

Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority Act, 2006

GUJARAT

India

Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority Act, 2006

Act 28 of 2006

- Published on 9 November 2006
- Commenced on 9 November 2006
- [This is the version of this document from 9 November 2006.]
- [Note: The original publication document is not available and this content could not be verified.]

Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority Act, 2006Gujarat Act No. 28 of 2006(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 9th November, 2006).An Act to provide for constituting and establishing of an Authority to manage and ensure integrated conservation of heritage and natural environs preservation of historical and cultural identity and also for preventing uncontrolled development and commercial exploitation of the Chapaner-Pavagadh Archaeological Park and for matters connected therewith and incidental thereto.It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title and commencement.

(1)This Act may be called the Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority Act, 2006.(2)It shall come into force on such date as the State Government may, by notification, in the Official Gazette, appoint and different dates may be appointed for different provisions of the Act.

2. Definitions.

- In this Act, unless the context otherwise requires-(a)"amenity" includes roads, bridges, streets, transport, lighting water and electricity supply, sewerage, drainage, public works, open spaces, recreational grounds, parks and other conveniences, services or utilities;(b)"appointed day" means

the day appointed for bringing into force all or any of the provisions of the Act;(c)"Authority" means the Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority established under section 3;(d)"Chairperson" means the Chairperson of the authority;(e)"Chief Executive Officer" means an Officer appointed as such under subsection (1) of section 8;(f)"Core Area Zone" and "Buffer Zone" mean such areas as the State Government may, by notification in the Official Gazette, specify;(g)"development" with its grammatical variation means the carrying out of building, engineering or other operations in or over or under any land or the making of any material change in any building, or land or in the use of any' building, or land and includes redevelopment and forming of layouts and sub-division of any land including amenities;(h)"Fund" means the fund of the Authority;(i)"Heritage Area" means the whole of the area comprising the Core Area Zone and Buffer Zone including the area notified or as may be notified from time to time under the Gujarat Ancient Monuments and Archaeological Sites and Remains Act, 1965 (Gujarat 25 of 1965), (24 of 1958), (16 of 1927) and (69 of 1980) in the Core Area Zone and Buffer Zone but excluding the area notified as 'protected area' under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and the areas declared as a reserved forest under the Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980;(j)"Local Authority" means a Municipal Corporation, Municipality or panchayat constituted under relevant local authority law;(k)"Land" includes benefits arising out of land and things attached to the earth permanently fastened to anything attached to the earth;(l)"prescribed" means prescribed by rules made under this Act;(m)"relevant local authority law" means the Bombay Provincial Municipal Corporations Act, 1949 (Bombay LIX of 1949), the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964) or the Gujarat Panchayats Act, 1993 (Gujarat 18 of 1993);(n)the words and expression used but not defined in this Act shall have meanings respectively assigned to them in the Gujarat Town Planning and Urban Development Act, 1976 (President's Act No. 27 of 1976).

Chapter II

Establishment and Constitution of Authority

3. Establishment and incorporation of Authority.

(1)The State Government shall, by notification in the Official Gazette, establish an Authority to be called the "Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority".(2)The Authority shall be a body corporate with perpetual succession and common seal and may sue or be sued in the said name and shall, subject to the provisions of this Act, be competent to acquire, hold and dispose of property both movable and immovable and to contract and do all things necessary for the purposes of this Act.(3)The headquarters of the Authority shall be at such place as the State Government may, by notification in the Official Gazette, specify.

4. Constitution of authority.

- The Authority shall consist of the following members, namely

- | | | | |
|-----|--|------------|---------------|
| (i) | Chief Secretary to the Government of Gujarat | ex-officio | Chairperson , |
|-----|--|------------|---------------|

- (ii) Secretary to the Government of Gujarat (Cultureactivity)ex-officio Vice-Chairperson
- (iii) Director General, Archaeological Survey ofIndia, New Delhi
- (iv) Secretary to Government of Gujarat, Forest andEnvironment Department,ex-officio
- (v) Secretary to Government of Gujarat, Roads andBuilding Department,ex-officio
- (vi) Managing Director, Tourism Corporation ofGujarat Ltd.,
- (vii) Director of Archaeology, Gujarat State,
- (viii) Superintending Archaeologist, ArchaeologicalSurvey of India, Vadodara Circle,
- (ix) Collector, Panchmahal District,
- (x) District Development Officer, PanchmahalDistrict,
- (xi) Superintendent of Police, Panchmahal District,Vadodara
- (xii) Senior Town Planner, South Gujarat RegionalOffice,
- (xiii) Deputy Conservator of Forest, Godhra, PanchmahalDistrict,
- (xiv) Executive Engineer, Road and Building Division,Godhra,
- (xv) Head of the Department of Archaeology, M.S.University of Baroda,
- (xvi) President, Heritage Trust, Vadora,
- (xvii) Sarpanch, Champaner Village,
- (xviii) One member as nominated by the Pavagadh TempleTrust,
- (xix) Chief Executive Officer Member Secretary.

5. Establishment of Advisory Committee.

- There shall be Technical Advisory Committee consisting of the following members, namely(a)Superintending Archaeologist. Archaeological Survey of India, Vadodara Circle.(b)Director of Archaeology, Gujarat State.(c)Deputy Conservator of Forest, Godhra, Panchmahal District,(d)One Representative as nominated by the M.S. University of Baroda from the Department of Archaeology.(e)One Representative of the Heritage Trust, Baroda.(f)Planning officer of the Authority.(g)An expert in the field of Heritage, Archaeology, Tourism, Environment co-opted by the Authority on the recommendation of the Chief Executive Officer.

6. Meeting of Authority.

(1)The meeting of the Authority shall be convened by the Chairperson or by the Chief Executive Officer with the approval of the Chairperson and it shall ordinarily meet at least once in three months at such place within the jurisdiction of the authority or at the Headquarters of the Authority and at such time as the Chairperson may decide.(2)The Authority shall observe such rules of procedures as framed by the Authority in regard to the transaction of business of its meetings (including quorum at meeting) as may be specified by regulations.(3)The Chairperson or in his absence, the Vice-Chairperson or in the absence of both, any other member chosen by the members

present at the meeting, shall preside at the meeting of the Authority.(4)All questions which come up before any meeting of the Authority shall be decided by the majority of the votes of the members present and voting and in the event of equality of votes, the Chairperson shall have and exercise a second or casting vote.(5)A member shall not, at any meeting of the Authority or a committee thereof, take part in the discussion or vote on any matter in which he has directly or indirectly by himself or his partner, any share or interest.

7. Authority Security Force.

(1)There shall be appointed and maintained a force to be called the Authority Security Force for the purpose of-(i)better protection and security of the public property within the heritage area including prevention of encroachments and removal thereof;(ii)aiding the officers of the authority in the detection and investigation of any matter relating to leakage of revenue or any amount payable to the Authority;(iii)effective communication and obtaining of any information regarding any design to commit or the commission of any offence by any person under this Act or the Gujarat Town Planning and Urban Development Act, 1976 (President's Act No. 27 of 1976) or any rule or regulation or order made thereunder;(iv)exercising such other powers and discharging such other functions as may be prescribed.(2)The Authority Security Force shall consist of such number of supervisory officers and employees as may be determined by the Authority and shall be appointed with the prior approval of the State Government.(3)The Chief Executive Officer shall exercise powers of superintendence and control over the Authority Security Force.

Chapter III

Officers and Employees of Authority and their Duties

8. Duties of the Chief Executive Officer.

(1)The State Government shall appoint an officer to be the Chief Executive Officer of the Authority.(2)The Chief Executive Officer shall be the administrative officer of the Authority and in addition to performing such functions as are conferred on him by or under this Act or under any law for the time being in force, he shall-(a)be responsible for all budgetary, planning, enforcement and supervisory functions of the Authority';(b)furnish to the Authority all the information relating to the administration and accounts of the Authority as well as other matter whenever called upon by the Authority to do so;(c)prepare and submit the Annual Report and audited accounts of the Authority for its approval within three months of the close of every financial year and submit copies of the same to the State Government;(d)perform such other function as may be prescribed.

9. Appointment of Planning Officer and Accounts Officer.

(1)For the effective implementation of the Act, the State Government shall appoint a Planning Officer and an Account Officer to the Authority.(2)The Planning Officer shall not be below the rank of an Assistant Director of Town Planning.(3)The Accounts Officer shall be an officer with adequate knowledge and experience of account matters.(4)The Planning officer and the Account Officer shall

report to the Chief Executive Officer and shall exercise such powers and perform such duties as may be prescribed.

10. Mode of recruitment of Planning Officer and Account Officer.

- The Planning Officer and the Account Officer and such other staff as are approved by the authority may be either on deputation from the State Government or recruited by the authority in accordance with the regulations made in this behalf.

Chapter IV

Powers and Functions of Authority

11. Functions of Authority.

- Subject to the provisions of this Act and the rules made thereunder, the functions of the Authority shall be-(i)to carry out a survey of the Heritage Area and prepare reports on the surveys so carried out;(ii)to prepare development and management plans of the Heritage Area;(iii)to carry out such works as are contemplated in the development and management plans;(iv)to formulate as many schemes as are necessary for implementing the development plans of the Heritage Area;(v)to secure and co-ordinate execution of the development plan, town planning schemes and development of the Heritage Area in accordance with such plans and schemes;(vi)to raise finance for any project or scheme for the development of the Heritage Area and extend assistance to the local authorities in the Region for the execution of such project or scheme;(vii)to do such other acts and things as may be entrusted by the State Government or as may be necessary' for or incidental or conducive to, any matters which are necessary for furtherance of the objects for which the authority is constituted;(viii)to entrust to any local authority or other agency the work of execution of any development plan of town planning scheme for the development of the Heritage Area;(ix)to co-ordinate the activities of the local authorities and the Urban Development Authority, if any, constituted under the Gujarat Town Planning and Urban Development Act, 1976 (President's Act No. 27 of 1976) exercising jurisdiction within the limits of the Heritage Area and the Gujarat Water Supply and Sewerage Board, Gujarat Slum Clearance Board, the Madhya Gujarat Urja Vikas Nigam, the Gujarat Industrial Area Development Board, the Gujarat State Road Transport Corporation and such other bodies as are presently concerned with development activities in the Heritage Area or may be concerned in the future;(x)to supervise and review the progress of expenditure incurred under the plan or scheme and the performance of development by various departments and local authorities with reference to the plan or scheme;(xi)to take action to protect the public property within the heritage Area;(xii)to raise local, regional, national and international awareness about the significance of the World Heritage Site;(xiii)to promote and encourage proper research to understand the archaeological, historical and environmental values of the Champaner-Pavagadh archaeological Park World Heritage Site;(xiv)to perform such other functions as may be prescribed.

12. Special powers of chairperson.

- Where there is no sufficient time to convene a meeting of the Authority, the Chairperson shall have special powers to act on his own and direct measures for effective realization of the object in the case of urgency. After taking such action as deemed necessary, he shall place the subject before the Authority at its immediate next meeting and seek the ratification of the action taken by him.

13. Power to delegate.

- The Authority may by an order, direct that any power exercisable by it under this Act (except the power to make regulation) may also be exercised by the Chairperson or such officer of the Authority as may be specified in the order subject to such restrictions and conditions as may be specified therein.

14. No other authority or person to undertake development without permission of Authority.

(1)Notwithstanding anything contained in any law of the State for the time being in force, no other authority or person shall undertake any development within the Heritage Area of the types which the Authority has power to undertake under this Act, except with the previous permission of the Authority.(2)No local authority shall grant permission for any development referred to in subsection (1) within the Heritage Area, unless the Authority has granted permission for such development.(3)Any authority or person desiring to undertake development referred to in subsection (1) shall seek a prior permission from the Authority(4)The Authority may, after making such inquiry as it deems necessary, grant such permission subject to such conditions as it may deem fit to impose or refuse to grant such permission.(5)(a)Any authority or person aggrieved by the decision of the Authority under subsection (4) may, within thirty days from the date of the decision, appeal against such decision to the State Government.(b)The State Government after hearing the appellant may confirm, modify the decision or reject the appeal and the decision of the State Government shall be final:Provided that where the aggrieved authority which is under the administrative control of the Central Government has filed an appeal, such appeal shall be decided by the State Government, after consultation with the Central Government.(6)In case any person or authority does anything contrary to the decision given under sub-section (4) as modified in sub-section (5), the Authority shall have power to pull down, demolish or remove any development undertaken contrary to such decision and recover the cost of such pulling down, demolition or removal from the person or authority concerned.

15. Power of entry.

- The Authority may authorise any person to enter into or upon any land or building with or without assistance of workmen for the purposes of-(a)making any enquiry, inspection, measurement or survey or taking level for such land building;(b)examining works under construction and ascertaining the course of sewers and drains;(c)digging or boring into the sub-soil;(d)setting out

boundaries and intended lines of works.(e)making such levels, boundaries and lines by placing marks and cutting trenches;(f)ascertaining whether any land is being or has been developed in contravention of any plan or scheme or in contravention of any conditions subject to which such permission has been granted; or(g)doing any other thing necessary for the efficient administration of this Act:Provided that no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there is no occupier, to the owner of the land or building:Provided further that sufficient opportunity shall in every instance be given to enable women and children, if any, to withdraw from such land or building:Provided also that due regard shall always be had, so far as may be, compatible with the exigencies of the purpose for which the entry is made, to social and religious usage of the occupants of the land or building entered.

16. Levy of Fees.

(1)It shall be lawful for the Authority to levy at such rate as the State Government may, by notification in the Official Gazette, specify, a fee for grant of permission under section 14.(2)All fees realized under this Act shall be credited to the Fund.

Chapter V

Authority Fund, Accounts, Audit and Reports

17. Fund of Authority.

(1)The Authority shall have a fund to be called the Authority Fund which shall be operated by such officer as may be authorised by the Authority.(2)The Authority may accept grants, subventions, contributions, donations and gifts from the Central Government, the State Government, a local authority, any international organisation or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.(3)The State Government shall, every year, make a grant to the Authority of a sum equivalent to the administrative expenses of the Authority till the Authority is able to meet its administrative expenses out of its own resources.(4)All moneys received by or on behalf of the Authority by virtue of this Act and all interest, profits, and other moneys accruing to or borrowed by the Authority, shall be credited to the Fund.(5)Except as otherwise directed by the State Government, all moneys and receipts specified in the foregoing provision and forming part of the Fund shall be deposited in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (2 of 1934) or invested in such securities as may be approved by the State Government.(6)The Fund and all other assets vesting in the Authority shall be held and applied by it, for the purposes of this Act.

18. Budget.

- The Authority shall prepare, every year, in such form and at such time as may be prescribed, an annual budget estimate in respects of the next financial year showing the estimated receipts and expenditure of the Authority and shall submit a copy thereof to the State Government.

19. Annual Report.

(1)The Authority shall prepare, after the end of each year in such form and before such date as may be prescribed, an annual report of its activities during the previous year and programme of work likely to be undertaken by the Authority and submit a copy thereof to the State Government.(2)The State Government shall, as soon as may be after the receipt of the annual report under sub-section (1), cause the same to be laid before the State Legislature.

20. Subventions and loans to Authority.

(1)The State Government may from time to time, make subventions to the Authority for the purposes of this Act on such terms and conditions as the State Government may determine.(2)The State Government, may, from time to time, advance loans to the Authority for the purposes of this Act, on such terms and conditions as the State Government may determine.

21. Power of Authority to borrow money.

- The Authority may from time to time and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf, borrow money as required for the purposes of this Act.

22. Accounts and audit.

(1)The Authority shall maintain books of account and such other books in such form and in such manner as may be prescribed and shall prepare in accordance with such rules an annual statement of account.(2)The Authority shall cause its account to be audited annually by such person as the State Government, may direct.(3)As soon as the account of the Authority have been audited, the Authority shall send a copy thereof together with a copy of the report of the auditor thereon to the State Government.(4)The Authority shall comply with such direction as the State Government may, after perusal of the report of the auditor, think fit to issue such direction.(5)The State Government shall, as soon as may be after the receipt of the audit report under sub-section (3) cause the same to be laid before the State Legislature.

Chapter VI

Offences and Penalties

23. Penalty for breach of provisions of the Act.

- Whoever contravenes any of the provisions of this Act or rule, regulation, bye-law or scheme made or sanctioned thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both and in the case of continuing contravention, with additional imprisonment for a term which may extend to six months

or with fine which may extend to five thousand rupees or with both for each day after the first during which the contravention continues.

24. Offences by companies.

(1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of and responsible to the company for the conduct of its business 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 provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1) where an 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 also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purpose of this section-(a) "company" means a body corporate and includes a firm or other association of individuals; and (b) "director" in relation to a firm means partner in the firm.

25. Sanction of Prosecution.

- No Court shall take cognizance of an offence punishable under this Act except on a complaint in writing made by an officer of the Authority authorized by it in this behalf.

26. Fines realized to be credited to the Fund.

- All fines realized in connection with prosecutions under this Act shall be credited to the Authority Fund.

Chapter VII

Miscellaneous

27. Directions by Authority.

(1) The Authority may, in order to carry out the development plans and schemes formulated under section 11 or any town planning schemes, issue directions to any local Authority, Urban Development Authority concerned, Gujarat Water Supply and Sewerage Board, Madhya Gujarat Urja Vikas Nigam and such other bodies as are connected with developmental activities in the Heritage Area. (2) Notwithstanding anything contained in any other law for the time being in force, every such direction shall be complied with by the body to which it is issued. On failure, it shall be competent for the Authority to take necessary action to carry out the directions issued under

sub-section (1) and recover expenses, if any, incurred from the body concerned.

28. Authority may compromise claims by or against it.

- The Authority may compromise any claim or demand arising out of any contract entered into by it under this Act or any action or suit instituted by or against it for such sum of money or other compensation, as it may deem sufficient: Provided that no such claim or demand exceeding twenty-five thousand rupees shall be compromised except with the previous approval of the State Government.

29. Members and officers to be public servants.

- Every member, every officer and other employees of the Authority shall, when acting or purporting to act in pursuance of the provisions of this Act or any rule or regulation made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

30. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Authority or any member, officer or employee of the Authority or any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule or regulation made thereunder.

31. Control by State Government.

(1) The State Government may give such directions consistent with the object of this Act, to the Authority as in its opinion is necessary or expedient for carrying out the purposes of the Act. The Authority shall carry out such directions as may be issued from time to time by the State Government. (2) The authority shall furnish to the State Government such reports, and other information as the State Government may from time to time require. (3) Where in connection with the exercise of its powers and discharge of its functions by the Authority under this Act, any dispute arises between the Authority and a local authority or any Board or Corporation the decision of the State Government on such dispute shall be final.

32. Act to override other State laws.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State laws for the time being in force.

33. Power to make Rules.

(1)The State Government may, by notification in the Official Gazette, subject to the condition of previous publication, make rules to carry out the purposes of this Act:Provided that if the State Government is satisfied that the circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.(2)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.(3)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

34. Regulations.

- The Authority may, with previous sanction of the State Government, make regulations not inconsistent with this Act and the rules made thereunder for enabling it to perform its functions under this Act.

35. Removal of difficulties.

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government, may by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as the occasion may require to do anything which appears to be necessary for removing the difficulty:Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.(2)Every order made under sub-section (1) shall be laid, as soon as may be, before the State Legislature.

36. Amendment of Gujarat Town Planning and Urban Development Act, 197.

- In the Gujarat Town Planning and Urban Development Act, 1976 (President's Act No. 27 of 1976);(1)in section 2, after clause (xii) the following shall be inserted, namely:-"(xii-a) "heritage area" means the heritage area as defined in clause (i) of section 2 of the Champaner-Pavagadh Archeological Park World Heritage Area Management Authority Act, 2006" (Gujarat 28 of 2006);(2)in section 3, to sub-section (3), the following proviso shall be inserted, namely:-Provided further that in the case of the heritage area, the development area or urban development area declared under this Act shall be conterminous with Heritage area.";(3)in section 22 to sub-section (1), the following proviso shall be inserted, namely:-"Provided that notwithstanding anything contained in this Act, in the case of the urban development area comprising the heritage area, the development plan shall also contain the particulars specified in the Champaner-Pavagadh Archeological Park World Heritage Area Management Authority Act, 2006 (Gujarat 28 of 2006) and the plan so prepared shall for the purpose of that Act be deemed to be the comprehensive development plan for the purpose of section 22 of this Act.";(4)after section 123, the following section shall be inserted, namely:-Consequences of constitution of the Champaner-Pavagadh

Archaeological Park World Heritage Area Management Authority. - "123A Notwithstanding anything contained in this Act, with effect from the date of the constitution of the Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority under the Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority Act, 2006 (Gujarat 28 of 2006), such authority shall be the Area Development Authority or the Urban Development Authority for the area comprising the heritage area and shall exercise all the powers, perform duties and discharge functions under this Act as if it were Area Development Authority or Urban Development Authority constituted for the heritage area."

37. Application of the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972.

(1)The State Government may, by notification in the Official Gazette, provide from such date as may be specified in such notification that the Gujarat Public Premises (Eviction of Unauthorized Occupants) Act, 1972 shall apply to premises belonging to, vesting in or leased by the Authority as that Act applies in relation to public premises subject to the provision of sub-section (2). (2)On issue of the notification under sub-section (1), the aforesaid Act of 1972 and rules made thereunder shall apply to the premises of the Authority with the following modifications, namely:-(a)the State Government may appoint an officer of the State Government or the Authority as it thinks fit, to be the Competent Authority for the purpose of the aforesaid Act;(b)reference to "public premises" in that Act and the rules shall be deemed to be references to premises of the Authority; and the references to the 'State Government' in that Act shall be deemed to be reference to the Authority.