

Assam State Acquisition of Lands extent and Belonging to Religious or chartiable Institution of Public Nature Act, 1959

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Act 9 of 1961

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Assam State Acquisition of Lands extent and Belonging to Religious or chartiable Institution of Public Nature Act, 1959(Assam Act No. 9 of 1961)Last Updated 13th February, 2020[As passed by the assembly) Received the assent of the president of India on the 2nd April. 1961. [published in the Assam gazette Extraordinary dated, the 12th April, 1961] [Assam Act No. IX of 1961, brought into force with effect from the 1st January, 1963,. vide notification No. RRLF/59, dated 15th January,1963. [Published in the Assam gazette, Part HA, dated 16th January, 1963j page 206.]An act to provide for the acquisition by the State of lands belonging to religious or Chartiable institutions of public nature.Preamble - whereas it is expedient to acquire the lands belonging to Religious or chartiable institutions of public nature in the State of Assam in the manner hereinafter appearing;It is hereby enacted in the Tenth year of the republic of India as follows-CHAPTER - 1 1. Short title, extent commencement.(1) This Act may be called the Assam State Acquisition of Lands extent and Belonging to Religious or chartiable Institution of Public Nature Act, 1959.(2) It extends to the whole of Assam.(3) It shall come into force on such date as the State Government may, by notification in the Official gazette appoint.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(a)"Agriculture Year" means the year commencing on the 1st day of 'Bohag' or. Baisakh;(b)"Deputy Commissioner" means Deputy commissioner of the District in which the land in question is situated, and includes the Additional Deputy Commissioner;(c)"Encumbrance" in relation to any land under this Act does not include the rights of a rayat or agricultural or non-agricultural tenant;(d)The head of a Religious or chartiable institution in so far as it relates to the institution shall mean a person, by whatever

designation known in whom the control and management of the properties of that institution is vested whether under the terms of any enactment or grant or usages relating to this institution or any scheme of management framed by a Court under Section 92 of the Code of Civil procedure, 1908 (Act V of 1908)(e)"Institution" means a religious or chartiable institution of public nature including its branches, if any, established prior to the commencement of this Act and existing at the date of such commencement;(f)"Religious Institution" means an institution the primary purpose of which relates exclusively to religious teachings or worship or advancement of religion irrespective of denomination;(g)"chartiable Institution" means an institution for chartiable purpose including relief of the poor, education, medical relief and advancement of any other object of Public utility, but does not include a purpose which relates exclusively to religious teaching or worship or advancement of religion;(h)"Religious or chartiable Institution of Public Nature" shall include Satras, Maths, public Temples, public Wakf (that is to say, Wakfs other than Wakf-alal-aulad) including public Mosques and Durgahs, Gurdwaras, Churches or similar institutions or endowments for public purposes of chartiable or religious nature;(i)"Prescribed" means prescribed by the rules made under this Act, and(j)"Tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to the other person and includes a person who cultivates the land of another person on condition of delivering a share of the produce.

Chapter II

3. Notification of acquisition.

(1)The State Government may, from time to time, by notification in the Official Gazette declare that all rights in land belonging to a Religious or chartiable Institution of public Nature shall vest in the State free from all encumbrances, with effect from the first day of the agricultural year next following the date of publication of such notification.(2)A copy of the aforesaid notification shall be served on the Head of the Religious or chartiable Institution in the manner prescribed and thither, it shall be published in the offices of the Deputy Commissioner, Sub Divisional Officer and the Circle Officers within whose jurisdiction the lands are situated and also in the premises of the religious and the chartiable institution concerned.(3)The publication of the notification in the Official Gazette and the service of the same as provided under sub-sections (1) and (2.) respectively shall be conclusive evidence of due publication thereof and of notice to all person affected by such notification.

4. Consequence of the notification.

(1)Notwithstanding anything to the contrary in any law for the time being in force or any custom or any agreement or contract express or implied,; on the publication of the notification under Section 3, all right, title and interest in the lands of a religious or chartiable institution with the sub-soil (Including the rights in mines, minerals, fisheries, tanks, wells, forests, grazing, hats, bazars, roads and ferries) shall cease and lands including such rights shall vest absolutely in the state free from all encumbrances with effect from the date specified in the notification.(2)No claim or liability enforceable before the date of publication of notification against the institution for any money which

is secured by a mortgagee or charges on the lands belonging to such institution which has vested in the state, shall be enforceable against the interest of the institution but such claim and liability shall be enforceable only against the compensation money payable under this Act.(3)All suits and proceedings and any orders of attachment in respect of such lands belonging to the institution in connection with recovery of any money as mentioned in sub-section (2) which may be pending on the date of vesting shall be dropped and shall cease to be in force.

5. Power to retain possession of land after acquisition.

- Notwithstanding anything contained in sub-sections (1) of Section 4, a religious or charitable institution (Including its individual branches, if any) shall, with effect from the date of vesting, be entitled to retain possession of-(i)free of revenue, all such lands which on or before the last day of Chaitra, 1365 B.S. were in the ownership of the institution and were actually occupied by it by construction buildings and raising orchards and flower gardens together with the compounds appurtenant thereto and all lands reserved for the resident devotees for residential purposes.Provided that the right of ownership or possession of such lands shall not be trainable or alienable.(ii)tea gardens land:Provided such lands shall be liable for assessment to full revenue rate under any existing law.

6. Taking possession.

- The Deputy Commissioner may, at any time after lands of an institution have vested in the State, proceed to take possession thereof, and may for that purpose take such steps as may be necessary:Provided that nothing contained in this section shall be deemed to authorize the Deputy Commissioner to take possession of lands and buildings mentioned in Section 5.

7. Compensation.

- Every religious or charitable institution whose lands have been acquired under the provisions of this Act shall be paid compensation which shall be determined on the principle hereinafter described.

8. Principles of determination of compensation and the manner of payment.

(1)The gross income of the land of religious or charitable institution which has been acquired under this Act shall be computed by taking the gross annual income from rent, forest, fisheries, hats, bazars, ferries, roads, grazing, reserves, mines and minerals for the agricultural year proceeding the date of notification under section 3.Explanation. - For the purpose of calculation of gross annual income from rents of an institution, all arable lands, tenanted or fallow and homesteads belonging to such institution, shall be assessed at the prevailing rate of rent or revenue whichever is higher for similar land the neighbourhood and nearest to it and total amount for the previous year thus arrived at will be the gross income from rents.(2)From the average gross income so computed shall be deducted the annual amount which was payable by the religious or charitable institution for the

agricultural year preceding the date of notification under Section 3, as land revenue, cess, royalty, municipal tax, chaukidari tax, agricultural income-tax or any tax levied by the State and Central Government or rent to superior landlord in respect of the land acquired.(3)A further amount shall be deducted from the gross income as the cost of management at the rates given below -

	Rate
(a) On the first Rs 5,000. of gross income.	No deduction
(b) On the next Rs 5,000 gross income.	At five per cent of the gross income
(c) On the balance of gross income.	At ten per cent of the gross income.

(4)The balance remaining thereafter shall be treated as the net income.(5)The net income thus arrived at shall be paid in cash annually as perpetual annuity as compensation to the Head of the institution for the lands acquired under this Act :Provided that if any person is entitled to a share of the income of any institution or to a lumpsum allowance, under the terms of any grant or endowment relating to that institution, then he shall be paid an equivalent share out of the perpetual annuity or a lumpsum allowance to be determined in the manner prescribed.Provided further that the lumpsum allowance so determined shall bear as nearly as possible the same ratio to the perpetual annuity as the allowance drawn prior to the acquisition bears to the net income as defined in this section.(6)[Without prejudice to any action under any other provision of this Act, the State Government may at any time call for the records and pass such orders as it may deem fit for correction of bonafide mistakes in the assessment of compensation either of for its own motion or on application of the person interested after giving the person or person interested an opportunity of being heard, but no such correction shall be made while an appeal under Section 21 of the Act is pending.(7)(a)The State Government shall constitute a grant fund-in-aid to the Religious or charitable Institution of Public nature both by way of recurring and non-recurring nature.(b)In case of grant-in-aid of recurring nature, the amount of annuity shall be enhanced by 25% subject to minimum of Rs. 300 in respect of religious institution whose perpetual annuity originally determined at an amount not exceeding Rs. 1.00 lakh.(c)No subsequent revision or increase of annuity shall be permissible until at least a period of not less than 10 years ,has elapsed since the preceding fixation or re-fixation of the annuity as the case may be.(d)In case of non-recurring grant-in-aid a lumpsum amount of Rs. 500 shall be paid to the religious or charitable institution of public nature on application by the interested person/head of the institutions or by the State government suo moto, if any repair or renovation work including white washing .is effected or any damages repaired on account of any natural decay or calamity, subject to verification of the actual cost of repair or renovation work done and subject to assessment and satisfaction of the authority about the nature and magnitude of the loss caused to the religious or charitable institution of public nature on account of natural decay or calamity. This amount shall be paid after every two years"]

9. Ad-interim compensation.

- Pending investigation and final determination of compensation, an ad-interim payment in cash not exceeding 75 per cent of the probable mount of compensation may be made after a preliminary enquiry on the execution by the claimant of an indemnity bond and such ad-interim compensation shall be deemed to be part of the compensation payable under this Act and shall be deducted from

and adjusted against it Option of

10. Option of removing, Building etc. on land vested in the State.

- Where there is any building or structure or crop on the land, which have vested in the State the owner, thereof, shall be given. the option of removing it within the prescribed period and if he fails to do so within the said period, it shall be sold in public auction and the sale proceeds, after deduction of the cost of 'auction, if any, shall be paid to him.

11. Claims for compensation.

- Every religious or charitable institution who rights in land have been acquired by the State Government shall prefer claim for compensation before the Deputy Commissioner within 30 days from the date of acquisition of such rights, and the Deputy Commissioner shall dispose of the claims according to the provisions of this Act.

12. Arrear of revenue, etc. to be deducted from compensation.

- Where there is any arrear of revenue, local rates, cess or other dues lawfully payable to the State or Central Government by a religious or charitable institution whose lands have been acquired under this Act, the Deputy Commissioner may order that it shall be realized, without prejudice to any other mode of recovery, by deduction from the compensation money in one or more installments, and the Deputy Commissioner, or any other officer authorised in this behalf shall thereupon deduct the amount so ordered, unless it is found to the satisfaction of such officer that the amount has since been recovered in any other manner. Provided that such recovery shall not reduce the amount of compensation by more than 25 per cent of the total amount of annual compensation payable.

13. Claims to creditors.

(1)Where any land acquired under this Act is subject to a mortgage, or charge, the creditors, shall within 30 days from the date of acquisition or any other officer authorised in this behalf. who shall thereupon proceed with and dispose of the claim.(2)The creditor shall be paid out of the compensation money to the extent of the claim established under sub-section (1)(3)Where there are more than one creditor, payment to them shall be made in the order of priority determined by such officer.(4)Payment to the creditor may be made in one or more installments but in no case shall the annual amount of compensation payable to an institution fall below 60 per cent of the annuity determined by such officer after deduction of arrears of revenue, if any, under Section 12.(5)In case of any dispute as to the person or who are entitled to be paid out of the compensation money under the preceding sub-sections, the amount shall be kept in deposit in Government Treasury, and the dispute shall be referred to the Civil Court of competent jurisdiction, and the amount shall then be paid in terms of the final decisions of the Court.

14. Appeal.

- An appeal against the order of the Deputy Commissioner or any other officer authorised in this behalf under Sections 11 and 13, shall, if preferred within, 30 days of the order, excluding the period required for obtaining the copies of the said order, lie to the District Judge. The decision of the District Judge or the order of the Deputy Commissioner or any other officer authorised in this behalf, when no appeal is preferred, shall be final.

15. Settlement of acquired land with person in occupation.

- Subject to the limitation prescribed under Section 4 of the Assam fixation of Ceiling on Land holdings Act, 1956 (Assam Act I of 1957) where the land acquired under this Act is in occupation of a Raiyat on the date of notification under Section 3, it shall be settled with him, with the following status-(a)if he has acquired the status of an occupancy tenant under the Assam (Temporarily Settled Areas) Tenancy Act,1971 (Assam Act XXII) of 1971), then the land in his holding shall be settled with him with the status of a land-holder as defined in the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886), and he shall upon such settlement be absolved from the obligation if any, of rendering services or making payment of "bhog" to the institution concerned in respect of his holding and if he has not acquired the status of an occupancy tenant, then the land shall be settled with him with the status of a settlement holder (other than the landholder) as defined in the Assam Land and Revenue Regulation,1886.Provided however, that notwithstanding anything contained in the Assam Land and Revenue Regulation, 1886 the right of transfer of such holding shall extend only to persons belonging to the same religion as the institution in which the ownership of the land was vested before the date of notification under Section 3 of the Act.]

16. Settlement of un-occupied land.

(1)Where the land acquired under this Act is not under the occupation of a raiyat on the date of notification under Section 3, it shall land be at the disposal of the State Government for settlement with the categories of persons, preference being given in order of narration,-(a)Cultivator who has been rendered homeless due to ejection by the landlord or due to flood, erosion or earthquake, within two years, next before the corning into operation of this Act;(b)Co-operative farming society formed by landless actual cultivators;(c)Landless cultivators;(d)[Agricultural Farming Corporation as defined in the Assam Agricultural Farming corporation Act, 1973 (Assam Act V111 of 1973)] [Inserted new clause (d) by Assam Act No. V of section 3 (w.e.f. 9.6.75)](2)The Deputy Commissioner or any other officer empowered in this behalf by the State Government may, for the purpose of setting any such land, eject, if necessary, any person in unauthorized possession.(3)A tenant who is in occupation of any land acquired under Section 3 but who does not take settlement of such land, shall acquire no right title and interest in, such land and shall be liable to ejection, without prejudice to any other action that may be taken under the relevant provision of the Assam Land and Revenue Regulation, 1886 or any other law for the time being in force.

17. Assessment of the land acquired.

- Any land acquired under this Act shall be liable to be assessed to land revenue at full revenue rate under the provisions of the Assam Land and Revenue Regulation, 1886 (Regulation 1 of 1986) or the As same Land and Revenue Re-assessment Act, 1936 (Assam Act VIII of 1936).[Deleted] [Deleted for the words 'or to rent under the provisions of the Goalpara. Tenancy Act, 1929 or the Sylhet Tenancy Act, 1936, as the case may be as the (same full rate or rates as arc applicable to similar lands in the neighbourhood' And the marginal sub-title 'Assam Act, 1 of 1929 and Assam Act, XI of 1936', by Section 4 ibid.]

18. Submission of returns by the Heads of religious or Charitable institution.

- The Head of a religious or Charitable institution shall, within three months from the date of commencement of this Act, submit to the Deputy Commissioner a return giving the particulars of all his lands mentioning specifically the land (a) selected for retention under Section 5 (b) area under occupation of tenants and (c) not under occupation of any tenant.[Deleted] [Deleted the 'Explanation' of Section 18, by the Assam Act No. V of 1975, Section 5 (with effect from 9-6-1975).]

19. Collection of Information through other agency.

(1)The Deputy Commissioner may obtain the information required to be shown in the return together with any further information as it may be necessary through an agency as he may fix or as the Government may prescribe and select the area which a religious or charitable institution is entitled to retain under provisions of this Act as also the plot or plots in excess.

20. Submission of statement, to Government through other agency.

- On the basis of the information given in the return under Section 18 which shall be duly verified through such agency as may be decided by Government or on the information obtained by the Deputy Commissioner under Section 19, the Deputy Commissioner shall prepare a draft statement showing among other particulars, the total areas of lands held by a religious or charitable institution, the specific plots selected for retention with such institution and also the land outside the permissible area of retention under Section 5.(2)The draft statement shall be published in the office of the Deputy Commissioner, the Sub Divisional Officer, the Circle Sub-Deputy Collector and the Mauzadar, and a copy thereof shall be served on the Head of the religious or charitable institution, as the case may be, in the manner prescribed. Any objection received within 30 days of the service shall be duly considered by the Deputy Commissioner and after giving the objector an opportunity for hearing, order shall be passed on these objections.(3)Any person aggrieved by an order of the Deputy Commissioner, under sub-section (2) may, within 30 days of the order, excluding the period required for obtaining copies thereof prefer an appeal to the State Government.(4)Without prejudice to any action under sub-section (3) the State Government may, of its own motion, call for any record relating to the draft statement at any time within 60 days of the order of the Deputy Commissioner under sub-section (2), and after giving the Head of the religious

or charitable institution concerned an opportunity of being heard pass such order as deemed fit.(5)Any order of the State Government under sub-section (3) or (4) or of the Deputy Commissioner when no appeal is preferred under sub-section (3) or revision made under sub-section (4) shall be final.(6)The draft statement shall then be finally prepared in terms of the final order of the Deputy Commissioner or the State Government, as the case may be, and republished in the offices mentioned in sub-section (2), and no person shall then be entitled to question it in any Court of Law.(7)Any authenticated copy of the final statement shall then be submitted to the State Government immediately on the publication thereofChapter - III
Miscellaneous

21. Appeal.

(1)Any person aggrieved by an order under Section 8 may, within 30 days of order excluding the period required for obtaining the copies of the said order, prefer an appeal. to the District Judge.(2)The decision of the District Judge, or the original order when no appeal is preferred shall be final.(3)[Any person aggrieved by an order under Section 15 and/or Section 16 of the Act may prefer an appeal to the Assam Board of Revenue within 30 days from the date of order appeal against.] [Inserted by the Assam Act No. V of 1975.]

22. Bar to jurisdiction.

- Except as otherwise expressly provided in this Act, no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

23. Penalties.

(1)Whoever-(i)willfully fails or neglects to comply with any requirement made of him under this Act, or(ii)contravenes any lawful order passed under this Act, or(iii)obstructs or resists the taking by the Deputy Commissioner of any land which has vested in the State under this Act, or(iv)furnishes information which he knows or believes to be false or does not believe to be true shall on conviction before a Magistrate, and in addition to any other action that may be taken against him, be punishable with fine which may extend to five thousand rupees.(2)Any person who fails to submit any return required to be submitted under Section 18, shall be punishable with a fine which may extend to one thousand rupees.

24. Protection of action taken in good faith.

- No suit or proceeding or other legal proceeding shall be against any person for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, or any order made thereunder.

25. Delegation of powers.

- The State Government may, by notification in the Official Gazette, delegate any of its powers or function under this Act, other than those specified in Section 3 and sub-section (4) of Section 20, to such officer or authority subordinate to it, and subject to such conditions, restrictions and limitations, as may be specified in the notification.

25A. [Constitution of the Managing Committee. [Inserted by the Assam Act No. XIX of 1987, dated 23-10-1987.]

- For each of the Religious or charitable Institution of Public Nature, a Managing Committee shall be constituted with the following members to have a control over the matter of utilization of the annuity and verification of the proper maintenance of the Institution-(a)The Deputy Commissioner or Sub-Divisional Officer or his nominee President,(b)An Ex-Officio Secretary to be elected by the Deuries/Bor Deuries,(c)5 (five) elected members to be elected from amongst the devotees.The term of the Committee shall be for three years from the date of its constitution.] [Inserted vide Assam Act No XIX of 1987.]

26. Power to order production of documents, etc.

- Subject to any conditions or restrictions that may be prescribed, the deputy Commissioner may. for the purpose of this Act, require any person to produce any documents, paper or register which is in his possession or under his control, or to furnish any information which he thinks necessary for the proper discharge of any duties under the provisions of this Act or any rules made thereunder.

27. Officers holding inquiries to have powers of Civil Courts for enforcing attendance etc.

- Any officer or authority holding an enquiry or a hearing an appeal under this Act, shall have the power of Civil Court under the Code of Civil Procedure, I 908(Act V of 1908) in respect of-(a)enforcing attendance of any person and his examination of oath;(b)compelling production of documents; and(c)issue of commission.

28. Mode of recovery of any amounts under this Act.

- Any sum payable to the Government under the provisions of this Act may be realised as an arrear of land revenue.

29. Removal of difficulties. - If any difficulty arise in giving effect to any provisions of this Act, the State Government may, as occasion requires, take any action not inconsistent with the provisions of this Act. which may appear necessary for the purpose of removing the difficulty.

Note. - Ref : RRT 149/82/150, dated 22.7.1991- The matter of revoking operation of Section 25-A has been under careful consideration of Government.

30. Power to make Rules.

(1)The State Government may, by notification in the Official Gazette, make rules for anything the purposes of this Act.(2)In particular, and without prejudice to the generality of the forgoing powers, such rules may provide for all or any of the following matters, namely-(a)the manner in which any notice or copy of the draft statement may be served;(b)the manner in which the Deputy Commissioner shall exercise any of the powers under this Act;(c)the procedure and fees regarding appeal, revision or any other proceeding under this Act,(d)the agency through which the information is to be collected under Section 19.(3)All rules made under this section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the Session in which they are so laid or the session immediately following.