

Durgah Khawaja Saheb Act, 1955

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Act 36 of 1955

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1508.

Object and Reason.- (1) In 1949, the Government of India appointed a Committee, under the Chairmanship of Mr. Justice Ghulam Hassan, the then Judge of the Allahabad High Court, to report on the affairs of the Durgah Khawaja Saheb, Ajmer, and to make recommendations for its efficient management in the interests of the devotees. The present Bill seeks to implement the decisions of Government on the recommendations of the Committee. The principal provisions are as follows : (i) The administration, control and management of the Durgah are to vest in a High Power Committee consisting of representative Muslims to be appointed by the Central Government. (ii) A paid Nazim is to be appointed a Member Secretary of the Committee and to administer the Durgah. (iii) An Advisory Committee is to be set up to advise the Nazim in the discharge of his functions. (iv) The remuneration of the Sajjadanashin and the manner of determining succession to that office are laid down. (v) The soliciting or receiving of offerings on behalf of the Durgah is to be prohibited except through the Nazim or a person authorised by him. (vi) A Board of Arbitration is to be set up to settle disputes not relating to any religious usage or custom or to the performance of any religious office. - S.R.O., Gazette of India, 22-11-52, Pt. II, Section 2, Ext., p. 564. Act 20 of 1964.- (1) The Durgah Khawaja Saheb Act, 1955, was enacted to provide inter alia for proper control and efficient management of the Durgah Endowments as defined in the Act. 2. A large number of pilgrims who come to offer prayers at the Durgah Khawaja Saheb, Ajmer, make offerings of nazars in the form of cash or in kind, which are meant for the Durgah Khawaja Saheb and form part of the Durgah Endowment. The Act expressly provides in sections 2(d) (v) and 14 that only the Nazim or a person authorised by him is entitled to receive on behalf of the Durgah nazars and offerings given by the pilgrims. In contravention of these express provisions of the Act some individuals have been collecting the nazars and offerings made at the shrine and have been misappropriating them. In the absence of a specific penal clause in the Act it has not been found possible to take action against them in order to prevent them from doing so. The acceptance of the offerings and nazars which are a

source of substantial income to the Durgah by unauthorised persons affects the interests of the shrine. It is, therefore, considered necessary to make a specific provision for penalising persons who solicit or receive nazars and offerings meant for the Durgah in an unauthorised manner. The present Bill seeks to amend the Durgah Khawaja Saheb Act, 1955, by providing for such a penal clause for this purpose. - S.O.R., Gazette of India, 18-11-63, Pt. II, Section 2, Ext., p. 746.[14th October, 1955]An Act to make provision for the proper administration of the Durgah and the Endowment of the Durgah of Khawaja Moin-ud-din Chishti, generally known as Durgah Khawaja Saheb, Ajmer.BE it enacted by Parliament in the Sixth Year of the Republic of India as follows :-

1. Short title and Commencement.-

(1)This Act may be called the Durgah Khawaja Saheb Act, 1955.(2)It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

1st March,1956, vide notification No. S.R.O. 482, dated 24-2-1956, Gazette of India, Extraordinary, Part II, Section 3, page 333.

2. Definitions.-

In this Act, unless the context otherwise requires,-(a)"Chief Commissioner" means the Chief Commissioner of Ajmer, acting in his individual capacity;(b)"Committee" means the Committee constituted under section 4;(c)"Durgah" means the institution known as the Durgah Khawaja Saheb, Ajmer, and includes the premises called the Durgah Sharif with all buildings contained therein, together with all additions thereto or all alterations thereof which may hereafter be made from time to time;(d)"Durgah Endowment" includes-(i)the Durgah Khawaja Saheb, Ajmer;(ii)all buildings and movable property within the boundaries of the Durgah Sharif;(iii)Durgah Jagir, including all land, houses and shops and all immovable property wherever situated belonging to the Durgah Sharif;(iv)all other property and all income derived from any source whatsoever dedicated to the Durgah or placed for any religious, pious or charitable purposes under the Durgah Administration, including the Jagirdari villages of Hokran and Kishanpur in Ajmer; and(v)all such nazars or offerings as are received on behalf of the Durgah by the Nazim or any person authorised by him;(e)"Nazim means the Nazim appointed under section 9.

3. Act to override Act XX of 1863.-

This Act shall have effect notwithstanding anything inconsistent therewith contained in the Religious Endowments Act, 1863 (XX of 1863).

4. The Committee.-

(1)The administration, control and management of the Durgah Endowment shall be vested in a Committee constituted in the manner hereinafter provided.(2)The Committee shall, by the name of "The Durgah Committee, Ajmer", be a body corporate and shall have perpetual succession and a common seal and shall by the said name sue and be sued through its president.

5. Composition of Committee.-

The Committee shall consist of not less than five and not more than nine members all of whom shall be Hanafi Muslims and shall be appointed by the Central Government.

6. Term of office and resignation and removal of members and casual vacancies.-

(1) A member of the committee shall hold office for a period of five years from the date of his appointment but may resign his office earlier by giving notice in writing thereof to the Central Government and shall cease to be a member on the resignation being accepted by that Government. (2) The Central Government may remove from office any member of the Committee- (a) who is of unsound mind and stands so declared by a competent court, or (b) who has applied for being adjudged an insolvent, or is an under charged insolvent, or (c) who has been convicted of any offence involving moral turpitude, or (d) who has absented himself for a period of twelve consecutive months from the meetings of the Committee, or (e) whose presence on the Committee would, in the opinion of the Central Government, be prejudicial to the interests of the Durgah. (3) Casual vacancies among members of the Committee shall be filled by appointment made by the Central Government in consultation with the remaining members of the Committee. (4) The term of office of a member appointed to fill a casual vacancy shall be for so long only as the member whose place has been filled would have been entitled to hold office if the vacancy had not occurred.

7. President and vice-president.-

(1) The Committee shall elect a president and a vice-president from among its members. (2) When the office of the president is vacant or in the absence of the president from any meeting, the vice-president shall perform the functions of the president. (3) In the absence of the president and vice-president, a meeting of the Committee may be presided over by a member elected by the majority of the members present at the meeting.

8. Supersession of the Committee.-

If in the opinion of the Central Government the Committee is guilty of gross mismanagement of the affairs of the Durgah or of neglect in the performance of its functions, the Central Government may supersede the Committee and entrust any person with full powers of the Committee until a new Committee is constituted in accordance with the provisions of this Act.

9. Power of Central Government to appoint Nazim.-

(1) The Central Government may, in consultation with the Committee, appoint a person to be the Nazim of the Durgah and the Nazim shall in virtue of his office be the secretary of the Committee: Provided that no such consultation shall be necessary in the case of the appointment of the first Nazim. (2) The Nazim shall be paid such salary and allowances as the Central Government

may fix out of the revenues of the Durgah Endowment.(3)The Committee shall exercise its powers of administration, control and management of the Durgah Endowment through the Nazim.

10. Advisory Committee to advise Nazim.-

For the purpose of advising the Nazim in the discharge of his functions under this Act and also for such other purposes as may be specified in any bye-laws of the Committee, the Central Government may, in consultation with the Chief Commissioner, constitute an Advisory Committee consisting of such number of persons, being Hanafi Muslims, not exceeding seven, as the Central Government may think fit, such persons being chosen from among the residents of the State of Ajmer or any of the neighbouring States.

11. Powers and duties of the Committee.-

The powers and duties of the Committee shall be-(a)to administer, control and manage the Durgah Endowment;(b)to keep the buildings within the boundaries of the Durgah Sharif and all buildings, houses and shops comprised in the Durgah Endowment in proper order and in a state of good repair;(c)to receive all moneys and other income of the Durgah Endowment;(d)to see that the Endowment funds are spent in the manner desired by the donors;(e)to pay salaries, allowances and perquisites and make all other payments due out of, or charged on, the revenues or income of the Durgah Endowment;(f)to determine the privileges of the Khadims and to regulate their presence in the Durgah by the grant to them of licences in that behalf, if the Committee thinks it necessary so to do;(g)to define the powers and duties of the Advisory Committee;(h)to determine the functions and powers, if any, which the Sajjadanashin may exercise in relation to the Durgah;(i)to appoint, suspend or dismiss servants of the Durgah Endowment;(j)to make such provision for the education and maintenance of the indigent descendants of Khawaja Moin-ud-din Chishti and their families and the indigent Khadims and their families residing in India as the Committee considers expedient consistently with the financial position of the Durgah;(k)to delegate to the Nazim such powers and functions as the Committee may think fit;(l)to do all other such things as may be incidental or conducive to the efficient administration of the Durgah.

12. Remuneration of the Sajjadanashin.-

There shall be paid to the person for the time being holding the office of the Sajjadanashin remuneration at the rate of rupees two hundred per mensem out of the revenues of the Durgah Endowment.

13. Succession to the office of Sajjadanashin.-

(1)As soon as the office of the Sajjadanashin falls vacant, the Committee shall, with the previous approval of the Chief Commissioner, make such interim arrangements for the performance of the functions of the Sajjadanashin as it may think fit, and immediately thereafter publish a notice in such form and manner as may be determined by the Committee, inviting applications within one

month of such publication from persons claiming to succeed to that office.(2)Where only one person claims to succeed to the office of the Sajjadanashin and the Committee is satisfied as to his right to succeed, it shall, with the previous approval of the Chief Commissioner, pass an order in writing according recognition as Sajjadanashin to such person.(3)Where more persons than one claim to succeed to the office of the Sajjadanashin, the Committee shall, after consultation with the Chief Commissioner, refer the dispute to the Judicial Commissioner of Ajmer for a decision regarding the claim to succeed to that office, and the Judicial Commissioner, after taking such evidence as he considers necessary and after giving an opportunity to the claimants to be heard in respect of their claims, shall communicate his decision to the Committee.(4)The Committee, on the receipt of the decision, shall, with the previous approval of the Chief Commissioner, pass an order in writing in accordance with such decision declaring the person found entitled to succeed to the office of the Sajjadanashin and according recognition as Sajjadanashin to such person.(5)An order passed by the Committee under sub-section (2) or sub-section (4) shall be final and shall not be questioned in any court.

14. Power to solicit or receive offerings on behalf of the Durgah.-

[(1)] [Section 41 renumbered as sub-section (1) by Act 20 of 1964, section 2] It shall be lawful for the Nazim or any person authorised by him in this behalf to solicit and receive on behalf of the Durgah any nazars or offerings from any person, and notwithstanding anything contained in any rule of law or decision to the contrary, no person other than the Nazim or any person authorised by him in this behalf shall receive or be entitled to receive nazars or offerings on behalf of the Durgah.(2)[Whoever solicits or receives any nazars or offerings in contravention of the provisions of sub-section (1), shall be punishable with fine which may extend to one thousand rupees.(3)The Nazim, the Sajjadanashin, the employees and servants of the Durgah Endowment and all other persons authorised to do any act under this Act shall, while acting or purporting to act in pursuance of any of the provisions made by or under this Act, be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.] [Inserted by Act 20 of 1964, section 2]

15. Committee to observe Muslim Law and tenets of the Chishti Saint.-

Save as otherwise provided under any enactment for the time being in force, the Committee shall, in exercise of its powers and the discharge of its duties, follow the rules of Muslim Law applicable to Hanafi Muslims in India, and shall conduct and regulate the established rites and ceremonies in accordance with the tenets of the Chishti Saint.

16. Board of Arbitration.-

(1)If any dispute arises between the Committee on the one part and the Sajjadanashin, any Khadim, and any person claiming to be the servant of the Durgah under some hereditary right or any one or more of them on the other part and such dispute does not, in the opinion of the committee, relate to any religious usage or custom or to the performance of any religious office, it shall, at the request of either party to the dispute, be referred to a Board of Arbitration consisting of-(i)a nominee of the Committee;(ii)a nominee of the other party to the dispute; and(iii)a person who holds or has held

the office of, or is acting or has acted as, a district judge, to be appointed by the Central Government, and the award of the Board shall be final and shall not be questioned in any court.(2)No suit shall lie in any court in respect of any matter which is required by sub-section (1) to be referred to a Board of Arbitration.

17. Defect in the constitution of, or vacancy in the Committee not to invalidate acts and proceedings.-

No act or proceeding of the Committee shall be invalidated merely by reason of the existence of a vacancy among its members or a defect in the constitution thereof.

18. Enforcement of final orders of Committee.-

Where in the exercise of its powers and performance of its duties the Committee passes any final order against any person directing him to do, or to abstain from doing, something, the person against whom the order is directed shall be bound to comply with the order and in case of non-compliance with such order any civil court within the local limits of whose jurisdiction the person against whom the order has been passed, resides or carries on business may execute the order in the same manner and by the same procedure as if it were a decree or order passed by itself in a suit.

19. Audit of accounts and annual report.-

(1)The accounts of the Durgah shall be audited every year by such persons and in such manner as the Central Government may direct.(2)The committee shall every year prepare a report on the administration of the Durgah, which, together with the accounts of the Durgah and the report of the auditor thereon, shall be published in the Official Gazette.

20. Bylaws.-

(1)The Committee may make bye-laws to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power such bye-laws may provide for-(a)the division of duties among the president and the members of the Committee;(b)the time and place of, the quorum for, and procedure and conduct of business at, the meetings of the Committee;(c)the security, if any, to be taken from the employees of the Committee;(d)the books and accounts to be kept at the office of the Committee;(e)the custody and investment of the property and the funds of the Durgah;(f)the details to be included in or excluded from the budget of the Durgah;(g)the persons by whom receipts may be granted for money paid to the Committee;(h)the maintenance of peace and order within the Durgah compound and regulating the conduct of persons within the precincts of the Durgah;(i)the duties and powers of the employees of the Durgah;(j)the regulation of the cooking of dehs and distribution of the food so cooked, notwithstanding any judicial decision relating to the right of any person or class of persons to participate in such cooking or distribution;(k)the powers and functions of the Advisory committee and the matters in which the

advice of the Advisory Committee may be sought by the Nazim;(1)the manner of entering into contracts by or on behalf of the Committee.(3)Any power to make bye-laws conferred by this section is conferred subject to the condition of the bye-laws being first published in draft for objections by being hung up on the premises of the Durgah and of their not taking effect until they have been approved and confirmed by the Central Government and published in the Official Gazette.(4)The Central Government in approving and confirming a bye-law may make any change therein which appears to be necessary.(5)The Central Government may, after previous publication of its intention, cancel any bye-law which it has approved and confirmed, and there upon the bye-law shall cease to have effect.(6)[Every bye-law made under this section and every order made by the Central Government under sub-section (5) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforeside, both Houses agree in making any modification in the bye-law or order, or both Houses agree that the bye-law or order should be made, the bye-law or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that bye-law or order.] [Inserted by Act 20 of 1983, section 2]

21. Transitional provisions.-

The person holding the office of Sajjadanashin immediately before the commencement of this Act shall, on and from such commencement, continue to hold that office subject to the other provisions of this Act and to the final decision in the suit relating to that office which is pending on such commencement and to which the said person is a party.

22. Repeal.-

The Durgah Khawaja Saheb Act, 1936 (XXIII of 1936) and the Durgah Khawaja Saheb (Emergency Provisions) Act, 1950 (XVII of 1950) are hereby repealed.