

The Meghalaya (Benami Transactions Prohibition) Act, 1980

MEGHALAYA

India

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Act 24 of 1980

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The Meghalaya (Benami Transactions Prohibition) Act, 1980 (Meghalaya Act No. 24 of 1980) Last Updated 19th February, 2020 [As passed by the Assembly] [Received the assent of the President on the 13th October, 1980] Published in the Gazette of Meghalaya, Extraordinary, dated the 31st October, 1983, under Notification No. LL 77/74/42, dated 30.10.1980. An Act to prohibit benami transactions between a tribal and non-tribal Be it enacted by the Legislature of Meghalaya in the Thirty-first Year of the Republic of India as follows :

1. Short title, extent and commencement.

(1) This Act may be called the Meghalaya (Benami Transactions Prohibition) Act, 1980. (2) It extends to the whole of Meghalaya. (3) It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires- (a) "benami transaction" or "transaction in benami" means the acquiring or holding of any property (movable or immovable) or the carrying on of any business, trade or any transaction by a non-tribal in the name or on behalf of a tribal; (b) "non-tribal" means a person who is not a tribal; (c) "State" means the State of Meghalaya; (d) "tribal" means a person belonging to any of the Scheduled Tribes pertaining to Meghalaya and as specified in the Constitution (Scheduled Tribes) Order, 1950, as amended from time to time and for the purposes of this Act shall also include the Rabhas, Kocharis and Kochs resident in Meghalaya.

3. Benami transaction unlawful.

- On and from the commencement of this Act and notwithstanding anything to the contrary contained in any law in force or in any custom or usage benami transaction in any form between a

tribal and a non-tribal is prohibited and shall be unlawful and void and every person involved in any such transaction shall be deemed to have committed an offence under this Act :Provided that no transaction in the name of a tribal shall be deemed to be benami where such transaction is in favour of or for and on behalf of any tribal organisation, association or institution ;Provided further that no transaction shall be deemed to be benami where such transaction is between the members of the same family.Explanation. - For the purpose of this section-(i)"tribal organisation, association or institution" means any organisation, association or institution as may be recognised and notified by the State Government as a tribal organisation, association or institution for the purposes of this Act;(ii)"member of the same family" includes the children either of whose parents is or was a non-tribal.

4. Power to enter and search.

(a)On a complaint or information in writing made to a Magistrate of the First Class or Superintendent of Police, by such person, Committee or authority as the State Government may notify in this behalf, that a transaction is in benami, such Magistrate or Superintendent of Police shall, or(b)if a Magistrate of the First Class or a Superintendent of Police, upon credible information and after such enquiry as he may consider necessary, has reason to believe that a transaction is in benami, such Magistrate or Superintendent of Police may, either by himself or by his warrant authorise an Officer of Police not below the rank of a Sub-Inspector of Police to enter and search, at all reasonable hours, any premises which he has reason to believe and register, books of account or any other documents relating to or having any bearing on such transaction are kept therein and such police officer may direct any person whom he has reason to believe to be in custody of such register, books of account or any other documents relating the transaction to produce them for his inspection or he may seize such register, books of account or other documents found therein or so produced for his inspection, as the case may be.

5. Searches how to be made.

- All searches under this Act shall be conducted, as far as may be, in accordance with the provisions of the Code of Criminal Procedure, 1973,

6. Offence to be cognisable and bailable.

- An offence under this Act shall be cognisable and bailable.

7. Penalty.

- Whoever commits an offence under Section 3, or wilfully refuses or fails to comply with any direction or lawful order made under Section 4, shall on conviction by a Magistrate, be punishable with imprisonment for a term not exceeding two thousand rupees or with both :Provided that the minimum punishment for the second offence under Section 3 shall be with imprisonment for a term of not less than one month and also with fine of not less than five hundred rupees.

8. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against any person, or officer of the Government for anything which is in good faith done or intended to be done under this Act.

9. Power to make rules.

- The State Government may make rules to carry out the purposes of this Act.