

Jammu And Kashmir Charitable Endowments Act, 1989

14 of 1989

[07 September 1989]

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Jammu And Kashmir Charitable Endowments Act, 1989

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An Act to provide for the vesting and administration of property held in trust for charitable purposes.

Be it enacted by the Jammu and Kashmir State Legislature in the Fortieth Year of the Republic of India as follows :-

1. Short Title, extent and commencement :-

- (1) This Act may be called the Jammu and Kashmir Charitable Endowments Act, 1989
- (2) It extends to the whole of the state of Jammu and Kashmir.
- (3) It shall be deemed to have come into force with effect from 7th September, 1989.

2. Definitions :-

In this Act "Charitable purpose" means relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teachings, religious places of worship.

3. Appointment and incorporation of Treasurer of Charitable Endowments :-

(1) The Government may appoint an officer of the Government by the name of his office to the Treasurer of any charitable Endowments in the state.

(2) Such Treasurer shall, for the purposes of taking, holding and transferring movable or immovable property under the authority of this Act be a corporation sole by the name of the Treasurer of Charitable Endowment and as such Treasurer shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

4. Orders vesting property in Treasurer :-

(1) Where any property is held or is to be applied in trust for a charitable purpose the Government, if it thinks fit, may, on application made as herein after mentioned, and subject to other provisions of this section, order by notification in the Government Gazette that the property be vested in the Treasurer of Charitable Endowment on such term as to the application of the property or the income there of as may be agreed to between the Government and the person or persons making the application and the property shall there upon so vest accordingly.

(2) When any property has vested under this section in a Treasurer of charitable Endowment, he is entitled to all documents of title relating there on.

(3) An order under this section vesting property in a Treasurer of Charitable Endowment shall not require or be deemed to require him to administer the property or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof.

5. Schemes for administration of property vested in the Treasurer :-

(1) On application made as herein after mentioned and with the concurrence of the person or persons making the application

announcement, if it thinks fit may settle a scheme for the administration of any property which has been or is vested in the Treasurer of Charitable Endowments, and may in Scheme appoint, by name or office, a person or persons not being or including such treasurer, to administer the property.

(2) On application made as herein after mentioned, and with the concurrence of the person or persons making the application, the Government may, if it thinks fit, modify any such scheme settled under this section or substitute another scheme instead.

(3) A scheme, settled, modified or substituted under this section shall, subject to the other provisions of this section come into operation on a day to be appointed by the Government in this behalf, and other shall remain in force so long as the property to which it relates continue to be vested in the Treasurer of Charitable Endowment or until it has been modified or another such scheme has been substituted instead.

(4) Such a scheme, when it comes into operation, shall supersede any degree or direction relating to the subject matter thereof in so far as such degree or direction in any way repugnant there to and its validity shall not be questioned in any court, or shall any court give, in contravention of the provision of the scheme or in any way contrary or in addition hereto a degree or direction regarding the administration of the property to which the schemes relates.

(5) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust.

(6) Where a scheme has been settled under this section for the administration of the property not already vested in the Treasurer of Charitable Endowment, it shall not come into operation until the property has become so vested.

6. Mode of applying for vesting orders and Schemes :-

(1) The application referred to in the two last foregoing sections must be made under :-

(a) If the property is already held in the trust for a charitable purpose, then by the person acting in the administration of the trust, or where there are more persons than one so acting then by those persons or majority of them; and

(b) If the property is to be applied in trust for such purpose then by the person or persons proposing so to apply it.

(2) For the purpose of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose

shall be deemed to be a person acting in the administration of the trust.

7. Scheme of administration of property of certain other Charitable Trusts :-

(1) The Government may suo motto for reasons to be recorded or on an application made by any person having an interest, by notification in the Government Gazette, settle a scheme for the administration of any property held in trust for a charitable purpose which has not vested in the Treasurer of Charitable Endowments under section 4 of this Act.

(2) The Government may appoint date, whether retrospectively or prospectively, on which a scheme settled under this section shall become operative.

(3) Such a scheme may provide for the following :-

(a) Powers and functions of the Treasurer with respect to such Charitable Trusts;

(b) Appointment of Treasurer of Charitable Endowments as a trustee;

(c) Removal of any existing Trustee;

(d) Appointment of new Trustees; and.

(e) Appointment, by name or office, a person or persons to administer the property.

(4) The Government may suo motto or on an application made by any person having an interest, by notification in the Government Gazette, modify any scheme settled under this section or substitute another scheme instead.

(5) Such a scheme, when it comes into operation shall supersede any decree or direction relating to the subject matter thereof in so far as such decree or direction in any way repugnant thereto, and its validity shall not be questioned in any court, nor shall any court give in contravention of the provisions of the scheme or in any way contrary or in addition thereto a decree or direction regarding the administration of the property to which the scheme relates.

(6) In the settlement of such scheme effect shall be given to the wishes of the author of the trust.

8. Bare Trusteeship of Treasurer :-

(1) Subject to the provisions of this Act, a Treasurer of Charitable Endowment shall not as such Treasurer act in the administration of any trust whereof any of the property is for the time being

vested in him under this Act.

(2) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provisions made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5 or in both these documents.

(3) In the case of any property so vested other than the securities for money such Treasurer, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof; as if the property had been vested in them.

9. Annual Publication of list of property vested in Treasurer :-

A Treasurer of Charitable Endowment shall cause to be published annually in the Government Gazette at such time as the Government may direct a list of all properties for the time being vested in him under this Act, and an abstract of all accounts kept by him under sub-section (2) of the last foregoing section.

10. Limitations of functions and Powers of Treasurer :-

(1) A Treasurer of Charitable Endowment shall always be a sole trustee, and shall not, as such treasurer take or hold Any property otherwise than under the provisions of this Act, or subject to those provisions transfer any property vested in him except in obedience with a direction in that behalf issuing from the authority by whose order the property became vested in him.

(2) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him, and, with the sanction of the authority issuing the direction, to invest the proceeds of the property in any such matter as is specified in the direction, or in the purchase of immovable property.

(3) When a Treasurer of Charitable Endowment is divested, by a direction of the Government under this section, of any property it shall vest in the persons or persons acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer.

11. The powers to frame forms and make rules :-

The Government may makes rules consistent with this Act for :-

- (i) Prescribing the fees to be paid by the Government in respect of any property vested under this Act, in a Treasurer of Charitable Endowment;
- (ii) Regulating the cases or mode in which schemes or any modification thereof are to be published before they are settled or made under section 5 and 7;
- (iii) Prescribing the forms in which accounts are to be kept by Treasurer of Charitable Endowment and the mode in which such accounts are to be audited; and
- (iv) Generally carrying into effect the purpose of this Act.

12. Repeal and Saving :-

- (1) The Jammu and Kashmir Charitable Endowments Ordinance, 1989b is hereby repealed.
- (2) Notwithstanding such repeal, anything done, any action taken or any scheme framed under the said Ordinance shall be deemed to have been done, taken or framed under this Act.