

Guwahati Prevention Of Defacement Of Property Act, 2006

01 of 2007

[12 January 2007]

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PREAMBLE

An

Act

to provide for the prevention of defacement of property or place open to public view and for matters connected therewith or incidental thereto:

Whereas it is expedient to provide for the prevention of the defacement of heritage sites, structures, signages, compound walls, public places all over the Guwahati Municipal Corporation or the Guwahati Metropolitan Development Authority area/areas for protection and preservation of natural beauty, cleanliness and environment of the said areas;

It is hereby enacted in the Fifty seventh year of the Republic of India as follows:

1. Short title, extent and commencement :-

- (1) This Act may be called the Guwahati Prevention of defacement of Property Act, 2006.
- (2) It extends to whole of the areas under the Guwahati Municipal Corporation and the Guwahati Metropolitan Development Authority.
- (3) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires--

- (a) "advertisement" means any printed, cyclostyled, typed or written notice, document, paper or any other thing containing any letter, word, picture, sign or visible representation;
- (b) "Collector" means Collector of the Kamrup (Metro) District or any other officer not below the rank of Extra Assistant Commissioner empowered by the Collector;
- (c) "defacement" includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any way whatsoever and the word "deface" shall be construed accordingly.
- (d) "Government" means the Government of Assam.
- (e) "place open to public view" includes any private place or building, public offices, hut, monument, statue, water pipe line, structures, wall including compound wall, retaining wall, tree, fence post, pole or any other erection or contrivance visible to a person being in, or passing along, any public place;
- (f) "public place" means any place including a road, street or way whether a thoroughfare or not and a landing place to which the public are granted access or have a right to resort or over which they have a right to pass;
- (g) "writing" includes decoration, lettering, ornamentations, drawing caricature and other modes for representing or reproducing words or figures in visible form;

3. Penalty for defacement of property :-

- (1) Whoever, by himself or through any other person defaces any place open to public view by defacing or pasting of pamphlets, posters, banners or writing or marking with inks, chalks, paint or any other material or method shall be punishable with a fine which shall not be less than Rs. two thousand and not more than Rupees five thousand:

Provided that nothing in this section shall apply to any

advertisement which,-

(i) is exhibited with the written permission of the Guwahati Municipal Corporation, or the Guwahati Metropolitan Development Authority, as the case may be, having jurisdiction in this behalf.

(ii) is exhibited within the premises of any building, of the advertisement relates to the trade, profession or business carried on that building, or

(iii) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale, entertainment or meeting to be held on or upon or in the same, or

(iv) relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building;

(v) relates to the business of Central Government and is exhibited upon any wall or other property of Central Government.

(2) Where any offence committed under subsection (1) is for the benefit of some other person or a company or other body corporate or an association of persons whether incorporated or not, then such other person or any other officer or person concerned with the management thereof, as the case may be, shall unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

4. Punishment for attempt to commit offence :-

Whoever attempts to commit any offence punishable under this Act or to cause such offence to be committed and in such attempt does any act towards the commission of the offence, shall be punishable with the punishment provided for the offence.

5. Punishment for abettors :-

Any person who, by supply of or solicitation for money, by providing or permitting, supply of materials, aids, abets or is accessory to the commission of any offence under this Act shall be punishable with the punishment provided for the offence.

6. Offences to be cognizable :-

An offence punishable under this Act shall be cognizable and bailable.

7. Power to erase writing :-

Without prejudice to the provisions of section 3, it shall be competent for the Government or the Guwahati Municipal Corporation, or the Guwahati Metropolitan Development Authority, as the case may be, to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any place open to public view and to realize the costs from the person responsible for such defacements as an arrear of land revenue.

8. Offence to be tried summarily :-

All offences under the Act shall be tried in a summary way by any Magistrate of the first class, and the provisions of sections 262 to 265 (both inclusive) of the code of Criminal Procedure, 1973 (Central Act No. 2 of 1973), shall apply to such trials.

9. Powers of the Guwahati Municipal Corporation & the Guwahati Metropolitan Development Authority :-

It shall be the duty of the Collector, Commissioner, Guwahati Municipal Corporation and the Chief Executive Officer, Guwahati Metropolitan Development Authority to see that the provisions of this Act are strictly enforced within the area of their jurisdiction and in the exercise of their duties and performance of their powers under this Act, the said Corporation and the Authority, as the case may be, shall be guided by such general instructions as may be issued by the Government from time to time.

10. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall lie against the Government or Collector, or any officer of Guwahati Municipal Corporation or the Guwahati Metropolitan Development Authority or any person for anything which is in good faith or in public interest done or intended to be done under this Act.

11. Act to override other laws :-

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other state law for the time being in force.