

Rajasthan Public Trust Act, 1959

RAJASTHAN

India

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Act 42 of 1959

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002.

Statement of Objects and Reasons (Act No. 13 of 2007). - In pursuance of the order passed in the judgment dated 4.1.2007 of the Hon'ble Supreme Court, New Delhi constitution of the Committee of Management had become mandatory for all public trusts notified in Section 52(2) of the Rajasthan Public Trusts Act, 1959. It is the policy of the State that there should be minimum interference in the religious matters and freedom of religious faith be maintained. In view of the policy of the State Government, Sections 52 & 53 were proposed to be amended so as to provide discretion to the State Government in the matters of constitution of Management Committee and also enable the State Government to constitute Management Committee where public interest so requires. The Rajasthan Public Trusts Act, 1959 is quite old and at the time of commencement of this Act, the trusts having gross annual income of Rs. 10,000/- were dealt with under Chapter X and there was a provision for constituting a Committee of Management for these trusts. In present circumstances this limitation is unrealistic and therefore Section 52 was amended so as to increase this limit to Rs. 1 lakh. Since the Rajasthan Legislative Assembly was not in session and circumstances existed which rendered it necessary for the Governor of Rajasthan to take immediate action, she, 'therefore, promulgated the Rajasthan Public Trusts (Amendment) Ordinance, 2007 (Ordinance No. 3 of 2007) on 9th May, 2007, which was published in Rajasthan Gazette, Part IV (B), Extraordinary, dated 10th May, 2007. This Bill seeks to replace the aforesaid Ordinance. Received the assent of the President on 22.10.1959 Published vide notification dated 28.06.1962, w.e.f. 01.07.1962, Published in Rajasthan Gazette, Extraordinary, Part IV-A, dated, 28.10.1959. An Act to regulate and to make better provision for the administration of public religious and charitable trusts in the State of Rajasthan. Be it enacted by the Rajasthan State Legislature in the Tenth Year of the Republic of India as follows:-

Chapter I

Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Rajasthan Public Trusts Act, 1959. (2) It extends to the whole of the State of Rajasthan. (3) Chapters 1, H, III and IV of this Act shall come into force at once. (4) Chapters 2[V, VI, VII, VIII, IX and X] of this Act shall come into force on such late, and shall apply therefrom in relation to such class or classes of public trusts, as the State Government may, by notification in the Official Gazette, specify; and for the purpose of such application the State Government may classify such public trusts in the state on the basis of the income thereof or on the basis of the value of their total assets or In the basis of other financial factors. (5) Before the publication of any notification under Sub-section (4) a draft thereof shall be published in the Official Gazette for the information of all persons likely to be affected thereby and a notice shall be published therewith, specifying the date on or after which the draft shall be taken into consideration and before which any objections or suggestions shall be received. (6) Chapter XI of this Act shall come into force on such date as the State government may, by special notification in the Official Gazette, specify; and the State Government may, having regard to the population of different cities and towns, specify different dates for the application of Chapter XI of this Act thereto. (7) Chapters XII and XIII of this Act shall commence to apply in relation to the provisions of each of the other chapters of this Act on the date on which such other chapter comes into force.

2. Definitions.

(1) In this Act, unless the subject or context requires otherwise, - (1) "Assistant Commissioner" means an Assistant Devasthan Commissioner appointed under Section 8 and shall include such other officer of Government as may be notified by the State Government to be the Assistant Commissioner for specified area for the purposes of this Act; (2) "Board" means the State Advisory Board for public trusts established under Section 11; (3) "Charitable endowment" means all property given or endowed for the benefit of, or used as of right by, the community or any section thereof for the support or maintenance of objects of utility to the said community or section, such as Rest Houses, Pathshalas, Schools and Colleges. Houses for feeding the poor and Institutions for the advancement of education, medical relief and public health or other objects of a like nature and includes the institution concerned; (4) "Commissioner" means the Devasthan Commissioner appointed under Section 7; (5) "Committee" means a Regional Advisory Committee for public trusts established under Section 13; (6) "Court" means the District Court; (7) "Hereditary trustee" means the trustee of a public trust succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder; (8) "Math" means an institution for the promotion of a religion presided over by a person whose duty it is to engage himself in imparting religious instruction or rendering spiritual service to a body of disciples or who exercises or claims to exercise head-ship over such a body and includes places of religious worship or instruction which are appurtenant to the institution; (9) "Person having interest" or any expression signifying a person having interest in a public trust includes - (a) in the case of a temple, a person who is entitled to attend or is in the habit

of attending the performance of worship or service in the temple or who is entitled to partaking or is in the habit of partaking in the distribution of gifts thereof;(b)in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs;(c)in the case of a society registered or deemed to be registered under the Rajasthan Societies Registration Act, 1958 (Rajasthan Act 28 of 1958) or under any other analogous law in force in any part of the State, any member of such society; and(d)in the case of any other public trust, any beneficiary;(10)"Public securities" means -(a)securities of the Central Government or any State Government;(b)stocks, debentures or shares in railway or other companies in public sector, the interest or dividend on which has been guaranteed by the Central or any State Government;(c)a security expressly authorised by an order which the State Government makes in this behalf;(11)"Public trust" means an express or constructive trust for either a public religious or charitable purpose or both and includes a temple, a math, dharmada or any other religious or charitable endowment or institution and a society formed either for a religious or charitable purpose or for both;(12)"Register" means a register maintained under Sub-section (2) of Section 16;(13)"Religious endowment" or "endowment" means all property belonging to or given or endowed for the support of a religious institution or given or endowed for the performance of any service or charity connected therewith and includes the premises of the religious institution as well as the idols, if any, installed therein and any public charity associated with a festival or observance of a religious character, whether connected with a religious institutions or not, but does not include gifts or property made as personal gifts to the trustee or hereditary trustee or working trustee of such institution or to any service-holder or other employee thereof;(14)"Religious institution" or "Institution" means an institution for the promotion of any religion or persuasion and includes a temple, math and an religious establishment or any place of religious worship or religious instruction whether or not apartment to such institution;(15)"Specific endowment" means any property or money endowed for the performance of any specific service or charity in a religious institution;(16)"Temple" means a place, by whatever designation known, used as a place of public religious worship and dedicated to or for the benefit of or used as of right by a community or any section thereof as a place of public religious worship.(17)"Trustee" means a person in whom either alone or in association with other persons the trust property is vested and includes a Manager;(18)"Working trustee" means any person who, for the time being, either alone or in association with some other person or persons, administers the trust property of any public trust and includes the Manager of a public trust as well as -(a)in the case of a math, the head of such math, and(b)in the case of a public trust having its principal office or principal place of business outside the State of Rajasthan, the person in charge of the management of the property and administration of the public trust in that State;(19)Words and Expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882 (Central Act II of 1982), have the meanings respectively assigned to them in that Act.(3)[Notwithstanding anything contained in this section or Section 53 or any other provision of this Act, if the State Government is satisfied that it is necessary so to do for the purposes of maintenance of public order, it may, by notification in the Official Gazette, suspend the application of this Chapter to any public trust for which the procedure for constitution of committee of management under this Chapter has been commenced or is yet to be commenced for such period as may be specified in such notification.] [Added by Rajasthan Act No. 13 of 2007, dated 19.10.2007.]

Chapter II

Validity of Certain Public Trusts

3. Public trust not to be void on ground of uncertainty.

- Notwithstanding any law, custom or usage, a public trust shall not be void only on the ground that the persons or objects for the benefit of whom or which it is created are un-ascertained or un-ascertainable. Explanation. -A public trust created for such objects as dhanna or punya-karya shall not be deemed to be void only on the ground that the objects for which it is created are unascertained or unascertainable.

4. Public trust not void on ground that it is void for non-charitable or non-religious purposes.

- A public trust created for purposes, some of which are charitable or religious and some are not, shall not be deemed to be void with respect to the charitable or religious purpose only on the ground that it is void with respect to the non-charitable or non-religious purpose.

5. Public trust not void on ground of absence of obligation.

- Any disposition of property for a religious or charitable purpose shall not be deemed to be valid as a public trust only on the ground that no obligation is annexed with such disposition requiring the person in whose favour it is made to hold it for the benefit of a religious or charitable object.

6. Public trust not void on failure of specific object or society etc. ceasing to exist.

-If any public trust is created for a specific object of a charitable or religious nature or for the benefit of a society or institution constituted for a charitable or religious purpose, such trust shall not be deemed to be void only on the ground-(a)that the performance of the specific object for which the trust was created has become impossible or impracticable, or(b)that the society or institution does not exist or has ceased to exist, notwithstanding the fact that there was no intent for the appropriation of the trust property for a general charitable or religious purpose.

Chapter III

Appointment of Officers and Servants

7. Devasthan Commissioner.

(1)The State Government shall, by notification in the Official Gazette, appoint an officer to be called the Devasthan Commissioner who, in addition to other duties and functions imposed on him by or

under the provisions of this Act or any other law for the time being in force shall, subject to the general and special orders of the superintend the administration and carry out the provisions of this Act throughout the territories to which this Act extends.(2)The Commissioner shall be a corporation sole by the names of the Devasthan Commissioner of the State of Rajasthan', shall as such have perpetual succession and a common seal and may sue and be sued in his corporate name.

8. Assistant Devasthan Commissioner.

- The State Government shall likewise-(i)appoint such number of Assistant Devasthan Commissioners as it may deem necessary from time to time, and(ii)define the local limits of the area in which each Assistant Commissioner so appointed shall have jurisdiction, and exercise the powers conferred on him by or under this Act or any other law for the time being in force.

9. Subordinate officers and servants.

- To aid the Commissioner and Assistant Commissioners in carrying out the provisions of this Act, the State Government may appoint Inspectors and other subordinate officers and servants with such designations, and assign to them such powers duties and functions under this Act or the rules made thereunder or under other enactment fore time being in force, as may be deemed necessary :Provided that the State Government may, by general or special order and subject to such conditions as it deems fit to impose, delegate to the Commissioner and the Assistant Commissioners the power to appoint such subordinate officers and servants as may be specified in the order.

10. Commissioner and other officers to be servants of Government.

- The Commissioner, the Assistant Commissioners the Inspectors and other subordinate officers and servants appointed under this Act shall be the servants of the State Government and shall draw their pay and allowance from the Consolidated Fund of the State. The conditions of service of all such officers and servants shall be such as may be determined by the State Government.

Chapter IV

Establishment and Function of Board and Committees

11. Establishment and Composition of Advisory Board.

- (1) The State Government shall, by notification in the Official Gazette, establish for the territories to which this Act extends for the time being an Advisory Board to be called the Rajasthan Public Trusts Board consisting of such number of members representing each interest as may be prescribed.(2)All the members of the board shall be appointed by the State Government by notification in the Official Gazette, and shall hold office, save as otherwise provided, for a period of five years from the date of the publication of such notification.(3)The State Government shall appoint one from amongst the members of the board to be its Chairman.(4)It any member of the

board is unable, by reason of death, resignation, removal or otherwise to complete his full term of office the vacancy so caused shall be filled by the appointment of another person and the person so appointed shall fill such vacancy for the un-expired portion of the term for which the member in whose place such person is appointed would otherwise have continued in office.(5)The members of the board including the Chairman may be paid travelling and other allowances for attending meetings of the board and, subjects to the prescribed conditions and restrictions, for undertaking any journey in connection with any of the affairs of the board, at such rates as may be fixed by the State Government.

12. Functions of the Board.

(1)The board shall -(a)forward its views to the State Government regarding the performance by the Commissioner of his functions under this Act,(b)draw the attention of the State Government towards the difficulties experienced in the working of this Act and the Rules made thereunder and suggest amendments thereto,(c)consider such matters as may be referred to the board by the State Government, and(d)perform such other functions as may be prescribed.(2)If an Assistant Commissioner disagrees with the advice tendered by a committee under Section 14 in relation to the exercise of any of his powers under Chapters VI and II, he shall refer the matter to the board.(3)In a case referred to the board under Sub-section (2) the Assistant Commissioner shall act according to the decision of the board.(4)The State Government may, after considering any views received from the board under Clause (a) or Clause (b) of Sub-section (1), take such action as it may deem necessary and, in particular, may issue to the Commissioner such directions, consistent with this Act and the Rules thereunder, in respect of the exercise by the Commissioner of any of his powers under this Act, as it may deem proper.

13. Regional Advisory Committees.

- (1) The State Government shall, by notification in the Official Gazette, establish a Regional Advisory Committee for the area within the jurisdiction of each Assistant Commissioner, consisting of such number of members representing such interest as may be prescribed.(2)All the members of a committee shall be appointed by the State Government by notification in the Official Gazette and shall hold office, save as otherwise provided, for a period of five years from the date of the publication of such notification.(3)The State Government shall appoint one from amongst the members of a committee to be its Chairman.(4)If any member of a committee is unable, by reason of death resignation, removal or otherwise, to complete his full term of office, the vacancy so caused shall be filled by the appointment of another person and the person so appointed shall fill such vacancy for the un-expired portion of the term for which the member in whose place such person is appointed would otherwise have continued in office.(5)The members of a committee including the Chairman may be paid travelling and other allowances for attending meetings of the committee and, subject to the prescribed conditions and restrictions, for undertaking any journey in connection with any of the affairs of the committee, at such rates as may be fixed by the State Government.

14. Functions of Committees.

(1) Every committee shall, in relation to the area for which it has been established, tender advice to the Assistant Commissioner of that area in respect of matters arising under Chapters VI and VII and, save as otherwise provided in Sub-sections (2) and (3) of Section 12, no Assistant Commissioner shall exercise his powers in such matters without obtaining and otherwise than in accordance with such advice. (2) Every committee shall perform such other functions as may be prescribed.

15. Conduct of business etc. of Board and Committees.

(1) The manner in which the business of the board or a committee shall be considered, the staff required therefor and its conditions of service and the removal of members thereof shall be determined by rules made by the State Government. (2) No member of the board or a committee shall participate in the discussion of or vote on a matter coming up before the board or such committee, if such matter relates to a public trust representing a particular religion and such member is not a person professing the religion.

Chapter V

Registration of Public Trusts

16. Officer-in-charge of Registration.

(1) The Assistant Commissioner shall be in charge of the registration of all public trusts, the principal offices or the principal places of business of which as declared in the application under Sub-section (1) of Section 17, are situate within the local limits of the area of his jurisdiction. (2) The Assistant Commissioner shall maintain a register of public trusts and such other books and registers in such form as may be prescribed.

17. Registration of Public Trusts.

- (1) Within [two years] [Substituted by 16 of 1963] from the date of the application of this section to a public trust or from the date on which a public trust is created, whichever is later, the working trustee thereof shall apply to the Assistant Commissioner having jurisdiction for the registration of such public trust. (2) The Assistant Commissioner may, for reasons to be recorded in writing, extend the period prescribed by Sub-section (1) for the making of an application for registration by not more than three months. (3) Each such application shall be accompanied by such fee, if any, not exceeding five rupees, and to be utilised for such purpose, as may be prescribed. (4) The application shall be in such form as may be prescribed and shall contain the following particulars, namely (i) the origin (so far as known), nature and object of the public trust and the designation by which the public trust is or shall be known; (ii) the place where the principal office or the principal place of business of the public trust is situate; (iii) the names and addresses of the working trustee and the Manager; (iv) the

mode of succession to the office of the trustee;(v)the list of the movable and immovable trusts property and such description and particulars as may be sufficient for the identification thereof;(vi)the approximate value of the movable or immovable property;(vii)the gross average annual income derived from movable and immovable property and from any other source, if any, based on the actual gross annual income during the three years immediately preceding the date on which the application is made or of the period which has elapsed since the creation of the trust, whichever period is shorter, and, in the case of newly created public trust, the estimated gross annual income from all such sources;(viii)the amount of the average annual expenditure in connection with such public trust estimated on the expenditure incurred within the period to which the particulars under Clause (vii) relate, and in the case of a newly created public trust, the estimated annual expenditure in connection with such public trust;(ix)the address to which any communication to the working trustee or Manager in connection with the public trust may be sent;(x)such other particulars as may be prescribed :Provided that the rules made may provide that in the case of any oral public trusts, it shall not be necessary to give the particulars of the trust property of such value and such kind as may be specified therein.(5)Every application made under Sub-section (1) shall be signed and verified in accordance with the manner laid down in the Code of Civil Procedure, 1908 (Central Act V of 1908) for signing and verifying plaints. It shall be accompanied by a copy of the instrument of trust (if such instrument has been executed and is in existence) and, where the trust property includes immovable property entered in a record of rights, a copy of the relevant entries relating to such property in such record of rights shall also be enclosed.(6)No Assistant Commissioner shall proceed with any application for the registration of a public trust in respect of which an application for registration has been filed previously before any other Assistant Commissioner, and the Assistant Commissioner before whom the application was filed first shall decide which Assistant Commissioner shall have jurisdiction to register the public trust.(7)An appeal against the order of the Assistant Commissioner before whom the application was filed first, given under Sub-section (6) may be filed within sixty days before the Commissioner and, subject to the decision on such appeal, the order of the Assistant Commissioner under Sub-section (6) shall be final.

18. Inquiry for Registration.

(1)On receipt of an application under Section 17 or upon an application made by any person having interest in a public trust or on his own motion, the Assistant Commissioner shall make an inquiry in the prescribed manner for the purpose of ascertaining(i)whether a trust exists and whether such trust is a public trust;(ii)whether any property is the property of such trust;(iii)whether the whole or any substantial portion of the subject matter of the trust is situate within his jurisdiction;(iv)the names and addresses of the working trustee and the Manager of such trust;(v)the mode of succession to the office of the trustee of such trust;(vi)the origin, nature and object of such trust;(vii)the amount of gross average annual income and expenditure of such trust; and(viii)the correctness or otherwise of any other particulars furnished under Sub-section (4) of Section 17.(2)The Assistant Commissioner shall give in the prescribed manner public notice of the inquiry proposed to be made under Sub-section (1) and invite all persons having interest in the public trust under inquiry to prefer within sixty days objections, if any, in respect of such trust.

19. Findings of the Assistant Commissioner.

- On completion of the inquiry provided for under Section 18, the Assistant Commissioner shall record his findings with the reasons therefor as to the matters mentioned in the said section.

20. Appeal.

- Any working trustee or person having interest in a public trust or in any property found to be trust property, aggrieved by a finding of the Assistant Commissioner under Section 19, may, within two months from the date of its publication in the notice board of the Assistant Commissioner, file an appeal before the Commissioner to have such findings set aside or modified

21. Entries in the Register.

(1)The Assistant Commissioner shall cause entries to be made in the register in accordance with the findings recorded by him under Section 19, or, if an appeal has been filed under Section 20, in accordance with the decision of the Commissioner on such appeal, and shall cause to be published on the notice board of his office and at a conspicuous place in the city, town or village where the principal office or the principal place of business of the public trust is situate, the entries made in the register.(2)The entries so made shall, subject to the other provisions of this Act and subject to any change recorded under any provision of the Act or a rule made thereunder, be final and conclusive.

22. Civil Suit Against Entries Made Under Section 21.

(1)Any working trustee or person having interest in a public trust or in any property found to be trust property aggrieved by any entry made under Section 21 may, within six months from the date of the publication thereof on the notice board of the office of the Assistant Commissioner under Sub-section (1) of Section 21, institute a suit in a Civil Court to have such entry cancelled or modified.(2)In every such suit the Civil Court shall give notice to the State Government through the Assistant Commissioner and the State Government, if it so desires, shall be made a party to the suit.(3)On the final decision of the suit, the Assistant Commissioner shall, if necessary, correct the entries made in the register in accordance with such decision.

23. Changes.

(1)Where any change occurs in any of the entries recorded in the register, the working-trustee shall, within ninety days from the date of the occurrence of such change, or, where any change is desired in such entries in the interest of the administration of such public trust, the working trustee may, report in the prescribed form and manner such change or proposed change to the Assistant Commissioner.(2)For the purpose of verifying the correctness of the entries in the register or ascertaining whether any change has occurred in any of the particulars recorded in the register, the Assistant Commissioner may hold an inquiry.(3)If, after holding such inquiry as he may consider

necessary under Sub-section (2) either on receipt of a report under Sub-section (1) or otherwise, the Assistant Commissioner is satisfied that a change has occurred or is necessary in any of the entries recorded in the register in regard to the particular public trust, he shall record a finding with the reasons therefor and the provisions of Section 29 shall apply to such finding as they apply to a finding under Section 19.(4)The Assistant Commissioner shall cause the entries in the register to be amended in accordance with the finding recorded under Sub-section (3) or, if an appeal has been filed therefrom, in accordance with the decision of the Commissioner on such appeal and the provisions of Sections 21 and 22 shall apply to such amended entries as they apply to the original entries.

24. Further Inquiry by Assistant Commissioner.

- If, at any time after the entries or amended entries are made in the register under Section 21 or Section 23, it appears to the Assistant Commissioner that any particular relating to any public trust, which was not the subject matter of the inquiry under Section 18 or Sub-section (2) of Section 23, as the case may be, has remained to be inquired into, the Assistant Commissioner may make further inquiry in the prescribed manner, record his findings and make or amend entries in the register in accordance with the decision arrived at, and the provisions of Sections 19, 20, 21, 22 and 23 shall, so far as may be, apply to the inquiry the recording of findings and the making or amending of the entries in the register- under this section.

25. Intimation About Trust Property To Be Sent To All Assistant Commissioners.

- (1) Where any part of the property of a public trust is situate within the local limits of the jurisdiction of more than one Assistant Commissioner, the Assistant Commissioner incharge of the registration of that trust shall forward a copy of the entries or amended entries recorded in the register in respect of that public trust to each Assistant Commissioner within whose jurisdiction any part of the trust property is situate.(2)On receipt of a copy of the entries or amended entries under Sub-section (1) the Assistant Commissioner shall cause the particulars thereof to be entered in a book prescribed for the purpose.

26. Court to Forward Copy of Decision to Assistant Commissioner Concerned.

- Any Court of competent jurisdiction deciding any question relating to any public trust which by or under the provisions of this Act, it is not expressly or impliedly barred from deciding shall cause a copy of such decision to be sent to the Assistant Commissioner having jurisdiction and the Assistant Commissioner shall cause an entry in the register to be made or amended in regard to such public trust in accordance with such decision. The amendments so made shall not be altered except in cases where such decision has been varied in appeal or revision by a Court of competent jurisdiction. Subject to such alterations, the amendments made shall be final and conclusive.

27. Public Trust By Will.

- In the case of a public trust which is created by a Will, the executor of such will shall, within one month from the date on which the probate of the Will is granted or within six months from the date of the testator's death, whichever is earlier, make an application for the registration of the trust in the manner provided in Section 17. and the provisions of the chapter shall apply to such registration

28. Notice to Assistant Commissioner in Certain Cases.

- If in any proceeding before a Civil Court or a revenue Court or officer, any, document purporting to create, a public trust is produced or the decision of any question before such Court or officer is likely to affect any entry in the register, such Court or officer shall give notice of such proceeding to the Assistant Commissioner having jurisdiction and shall, if the Assistant Commissioner applies in that behalf, make him a party thereto.

29. Bar against suits by un-registered trust.

(1) No suit to enforce a right on behalf of a public trust which is required to be registered under this Act but has not been so registered shall be heard or decided in any Court. (2) The provisions of Sub-section (1) shall apply to claim of set off or other proceeding to enforce a right on behalf of such public trust.

Chapter VI

Management of Public Trust Property

30. Investment of Public Trust Moneys.

(1) Where any property belonging to public trust consists of money and such money cannot be applied immediately or at any early date to the purposes of the said public trust, the working trustee thereof shall be bound, notwithstanding a direction to the contrary contained in the instrument of trust, if any, to deposit the money in a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934) or in a Postal Savings Bank or in Co-operative Bank registered under the Rajasthan Co-operative Societies Act, 1953 (Rajasthan Act 4 of 1953) or to invest it in public securities : Provided that such money may be invested in the first mortgage of immovable property situated in India if the property is not lease-hold for a term of three years and the value of the property exceeds by one-half the mortgage money : Provided further that the Commissioner may, by general or special order, permit the working trustee of any public trust or class of such trusts to invest such money in any other manner. (2) Nothing in Sub-section (1) shall affect any investment or deposit already made before the commencement of this Act in accordance with a direction contained in the instrument of trust : Provided that any interest of dividend received or accruing from such investment or deposit on or after the commencement of this Act or any sum realised on the maturity of the said investment or deposit shall be applied or invested in the manner prescribed in

Sub-section (1).

31. Previous Sanction To Be Obtained For Certain Transfers.

- (I) Subject to the directions in the instrument of trust or any direction given under this Act or any other law by any Court -(a)no, sale, exchange or gift of any immovable property or of movable property exceeding five thousand rupees in value, and(b)no lease, for a period exceeding five years in the case of agricultural land or for a period exceeding three years in the case of non-agricultural land or a building, belonging to a public trust shall be valid without the previous sanction of the Assistant Commissioner.(2)An application for the sanction of the Assistant Commissioner under Sub-section (1) shall be made in the prescribed manner and form.(3)Where, on an application duly made for sanction in respect of any transaction specified in Sub-section (1), the Assistant Commissioner does not, within two months ofProvided that the application describes the transaction with sufficient accuracy.(4)The Assistant Commissioner shall not refuse to accord sanction in respect of any transaction specified in Sub-section (1) unless such transaction is, in his opinion, likely to be prejudicial to the interests of the public trust, and no order refusing to accord sanction shall be passed unless the working trustee of such public trust has had a reasonable opportunity of being heard.

Chapter VII

Accounts, Audit and Budget

32. Maintenance of Accounts

- The working trustee or Manager of a public trust, which has been registered under this Act shall keep regular accounts of all movable and immovable properties of the trust. The form of such accounts and the particulars to be entered therein shall be such as may be prescribed or, in so far as they are not prescribed, shall be such as may be approved by the Assistant Commissioner.

33. Balancing and Auditing of Accounts.

(1)The accounts kept under Section 32 shall be balanced each year on the 31st day of March or on such other day as may be fixed by the Commissioner.(2)The accounts shall be audited annually in such manner as may be prescribed and by a person who is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (Central Act XXXVIII of 1949) or by a firm of which all the partners are practising in India as such Chartered Accountants or by such persons as may be authorised in this behalf by the State Government.(3)Every auditor acting under Sub-section (2) shall have access to the accounts and to all books, vouchers, other documents and records in the possession of or under the control of, the working trustee or the Manager. Such working trustee or Manager shall provide to such auditor all facilities for such access.(4)Notwithstanding anything contained in Sub-section (2), the Assistant Commissioner may direct a special audit of the accounts of any public trust whenever in his opinion such special audit is necessary and the provisions of Sub-sections (2) and (3) shall, so far as they may be applicable, apply to such special audit.(5)The

Assistant Commissioner may direct the payment of such fee as may be prescribed for such special audit and the working trustee or the Manager shall be liable to pay the same from the trust property.

34. Auditors Duty to Prepare Balance-sheet and to Report Irregularities.

(1) It shall be the duty of every auditor auditing the accounts of a public trust under Section 33 to prepare a balance-sheet and income and expenditure accounts and forward a copy of the same to the Assistant Commissioner within whose jurisdiction the public trust has been registered. (2) The auditor shall in his report specify all cases of irregularities illegal or improper expenditure or failure or omission to recover moneys or other property belonging to the public trust or of loss or waste of money or other property thereof and state whether such expenditure, failure, omission, loss or waste was caused in consequence of a breach of trust or misapplication or any other misconduct on the part of the trustee or any other person.

35. Budget.

- The working trustee of every public trust, the gross annual income of which exceeds thirty-six hundred rupees shall be each year, submit to the Assistant Commissioner or before such date and in such form as may be prescribed a budget showing the probable receipts and disbursements of the trust property during the following year.

36. Inspection and Copies.

(1) The budget, the balance-sheet, the income and expenditure accounts and the audit report, if any, of a public trust shall be open to inspection in the office of the Assistant Commissioner by any person having interest in such public trust on payment of such fee as may be prescribed. (2) Subject to such conditions and on payment of such fees as may be prescribed, the Assistant Commissioner shall, on an application made by any person having interest in a public trust grant to such person a certified copy of all or any of the documents which are open to such inspection.

Chapter VIII

Powers of Officers in Relation to Public Trusts

37. Commissioner to be Treasurer of Charitable Endowments.

- Notwithstanding anything contained in the Charitable Endowments Act, 1890 (Central Act VI of 1890) the Commissioner shall be deemed to be the Treasurer of Charitable Endowments for the State of Rajasthan appointed under the provisions of the said Act and the property vesting in the said Treasurer before the date on which this Act comes into force shall be deemed to vest in the Commissioner as the Treasurer of Charitable Endowments, and the provisions of the said Act shall apply to the Commissioner as the Treasurer of Charitable Endowments appointed under the said Act.

38. Application For Directions.

(1) If the Assistant Commissioner, on the application of any person having interest in a public trust or otherwise is satisfied after making such inquiry as he thinks necessary that (a) the original object of the public trust has failed; (b) the trust property is not being properly managed or administered; or (c) the direction of the Court is necessary for the administration of the public trust; he may, after giving the working trustee an opportunity of being heard, direct such working trustee or any other trustee or person having interest, in the trust to apply to the Court for directions within such time not exceeding thirty days as may be specified by the Assistant Commissioner. (2) If the working trustee or any other trustee or person having interest in the trust so directed fails to make an application as required, or if there is no trustee of the public trust, or if, for any other reason, the Assistant Commissioner considers it expedient to do so, he shall himself make an application to the Court.

39. Application to Commissioner Against Refusal to Apply Under Section 38.

(1) Where the Assistant Commissioner rejects an application under Sub-section (1) of Section 38 or fails or refuses to make an application to the Court himself under Sub-section (2) of that section, the Commissioner may on an application made to him within ninety days of such rejection, failure or refusal or upon the facts otherwise coming to his knowledge and after giving the working trustee a reasonable opportunity of being heard, set aside the order of the Assistant Commissioner, if any, and require him to apply to the Court himself for directions. (2) Subject to the orders of the Commissioner under Sub-section (1), all orders passed by the Assistant Commissioner under Section 38 shall be final.

40. Powers of the Court on Application Under Section 38 or Section 39

(1) On receipt of an application made under or in pursuance of Section 38 or Section 39, the Court shall make or cause to be made such inquiry into the case, as it deems necessary and pass such orders thereon as it may consider appropriate. (2) While exercising the powers under Sub-section (1), the Court shall, besides other powers, have power to make an order for - (a) removing any trustee; (b) appointing a new trustee; (c) declaring what portion of the trust property or of the interest therein shall be allocated to any particular object of the trust; (d) providing a scheme of management of the trust property; (e) directing how the funds of a public trust whose original object has failed shall be spent, having due regard to the object for which the trust was created; (f) issuing such other direction as the nature of the case may require. (3) Any order passed by the Court under Sub-section (2) shall be deemed to be a decree of such Court and an appeal shall be therefrom to the High Court.

41. Application for Appointment of New Working Trustee.

(1) If the present working trustee of a public trust - (a) disclaims or dies, (b) is for a continuous period of six months absent from India without the leave of the Commissioner or an Assistant Commissioner or other officer authorised by the State Government in this behalf or leaves India for

the purpose of residing abroad.(c)is declared an insolvent,(d)desires to be discharged from the trust,(e)refuses to act as a trustee,(f)becomes unfit or physically incapable to act in the trust or accepts a position which is inconsistent with the trust, or(g)is not available to administer the trust,such working trustee or any person having interest in the public trust, as the case may be, may apply to the Assistant Commissioner having jurisdiction for permission to apply to the Court for the appointment of a new working trustee.(2)The Assistant Commissioner, after making such inquiry as he considers necessary and, where the application has not been made by the working trustee himself, after giving him a reasonable opportunity of being heard, direct such working trustee or any other trustee or person having interest in the trust to apply to the Court for the appointment of a new working trustee, and where the person so directed fails to make such an application or for any other reason the Assistant Commissioner considers it expedient to do so, he shall himself make the application.

42. Application to Commissioner Against Orders Under Section 41.

(1)Where the Assistant Commissioner rejects an application under Sub-section (1) of Section 41 or fails or refuses to make an application to the Court himself under Sub-section (2) of that section, the Commissioner may, on an application made to him within ninety days of such rejection, failure or refusal or upon the facts otherwise coming to his knowledge and after giving the working trustee a reasonable opportunity of being heard, set aside the order of the Assistant Commissioner, if any, and require him to apply to the Court himself for the appointment of a new working trustee.(2)Subject to the orders of the Commissioner, under Sub-section (1) all orders passed by the Assistant Commissioner under Section 41 shall be final.

43. Powers of the Court Upon Application under Section 41 or Section 42.

- (1) On receipt of an application made under or in pursuant of Section 41 or Section 42, the Court shall make or cause to be made such inquiry as it deems necessary and may appoint such person as it thinks fit to be the new working trustee and in making such appointment the Court shall have regard -(a)to the wishes of the author of the trust,(b)to the wishes of the person if any, empowered to appoint a new trustee,(c)to the question whether the appointment will promote or impede the execution of the trust,(d)to the interest of the public or the section of the public who have interest in the trust, and(e)to the custom and usage of the trust.(2)The order of the Court under Sub-section (1) shall be deemed to be the decree of the Court and an appeal shall lie therefrom to the High Court.

44. Non-application of Sections 92 and 93 of Central Act V of 1908.

--(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (Central Act V of 1908), the provisions of Sections 92 and 93 of the said Code shall not apply to public trusts.(2)If on the date of the application of this Act to any public trust any legal proceedings in respect of such trust are pending before any Civil Court of competent jurisdiction to which the Advocate-General or the Collector exercising the powers of the Advocate-General is a party, the Devasthan Commissioner shall be deemed to be substituted in those proceedings for the Advocate-General or the Collector, as the case may be, and such proceedings shall be disposed of by such Court.(3)Any reference to the

Advocate-General made in any instrument, scheme, order or decree of any Civil Court of competent jurisdiction made or passed, whether before or after the said date, shall be construed as a reference to the Devasthan Commissioner.

45. Inquiries by Assistant Commissioner.

- Where in any case an inquiry is to be made by an Assistant Commissioner under this Act, he may himself make the inquiry or forward the case for inquiry and report to any Revenue Officer not below the rank of an Assistant Collector or to such other officer as may be authorised by the State Government in this behalf.

46. Commissioner etc. to be Public Servants.

- The Commissioner, the Assistant Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

Chapter IX

Control over Public Trusts

47. Returns and statements.

(1)The working trustee of a public trust shall furnish to the Assistant Commissioner such returns and statements as may be prescribed.(2)The Commissioner or an Assistant Commissioner may call for from the working

48. Power of Entry and Inspection.

- The Commissioner, every Assistant Commissioner, every inspector and such other officers and persons as may be authorised the State Government in this behalf shall have power -(a)to enter on and inspect or cause to be entered on and inspected any property belonging to a public trust,(b)to call for or inspect any extract from any proceeding of the trustee of any public trust or any book or account in the possession of or under the control of the trustee:Provided that, in entering upon any property belonging to the public trust, the officer making the entry shall give reasonable notice to the trustee and shall have due regard to the religious practices and usages of the trust.

49. Power to Ask For Explanation.

(1)If on a perusal of the report of the auditor made under Section 34 or on an inspection made under Section 48 the Assistant Commissioner is of opinion, or is informed by the Commissioner that the Commissioner is of opinion that material defects exist in the administration of the public trust, the Assistant Commissioner may require the working trustee to submit an explanation thereon within

such period as he thinks fit.(2)If, on the consideration of the report of the auditor and the result of the inspection, the accounts and the explanation, if any, furnished by the working trustee, the Assistant Commissioner is, after holding an inquiry in the prescribed manner and giving opportunity to the person concerned, satisfied that the trustee or any other person has been guilty of gross negligence or breach of trust, misapplication or misconduct which has resulted in loss to the public trust he shall determine -(a)the amount of loss caused to the public trust,(b)whether such loss was due to any breach of trust misapplication or misconduct on the part of any person,(c)whether the trustee or any other person is responsible for such loss, and(d)the amount which the trustee or any other person is liable to pay to the public trust for such loss.(3)The amount determined to be payable by any trustee or any other person in accordance with Clause (d) of Sub-section (2) (hereinafter referred to as "the amount surcharged") shall, subject to any order of the Court under Section 50, be paid by the trustee or person surcharged, within such time as the Assistant Commissioner may fix.

50. Application to the Court.

(1)Any person, aggrieved by the decision of the Assistant Commissioner under Section 49, may, within ninety days from the date of the decision, apply to the Court to act (sic) aside such decision.(2)The Court, after taking such evidence as it thinks fit, may confirm, reverse or modify the decision or remit the amount of the surcharge and make such orders as to costs as it thinks proper in the circumstances.(3)Pending disposal of the application under Sub-section (2), the Court may for sufficient reasons, stay the proceedings for recovery of surcharge on such conditions, if any, as it may deem proper, including conditions as to security.(4)An appeal shall lie against the decision of the Court under Sub-section (2) as if such decision were a decree from which an appeal ordinarily lies.

51. Vacancy in the Board of Trustees.

- (1) Where a public trust is under the management of a board of trustees, the working trustee shall, when a vacancy occurs in the board, inform the Assistant Commissioner within twenty days of such vacancy and the time within and the manner in which he proposes to fill the same.(2)If the working trustee fails to give any such information or to fill the vacancy within the time specified by him, then a Commissioner may, by order passed in writing fill the vacancy, and any person having interest in the public trust who may be aggrieved the order of the Assistant Commissioner may apply to the Court for setting aside the order of the Assistant Commissioner within thirty days from the date of such order

Chapter X

Special Provisions as Respects to Certain Public Trusts

52. Application of Chapter.

(1)The provisions contained in this chapter shall apply to every public trust -(a)which vests in the State Government, or(b)which is maintained at the expenses of the State Government, or(c)which is managed directly by the State Government, or(d)which is under the superintendence of the Court of Wards, or(e)of which the gross annual income is [one lac] [Substituted for ten thousand by Rajasthan Public Trusts (Amendment) Act, 2007 (came into force on and from 09.05.2007).] rupees or more:(2)The State Government shall, as soon as may be after the commencement of this chapter, publish in the Official Gazette a list of the public trusts to which this chapter applies and may be like notification and in like manner add to or vary such list.(3)[Notwithstanding anything contained in this section or Section 53 or any other provision of this Act, if the State Government is satisfied that it is necessary so to do for the purposes of maintenance of public order, it may, by notification in the Official Gazette, suspend the application of this Chapter to any public trust for which the procedure for constitution of committee of management under this Chapter has been commenced or is yet to be commenced for such period as may be specified in such notification.] [Inserted new sub-section (3) by Ibid.]

53. Management of Public Trusts to Which This Chapter Applies.

- [(1) Notwithstanding anything contained in any provisions of this Act or in any law, custom or usages, if the State Government is satisfied that it is expedient in public interest so to do, it may, by notification in the Official Gazette, vest the management of a public trust to which this chapter applies in a committee of management to be constituted by it in the manner hereinafter provided from such date as may be appointed by it in this behalf.] [Substituted by Rajasthan Act No. 13 of 2007, dated 19.10.2007.](2)On or before the date [so] [Inserted by Rajasthan Act No. 13 of 2007, dated 19.10.2007.] fixed under Sub-section (1) in respect of public trust, the State Government shall, subject to the provision contained in Section 54, constitute by notification in the Official Gazette a Committee of Management thereof under such name as may be specified in the notification; and such committee shall be deemed to be working trustee of the said public trust and its endowment :Provided that, upon the combined request of the trustees of, and persons interested in several public trusts representing the same religion or persuasion, the State Government may constitute a committee of management for all of them, if their endowments are situated in the same city, town or locality.(3)Every Committee of Management constituted under Sub-section (2) shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property subject to such conditions and restrictions as may be prescribed and may by the name specified in the notification under Sub-section (2) sue and be sued.(4)A Committee of Management shall consist of a Chairman and such even number of members, not exceeding ten and not less than two, as the State Government may determine.(5)The Chairman and members of a Committee of Management shall be appointed by the State Government by notification in the Official Gazette from amongst -(a)trustees of public trusts representing the same religion or persuasion and having the same objects, and(b)persons interested in such public trusts or in the endowments thereof or belonging to the denomination for the purpose of which or for the benefit of whom the trust was founded.in accordance with the general wishes of the persons so interested so far as such wishes can be ascertained in the prescribed manner :Provided that in the case of a public trust having a

hereditary trustee, such trustee, and in the case of a math, the head, thereof, shall be the Chairman of the Committee of Management, if he is willing to serve as such.

54. Notice to Hereditary Trustee Before Constituting Committee.

- Whenever a committee of management is appointed under Section 53 for a public trust having a hereditary trustee or for a math, the State Government shall before such constitution give notice of its intention to constitute a Committee of Management therefor to the hereditary trustee of the public trust or to the head of the math, as the case may be. shall consider the objection, if any, made by such hereditary trustee or head and shall hear him.

55. Disqualifications for membership.

- A person shall be disqualified for an appointment as, or for being a member of a Committee of Management if he -(a)is less than twenty-one years of age, or(b)has been convicted by a criminal Court of any offence involving moral turpitude, or(c)is of unsound mind and is so declared by a competent Court, or(d)is an un-discharged insolvent, or(e)is directly or indirectly interested in a lease or any other transaction relating to the endowment of the public trust, or(f)is a paid servant of the Committee of Management, or(g)is found to be guilty of misconduct, or(h)ceases to profess the religion or persuasion or to belong to the religious denomination which the public trust for which the committee is constituted represents, or(i)is otherwise unfit.

56. Term of Office of Committee.

- (1) The Chairman and Members of a Committee of management shall hold office for a period of five years and shall be eligible for re-appointment :Provided that if a person appointed as the Chairman or a Member of a Committee of Management constituted for a public trust is the hereditary trustee of such public trust, he shall hold the office of the Chairman or a member, as the case may be, hereditarily until removed by the State Government under any provision of this Act.(2)The Chairman or a member of a Committee of Management may by writing under his hand addressed to the State Government resign his office as such :Provided that such resignation shall not take effect until it has been accepted by the State Government.

57. Removal of members.

- If it appears to the State Government that the Chairman or a member of a Committee of Management constituted under this Chapter has incurred any of the disqualifications mentioned in Section 55, the State Government may, after giving such Chairman or member an opportunity of showing cause and after considering any cause so shown, remove him from his office and the decision of the State Government shall be final.

58. Appointment of New Members.

- The State Government may appoint a new Chairman or member when the Chairman or a member of a Committee of Management -(a)resigns or dies, or(b)is for a continuous period of six months absent from India without leave of the Commissioner, or(c)leaves India for the purpose of residing abroad, or(d)refuses to act, or(e)is removed by the State Government under Section 57.

59. Meetings of and procedure for Committee of Management.

(1)A Committee of Management shall meet at such intervals and follow such procedure in exercising its powers and discharging its duties and functions as may be prescribed, but the day-to-day proceedings and routine business shall be disposed of in accordance with regulations made by the Committee of Management and approved by the State Government.(2)No act or proceeding of a Committee of Management shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

60. Appointment of Sub-Committees.

- A Committee of Management may by resolution appoint such Sub-Committees as it may think fit and may delegate to them such powers and duties as it specifies in the resolution; and a Sub-Committee may associate with itself, generally or for any particular purposes, in such manner as may be determined by regulations, any person who is not a member but whose assistance of advice it may desire and the person associated as aforesaid shall have the right to take part in the discussions of the Sub-Committee relevant to that purpose, but shall not have the right to vote at any meeting thereof.

61. Duties of Committee of Management.

(1)Subject to the general and special orders of the Commissioner, the duty of a Committee of Management shall be to manage and administer the affairs of the public trust or trusts for which it has been constituted and so to exercise the powers conferred and discharge the duties and functions imposed upon it by or under this Act or under any instrument of trust for the time being in force relating to such public trust as to ensure that the endowment or other property of that trust is properly maintained, controlled and administered, and the income thereof is duly applied to the objects and purposes for which it was created or is intended to be administered.(2)In particular without prejudice to the generality of the foregoing provision, a Committee of Management shall(a)maintain the record containing information, so far as the same may be collected, relating to the origin, income and object of the trust,(b)prepare a budget, estimating its income and expenditure,(c)keep separate accounts for each public trust for which it has been constituted,(d)ensure that the income and property of such public trust are applied to the objects and for the purposes for which such trust was created or is intended to be administered,(e)superintend, control and manage all the affairs of such public trust or trusts and maintain the same,(f)inspect or cause to be inspected the properties thereof,(g)institute and defend

any suits and proceedings in a Court of law relating to such public trust or trusts,(h)take measures for the recovery of lost properties of such public trust or trusts,(i)supply such returns statistics, accounts and other information with respect thereto as the State Government may time to time require, and(j)generally to do all such acts as may be necessary for the proper control maintenance and administration of such public trust or trusts or calculated to be conducive to the stability and well being thereof, with due regard to the objects and purposes underlying the foundation thereof or the creation of the endowments pertaining thereto and also with due regard to the wishes of the person or persons who founded or created the public trust or trusts.Explanation. -The maintenance of a public trust shall include(i)the running thereof in accordance with the tenets of the religion or persuasion represented by the public trust and with due regard to the objects and purposes underlying the foundation thereof or the creation of the endowments pertaining thereto and also with due regard to the wishes, so far as they may be ascertained, of the person or persons who founded the said trust and created the endowments pertaining thereto,(ii)the day-to-day administration of the properties and endowments of such public trust,(iii)the payment of dues and debts, if any, outstanding against such public trust, and(iv)the payment of allowances determined under Sub-section (2) of Section 65.

62. Power of Commissioner to Require Duties of Committee to be Performed and to Direct Expenses in Respect Thereof to be Paid From Fund of Committee.

- The Commissioner may, with the previous sanction of the State Government, provide for the performance of any duty which a Committee of Management is bound to perform under the provisions of this Act or the Rules or directions made or given thereunder and may direct that the expenses of the performance of such duties shall be paid by the person having for the time being the custody of any fund belonging to the public trust or trusts for which the committee has been constituted from cut of such fund.

63. Power to Supersede a Committee.

(1)If the State Government is of opinion that a Committee of Management is unable to perform or has persistently made default in the performance of the duties imposed on it by or under this Act or any other law for the time being in force or has exceeded or abused its powers, the State Government may by notification in the Official Gazette, supersede the committee for such period as may be specified in the notification :Provided that before issuing a notification under this sub-section the State Government shall give a reasonable opportunity to the Committee of Management to show-cause why it should not be superseded and shall consider the explanations and objections, if any, of such committee.(2)Upon the publication of a notification Under Sub-section (1) superseding a Committee of Management, the Chairman and all the members of such committee shall as from the date of supersession, vacate their offices and all the powers and duties which may, by or under the provisions of this Act or any other law for the time being in force be exercised or performed by or on behalf of the Committee of Management shall during the period of supersession be exercised by such person or persons as the State Government, having regard to

the provisions of Section 55, may direct.(3)The period of supersession specified in the order under Sub-section (1) may be extended by the State Government from time to time by notification in the Official Gazette.(4)In calculating the period of supersession specified under Sub-section (1) or extended under Sub-section (3), the period spent in the prosecution and disposal of any petition or proceeding challenging in any Court the validity of the order of supersession shall be excluded.(5)On or before the expiration of the period or extended period of supersession, the State Government shall reconstitute the committee in the manner provided in Section 53.

64. Power to make regulations.

(1)A committee may, with the approval of the State Government make regulations and inconsistent with this Act or the rules made thereunder for carrying out its functions under this Act.(2)In particular and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters(i)the disposal of day-to-day proceedings and routine business,(ii)the employment of officers and staff necessary for the performance of the duties and functions of the Committee of Management,(iii)the terms and conditions of their employment, and(iv)the manner in which any person who is not a member of the committee may be associated with any sub-committee constituted under Section 60.

65. Rights of Hereditary Trustees.

(1)Nothing contained in this Act shall affect the rights of a hereditary trustee, if any, of a public trust to which this Chapter applies -(a)to reside in any building belonging to such public trust, or(b)to use any such building for the purpose of such public trust, or(c)to receive bhents, nazars and offering made personally to him, or(d)to receive out of the income of the public trust the allowance fixed under Sub-section (2), or(e)to participate in the performance of the worship or service of such public trust or the performance of any rite therein or of any ceremony in connection therewith in accordance with the custom or practice of such public trust.(2)The State Government shall determine and fix the amount of allowance payable to the hereditary trustee of a public trust to which this Chapter applied out-Of income of such .public trust after taking into consideration the status of such trustee, the gross income of the public trust and other prescribed particulars.

Chapter XI

Dharmada

66. Dharmada.

(1)Where according to the custom or usage of any business or trade or the agreement between the parties relating to any transaction, any amount is charged to any party to the said transaction or collected under whatever name as being intended to be used for a charitable or religious purpose, the amount so charged or collected (in this Act called "dharmada") shall vest in the person charging or collecting the same as a trustee.(2)The amount charged or collected in the aforesaid manner shall be utilised in such manner as may be directed by a committee consisting of members elected in the

prescribed manner by persons engaged in the trade or business concerned.(3)Every person charging or collecting dharmada shall, within such period from the close of the year for which his accounts are ordinarily kept as may be prescribed, submit an account of dharmada charged or collected by him during such year in such form as may be prescribed to the Assistant Commissioner having jurisdiction or to the committee referred to in Sub-section (2) as the State Government may by general or special order direct.(4)The Assistant Commissioner shall have power, upon a request made in that behalf by a committee referred to in Sub-section (2) to make such inquiry as he thinks fit to verify the correctness of the account submitted to him or to such committee under Sub-section (3).(5)The provisions of Chapter V shall not apply to dharmada.

Chapter XII

Procedure and Penalties

67. Officers Holding Inquiries to Have the Powers of Civil Court.

- In holding inquiries under this Act the Commissioner or officers shall have the same powers as are vested in Civil Courts in respect of the following matters under the Code of Civil Procedure, 1908 (Central Act V of 1908) in trying a suit -(a)proof of facts by affidavits;(b)summoning and enforcing the attendance of any person and examining on oath;(c)compelling the production of documents, and(d)issuing of commissions.

68. Inquiries to be Judicial Proceedings.

- All inquiries under this Act shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

69. Civil Procedure Code to apply to proceedings before Courts.

- The provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908) shall, save in so far as they may be inconsistent with anything contained in this Act, apply to all proceedings before the Court under this Act.

70. Penalty.

(1)Whoever contravenes any provision of Sub-section (I) of Section 17 or of Sub-section (1) of Section 23 or of Section 27 or of Section 30 or of Sub-sections (2) and (3) of Section 66 shall be punished with fine which may extend to five hundred rupees.(2)Whoever contravenes any of the provisions of this Act or the rules made thereunder for the contravention of which no specific penalty has been provided shall be punished with fine which may extend at one hundred rupees.

Chapter XIII

Miscellaneous

71. Recovery of Sums.

- All sums payable under Section 19 or Section 50 or under any rule made under this Act, if not paid, shall, notwithstanding anything contained in any law and without prejudice to any other action that may be taken under this Act or any other law, be recoverable as arrears of land revenue.

72. Proceedings involving question affecting public purpose.

(1) In any lit or legal proceeding in which it appears to the Court that any question affecting a religious or charitable purpose is involved, the Court shall not proceed to determine such question until after notice has been given to the Commissioner. (2) If upon receipt of such notice or otherwise the Commissioner makes any application in that behalf, he shall be added as a party at any stage of such suit or proceedings.

73. Bar of jurisdiction.

- Save as expressly provided in this Act, no Civil Court shall have jurisdiction to decide or deal with any question which is by or under this Act to be decided or dealt with by any officer or authority under this Act or in respect of which the decision or order of such officer or authority has been made final and conclusive.

74. Indemnity From Suits And Proceedings.

- No suit, prosecution or other proceeding shall be instituted against the State Government or any officer or authority in respect, of anything in good faith done or purporting to be done under this Act.

75. Trial of offence under the Act.

(1) No Court inferior to that of Magistrate of the first class shall try an offence punishable under this Act. (2) No prosecution for an offence punishable under this Act shall be institute without the previous sanction of the Assistant Commissioner.

76. Rules.

(1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act. (2) In particular and without prejudice to the generality of the foregoing provision, such rules may be for all or any of the following matters, namely -(a) the form of register of public trusts and the registers and books to be maintained by the Assistant Commissioner under Sub-section (2)

of Section 16 and their form;(b)that fee to be paid under Sub-section (3) and the form of application, and the particulars thereof under Sub-section (4) of Section 17;(c)the manner of making inquiry under Sub-section (1) and the manner of giving public notice under Sub-section (2) of Section 18;(d)the form and manner of report to be made under Sub-section (1) of Section 23;(e)the form of the book for entering particulars of entries under Section 25;(f)the form of, and particulars to be entered in, the accounts to be kept under Section 32;(g)the manner of audit of the accounts under Sub-section (2) and the fee for special audit under Sub-section (4) of Section 33;(h)the form of budget and the date of its submission to the Assistant Commissioner under Section 35;(i)the fee for inspection under Section 36;(j)the conditions and fees for the grant of certified copies- under Section 36;(k)the returns and statements to be furnished by the working trustee or Manager under Section 47;(l)the manner of holding inquiry under Sub-section (2) of Section 49;(m)the form of appeals to be presented under any provision of this act and the fees therefor; and(n)any other matter which is to be or may be prescribed under this Act.(3)In making rules under this section, the State Government may direct that a breach of any provision thereof shall be punishable with fine which may extend to two hundred rupees.(4)All rules made under this section shall be subject to the condition of previous publication.

77. Exemption.

(1)Nothing contained in this Act shall apply to a public trust administered by any agency acting under the control of the State Government or by any local authority.(2)The State Government may exempt, by notification specifying the reasons for such exemption, any public trust or class of public trusts from all or any of the provisions of this Act, subject to such conditions, if any as the State Government may deem fit to impose.

78. Rajasthan Act 13 of 1959 Not Affected.

- Nothing in this Act shall in any way affect or prejudice the provisions of the Nathdwara Temple Act, 1959 (Rajasthan Act 13 of 1959).

79. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, give such directions, not inconsistent with such provisions, which appear to it to be necessary for the purpose of removing the difficulty.

80. Act Not To Apply To Muslim Wakfs.

- Nothing in this Act shall apply to Muslim Wakfs governed and regulated by the Muslim Wakfs Act, 1954 (Central Act 29 of 1954).

81. Repeal.

- On the date of the commencement of the application of the provisions of Chapters V, VI, VII, VIII, IX and X of this Act to any class of public trusts (hereinafter referred to as the "said date"), the provisions of all: of the laws specified in the Schedule which might be applicable to any public trust belonging to such class shall cease to apply thereto :Provided that such cessation shall not in any way affect -(a)any right, title, interest, obligation or liability already required, accrued or incurred before the said date;(b)any legal proceeding or remedy in respect of such right, title, interest, obligation or liability; or(c)anything duly done or suffered before the said date.

82. Amendment of Rajasthan Act 6 of 1952.

- As from the date on which a Committee of Management is constituted for a public trust under Section 53. Clause (7) of the Second Schedule to the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 (Rajasthan Act 16 of 1952), shall in relation to that public trust, have effect as if for the words 'to the person, who is or may hereafter be recognised in accordance with law as being charged for the time being with the duty of maintenance of such institution or place of worship or the performance of such service', the words 'to the committee of management constituted for it under Section 53 of the Rajasthan Public Trusts Act, 1959 were substituted. The Schedule (See Section 81)(1)The Charitable and Religious Trusts Act, 1920 (Central Act XIV of 1920).(2)The Bikaner Charitable Endowments Act, 1929.(3)The Jaipur Religious Endowments Act, 1946.(4)Any other law, order or circular relating to religious and charitable endowments in force in any part of the territories to which this Act for the time being extends.(5)Any law, orders or circulars amending any of the laws mentioned in Items (1) to (4) above.