

The Bodh Gaya Temple Act, 1949

JHARKHAND

India

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Act 17 of 1949

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The Bodh Gaya Temple Act, 1949 Bihar Act 17 of 1949 [Governor's assent published in the Bihar Gazette of the 6th July, 1949]. An Act to make provision for the better management of the Bodh Gaya Temple and the properties appertaining thereto. Whereas it is expedient to make provision for the better management of the Bodh Gaya Temple and properties appertaining thereto; It is hereby enacted as follows:-

1. Short title and commencement.

(1) This Act may be called the Bodh Gaya Temple Act, 1949. (2) It shall come into force at once.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, -(a) "the temple" means the great temple built by the side of the Mahabodhi tree near the village of Bodh Gaya in the district of Gaya and includes Mahabodhi tree and Vajrasan; (b) "the temple land" means the land in which the temple and its precincts stand and shall cover such area or shall lie within such boundaries as the [State] [Substituted by A.L.O.] Government may, by notification direct; (c) "the Mahanth" means the presiding priest for the time being of the Saivite Monastery at Bodh Gaya; and (d) "Committee" means the Committee constituted under section 3.

3. Constitution of Committee.

(1) As soon as may be after the commencement of this Act, the [State] [Substituted by A.L.O.] Government shall constitute a Committee as hereinafter provided and entrust it with the management and control of the temple, the temple land and the properties appertaining thereto. (2) The Committee shall consist of a Chairman and eight members nominated by the [State] [Substituted by A.L.O.] Government, all of whom shall be Indians and of whom four shall be Buddhists and four shall be Hindus including the Mahanth: Provided that if the Mahanth is a minor

or of unsound mind or refuses to serve on the Committee, another Hindu member shall be nominated in his place.(3)The District Magistrate of Gaya shall be the ex-officio Chairman of the Committee:Provided that the [State] [Substituted by A.L.O.] Government shall nominate a Hindu as Chairman of the Committee for the period during which the District Magistrate of Gaya is non-Hindu.(4)The [State] [Substituted by A.L.O.] Government shall nominate a person from among the members to act as Secretary of the Committee.

4. Incorporation of Committee.

- The Committee shall be a body corporate by the name of the Bodh Gaya Temple Management Committee, having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and shall by the said name sue or be sued.

5. Term of office of members.

(1)The term of office of the members of the Committee shall be three years:Provided that the [State] [Substituted by A.L.O.] Government, if they are satisfied that the Committee is guilty of gross mismanagement, dissolve the Committee and constitute another Committee or assume direct control of the temple, temple land and the properties appertaining thereto.(2)Where a member of the Committee dies, resigns, refuses to serve on the Committee, absents himself from six consecutive meetings of the Committee without the leave of the Committee or ceases to reside in India, or becomes incapable of working, the [State] [Substituted by A.L.O.] Government may nominate a person to fill the vacancy.(3)Any Act done by the Committee shall not be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee.

6. Publication of names of Chairman and members.

- The name of the Chairman other than the District Magistrate of Gaya and of every member of the Committee shall be published by the [State] [Substituted by A.L.O.] Government in the Official Gazette.

7. Office and meetings of the Committee.

(1)The Committee shall maintain its office at Bodh Gaya.(2)At the meeting of the Committee the Chairman, or in his absence one of the members to be elected at the meeting, shall preside.(3)No business shall be transacted at any meeting unless at least four members are present.

8. Limitation on Committee's power to alienate property.

(1)No movable property of a non-perishable nature appertaining to the temple shall be transferred without the previous sanction of the Committee, and, if the value of the property is more than one thousand rupees, without the previous approval of the [State] [Substituted by A.L.O.]

Government.(2)No immovable property appertaining to the temple shall be leased for more than three years or mortgaged, sold or otherwise alienated except with the previous sanction of the Committee and the [State] [Substituted by A.L.O.] Government.

9. Limitation of borrowing power.

- The Committee shall have no power to borrow money from any person except with the previous sanction of the [State] [Substituted by A.L.O.] Government.

10. Duties of the Committee.

- Subject to the provisions of this Act or of any rules made thereunder, it shall be the duty of the Committee-(1)to arrange for-(a)the up-keep and repair of the temple;(b)the improvement of the temple land;(c)the welfare and safety of the pilgrims; and(d)the proper performance of worship at the temple and pindadan (offering of pindas) on the temple land;(2)to prevent the desecration of the temple or any part hereof or of any image therein;(3)to make arrangements for the receipt and disposal of the offerings made in the temple, and for the safe custody of the statements of accounts and other documents relating to the temple or the temple land and for the preservation of the property appertaining to the temple;(4)to make arrangements for the custody, deposit and investment of funds in its hands; and(5)to make provision for the payment of suitable emoluments to its salaried staff.

11. Right of access and worship.

(1)Notwithstanding anything contained in this Act or in the rules framed thereunder, Hindus and Buddhists of every sect shall have access to the temple and the temple land for the purpose of worship or pindadan:Provided that nothing in this Act shall entitle any person to perform animal sacrifice or to bring any alcoholic liquor within the temple or on the temple land, or to enter the temple with shoes on.(2)If any person contravenes the provisions of the proviso to sub-section (1), he shall be punishable with fine not exceeding fifty rupees.

12. Decision on dispute between Hindus and Budhists.

- Notwithstanding anything contained in any enactment for the time being in force, if there be any dispute between Hindus and Buddhists regarding the manner of using the temple or the temple land, the decision of the [State] [Substituted by A.L.O.] Government shall be final.

13. Committee to have no jurisdiction over properties of Saivite Monastery.

- Notwithstanding anything contained in this Act or in the rules made thereunder, the Committee shall have no jurisdiction over the movable or immovable property of the Saivite Monastery of Bodh Gaya.

14. Audit of accounts.

- The [State] [Substituted by A.L.O.] Government shall every year appoint an auditor to audit the accounts of the funds of the Committee and fix his remuneration which shall be paid from the said funds. The auditor shall submit his report to the Committee and send a copy of it to the [State] [Substituted by A.L.O.] Government which may issue such directions thereon, as it may deem fit, and the Committee shall carry out such directions.

15. Constitution of an Advisory Board.

(1)The [State] [Substituted by A.L.O.] Government may constitute an Advisory Board (hereinafter referred to in this Act as the "Board") which shall consist of such number of members as the [State] [Substituted by A.L.O.] Government may determine.(2)The majority of the members of such Board shall be Buddhists who may not all be Indians.(3)The members of the Board shall hold office for such term as may be fixed by the [State] [Substituted by A.L.O.] Government.(4)The Board shall function purely as an advisory body to the Committee and shall discharge its functions in the manner prescribed by the [State] [Substituted by A.L.O.] Government by rules made in this behalf.

16. Act to override Act 20 of 1863, etc.

- This Act shall have effect notwithstanding anything to the contrary contained in the Religious Endowments Act, 1863, or in any decree, custom or usage.

17. Power of the Committee to make bye-laws.

(1)With the previous sanction of the [State] [Substituted by A.L.O.] Government the Committee may, from time to time, make bye-laws to carry out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing powers, such bye-laws may provide for-(a)the division of duties among the Chairman, the members and the Secretary of the Committee;(b)the manner in which their decision may be ascertained otherwise than at the meetings;(c)the procedure and conduct of business at meetings of the Committee;(d)the delegation of powers of the Committee to individual members;(e)the books and accounts to be kept at the office of the Committee;(f)the custody and investment of the funds of the Committee;(g)the time and place of its meetings;(h)the manner in which notice of its meeting shall be given;(i)the preservation of order and the conduct of proceedings at meetings and the powers which the Chairman may exercise for the purpose of enforcing its decisions;(j)the manner in which the proceedings of its meetings shall be recorded;(k)the persons by whom receipts may be granted for moneys paid to the Committee; and(l)the maintenance of cordial relations between the Buddhist and the Hindu pilgrims.(3)All bye-laws, after they have been confirmed by the [State] [Substituted by A.L.O.] Government, shall be published in the Official Gazette, and shall thereafter have the force of law.

18. Power of Government to make rules.

- The [State] [Substituted by A.L.O.] Government may make rules to carry out the purposes of this Act. Notifications [No. A/Bodh 1-102/80-MS. - 2190, dated 18th November, 1980, published In Bihar Gazette, Extraordinary No. 1085, dated November 21, 1980. - In exercise of the powers conferred by sub-section (1) of Section 15 of the Bodh Gaya Temple Act, 1949 (Bihar Act XVII of 1949), the Governor of Bihar, in partial modification of the Cabinet Secretariat and Co-ordination Department (General Branch) Notification No. 1678, dated the 12th August, 1980 is hereby pleased to nominate the Secretary, Department of Ecclesiastical Affairs, Government of Sikkim as ex officio member of Bodh Gaya Temple Advisory Board in place of Shri Tse Ten Tashi.]