

The West Bengal Religious Buildings And Places Act, 1985

WEST BENGAL

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Act 32 of 1985

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The West Bengal Religious Buildings And Places Act, 1985 West Bengal Act 32 of 1985 [9th January, 1986.] An Act to provide for the regulation of construction of public religious buildings and use of public for religious purposes. Whereas it is expedient in the public interest to provide for the regulation of construction of public religious buildings and use of public places for religious purposes; It is hereby enacted as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the West Bengal Religious Buildings and Places Act, 1986. (2) It extends to the whole of West Bengal. (3) It shall come into force on such date as the State Government may, by notification, appoint; and different dates may be appointed for different areas.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "Board" means the Board of Revenue, West Bengal; (b) "building" means a house, shop, hut, shed or other structure or enclosure, whether roofed or not, of whatsoever material constructed, and includes any part of such house, shop, hut, shed or other structure or enclosure, and also includes a wall, verandah, platform, plinth or door step or a tent or other portable and merely temporary shelter; (c) "notification" means a notification published in the Official Gazette; (d) "place" means an open space without any building; (e) "prescribed" means prescribed by rules made under this Act; (f) "private building" and "private place" means respectively a building and place other than a public building and a public place, and the expressions "private religious building" and "private religious place" shall be construed accordingly; (g) "public building" and "public place" mean respectively a building and a place, whether or not acquired, constructed or maintained by or at the expense of any specified person or association of persons, which are not for the private or personal use of such person or association of persons and are open to the public in

general or any class or section thereof for the purpose, if any, for which they may have been set apart, and the expressions "public religious buildings" and "public religious place" shall be construed accordingly. Explanation I. - For the purposes of this clause, -(i) "association of persons" shall include a club, committee, society, or organisation, by whatever name called; and (ii) "specified person" shall mean such person as may be specified by the State Government by notification. Explanation II. - For the avoidance of doubts, it is hereby declared that if any building or place, acquired, constructed or maintained by any specified person or association of persons is a private or personal property of such specified person or association of persons and such specified person or association of persons accepts any offerings, pujas or subscriptions for religious purposes from the public, such building or place shall be deemed to be a public building or public place; (h) "religious" when used with reference to any building or place shall mean a building (including, a temple, mosque, church, chhatra, dargah, Khanquah, math or takiya) or place used or intended to be used for the purposes of religious worship or instruction or offering of prayers (including 'Bhajan, Kirtan, Stuti or Namaz) or performance of any religious rites by persons of or belonging to any religious creed, sect or class.

3. Bar to construction or conversion.

(1) No person shall construct any public religious building or convert any private building or public building or private place or public place into a public religious building within a radius of 250 metres of any existing public religious building or public religious place for a different religious community. (2) Nothing in this section shall apply to any public place traditionally used for a long period as a public religious place. Explanation. - The expression "any public place traditionally used for a long period" shall mean a public place used for a period of not less than twenty years.

4. Restrictions on use of public place for religious purposes.

(1) No person shall use any public place -(a) as a permanent religious place, or (b) save with the previous permission, in writing, of the Collector in the district, or of the Commissioner of Police in Calcutta, obtained in the prescribed manner, as a temporary religious place. (2) Nothing in this section shall apply to any cremation ground or burial place, or to the holding of any function or taking out of any procession in connection with death or marriage, or to any purely social and secular function or religious procession.

5. Construction etc., of public religious buildings.

(1) No person shall, without first obtaining in writing the permission of the Collector in the district, or of the Commissioner of Police in Calcutta, -(a) construct any public religious building, or (b) convert any private building or public building or private place or public place into a public religious building, or (c) convert any private religious building or private religious place into a public religious building or public religious place. Explanation I. - Any temporary use of a building or place for religious purposes on occasions such as Holi, Muharram or similar other religious festivals; shall not be deemed to be a conversion of such building or place into a public religious building or public religious place. Explanation II. - Any permission under this section shall be in addition to the

permission or sanction as may be required to be obtained under any law for the time being in force.(2)Any person required to obtain permission for any construction or conversion under sub-section (1), shall first obtain permission for such construction or conversion from such local authority or officer having jurisdiction over the area as the State Government may, by notification, specify, and shall thereafter apply to the Collector in the district, or to the Commissioner of Police in Calcutta, for permission under sub-section (1) in the prescribed manner.

6. Procedure to be followed by the Collector and the Commissioner of Police.

(1)When an application for permission under section 4 or section 5 is made to the Collector in the district, or to the Commissioner of Police in Calcutta, the Collector or the Commissioner of Police, as the case may be, after making such inquiry as he may think necessary, may, by order, either disallow the application or grant the requisite permission unconditionally or with such conditions as to security or otherwise as he may consider reasonable in the circumstances of each case.(2)The order of the Collector in the district, or of the Commissioner of Police in Calcutta, under sub-section (1) shall be communicated, in writing, to the applicant and if the applicant does not receive such communication within four weeks in the case of an application under section 4, or within six months in the case of an application under section 5, calculated from the date of receipt of such application in the office of the Collector in the district or of the Commissioner of Police in Calcutta, as the case may be, the applicant shall be deemed to have obtained the permission under section 4 or section 5, as the case may be.

7. Power of Collector in the district and Commissioner of Police in Calcutta to direct removal of unauthorised construction or conversion.

(1)Subject to the provisions of section 12, where the Collector in the district, or the Commissioner of Police in Calcutta, on receipt of any information or report or suo motu, has reasons to believe that a construction of any building or conversion of any building or place has been made in contravention of the provisions of this Act or of any permission thereunder, he shall, on such inquiry as he may consider necessary, cause to be notified in the locality by beat of drum and by affixing on a conspicuous part of such building or place and on the notice board of his office a notice, and shall also cause such notice to be served on the person or persons (if ascertainable) responsible for such construction or conversion, calling for objections, if any, within a period of fifteen days from the date of the notice as to why such construction or conversion should not be removed.(2)The Collector in the district, or the Commissioner of Police in Calcutta, shall, then, after considering the objections, if any, and after giving the person or persons concerned an opportunity of being heard, decide the matter and record his findings thereon.(3)If the Collector in the district, or the Commissioner of Police in Calcutta, arrives at the finding that the construction, or conversion has been made in contravention of the provisions of this Act or of any permission thereunder, he shall, by order, give directions for the removal of such construction or conversion, and restoration of the building or place, as nearly as may be, to its original condition.(4)Where any, direction under sub-section (3) of this section or any, decision, on appeal, under section 8, is not complied with within a period of forty-five days from the date of such direction or decision, the Collector in the district or the Commissioner of Police in Calcutta, shall cause such compliance to be made through a

police officer not below the rank of Sub-Inspector, at the cost of the defaulter in the prescribed manner.

8. Appeal and revision.

(1)An appeal from an order under section 6 or section 7 shall lie to -(a)the Commissioner of the Division, where the order is made by the Collector, and(b)the Commissioner of Presidency Division, where the order is made by the Commissioner of Police, Calcutta, the State Government under this clause without giving the person aggrieved an opportunity of being heard.

9. Bar to jurisdiction of Civil Courts.

- No order made under this Act, either by a Collector in the district or by the Commissioner of Police in Calcutta, or, on appeal, by the Commissioner of a Division or by the Board, or on revision by the State Government, shall be called in question in any Civil Court.

10. Duration of permission.

(1)Any permission under section 4 shall cease to have effect on the expiration of two months from the date of the order granting the same or from the day next after the date on which a public place is due to be used as a temporary public religious place, whichever is earlier.(2)Any permission under section 5 shall remain in force for a period of one year within which the construction or conversion permitted to be made may be commenced.

11. Penalty.

- Whoever contravenes, or attempts to contravene or abets the contravention of, any of the provisions of this Act or the rules made thereunder or any condition subject to which a permission there under may have been granted, shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

12. Removal of unauthorised work under Court's order.

(1)Any Court making an order of conviction for any offence under section 11 shall direct that any construction or conversion in contravention of the provisions of this Act or of any permission granted thereunder, if not already removed under the provisions of section 7, shall be removed so as to restore the building or the place in question as nearly as may be to its original condition.(2)In case of non-compliance of any direction under sub-section (1), the Court shall cause compliance of such direction to be made through a police officer, not below the rank of Sub-Inspector, at the cost of the defaulter in the prescribed manner.

13. Cognizance of offences.

- An offence under this Act shall be triable by a Sub-divisional Judicial Magistrate or a Judicial Magistrate of the first class in the district or a Metropolitan Magistrate in Calcutta, on the complaint of the Officer-in-charge of a police station or of the Collector in the district or of the Commissioner of Police in Calcutta.

14. Power to make rules.

(1)The State Government may, by notification, make rules for carrying out the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which, under any provision of this Act, are required to be prescribed or to be provided for by rules.