

**LOKA SHIKSHANA TRUST (TAKING OVER OF MANAGEMENT)
ACT, 1982**

9 of 1982

[2nd NOVEMBER, 1982]

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STATEMENT OF OBJECTS AND REASONS KARNATAKA ACT No. 9 OF 1982 Karnataka Gazette, Extraordinary, dated 11-2-1982 The Loka Shikshana Trust (People's Education Trust) registered under the Bombay Public Trusts Act, 1950, was created for the purpose of educating the people, inter alia, by establishing or helping

institutions calculated to educate the people and publishing among others the Kannada daily newspaper 'Samyukta Karnataka' from Hubli and Bangalore. This was in 1935. On account of continuous loss, the sole Trustee sold over the newspaper 'Samyukta Karnataka' publication at Hubli and Bangalore, to the Karnataka Patrike Private Limited in 1974. In turn, Karnataka Patrike Private Limited again alienated the properties of the said publication in favour of Jayakarnataka News Printers Private Limited, in 1977. Some persons interested in the Trust filed a suit before the District Judge, Dharwar, in O.S. No. 4 of 1977 questioning the alienation of the properties of the Trust and also requested for framing a scheme, connected with the original objects of the Trust. Due to litigation and bad management, the Bangalore edition of 'Samyukta Karnataka' was closed in January 1980, throwing the employees out of employment and also defeating the very objectives of the Trust. It was, therefore, deemed expedient to take over the management of the Trust by the State for a limited period and in public interest, with a view to securing proper management of the Trust, providing continued employment to the employees and ensuring the regular publication of the newspaper. Provision is also made in the Bill to manage the Trust through an Administrator for a period of two years in the first instance and if necessary to further extend it so that the total period shall not exceed five years. Provision is also made to transfer the management of the Trust to the Governing body after the above period, or to relinquish the management earlier if the purposes of the taking over are fulfilled and for other consequential and individual matters. As the matter was urgent an ordinance was promulgated and the Bill is intended to replace the said Ordinance.

CHAPTER 1

Preliminary

1. Short title and commencement :-

(1) This Act may be called the Loka Shikshana Trust (Taking over of Management) Act, 1982.

(2) It shall be deemed to have come into force on the 31st day of August, 1981.

2. Definitions :-

In this Act unless the context otherwise requires,

(a) "Administrator" means the person or body of persons appointed

as the Administrator under Section 4;

(b) "Appointed day" means the date of the commencement of this Act;

(c) "Trust" means the Loka Shikshana Trust, a trust registered under the Bombay Public Trusts Act, 1950 (Bombay Act 29 of 1950) and includes,

(i) the undertakings thereof;

(ii) all assets, rights, leaseholds, powers, authorities and privileges and all property, moveable and immovable, including lands, buildings, works, workshops, projects, stores, instruments, machinery, automobiles and other vehicles, cash balances, reserve funds, investments and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession, power or control of the Trust and all documents of whatever nature relating thereto.

Explanation. For the purpose of this section the properties which are the subject-matter of O.S. No. 4 of 1977 on the file of the District Judge, Dharwar and MFA No. 263 of 1977 on the file of the High Court of Karnataka and which are in the possession of the receivers appointed by the Courts in such proceedings shall be deemed to be part of the trust. This shall not in any way prejudicially affect the right of any person in respect of such property.

CHAPTER 2

Taking over the Management of the Loka Shikshana Trust

3. Management of the Loka Shikshana Trust :-

(1) On and from the appointed day, and for a period of two years thereafter, the management of the trust shall vest in the State Government:

Provided that if the State Government is of opinion that in order to secure the proper management of the trust, it is expedient that such management should continue to vest in the State Government after the expiry of the said period of two years, it may, from time to time, issue directions for the continuance of such management for such period, not exceeding one year at a time, as it may think fit; so, however, that the total period for which such management shall continue to vest in the State Government shall not, in any

case, exceed five years.

(2) Any contract, whether express or implied, or other arrangement, insofar as it relates to the management of the business and affairs of the undertakings of the trust, and in force immediately before the appointed day, shall be deemed to have terminated on the appointed day.

(3) All persons in charge of the management of the trust including the receivers appointed by the Courts, the persons holding office as trustees or any other managerial personnel, immediately before the appointed day shall, notwithstanding anything contained in any agreement or contract or other law or in any judgment, decree or order of any Court, Tribunal or other authority, be deemed to have vacated their offices as such on the appointed day.

(4) After the expiry of the period specified in sub-section (1) or continued under the proviso thereto, the management of the trust shall vest in accordance with the order, if any of any Court, Tribunal or other authority, and if there be no such order, vest in the governing body (by whatever name called) of the trust or such other body or person, as the case may be, entitled thereto.

4. Administrator of the trust :-

(1) The State Government shall as from the appointed day, appoint a person or a body of persons as the Administrator of the trust for the purpose of taking over the management thereof and the Administrator shall carry on the management of the trust for and on behalf of the State Government. All persons in charge of the management of the trust immediately before the appointed day shall cease to be in charge of such management and shall be bound to deliver such management to the Administrator.

(2) The State Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any Court, Tribunal or other authority) to the Administrator as to his powers and duties as that Government may deem desirable and the Administrator may apply to the State Government at any time, for instructions as to the manner in which he shall conduct the management of the trust or in relation to any matter arising in the course of such management.

(3) Subject to the other provisions of this Act and the rules made thereunder and to the control of the State Government, the

Administrator shall be entitled, notwithstanding anything contained in any law for the time being in force, to exercise, in relation to the trust, the powers of the governing body of the trust, including the powers to dispose of any property or assets of such trust, whether such powers are derived under any law for the time being in force or from the memorandum and rules and regulations of the trust or from any other source.

(4) Every person having possession, custody or control of any property forming part of the trust shall deliver forthwith such property to the Administrator or to any officer or other employee of the State Government as may be authorised by the State Government in this behalf.

(5) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the trust, including the minutes books containing the orders or resolutions of the person in charge of the management of the trust before the appointed day, the current cheque books relating to the trust, any letters, memoranda, notes or other communications between him and the trust shall, notwithstanding anything contained in any other law for the time being in force be liable to account for the books, papers and other documents including such minutes books, cheque books, letters, memoranda, notes or other communications to the Administrator or to such person (being an officer or other employee of the State Government) as may be authorised by the State Government in this behalf.

(6) Every person in charge of the management of the trust immediately before the appointed day shall, within ten days from that day or within such further period as the State Government may allow in this behalf, furnish to the Administrator a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the trust immediately before the appointed day and of all the liabilities and obligations of the trust, subsisting immediately before that day, and also of all agreements entered into by the trust and in force immediately before that day.

(7) The Administrator shall receive from the funds of the trust such remuneration as the State Government may fix.

5. No right to compensation for premature termination of a contract :-

Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract or management or other arrangement is terminated by reason of the provisions contained in sub-section (2) of Section 3 or who ceases to hold any office by reason of the provisions contained in sub-section (3) of that section, shall be entitled to claim any compensation for the premature termination of the contract or management or other arrangement or for the loss of his office, as the case may be.

6. Relinquishment of management of the trust :-

(1) Notwithstanding anything contained in sub-section (1) of Section 3, if, at any time before the expiry of the period referred to in that sub-section, it appears to the State Government that the purposes of vesting of the management of the trust in the Government have been fulfilled or that for any other reasons it is not necessary that the management of the trust should remain vested in that Government, it may, by order published in the Official Gazette, relinquish the management of the trust with effect from such date as may be specified in the order.

(2) On and from the date specified under sub-section (1), the management of the trust shall be transferred in accordance with the order, if any, of any Court, Tribunal or other authority, and if there be no such order shall be transferred to the governing body (by whatever name called) of the trust, or such body or person as the case may be, entitled thereto.

CHAPTER 3

Miscellaneous

7. Penalties. Any person who :-

(a) having in his possession or custody or under his control any property forming part of the trust, wrongfully withholds such property from the Administrator or any person authorised under this Act, or

(b) wrongfully obtains possession of any such property, or

(c) wilfully retains, or fails to deliver, any property forming part of the trust or removes or destroys it, or

(d) wilfully withholds from or fails to account for any books, papers or other documents which may be in his possession or custody or under his control to the Administrator or any person authorised

under this Act, or

(e) fails, without any reasonable cause, to furnish information or particulars as provided in sub-section (6) of Section 4, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

8. Offences by companies :-

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purposes of this section,

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

9. Exclusion of period of operation of Act :-

In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by the trust in respect of any matter arising out of any transaction in relation to the trust, the time during which this Act is in force shall be excluded.

10. Act to have over-riding effect :-

The provisions of this Act or any notification, order or rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any Court, Tribunal or other authority.

11. Protection of action taken in good faith :-

(1) No suit, prosecution or other legal proceedings shall lie against the administrator or any officer or other employee of the State Government for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the State Government or the Administrator or any of the officers or other employees of the State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

12. Contracts in bad faith may be cancelled or varied :-

1) If the State Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into at any time within one year immediately preceding the appointed day, between the trust and any other person, has been entered into in bad faith, or is detrimental to the interests of the trust, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court of Karnataka for the variation or reversal of such order and thereupon such Court may confirm, modify or reverse such order.

13. Power to terminate contract of employment :-

If the administrator is of opinion that any contract of employment entered into by the trust at any time before the appointed day, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu

thereof, terminate such contract of employment.

14. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall there after 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.

15. Repeal and savings :-

(1) The Loka Shikshana Trust (Taking over of Management) Ordinance, 1981 (Karnataka Ordinance 16 of 1981) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.