession, vacate their offices as such members;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board shall, during the period of supersession, be exercised and performed by such person or persons as the Government may direct; and

(c) all property vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may-

(a) extend the period of supersession for such further period as it may consider necessary; or

(b) reconstitute the Board in the manner provided in section 9.

Protection of action taken in good faith.

83. No suit or other legal proceeding shall lie against the Board or Chief Administrative Officer or any other person duly appointed under this Act, in respect of anything which is in good faith done or intended to be done under this Act

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Chairperson, Members Survey Officer, Chief Administrative Officer and officers of the Board deemed to be public servants.

Central Act XLV of 1860

84. (1) The Chairperson and members of the Board, Survey Officer, Chief Administrative Officer, every officers, including auditor and every other person duly appointed to discharge any duties imposed on him by this Act or any rule or regulation or order made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(2) Every trustee or administrator of a trust and endowment, whether appointed under the provisions of this Act or under any deed of trust or endowment, every Administrative Officer and every person holding any office in a trust or endowment, shall also be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Power of Board and Chief Administrative Officer to require copies of documents, etc., to be furnished.

85. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Board or the Chief Administrative Officer to require any person having the custody of any record, register, report or other document relating to a trust or endowment, or any immovable property, which is property of trust and endowment, to furnish subject to the payment of necessary cost, copies of, or extracts from, any such record, register, report or document and every person to whom such a requisition is made, shall furnish, as soon as may be practicable, to the Board or Chief Administrative Officer copies or extract from the required record, register, report or other document.

Central Act 36 of 1963 not to apply for recovery of properties of trust or endowment.

Central Act 36 of 1963.

86. Nothing contained in the Limitation Act, 1963 shall apply to any suit for possession of immovable property comprised in any trust or endowment, or for possession of any interest in such property.

Power to make rules.

87. (1) The Government may make rules to carry out the purposes of this Act.

(2) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.

(b) All notifications issued under this Act, shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are so published.

(3) Every rule made or notification or order issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

Powers to make regulations by the Board.

88. (1) The Board may, with the previous sanction of the Government, make regulations consistent with this Act or the rules made there under, for carrying out its functions under this Act.

(2) No regulation or its cancellation or modification shall have effect until the same have been approved by the Government.

(3) The Government may, by notification, rescind any regulation made under this section and, thereupon, the regulation shall cease to have effect.

(4) All regulations made under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

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Power to remove difficulties.

89. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, do anything which appears to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(2) The order made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly.

Power of Government to give directions.

90. The Government may, from time to time, issue such directions to the Board, as it may deem fit, for giving effect to the provisions of this Act and it shall be the duty of the Board, to comply with such directions.

Overriding effect of Act

91. Save as expressly provided in this Act, any other law in force immediately before the commencement of this Act shall cease to apply to public charitable trusts or endowments created by persons belonging to Vanniyakula Kshatriya community,-

(i) with respect to any matter for which provision is made in this Act; and

(ii) in so far as the provisions of such other Act, is inconsistent with any of the provisions, contained in this Act.

(By order of the Governor)

S.S. POOVALINGAM,
Secretary to Government,
Law Department.

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