



The Charitable Endowments Act, 1890

[Act 6 of 1890¹]

[7th March, 1890]

*An Act to provide for the Vesting and Administration of Property
held in trust for charitable purposes.*

Whereas it is expedient to provide for the vesting and administration of property held in trust for charitable purposes; It is hereby enacted as follows:—

Statement of Objects and Reasons.—“On many occasions the want has been felt in India of an official capable of discharging the functions which are discharged in England by the Official Trustee of Charity Lands and the Official Trustees of Charitable Funds. The object of this Bill is to meet that want.

2. Much property has from time to time in different parts of India been vested by founders in public servants, such as the Collector, Director of Public Instruction, Accountant-General and Divisional Commissioner. With respect to a case in which an Accountant-General and a Divisional Commissioner had been named as trustees, the Officiating Advocate-General of Bengal and the Officiating Standing Counsel stated in a joint opinion in 1885 that persons cannot, as holders of certain posts, be appointed trustees “unless these posts are corporate ones”. Neither the “office of the Accountant-General nor that of the Commissioner” they observed, “is a corporate office; and even if appointed by the designation of their office only, and not by name, the trust-fund would vest in them as individuals, and they would remain trustees until they themselves appointed others to succeed them or until they died”.

3. There is a difficulty in India in finding any corporation capable of acting as a trustee in such cases as this Bill is designed to meet. The Secretary of State for India in Council and the Governor-General in Council are incapable of being trustees (L.R. 15 Ch. D. 9). It has also been held that Anglican Bishops and Archdeacons in India, who have been constituted by Letters Patent to be perpetual corporations, with power to take and hold property under grant or licence from the Crown, are not capable of acting as trustees in some of the cases for which this Bill is intended to provide. To the question whether the Lord Bishop of Calcutta in his corporate capacity might not, under the Letters Patent for the Bishopric of Calcutta, bearing date the 14th May 1814, hold land upon trust for a Diocesan School so that, upon his ceasing to be Bishop, it would devolve without a deed upon his successor in the Bishopric, an eminent counsel in England, to whom the question was referred, has replied in the negative. “It is quite true”, he remarks, “that the Bishop is a corporation sole, and in that capacity can hold the lands belonging to his See. He may, however, only hold such lands as by grant or licence from the Company (now Her Majesty) he is authorised to take, hold and enjoy. I think it is clear that the Letters Patent only refer to lands belonging to, or purchased out of moneys belonging to, the Bishopric..... on the whole. I am of opinion that, if the land in question was conveyed to the Bishop as a trustee, it would pass on his death not to his successor but to his executors”.

4. The Bill, it will be observed, is of a purely permissive character. The Government will be unable to make a vesting order or frame a scheme except on application for that purpose, and may, if it

1. This Act has been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), S. 3: in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), S. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), S. 3 and Sch. It has also been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

This Act has been amended in its application to Bengal by the Bengal Wakf Act, 1934 (Bengal Act 13 of 1934).

This Act shall not apply to any Wakf to which the Wakf Act, 1954 (29 of 1954) applies.

sees fit, refuse to act. The corporation sole in whom as Treasurer of Charitable Endowments property may be vested is, except as regards the disposal of any property by direction of the Government, to have nothing to do with the administration of the property. He is to be a bare trustee, the object of vesting the property in him by his name of office as a corporation sole being to secure the holding of the property by some one always present, and to avoid the difficulty and expense of appointing a new trustee on the retirement or death of any incumbent of the trust”.

Statement of Objects and Reasons of Amending Act 56 of 1982.—Section 13 of the Charitable Endowments Act, 1890 empowers the appropriate Government to make rules consistent with the Act. The Act does not require the rules so made by the appropriate Government to be published in the official gazette or laid before Parliament or the State Legislatures, as the case may be.

2. With a view to implementing the recommendations made by the Committees on Subordinate Legislation with respect to the publication and laying of rules and regulations, the Bill seeks to amend the said section to provide for the publication of the rules made there under in the official gazette and for the laying of such rules. Rules made by a State Government will have to be laid before the State Government will have to be laid before the State Legislature, while rules made by the Central Government will have to be laid before Parliament.

3. The Bill seeks to achieve the above objects.

1. Title, extent and commencement.—(1) This Act may be called the Charitable Endowments Act, 1890.

(2) It extends to the whole of India ²[* * *] ³[* * *]; and

(3) It shall come into force on the first day of October, 1890.

2. Definition.—In this Act “charitable purpose” includes 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 teaching or worship.

3. Appointment and incorporation of Treasurer of Charitable Endowments.—⁴[(1) The Central Government may appoint an officer of the Government by the name of his office to be Treasurer of Charitable Endowments for India, and the Government of any State may appoint an officer of the Government by the name of his office to be Treasurer of Charitable Endowments for 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 Endowments for ⁵[India or, as the case may be, the State], and, as such Treasurer, shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

⁶[3-A. Definition of “appropriate Government”, etc.]—In the subsequent provisions of this Act “the appropriate Government” means, as respects a charitable endowment, the objects of which do not extend beyond a single State and are

2. The words “except the State of Jammu and Kashmir” *omitted* by Act 34 of 2019, Ss. 95, 96 & Sch. V (w.e.f. 31-10-2019).

3. The words “inclusive of British Baluchistan” *omitted* by the A.O. 1948.

4. *Subs.* by the A.O. 1937, for the original sub-section.

5. *Subs.* by the A.O. 1937, for “the territories subject to the Local Government”.

6. *Ins.* by the A.O. 1937.



not objects to which the executive authority of the Central Government extends, the Government of the State, and as respects any other charitable endowment the Central Government.]

CASE LAW ► Applicability.—When a society is not established purely for religious purpose, provisions of Charitable Endowments Act, 1890 were applicable, *Rishikul Brahmacharya Ashram Committee v. State of Uttaranchal*, (2005) 9 SCC 254.

4. Orders vesting property in Treasurer.—(1) Where any property is held or is to be applied in trust for charitable purpose, the ⁷[appropriate Government], if it thinks fit, may, on application made as hereinafter mentioned, and subject to the other provisions of this section, order, by ⁸notification in the Official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of the property or the income thereof as may be agreed on between the ⁹[appropriate Government] and the person or persons making the application, and the property shall thereupon so vest accordingly.

(2) When any property has vested under this section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto.

(3) ¹⁰[* * *]

(4) An order under this section vesting property in a Treasurer of Charitable Endowments 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 hereinafter mentioned, and with the concurrence of the person or persons making the application, the ¹¹[appropriate Government], if it thinks fit, may settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such 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 hereinafter mentioned, and with the concurrence of the person or persons making the application, the ¹²[appropriate Government] may, if it thinks fit, modify any scheme settled under this section or substitute another scheme in its stead.

(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 ¹³[appropriate Government] in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of

7. Subs. by the A.O. 1937, for "Local Government".

8. For notifications issued under this section in conjunction with S. 5, see different local R. and O.

9. Subs. by the A.O. 1937, for "Local Government".

10. Omitted by the A.O. 1937.

11. Subs. by the A.O. 1937, for "Local Government".

12. Subs. by the A.O. 1937, for "Local Government".

13. Subs. by the A.O. 1937, for "Local Government".

Charitable Endowments or until it has been modified or another such scheme has been substituted in its stead.

(4) Such a scheme, when it comes into operation, shall supersede any decree or direction relating to the subject-matter thereof insofar as such decree or direction is 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:

¹⁴[Provided that nothing in this sub-section shall be construed as precluding a Court from inquiring whether the Government by which a scheme was made was the appropriate Government.]

(5) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust so far as they can be ascertained, and, in the opinion of the ¹⁵[appropriate Government], effect can reasonably be given to them.

(6) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not come into operation until the property has become so vested.¹⁶

STATE AMENDMENTS

BIHAR.—In its application to the State of Bihar, in Section 5, the following proviso shall be added—

“Provided that the powers of the State Government under this section for the settlement, modification or substitution of a scheme for the administration of any property shall, in respect of any waqf property within the meaning of the Bihar Waqfs Act, 1947, or trust property within the meaning of the Bihar Hindu Religious Trusts Act, 1950, be exercised subject to the approval of the State Government, by the Majlis established under the first mentioned Act, or, as the case may be, by the Board established under the last mentioned Act.” [Vide Bihar Act 8 of 1948, S. 4(3) and 1 of 1951, S. 4(3) (as substituted by Bihar Act 16 of 1954, S. 41)].

WEST BENGAL.—In its application to the State of West Bengal, in Section 5, the following proviso shall be added, namely—

“Provided that the powers of the State Government under this section for the settlement, modification or substitution of a scheme for the administration of any property shall, in respect of any waqf property in West Bengal, be exercised, subject to the approval of the State Government, by the Board of Waqfs appointed under the Bengal Wakf Act, 1934.” [Vide Bengal Act 13 of 1934, S. 79].

6. Mode of applying for vesting orders and schemes.—(1) The application referred to in the two last foregoing sections must be made,—

- (a) if the property is already held in 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 a majority of them; and

14. *Ins.* by A.O. 1937.

15. *Subs.* by the A.O. 1937, for “Local Government”.

16. A proviso to S. 5 applicable only to Bengal, has been added by the Bengal Wakf Act, 1934 (Bengal Act 13 of 1934), S. 79.

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

(2) For the purposes 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.¹⁷

STATE AMENDMENTS

WEST BENGAL.—In its application to the State of West Bengal, after Section 6, the following sub-section shall be *added*, namely—

“(3) An application for the vesting of any property of the nature specified in sub-section (3) of Section 4 may, notwithstanding anything contained in this section, be made by the Commissioner of Wakfs appointed under the Bengal Wakf Act, 1934, where such property is under the administration of an official mutawalli or of a mutawalli appointed under Section 40 of that Act.”. [Vide Bengal Act 13 of 1934, S. 80.]

UTTAR PRADESH.—In its application to the State of Uttar Pradesh, after Section 6, the following shall be *inserted* as Section 6-A—

“6-A. (1) If the State Government is satisfied upon representation made or otherwise, that in any case, where any property has already vested in the Treasurer of Charitable Endowments under Section 4 and a scheme has been settled under Section 5 that the person or persons acting in the administration thereof are wasting or maladministering the same, it may by notice require the person or persons to show cause why the scheme settled for administration be not modified or substituted by another scheme.

(2) The notice under sub-section (1) shall be served in such manner as may be specified.

(3) Where the person or persons served with the notice fail to show cause within the time allowed or the Government is satisfied after considering their explanation, if any, and making such enquiry as it may deem necessary that the property is being wasted or maladministered, it may, notwithstanding anything contained in Section 5 or 6, modify the scheme or substitute another scheme in its place.” [Vide U.P. Act 37 of 1952, S. 2 (15-12-1952)].

7. Exercise by Governor General in Council of powers of Local Government.—[Rep. by the A.O. 1937].

8. Bare trusteeship of Treasurer.—(1) Subject to the provisions of this Act, a Treasurer of Charitable Endowments 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 insofar as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provision made in that behalf in the vesting order under Section 4 or in the scheme, if any, under Section 5, or in both those documents.

(3) In the case of any property so vested other than securities for money, such Treasurer shall, 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

17. A new sub-section (3), applicable only to Bengal, has been added by the Bengal Wakf Act, 1934 (Bengal Act 13 of 1934), S. 80.

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 properties vested in Treasurer.—A Treasurer of Charitable Endowments shall cause to be published annually in the Official Gazette, at such time as the ¹⁸[appropriate 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 Section 2 of the last foregoing section.

10. Limitation of functions and powers of Treasurer.—(1) A Treasurer of Charitable Endowments 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 to a decree divesting him of the property, or in compliance 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 sale or other disposal of the property in any such security for money as is ¹⁹[specified in the direction], or in the purchase of immovable property.

(3) When a Treasurer of Charitable Endowments is divested, by a direction of ²⁰[the appropriate Government] under this section, of any property, it shall vest in the person 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. Provision for continuance of office of Treasurer in certain contingencies.—If the office held by an officer of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed, the ²¹[appropriate Government] may appoint the same or another officer of the Government by the name of his office to be such Treasurer, and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

²²**[12. Transfer of property from one Treasurer to another.**—If by reason of any alteration of areas or by reason of the appointment of a Treasurer of Charitable Endowments for India or for any State for which such a Treasurer has not previously been appointed or for any other reason it appears to the Central Government that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer, that Government may direct that the property shall be so vested and thereupon it shall vest in that other Treasurer and

18. Subs. by the A.O. 1937, for "Local Government".

19. Subs. by the A.O. 1937, for "mentioned in Section 4, sub-section (3), clauses (a), (b), (c), (d) or (e)".

20. Subs. by the A.O. 1937, for "the Local Government or the G.G. in C.".

21. Subs. by the A.O. 1937, for "Local Government".

22. Subs. by the A.O. 1937, for the original Section.

his successors as fully and effectually for the purposes of this Act, as if it had been originally vested in him under this Act.]

STATE AMENDMENTS

KARNATAKA.—In its application to the State of Karnataka, after Section 12, *insert* the following—

“12-A. Delegation of powers.—Where the appropriate Government is the State Government, it may, by notification in the Official Gazette, direct that any power exercisable by it under this Act (except the power to make rules under S. 13) or rules made thereunder shall, in respect of any endowment which does not exceed rupees ten thousand in value, in relation to such matters and subject to such conditions, if any, as may be specified in the directions, be exercisable also by such officer or authority subordinate to the State Government as may be specified in the notification:

Provided that the powers under Sections 4 and 5 shall not be delegated to any officer other than the Head of a Department of Government.” [Vide Mys. Act 19 of 1973, S. 2 (23-8-1973)].

²³[**13. Power to frame forms and make rules.**—²⁴[* * *]

²⁵[(1)] The ²⁶[appropriate Government] ²⁷[by notification in the Official Gazette] may make ²⁸rules consistent with this Act for—

- (a) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments;
- (b) regulating the cases and the mode in which schemes or any modification thereof are to be published before they are settled or made under Section 5;
- (c) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments and the mode in which such accounts are to be audited; and
- (d) generally carrying into effect the purposes of this Act.]

²⁹[(2) Every rule made by the State Government under this Act, shall be laid, as soon as may be after it is made, before the State Legislature.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, 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 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.]

23. Subs. by Act 38 of 1920, S. 2 and Sch. I, Pt. I, for the original Section.

24. Sub-section (1) *omitted* by the A.O. 1937.

25. Sub-section (2) of S. 13 was *renumbered* as sub-section (1) of that Section by Act 56 of 1982, S. 2.

26. Subs. by the A.O. 1937, for “Local Government”.

27. Ins. by Act 56 of 1982, S. 2.

28. For the Charitable Endowments (Central) Rules, 1942, *see* Gazette of India, Extra., 1942, p. 3.

29. Ins. by Act 56 of 1982, S. 2.



14. Indemnity to Government and Treasurer.—No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor shall any suit be instituted against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with or accountable for the loss or misapplication of any property vested in him, or the income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

15. Saving with respect to Advocate General and Official Trustee.—Nothing in this Act shall be construed to impair the operation of Section 111 of the ³⁰Statute 53, George III, Chapter 155, or of any other enactment for the time being in force, respecting the authority of an Advocate General at a presidency to act with respect to any charity, or of Sections 8, 9, 10 and 11 of Act³¹ 17 of 1864 (*an Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

16. General controlling authority of Governor General in Council.—[*Rep. by the Devolution Act, 1920 (38 of 1920), S. 2 and Sch. I, Pt. I*].

30. The East India Company Act, 1813, rep. by the Govt. of India Act, 1915 (5 and 6 Geo. 5, c. 61).

31. The Official Trustees Act, 1864, rep. by the Official Trustees Act, 1913 (2 of 1913).