

# **Hindu Religious Institutions and Charitable Endowments Act, 1997**

KARNATAKA

India

## **Hindu Religious Institutions and Charitable Endowments Act, 1997**

### **Act 33 of 2001**

- Published on 1 January 2001
- Commenced on 1 January 2001
- [This is the version of this document from 1 January 2001.]
- [Note: The original publication document is not available and this content could not be verified.]

Hindu Religious Institutions and Charitable Endowments Act, 1997(Karnataka Act No. 33 of 2001)Statement of Objects and Reasons. - There has been before the State Government, a long standing public demand to bring about a uniform law to provide for the regulation of all Charitable Endowments and Hindu Religious Institutions in the State. Which are now regulated under different enactments, having local application in different parts of the State, namely:-(1) The Karnataka Religious and Charitable Institutions Act, 1927;(2) The Madras Hindu Religious and Charitable Endowment Act, 1951;(3) The Bombay Public Trust Act, 1950;(4) The Hyderabad Endowment Act, Regulations, 2349F; and(5) The Coorg Temple Funds Management Act, 1956.It is therefore proposed to enact a new law to replace the several local Acts to bring about uniformity in the matter of regulating, by law, the various Charitable Endowment and Hindu Religious Institutions, especially.(1) To make the law applicable generally to all Charitable Endowments and Hindu Religious Institutions, which on the date of commencement of the Act were managed by or receiving annuity, talk or other grants from the State Government, and to other Hindu Religious Institutions which though not under the management of the State Government, require by reason of mismanagement, to be regulated by the State Government after notifying them as Declared Institutions.(2) to provide that the Charitable Institution and Trusts registered under the Karnataka Societies Registration Act, 1960 or under the Indian Trust Act, 1882 and which are not under the management of the Government shall continue to be autonomous;(3) to create Common Pool Fund out of surplus funds of the Notified Religious Institutions, donations etc., for the maintenance and improvement of needy institutions, managed by an independent committee;(4) to provide for the founder trustees or their lineal descendants to be nominated to the managing committee as Chairman, in keeping with the decision of the Supreme Court of India.(5) to regulate improper alienation or disposal of property belonging to a notified or declared institution by nullifying unlawful transfers and providing for expeditions eviction of unauthorised occupants of property belonging to such institutions; and(6) to make certain other regulations necessary in the local

conditions. Hence the Bill. (L.C. Bill No. 4 of 1997 - File No. LAW 112 LGN 1981) (First published in the Karnataka Gazette Extra-ordinary on the second day of November 2001) (Published in the Karnataka Gazette Part IV-A, Extraordinary No. 2051 dated: 4-12-2001 (File No. LAW 112 LGN 1981). Received the assent of the president on the twenty fifth day of October, 2001) An Act to make better provision for the management and administration of The Hindu Religious Institutions and Charitable Endowments in the State of Karnataka. Whereas it is expedient to make better provision for the management and administration of Hindu Religious Institutions and Charitable Endowments in the State of Karnataka. Be it enacted by the Karnataka State Legislature in the forty-eighth year of the Republic of India, as follows:- Chapter-I Preliminary

## **1. Short title, extent, commencement and application.**

(1) This Act may be called the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997. (2) It shall extend to the whole of the State of Karnataka. (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 classes of Hindu Religious Institutions and Charitable Endowments. (4) It shall not apply, - (i) to a mutt or a temple attached, thereto; (ii) to any Hindu Religious institution or charitable endowment founded, organised run or managed by Hindu Religious denomination. Explanation: For the purpose of this Act a mutt means a religious institution presided over by a person whose principal duty is to engage himself in the teaching and propagation of religion, teachings and philosophy of the denomination, sect or sampradaya to which the mutt belongs and in imparting religious instruction and training and rendering spiritual service or who exercises or claims to exercise spiritual headship over a body of disciples; and includes any place or places of religious worship, instruction or training which are pertinent to the institution.

## **2. Definitions.**

- In this Act, unless the context otherwise requires, - (1) "Advisory Committee" means the Committee constituted under section 20. (2) "Archaka" includes a pujari or other person who performs or conducts archana, puja or other rituals; (3) "Assistant Commissioner" means an Assistant Commissioner appointed under section 4; (4) "Chairman" means the chairman of the Committee of Management constituted under section 25; (5) "Charitable Endowment" means all property belonging to or given or endowed for any charitable purpose and includes the charitable institution concerned but does not include a charitable endowment which is an inseparable integral part of a composite institution consisting of institutions established for purpose other than charitable endowments; Explanation: Any property which belonged to, or was given or endowed for the support or maintenance of a charitable institution or which was given, endowed or used as of right for any charitable purpose shall be deemed to be a charitable endowment within the meaning of this definition notwithstanding that before or after the commencement of this Act the charitable institution has ceased to exist or the property has ceased to be so used for any charitable purpose or the objects of the endowment have ceased to be performed; (6) "Charitable Institution" means any establishment, undertaking, organisation or association having separate existence formed or maintained for a charitable purpose and includes a specific endowment but does not include; (a) an institution managed by a hereditary trustee having proprietary right over the institution and the

income thereof; and (b) an institution which is an inseparable integral part of a composite institution consisting of institutions other than charitable institutions also; (7) "Charitable purpose" include, - (a) relief of poverty or distress including maintenance of rest houses, choultries, houses for feeding the poor and the like; (b) the advancement or maintenance of any other object of utility, benefit or welfare to, or used, as of right by, the Hindu community or a section thereof, not being an object of an exclusively religious nature. But does not include a purpose which relates to sports or exclusively to religious teaching or worship; (8) "Commissioner" means the Commissioner appointed under section 3; (9) "Committee of Management" means the Committee constituted under section 25; (10) "Common Pool Fund" means the fund established under section 17; (11) "Court" means in relation to a Charitable Endowment or Hindu religious institution in any area, the District Court having jurisdiction over such area; (12) "Declared Institution" means an institution declared under section 42; (13) "Deputy Commissioner" means an officer appointed as Deputy Commissioner under section 4; (14) "Executive Officer" means an officer appointed as such under the provisions of this Act; (15) "Hereditary Office-holder" means an office-holder, and "Hereditary Trustee" means a trustee, of a Hindu religious Institution or a Charitable Endowment succession to whose office devolves according to the rule of succession laid down by the founder or according to usage or custom applicable to the institution or endowment or according to the law of succession for the time being in force as the case may be; (16) "Hindu" does not include a Buddhist, Jain or Sikh; (17) "Hindu Religious Institution" means a temple or specific endowment and includes a Brindavana, Samadhi, Gaddige, Mandira, Shrine or place of any other institution established or maintained for Hindu Religious purpose; (18) "Inspector" means an Inspector appointed under section 5; (19) "Manager" means any person who for the time being either alone or in association with some other person or persons, administers the property of any Hindu Religious Institution or Charitable Endowment and includes: - (a) in the case of a Society registered or deemed to be registered under the Karnataka Societies Registration Act, 1960, and whose property is not vested in a trustee, its governing body; (b) in the case of an association not for profit registered under the Companies Act, 1956, the Board of Directors of such association. (20) "Notified Institution" means an institution notified under section 23; (21) "Person having interest" includes. - (a) in the case of a charitable endowment or Hindu religious institution a person who is entitled to attend to the performance of service, charity or worship or is entitled to partake in the benefit of any charity or distribution of gifts thereat; (b) in the case of a society registered or deemed to be registered under the Karnataka Societies Registration Act, 1960, any member of such society; (c) in the case of an association not organised for profit registered or deemed to be registered under the Companies Act, 1956 any member of such association; (d) in the case of any other Hindu religious institution or Charitable Endowment, any beneficiary; (22) "Prescribed Authority" means an authority prescribed under the rules for any of the purposes of the Act; (23) "Religious Endowment" or 'Endowment' means all property belonging to or given or endowed for the support of a Hindu religious institution other than an institution which is an inseparable integral part of a composite institution consisting of institutions other than religious institutions also, or given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity, and includes the institution concerned and also the premises thereof but does not include gifts of property made as personal gifts to the archaka, service-holder or other employee of a Hindu religious institution. Explanation: Property which belongs to or was given or endowed for the support of a Hindu religious institution, or which was given or endowed for the performance of any service or charity of a public nature connected

therewith or of any other religious charity shall be deemed to be a religious endowment within the meaning of this definition, notwithstanding that, before or after the commencement of this act, the Hindu religious institution has ceased to exist or ceased to be used as a place of religious worship or instruction or the service or charity has ceased to be performed;(24)"Religious purpose" includes,-(a)worship of deities or worship in temples, mandiras, shrines, samadhis, brindavanas, gaddiges or similar places;(b)installing shrines, samadhis, brindavanas, gaddigies or similar places;(c)fostering spiritual fraternity;(d)imparting spiritual, moral and religious education and teaching of philosophy;(e)observance of religious festivals; and(f)any other public religious purpose;(25)"Rules" means the rules made under this Act;(26)"Specific Endowment" means any property or money endowed for the performance of any specific service or charity in a Hindu religious institution or charitable institution or for the performance of any other charity.Explanation: Where a specific endowment attached to a charitable institution or a Hindu religious institution is situated partly within the State and partly outside the State, control shall be exercised in accordance with the provisions of this Act over the whole of the specific endowment provided the Charitable Institution or the Hindu religious institution is situated within the State;(27)"Temple" means a place by whatever designation known, used as a place of public religious worship having separate existence and dedicated to or for the benefit of or used as of right by the Hindu community or any section thereof as a place of public religious worship and includes a Mandira, Samadhi, Brindavana, Gaddige, shrine, Sub-shrine, Utsava Mantapa, tank or other necessary appurtenances, structures and land, but does not include a temple which is an inseparable integral part of the composite institution consisting of institutions other than a temple.Chapter-II Appointment of Commissioner, Deputy Commissioner Etc.,

### **3. Commissioner.**

(1)The State Government may, by notification, appoint an Officer of the cadre of the Indian Administrative Service to be the Commissioner for Hindu Religious Institutions and Charitable Endowments for the State of Karnataka.(2)The Commissioner shall be a corporate sole and shall have perpetual succession and a common seal and may sue and be sued in his corporate name.(3)The Commissioner appointed under sub-section (1) shall exercise such powers and perform such duties and functions as are conferred by or under the provisions of this act and shall, subject to such general or special orders as the State Government may make, have powers of general superintendence and control for the purpose of carrying out the provisions of this Act in respect of all Hindu Religious Institutions and Charitable Endowments in the State, and such superintendence and control shall include the power to pass any order which may be deemed necessary to ensure that such institutions are properly administered and their income is duly appropriated for the purpose they were found or exist.

### **4. Deputy Commissioners and Assistant Commissioner.**

(1)Subject to such terms and conditions as may be prescribed, the State Government may appoint an Officer not below the rank of a Group 'A' Senior Scale to be Deputy Commissioner for Hindu Religious Institutions and Charitable Endowments for one or more districts. The Deputy Commissioner shall subject to the authority of the Commissioner have powers of general

superintendence and control for the purpose of carrying out the provisions of this Act in respect of all Hindu Religious Institutions and Charitable Endowments in his Jurisdiction.(2)The State Government may appoint an Officer not below the rank of Group-A Junior scale to be Assistant Commissioner for Hindu Religious Institutions and charitable Endowments for one or more taluk's in a district to assist the Deputy Commissioner in the discharge of his duties and functions under this Act, and to perform such duties or exercise such powers as may be conferred on him by or under the provisions of this Act or as may be delegated to him by the Deputy Commissioner with the approval of the Commissioner.

## **5. Subordinate Officers.**

- The State Government may appoint Tahsildar's, Inspectors and such other officers and sub-ordinate staff to assist the Commissioner, the Deputy Commissioner and Assistant Commissioner in carrying out the provisions of this Act and assign to them such powers, duties and functions under this Act as may be prescribed.

## **6. Commissioner and other officers to be Government servants.**

- The Commissioner, the Deputy Commissioner, Assistant Commissioners, Tahsildar's, Inspectors and other officers and subordinate staff appointed under this Act shall be Government servants and they shall draw their pay and allowances from the consolidated fund of the State.

## **7. Commissioner, etc. to be Hindu.**

- The Commissioner and every Deputy Commissioner or Assistant Commissioner and every other Officer or servant, appointed to carry out the purposes of this Act by whomsoever appointed, shall be a person professing Hindu Religion, and shall cease to hold office as such when he ceases to profess that religion.

## **8. Delegation of powers.**

(1)The State Government may, by notification delegate any of its powers or functions under this Act or the rules other than the power conferred under section 76 or 77, to be exercised by the Commissioner or any other officer subject to such conditions as may be specified in the notification.(2)The Commissioner may, with the previous approval of the State Government delegate any of the powers exercisable or functions to be performed by him under this Act or the rules, other than those delegated to him under sub-section (1), to one or more of the officers subordinate to him.Chapter-III Archakas and Temple Servants

## **9. Appointment of Archakas.**

(1)The committee of management of a notified institution may with the approval of the Commissioner appoint one or more archakas to each temple belonging to the institution.(2)Where

more than one Archaka is appointed the senior among them shall perform as the Pradhana Archaka. The Pradhana Archaka wherever appointed, and the archakas, shall perform such duties as the Committee of Management may specify.(3)Without prejudice to the power of the State Government to prescribe a common pattern for each category of temples, the number of archakas appointed to the temple shall be in keeping with the practice obtaining in the temple immediately before the commencement of this Act.

## **10. Qualifications for Archakas.**

(1)No person shall be appointed to be a Archaka unless he has passed atleast a certificate course (Wara) in the Agama in the tradition of the temple, from any recognised Sanskruta Patashala or any other institution as the State Government may by notification in the official gazette specify, or has performed as archaka in the tradition of the temple for at least three years.(2)No Archaka who on the date of commencement of this Act is performing in any temple without having the requisite qualification stipulated in this section shall be disqualified, if he has attained the age of forty years.(3)An Agamika or tanthri wherever appointed to perform poojas in a temple on special occasions shall continue to perform such functions as the Committee of management may specify and shall be governed by such conditions of service as may be prescribed.Provided that no person shall after the commencement of this Act be appointed to perform as an Agamika or Tanthri unless he has passed the Pravina course in the Agama, from any samskruta patashala or other institutions imparting education in the tradition.

## **11. Archakas to be on the Committee of Management.**

(1)The Archaka of the temple, and if there are more Archakas than one, the Pradhana Archaka shall be an ex-officio member on the committee of management of the temple, and his opinion on any question of custom or tradition of the temple may be considered by the committee resolving disputes if any about the custom or tradition of the temple.(2)Where in any temple an Agamika or Tanthri is performing special pooja or ritual, the committee of management shall consult him on any question of ritual, custom or tradition to be followed in the temple. The Committee of management may, if necessary, consult an Agamika or Tanthri of any other temple in the tradition, on such question.

## **12. Emoluments and Service Conditions of Archakas.**

(1)The State Government may by rules regulate the emoluments, hours of work and other conditions of service of the archakas. Such rules may provide for appointment and termination of employment, leave and working hours, rotation of work, terminal benefits, misconduct and disciplinary action.(2)The emoluments and other monitory benefits payable to archakas shall be prescribed taking into account the income of the temple and for this purpose the State Government may classify the temples into two or more categories based on their resources.(3)In determining the emoluments payable to archakas in all category of temples, the State Government shall take into account;(i)entitlement of the Archakas to appropriate the thattekasu and other offerings by the devotees at the time of pooja or other seva;(ii)Any amount receivable by the archaka as a percentage

of the fees fixed by the committee of management for the various sevas offered at the temples.(iii)Avocation other than the temple service which the archakas may be free to undertake during the term of employment.(iv)Timing if any specified by the committee of management or the State Government, to keep the temple open to public for performing poojas or other sevas, in a day.(v)Accommodation and other benefits in kind offered by the committee of management for the residence and livelihood of the archakas.(4)The emoluments so determined shall be not less than the minimum rate and not more than the maximum rate as may be prescribed in the rules in keeping with the class of the temple.Explanation. - For the purpose of this section the word archaka shall include an Agamika, a Tanthri or a Pradhana Archaka wherever appointed.

### **13. Register of Temple servants.**

- As soon as may be after the commencement of this Act, the Commissioner shall cause to be maintained in each temple a register of temple servants, which shall contain the name, parentage, date of birth, date of joining service, qualification and experience, address and such other particulars as may be prescribed in respect of such temple servants.

### **14. Pattern of Temple Servants to be determined by rules.**

- The State Government may in consultation with the committee of management make rules prescribing a pattern of temple servants for any class of temples, so however that the existing strength in any temple, immediately before the commencement of this Act, is not altered except by way of superannuation or dismissal for misconduct.

### **15. Salary and Service Conditions of Temple servants.**

(1)The salary and service conditions of temple servants shall be as prescribed by the State Government. Such rules may provide for appointment and termination of employment, pay or other terminal benefits, leave and working hours, misconduct and disciplinary action.(2)For the purpose of determining salaries payable to the temple servants the State Government shall follow the same classification of temples as under sub-section (2) of section 12.(3)Provisions of sub-section (3) of section 12 shall apply mutatis-mutandis for determining the salaries payable to temple servants.

### **16. Mis-conduct and Penalty.**

(1)The Committee of management shall be competent to initiate action and hold enquiry for misconduct, either suo-moto or on complaint received against an archaka, including an Agamika, Tanthri or Pradhana Archaka and against the temple servants and to impose appropriate penalty for proven misconduct. No order imposing any penalty under this section shall be made except after giving such person a reasonable opportunity of being heard against the charge.(2)An appeal shall lie to the Commissioner against every order imposing penalty under this section. Such appeal shall be made within thirty days from the date of the order imposing the penalty.Chapter-IV Common Pool Fund

## **17. Creation of Common Pool Fund.**

- It shall be lawful for the Commissioner to create a fund to be called the Common Pool Fund out of.- (a) contributions made by the Notified Institutions at five per centum of their gross annual income arrived at after deducting the following, namely.- (i) donations made as contribution to the capital; (ii) amounts realised by sale of jewels or other movable or immovable properties belonging to the institution; (iii) amounts received for specified services or charities where the service or charity is performed. (b) Grants received from the State Government.

## **18. Transfers to Common Pool Fund.**

- The Commissioner shall on the orders of the State Government transfer the following amounts to the common pool fund, namely:- (a) The un-utilised portion of grants made by the State Government for the repairs or renovations or construction of new places of worship. (b) funds of defunct Hindu Religious institutions; (c) any other sums which the State Government may direct.

## **19. Administration of Common Pool Fund.**

(1) The Commissioner shall administer the Common Pool Fund subject to the conditions herein stated and for the following purposes, namely:- (a) the grant of aid to any other religious institution which is poor or in needy circumstances; (b) the grant of aid to any religious purposes connected with the Hindu Religion. (c) the propagation of the religious tenets of the institution; (d) the establishment and maintenance of Veda Patashalas, Agama Patashalas and schools for training the archakas, and for the study of ancient scripts and Indian languages for that purpose; (e) the establishment and maintenance of a university or college or other institution having for its object the study of Hindu Religion, philosophy or sastras or for imparting instructions in Hindu temple architecture; (f) the establishment and maintenance of educational institutions where instructions in the Hindu religion is also provided; (g) promotion of temple arts and architecture; (h) the establishment and maintenance of orphanages for Hindu children; (i) the establishment and maintenance of asylums for persons suffering from leprosy or other incurable disease; (j) the establishment and maintenance of poor homes for destitute, helpless and physically disabled persons; (k) the establishment and maintenance of Hospitals and Dispensaries for providing facilities to pilgrims. (l) any other charitable or Hindu Religious purpose. (2) The Common Pool Fund shall be so administered that:- (i) no contribution or donation received from any person shall be utilised for any purpose other than the purpose specified if any by the donor. (ii) contribution and donation made to institution, or institution of any religious denomination or any section thereof shall be utilised for the benefit of that particular class or denomination or section only. (3) The Commissioner, may with the approval of the Advisory Committee allow any Hindu Religious Institution or Charitable Endowment whose gross annual income is not more than five thousand rupees to be adopted for its maintenance and up-keep, by any larger Hindu Religious Institution Charitable Endowment or Trust. Chapter-V  
Advisory Committee



## **20. Constitution of the Advisory Committee.**

(1)The State Government shall constitute for the State of Karnataka a Committee to be called the Advisory Committee consisting of the following Members, namely:-(a)The Minister incharge of Endowments who shall be the Chairman, ex-officio:(b)The Commissioner, who shall be Member Secretary ex-officio, and(c)such number of non official members not exceeding nine, nominated by the State Government, from among the religious leaders drawn from various classes of Hindu thought, both vedic and non-vedic, of whom atleast one each shall be from among the Scheduled Castes or the Scheduled Tribes and atleast two shall be women.(2)The term of office of the non official members shall be three years, and other matters relating to the conduct of the affairs of the Advisory Committee shall be such as may be prescribed.

## **21. Disqualification of Members.**

- A person shall not be qualified for being appointed or continued in office as a non-official member on the Advisory Committee, if:-(a)he is not a citizen of India:(b)he has not attained the age of twenty five years:(c)he is an undischarged insolvent so declared by a competent court:(d)he is a person of unsound mind or is suffering from any mental defect or infirmity which would render him unfit to perform as such member ;(e)he has been convicted or sentenced by a criminal court for an offence involving moral turpitude, such sentence having not been reversed, or the offence pardoned.

## **22. Functions of the Advisory Committee.**

- It shall be the function of the Advisory Committee.-(a)to tender advise to the committees of management in case of disputes relating to;(i)observance of religious practices;(ii)any other matter that may be prescribed;(b)to approve proposals for adoption of a Hindu Religious Institution or Charitable Endowment, whose annual income is not more than five thousand rupees, by a larger Hindu Religious Institution, Charitable Endowment or Trust; and(c)to perform such other functions as the State Government may from time to time specify.

## **Chapter VI**

### **Notified Institutions**

## **23. Notified Institutions.**

- The State Government shall as soon as may be after the commencement of this Act publish by notification in respect of each revenue district, a list of;(a)all Charitable Institutions and Hindu Religious Institutions which on the date of commencement of this Act are in the sole charge of the State Government or for the benefit of which.(i)any monthly or annual grant in perpetuity is made from public revenues: or(ii)tasdik allowance under section 19 of Mysore Religious and Charitable Inams Abolition Act, 1955 is paid.(b)all institutions registered under the Book of Endowments under the Hyderabad Endowment Regulations, 1349 F;(c)all institutions governed by the then

Madras Hindu Religious and Charitable Endowments Act, 1951;(d)all institutions in Kodagu District which are governed by the Coorg Temple Funds Management Act, 1956;(e)all Hindu Religious Institutions registered under the Bombay Public Trust Act, 1950, which are in receipt of any monthly or annual grant from public revenues or any amount under the Karnataka Certain Inams(Abolition) Act, 1977;(f)Sri Renuka Yellamma Temple, Saundatti, governed under the Renuka Yellamma Devasthanam (Administration) Act, 1974;

## **24. Controlling Authorities.**

(1)The Commissioner shall be the Chief Controlling Authority in respect of all matters connected with notified institutions and he shall perform such duties and exercise such powers of superintendence and control as the State Government may by rules impose or as the case may be confer on him in respect of all or any class of notified institutions.(2)The Deputy Commissioner shall subject to such terms and conditions as may be prescribed, be the immediate controlling authority in respect of notified institutions within his jurisdiction.(3)The Assistant Commissioner shall subject to the authority of the Deputy Commissioner perform such duties and exercise such powers as may be prescribed.

## **25. Constitution of the Committee of Management.**

(1)Subject to any general or special order of the State Government there shall be constituted by the prescribed authority a committee of management consisting of nine members in respect of one or more notified institutions and different authorities may be prescribed in respect of different class or classes of notified institutions.(2)(a)The prescribed authority shall while constituting the Committee of management under sub-section (1) have due regard to the religious denomination to which the institution or any section thereof belongs.(b)The procedure for appointment of members to the Committee of Management, verification of antecedents and other matters shall be such as may be prescribed.(c)No person shall be eligible to be appointed as a member in more than one Committee or Management, at one time.(3)The prescribed authority shall constitute the Committee or Management from among the devotees, donors and followers of the Hindu Religious Institutions or as the case may be, the endowers and beneficiaries of the Charitable Endowment in such manner that it consists of.-(i)In the case of a temple the Pradhana Archaka or Archaka;(ii)atleast one member from among the Scheduled Castes or the Scheduled Tribes; and(iii)of the other, atleast five of whom two are women, from among persons living in the vicinity of the temple :Provided that the State Government may relax the condition of clause (iii) in respect of any Notified Institution or class of such Institutions, so however that the representation of women members is not affected:Provided further that the condition of clause (ii) shall not apply to Institutions belonging to Hindu Religious Denominations or sections thereof.(4)No person shall be qualified for being appointed as a member of the Committee of Management of a Notified Institution unless:-(a)he has faith in God;(b)he has attained the age of twenty five years;(c)he possesses good conduct and reputation and commands respect in the locality in which the Institution is situate; and(d)he has donated or contributed for construction, repairs, renovation or development of any Hindu Religious Institution or Charitable Institution or for the performance of utsavam or any charitable cause in the institution;(5)A person shall be disqualified for being appointed or continuing as a member of the Committee of

Management of any notified Institution.-(i)if he is declared an undischarged insolvent by a competent court or;(ii)if he is of unsound mind and stands so declared by a competent court or if he is a deaf or mute or is suffering from leprosy or any virulent or contagious disease; or(iii)if he has an interest, direct or indirect in any subsisting lease of any property or of any contract made with, or any work being done for, the institution, or is in arrears of any kind due by him to such institution;or(iv)if he is appearing as a legal practitioner on behalf of or against the institution; or(v)if he has been sentenced by a criminal court for an offence involving moral turpitude, such sentence not having been reversed or offence pardoned;(vi)if he has at any time conducted adverse to the interests of the institution; or(vii)if he is an office holder other than Archaka, or a servant attached to or a person in receipt of any emolument or perquisite from such institution; or(viii)if he is addicted to intoxication liquor or drugs; or(ix)if he is not a Hindu; or having been a Hindu has converted to any other religion;(6)If a member of the Committee is, or becomes subject to any disqualification under sub-section (5) he shall automatically cease to be such member.(7)If any question arises whether a member is or has become subject to any disqualification under sub-section (5) the prescribed authority may either suo-motu or on a report made to it and, after giving an opportunity of being heard to the person concerned, decide that question.

## **26. Term of Office of the Committee of Management and Election of Chairman.**

(1)Subject to the pleasure of the prescribed authority, members shall hold office for a term of three years unless in the meanwhile the Committee is dissolved or has ceased to function.(2)Where the Committee of management is constituted under section 25, the members shall at the first meeting of the Committee, elect a Chairman from among themselves.(3)The State Government may nominate the Executive Officer as Ex-officio Secretary of the Committee of Management in respect of any notified institution or institutions, without voting rights.(4)Notwithstanding anything to the contrary contained in sub-sections (1), (2) and (3) above, where any Charitable Institution or Hindu Religious Institution was, immediately before it is included in the list of notified institution under section 23, managed by the founder of such institution or any member of his family, such founder and in his absence any member of his family shall, unless he is otherwise disqualified under section 25, be nominated as chairman of the Committee of Management of such Notified Institution.

## **27. Meeting of the Committee of Management.**

- The Committee of Management shall meet at such intervals and follow such procedure in conducting its meetings, as may be prescribed.

## **28. Power to dissolve the Committee of Management.**

(1)The prescribed authority shall have power to dissolve a Committee of Management if after holding an enquiry in accordance with sub-section (2), it is satisfied that the committee has;(a)failed to discharge the duties or perform the functions in accordance with the provisions of this Act or the rules made thereunder; or(b)disobeyed any lawful orders issued under the provisions of this Act or

the rules made thereunder by the State Government or the Commissioner, Deputy Commissioner or Assistant Commissioner; or(c)committed any malfeasance or misfeasance or is guilty of breach of trust or misappropriation in respect of the properties of the institution or endowment;(2)Where the prescribed authority proposes to take action under sub-section (1) it shall frame the charge against the Chairman and give him an opportunity of meeting such charge or testing the evidence adduced against the charge and of adducing evidence in favour of the Committee; and the order of dissolution shall state every charge framed against the Committee, explanation offered by the committee and the finding on such charge together with the reasons therefor.(3)Pending enquiry under sub-section (2) the prescribed authority may suspend the Committee and appoint an administrator in accordance with section 29.(4)Any person aggrieved by an order under this section may, within thirty days from the date of communication of the order appeal.-(a)to the Karnataka Appellate Tribunal constituted under the Karnataka Appellate Tribunal Act, 1976 (Karnataka Act 10 of 1976), where the prescribed Authority is the Commissioner.(b)to the Commissioner, if the order passed is of the Deputy Commissioner, and(c)to the Deputy Commissioner, if the order passed is of the Assistant Commissioner.(5)The appellate authority may after holding an enquiry and so far as possible within six months from the date of appeal pass such order as it deems fit, and such order shall be final.

## **29. Appointment of Administrator.**

- The prescribed authority shall appoint an officer of the State Government as Administrator in place of the Committee of management dissolved or suspended under sub-section (1) or (3) of section 28 or after the expiry of the term of office of the Committee under section 26 and till a new Committee of Management is constituted or for a period of six months whichever is earlier.

## **30. Filling up of casual vacancies.**

- When a vacancy occurs, either by removal, resignation or other wise, of a member of the Committee of Management of a notified institution, the prescribed authority shall, subject to the provisions of section 25 fill up the vacancy by appointing a new member to the Committee. Such member of the Committee appointed shall hold office only so long as a member in whose place he is appointed would have been entitled to hold office if the vacancy had not occurred.

## **31. Alienation or transfer of the lands or other property granted to Notified Insititutions invalid unless authorised.**

(1)Any alienation or transfer by way of sale, lease, gift, mortgage or otherwise of any land or other immovable property granted to or belonging to a notified institution and any act purporting to create any interest adverse to such institution in respect of such land or property shall be null and void unless such alienation or transfer is in the best interest of the institution and unless it is sanctioned under section 62.(2)No articles of Gold, Silver or white metal, idols, utensils, precious stones, articles of antique value, paintings, ancient documents containing inscriptions on stone, metal and palm leaves and such other movables shall be disposed of in any manner without the

permission of the State Government granted based on the report of the Commissioner.

### **32. Power in case of unauthorised alienation or transfer.**

- As soon as may be after any instance of alienation or transfer of an immovable property in violation of section 31 comes to notice, the Deputy Commissioner or the Assistant Commissioner or any other officer appointed by the State Government in this behalf shall, after such enquiry as may be prescribed, issue notice to the alienee or the person in possession, to restore possession of such immovable property to the notified institution to which they belonged within thirty days from the date of service of such notice and in default of compliance take steps to evict the occupant and to restore the property to the notified institution, in accordance with the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974.

### **33. Suits on behalf of Notified Institutions.**

(1)Where it is necessary to institute a suit on behalf of any notified institution, the Deputy Commissioner or the Assistant Commissioner on the recommendation of the Committee of management may file the suit himself.(2)Every suit filed on behalf of a Notified institution shall be heard and disposed of by the Court as if it were a suit filed under Order XXXI of the Code of Civil Procedure, 1908.

### **34. Arrears of rent due to a Notified Institution.**

(1)Where any person is in arrears of rent due to a notified institution, in respect of any building, the Assistant Commissioner may, by order require that person to pay the same within such time as may be specified in the order.(2)Where any person is or has at any time been in unauthorised occupation of any building belonging to a notified institution, the Assistant Commissioner may having regard to such principles of assessment of damage as may be prescribed, assess the damage on account of the unlawful use and occupation of such building if any, may, by order require that person to pay the damages within such time as may be specified in the order :Provided that no such order shall be made until after issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice why an order should not be made and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the Assistant Commissioner.(3)If any person refuses or fails to pay the arrears payable under sub-section (1) or the damages payable under sub-section (2) within the time specified in the order relating thereto, the Assistant Commissioner may issue a certificate for the amount due to the Deputy Commissioner of the District, who shall proceed to recover the same as an arrears of land revenue.(4)Any person aggrieved by the order of the Assistant Commissioner under sub-sections (1) or (2) may within thirty days from the date of receipt of such order appeal to the Deputy Commissioner having jurisdiction :Provided that an appeal filed after the expiry of the said period of thirty days may be entertained if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(5)Where an appeal is preferred under sub-section (4) the enforcement of the order appealed against shall not be stayed unless the appellant has deposited an amount equal to fifty percent of the rent or damage, as the case may be, determined by

the Assistant Commissioner under sub-sections (1) or (2). (6) The Deputy Commissioner may after holding such enquiry as he deems fit pass orders in appeal which shall be final and shall not be called in question in any suit, application or other proceeding before any Court or other authority.

## **Chapter VII**

### **Budget of Notified Institutions, Accounts and Audit**

#### **35. Applicability of the Chapter.**

- Nothing contained in this chapter shall apply to a notified institution whose gross annual income does not exceed twenty five thousand rupees.

#### **36. Budget of Notified Institutions.**

(1) The Chairman, Manger or the Executive Officer of a Notified Institution shall within ninety days before the close of every financial year, file in such form as may be prescribed a budget showing the probable receipts and disbursements of such institution during the following year, along with actual income and expenditure for the preceding year, before the Assistant Commissioner in charge of the Institution. The receipts portion shall comprise of the income proposed to be derived from Hundial collections, tasdik amount, annuity, Cash grants, Jathra, Rathotsava and Sevartha fees, interest on deposits, money orders, rent from land and building and such other income as may be prescribed: Provided that in case of such class or classes of notified institutions as may be specified by the State Government from time to time. It shall not be necessary to file the annual budget before the end of each year but it shall be sufficient to file the budget once in three years. (2) Every budget filed under sub-section (1) shall make adequate provision for, - (i) the due pursuance of the objects of the Institution or Endowment and the proper performance of, and remuneration for, the services therein, including those for the schedule of articles of dittam or scale of expenditure for the time being in force and other requirements of worship or offering in connection with such service : Provided that the salaries of Archakas and temple servants shall not exceed thirty five percent of its gross annual income. Provided further that the budget shall provide only for such of the posts sanctioned and for such amount of salary as may be prescribed. Explanation. - Gross annual income under this Chapter shall not include. (a) donations made as contribution to the capital; (b) amounts realised by sale of jewels or other movable or immovable properties belonging to the institution; (c) amounts received for specified services or charities where the service or charity is performed. (ii) the due discharge of all liabilities and subsisting commitments binding on the institution; (iii) the arrangement made for securing the health, safety or convenience of the pilgrims, worshippers or other persons resorting to the institution; (iv) the construction, repair, annual maintenance, renovation and improvement of the institution and the buildings connected therewith: Provided that such work shall not be taken up without obtaining administrative and technical sanction from such authority as may be prescribed. (v) the audit fee at such percentage of the gross annual income as may be prescribed; (vi) the Reserve Fund of the Institution at not less than ten percent of the gross annual income. (3) In the case of a Notified Institution whose annual income exceeds the prescribed amount, it shall make provision in the budget for the payment at five

percent of the balance of the income for the financial year remaining after making provision for items (i) to (v) of sub-section (2) to the Common Pool Fund.(4)The budget shall be filed,-(i)where it relates to an Institution whose annual income is not more than rupees one lakh, to the Assistant Commissioner;(ii)where it relates to an Institution whose annual income is more than rupees one lakh but not more than rupees ten lakhs, to the Deputy Commissioner with a copy thereof to the Assistant Commissioner; and(iii)where it relates to an Institution whose annual income is more than rupees ten lakhs, to the Commissioner with a copy thereof to the Deputy Commissioner.(5)The authority to whom the budget is presented shall as far as may be within sixty days of the receipt of the proposal consider it and pass orders sanctioning the budget with or without any alteration, omission or addition as it may deem fit, after considering the remarks if any made by the immediate controlling authority under sub-section (6).(6)The Assistant Commissioner or the Deputy Commissioner to whom a copy of the budget is marked shall forward the proposal with his remarks to the Deputy Commissioner or the Commissioner as the case may be, who is the authority to sanction the budget.(7)If in the course of a financial year the Chairman or the Executive Officer finds it necessary to modify the provisions made in the Budget in regard to the receipt or distribution of the amount to be expended under the different heads he may submit a supplemental or revised budget to the authority specified, in sub-section (4), which shall be dealt with in the same manner as specified in sub-sections (5) and (6).

### **37. Maintenance and Audit of Accounts.**

(1)The Chairman, Manager or where an Executive Officer is appointed the Executive Officer shall be responsible for keeping regular accounts of the institutions.(2)The accounts shall be kept in such form and got audited annually in such manner as may be prescribed :Provided that in case of institutions whose gross annual income is five lakh rupees or more the accounts shall be got audited by the State Accounts Department.(3)Every auditor acting under sub-section (2) shall have access to all the accounts books, vouchers, other documents and records in the possession of, or under the control of the Chairman, Manager or the Executive Officer, as the case may be.(4)Notwithstanding anything contained in the preceding sub-sections, the Commissioner may, for reasons to be recorded in writing, direct a special audit of the accounts of any notified institution.

### **38. Audit Report.**

(1)The auditor shall in his report specify all cases of irregular, illegal or improper expenditure or failure or omission to recover moneys or other property belonging to the notified institution 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 misappropriation or any other misconduct on the part of the Chairman, Manager or the Executive Officer, as the case may be.(2)The auditor shall also report on such other matter relating to the accounts as may be prescribed or on which the Deputy Commissioner or Assistant Commissioner, as the case may be, require him to report.

### **39. Rectification of Defects disclosed in audit and orders of surcharge against Chairman or Executive Officer.**

(1)The Authority sanctioning the budget shall send a copy of every audit report relating to the accounts of the Notified Institution to the Chairman, Manager or the Executive Officer or any other person concerned with the administration of that institution, as the case may be, and require him to submit an explanation thereof, within such period as he thinks fit. It shall be the duty of such Chairman, Manager or the Executive Officer or other person to remedy any defects or irregularities pointed out by the Auditor and report the same, together with his explanation and the explanation of any other person required, to the said Authority.(2)If upon consideration of the report of the Auditor along with the explanation, if any, furnished under sub-section (1), the Chairman, Manager or the Executive Officer or any other person is found guilty of negligence, breach of trust or misappropriation or misconduct, which has resulted in loss to the notified institution, the said Authority may, give notice to the person to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, and holding such inquiry, as he thinks fit, by an order, certify the amount so lost and direct the Chairman, Manager or the Executive Officer or such other person, as the case may be, to make good within a specified time, the loss caused to the notified institution.(3)The said Authority shall forward a copy of the order under sub-section (2) with the reasons for the same by registered post to the Chairman, Manager or the Executive Officer of the Institution, or other person who is held guilty.(4)The Chairman, Manager or the Executive Officer or any person aggrieved by an order, passed under sub-section (2) may, within thirty days from the date of the communication of the order appeal:- (i) to the Deputy Commissioner where the order is passed by the Assistant Commissioner; (ii) to the Commissioner where such order is passed by the Deputy Commissioner; and (iii) to the Karnataka Appellate Tribunal, if such order is that of the Commissioner.(5)The Appellate Authority shall not stay the operation of the order pending the disposal of the appeal, unless sufficient security is furnished to its satisfaction.(6)The Deputy Commissioner of the District in which any property of the Chairman or Manager or Executive Officer or other person from whom an amount is recoverable by way of surcharge is situated, shall on requisition made by the Assistant Commissioner, recover such amount as if it were an arrears of land revenue and pay the same to the notified institution concerned.(7)If the surcharge is against the Executive Officer, it shall be recovered out of his salary and other amounts payable to him, as may be ordered by the authority.

### **40. Rectification of defects detected by Commissioner.**

- Without prejudice to the provisions of section 39 where the Commissioner either on his own or on a report of the Deputy Commissioner or any other person, has reason to believe that the Chairman, Manager, Executive Officer or any other person is guilty of illegal expenditure or of causing loss or waste of money or other property of the Notified Institution, by mis-conduct, misapplication, collusion, fraud, breach of trust or misappropriation, the Commissioner may after such enquiry as may be necessary and after giving him an opportunity to make his representation.-(a)pass an order directing conditional attachment of the whole or any portion of the property of the Chairman, Manager, Executive Officer or such other person.(b)institute such criminal proceedings as may be necessary.(c)pass an order of surcharge after obtaining an audit report in this behalf.



## **41. Obligations of certain Institutions.**

- It shall be the obligation of every Hindu Religious Institution and every Charitable Endowment to which this Act applies to file before the Commissioner every year, within sixty days from the close of that financial year, - (i) an annual audited statement of its income and expenditure, and (ii) an annual statement of all immoveable property and all moveable property specified under section 31. In such form and in such manner as may be prescribed.

## **Chapter VIII**

### **Declared Institutions**

## **42. Declared Institutions.**

- The State Government may, where it is satisfied on a report of the Commissioner under section 43 or otherwise that any Hindu Religious Institution, whether or not governed by a settled scheme, is being mismanaged, declare such institution to be subject to the regulation of this chapter. Provided no such declaration shall be made without following the procedure hereinafter specified.

## **43. Notice to show cause.**

(1) Where the Commissioner has reason to believe that a Hindu Religious Institution whether or not governed by a settled scheme is being mismanaged and he is satisfied that in the interest of its administration, it is necessary to take proceedings under this chapter, he may, by notice published in the prescribed manner, call upon the Manager and all other persons having interest, to show cause why such institution should not be declared to be subject to the provisions of this Chapter. (2) Such notice shall state the reasons for the action proposed and specify a reasonable time, not being less than one month from the date of issue of the notice, for showing such cause. (3) The Manager or any person having interest may thereupon prefer his objections, if any, to the issue of a declaration under this chapter. (4) Such objections shall be in writing and shall reach the Commissioner before the expiry of the time specified in the notice aforesaid or within such further time not exceeding forty five days on the whole as may be extended by the Commissioner. (5) Where no objections are received within the time so specified or extended, the State Government may, on receipt of a report from the Commissioner to that effect, by a notification published in the official Gazette declare such Hindu Religious Institution to be subject to the provisions of this Chapter. (6) Where objections are received within the time so specified or extended, the Commissioner may authorise any officer subordinate to him to hold an enquiry into the objections in the manner prescribed who shall after giving the Manager or any person having interest an opportunity of being heard submit his enquiry report to the Commissioner as to whether or not the Institution should be declared to be subject to the provisions of this Chapter. (7) After considering the enquiry report referred to in sub-section (6), if the Commissioner decides that the Institution should be declared as aforesaid, he shall make a report to that effect to the State Government, which may, by notification declare such Hindu religious Institution to be subject to the provisions of this Chapter. (8) Every Notification issued under sub-section (5) or (7) shall remain in force for such

period as may be specified therein and which may be extended further, so however that the total period shall not exceed five years from the date of the first notification, or till a new Committee of Management is formed to the satisfaction of the State Government whichever is earlier.(9)Where a new Committee is formed to the satisfaction of the State Government, the State Government may on its own or on the report of the Commissioner direct the Executive Officer appointed for the institution to handover the management of the Institution to the new committee of management.

#### **44. Effect of Declaration.**

- Where any Hindu Religious Institution is declared under section 42, the Committee of Management of the Institution by whatever name called shall from the date of such declaration stand dissolved and its administration shall vest in the State Government to be regulated in the manner hereinafter provided.

#### **45. Appointment of Salaried Executive Officer.**

- For every Institution declared under this Chapter, the Commissioner shall, as soon as may be after the declaration is issued appoint a salaried Executive Officer for the proper administration of the Institution.

#### **46. Term of office and duties of Executive Officer.**

(1)The Executive Officer shall hold office for such term as may be fixed by the Commissioner and he shall exercise such power and perform such duties as are assigned to him by the Commissioner:Provided that only such powers and duties as relate to the administration of the properties of the religious institution shall be assigned to the Executive Officer.(2)The Executive Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

#### **47. Action against Executive Officer.**

- The Commissioner, may for good and sufficient cause, suspend an executive officer or initiate disciplinary proceedings against him for any misconduct in accordance with the Karnataka Civil Services, (Classification, Control and Appeal Rules) 1957.

#### **48. Application of the Provisions of Chapters VI and VII in certain cases.**

- Notwithstanding anything contained in sub-section (8) of section 43, the State Government may while passing orders under sub-section (7) or during currency of the notification issued under sub-section (5) or (7) thereof declare, for reasons to be recorded in writing, that in respect of any Declared Institution, the provisions of Chapter VI and VII shall apply as if the institution is a notified institution under section 23:Provided that no such declaration shall be made except after further notice is issued for the purpose, to the Institution concerned.

## **Chapter IX**

### **Powers and Functions of Commissioner and other Officers**

#### **49. Power of Commissioner to issue directions.**

(1) Without prejudice to the generality of powers granted under section 3 and subject to other provisions of this Act, the Commissioner shall have power to issue general or special directions to the Chairman or Executive Officer or any person connected with the Management of a Notified Institution or a Declared Institution to ensure that the Institution is properly administered and the income thereof is properly accounted for or duly appropriated and applied towards the objects and purposes of the institution and the Commissioner may also give appropriate directions to such person if he finds that any property of the Institution is in danger of being wasted, damaged, alienated or wrongfully sold, removed or disposed off. (2) It shall be the duty of every person to whom such directions are issued to comply with the directions issued under sub-section (1).

#### **50. Power to institute and hold enquiries.**

(1) The Commissioner or Deputy Commissioner or Assistant Commissioner may suo-motu or on receipt of a complaint in writing from any person having interest in any Notified Institution or Declared Institution, institute an enquiry with regard to the institution either generally or for any particular purpose. (2) The Commissioner, Deputy Commissioner or Assistant Commissioner may either hold the enquiry himself or authorise any officer subordinate to him to hold the enquiry and the officer authorised to hold the enquiry shall after the enquiry, submit his report to the authorising officer. (3) For the purpose of any such enquiry, the officer holding the enquiry may, by notice, require any person to attend at a specified time and place and give evidence or produce documents which are in his custody or control and which relate to any matter in question at the enquiry. (4) Necessary expenses of any person for appearing to give evidence or produce documents for the purpose of the enquiry shall be paid in the manner prescribed. (5) The Deputy Commissioner or the Assistant Commissioner to whom the report is submitted under sub-section (2) shall forward the same to the Commissioner, who shall, if he is satisfied that there is a prima facie case against the Chairman, Executive Officer or other person connected with the Management of the Institution, take such steps as are necessary under the provisions of this Act, to protect the interest of the Institution. (6) The Commissioner may at any stage of the enquiry call for the records of enquiry and examine the legality of any steps taken or order made and pass such order as he deems fit.

#### **51. Power to take action for protection of property.**

(1) Where it is brought to the notice of the Commissioner by the Deputy Commissioner or Assistant Commissioner by a report or by an application signed by at least two persons having interest in a Notified Institution or a Declared Institution and supported by proper affidavits, - (a) that any property belonging to the Notified Institution or declared institution is in danger of being wasted, damaged or illegally alienated by any person; or (b) that the Chairman, Manager, Executive Officer or other person is intending or making attempts to remove or alienate any such property illegally; The

Commissioner may pass appropriate interim order to prevent the illegal removal or alienation of such property, on such terms as he thinks fit, for keeping of accounts, furnishing security, production of property or such other Act.(2)The Commissioner shall in all such cases, except where it appears that the object of passing the interim order would be defeated or delayed, give notice of the facts brought to his notice to the person concerned before passing the order.(3)After hearing the Chairman, Manager, Executive Officer or other person concerned and after holding such enquiry as he thinks fit, the Commissioner may confirm, discharge, vary or set aside the interim order or pass any other appropriate order.(4)In case of disobedience or breach of the terms of any order passed under this section, the Commissioner may apply to the Court for an appropriate order to prevent the illegal removal or alienation of the property belonging to the Notified Institution or Delcared Institution.

## **52. Power of removal and dismissal.**

- The Commissioner may either on the application of any person interested in a notified institution or on receipt of a report under section 51 or suo-motu remove or dismiss a Chairman, Manager, or any other person responsible for managing the affairs of such institution who,-(a)makes persistent default in submission of Budget accounts, report or return, or(b)wilfully disobeys and lawful orders issued by the Commissioner under the provisions of this Act or rules made thereunder, or(c)continuously neglects his duty or commits any malfeasance or misfeasance or breach of trust in respect of a Notified Institution, or(d)misappropriates or deals improperly with the properties of the Notified Institution of which he is the Chairman, Manager or other person concerned with the management of the Institution.(e)accepts any position in relation to the Notified Institution which is inconsistent with his position as a Chairman, Manager or such other person, or(f)is convicted of an offence involving moral turpitude.(2)Where the Commissioner proposes to take action under sub-section (1), he shall frame charges against the person against whom action is proposed to be taken and give him an opportunity of meeting such charges or testing the evidence adduced against him and of adducing evidence in his favour. The order of removal or dismissal shall state the charges framed against the person, his explanation and the finding on each charge with reasons thereof.(3)Pending enquiry against a person under sub-section (2) the Commissioner may place such person under suspension.

## **53. Decision whether a property is property of Notified Institution or Delcared Institution.**

- Whenever any question arises as to whether a particular property is property of a Notified Institution or Delcared Institution under the Act, the Deputy Commissioner shall notwithstanding anything contained in any other law for the time being in force, decide that question.

## **54. Encroachment upon lands and buildings.**

- Where the Assistant Commissioner has reason to believe that any person has encroached upon any land or building which is appertinant to or adjoins any sacred tank, well, spring or water course

belonging to a notified institution or a declared institution whether situated within or outside the precincts thereof or any space within or outside the prakaras, mantaps, court yards or corridors of the institution, the Assistant Commissioner may cause to be served upon the encroacher a notice specifying the particulars of encroachment and calling upon him to show cause before a date to be specified in the notice why an order requiring him to remove the encroachment should not be made. A copy of the notice shall also be sent to the Chairman, Manager or such other person interested in the institution and after considering the objections, if any, of the encroacher and the Chairman, Manager or such other person, the Assistant Commissioner may, if he decides that there has been an encroachment, by order, require the encroacher to remove the encroachment and deliver possession of the land or building encroached upon, to the Chairman, Manager or such other person interested in the institution before the date to be specified in the order.(2)Where before the date specified in the order under sub-section (1), the encroacher has not removed the encroachment and has not vacated the land, building or place, the Assistant Commissioner shall take steps to resume and restore such land, building or place to the Institution in accordance with the provisions of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974.

## **55. Power of Eviction of lessee, licensee or mortgagee with possession in certain cases.**

(1)Where the Assistant Commissioner is of the opinion that the lessee, licensee or mortgagee with possession of any land or building belonging to a Notified Institution or a Declared Institution has taken any action which has marred or is likely to mar the artistic appearance, aesthetic beauty or religious character of the Institution, the Assistant Commissioner shall cause to be served on the lessee, licensee or mortgagee concerned, a notice calling upon him to show cause why an order terminating the lease or licence or mortgage and directing delivery of possession to the Chairman, Manager, Executive Officer or other person concerned with the affairs of the Institution before a specific date, should not be made. A copy of the notice shall also be served on the Chairman, Manager, Executive Officer or other person of the Institution.(2)After considering the objections, if any received from the lessee, licensee or mortgagee, the Assistant Commissioner may, if he decides that the artistic appearance, aesthetic beauty or the religious character has been marred or is likely to be marred by the action of the lessee, licence or mortgagee, by order terminate the lease or licence or mortgage and direct delivery of possession of the property to the Chairman, Manager or Executive Officer or other person managing the affairs of the Institution before a date to be specified in the order.(3)Where before the date specified in the order under sub-section (2), the lessee, licensee or mortgagee has not delivered the provision of the property the Assistant Commissioner may take steps to recover and restore the property to the Institution under the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974.

## **56. Power to put Chairman or Executive Officer in possession.**

- Where a person has been appointed as Chairman, Manager or Executive Officer of a Notified Institution or Declared Institution to discharge the functions as such, in accordance with the provisions of this Act and he is prevented by any person from taking possession of the records, accounts and properties thereof, the Deputy Commissioner shall, by order, direct that the records,

accounts and properties be handed over to such Chairman, Manager or Executive Officers as the case may be, before a specified date.

### **57. Chairman or Executive Officer not to lend or borrow moneys.**

- No Chairman, Manager or Executive Officer shall either lend or borrow money for the purpose of or on behalf of the Notified Institution or Declared Institution of which he is the Chairman, Manager or Executive Officer.

### **58. Commissioner, etc., to observe appropriate customs, usage's and practices.**

- The Commissioner, the Deputy Commissioner, and Assistant Commissioner and every other person exercising powers or performing functions under the Act shall not interfere with, and shall observe the customs, usages, ceremonies and practices appropriate to the Notified Institution or Declared Institution in respect of which such powers are exercised.

### **59. Power to decide questions affecting Hindu Religious or Charitable purpose.**

(1) If in any suit or legal proceedings it appears to the Court that any question affecting a religious or charitable purpose relating to a Notified Institution or a Declared Institution is involved, the court shall not proceed to determine such question until after notice has been served on the Deputy Commissioner or the Assistant Commissioner having jurisdiction. (2) If, upon receipt of such notice or otherwise, the Deputy Commissioner or Assistant Commissioner makes any application in that behalf, he shall be added as a necessary party at any stage of such suit or proceeding. (3) For the purpose of this Section 'Court' means any Civil Court of competent jurisdiction in the State of Karnataka.

### **60. Power of Inspection and Supervision.**

(1) The Commissioner, the Deputy Commissioner or the Assistant Commissioner or any other Officer generally or specifically empowered by the State Government in this behalf shall have the power; (a) to enter upon and inspect or cause to be entered upon and inspected any property belonging to a Hindu Religious Institution ; (b) to call for any extract from or inspect any proceedings of any Hindu Religious Institution and any books of account in the possession of or under the control of the Chairman, Manager, Executive Officer or any other person managing the affairs of such institution ; (c) to call for any return, statement, account or report which he may think fit, from any person connected with a Hindu Religious institution ; Provided that in entering upon any property belonging to a religious institution, the officers making the entry and inspection shall not enter without first giving reasonable notice to the Chairman, Manager, Executive Officer or other person and shall not conduct himself without due regard to the religious practice, custom or usage of the Institution. (2) If, on inspection or examination of the books of accounts or of a report called

under sub-section (1), any act or omission on the part of the Chairman, Manager, Executive Officer or any other person connected with the institution is found resulting in loss to the institution, the Commissioner, the Deputy Commissioner or the Assistant Commissioner, as the case may be, shall require such person to submit an explanation within such time, as he thinks fit.(3)If, upon consideration of the books of accounts or of a report called for under sub-section (1) and the explanation if any submitted under sub-section (2) and after holding an enquiry in the prescribed manner, the Commissioner, the Deputy Commissioner or the Assistant Commissioner is satisfied that any person connected with the Hindu Religious Institution has been guilty of gross negligence, breach of trust or misconduct which has resulted in loss to the Hindu religious Institution, he shall record a finding accordingly.(4)If the finding is by the Assistant Commissioner he shall submit it to the Deputy Commissioner who shall forward it to the Commissioner with his remarks, and if the finding is by the Deputy Commissioner he shall submit it to the Commissioner.(5)The Commissioner, shall after examining the records of the Deputy Commissioner or the Assistant Commissioner or both and after giving an opportunity to the person concerned and holding such further enquiry as he thinks fit, determine;(a)the amount of loss caused to the Hindu Religious Institution;(b)whether such loss was due to any gross negligence, breach of trust, misapplication or misconduct on the part of any person.(c)whether the Chairman, Manager, Executive Officer or any other person was responsible for such loss;(d)the amount which the Chairman, Manager or the Executive Officer or any other person is liable to pay to the Hindu Religious Institution for such loss.(6)On such determination under sub-section (5) that any person is liable to pay to the Hindu Religious Institution any amount for the loss caused to the institution, the Commissioner may direct that the amount shall be surcharged on such person.(7)The Deputy Commissioner of the District in which any property of the Chairman or other person from whom an amount is recoverable by way of surcharge is situated shall on requisition made by the Assistant Commissioner, recover such amount as if it were an arrears of land revenue and pay the same to the Notified Institution concerned.(8)If the surcharge is against the Executive Officer, it shall be recovered out of his salary and other amounts payable to him, as may be ordered by the authority.

## **61. Investment of Money belonging to a Notified Institution or Declared Institution.**

- All monies belonging to a Notified Institution or a Declared Institution and not required for immediate use shall be deposited only in a Nationalised Bank or with the permission of the State Government in any Scheduled Bank or Banking Institution approved by the State Government.

## **62. Alienation of Immovable Property.**

(1)Any exchange, gift, sale or mortgage or lease of any immovable property belonging to or given or endowed for the purpose of any Notified Institution or a Declared Institution shall be null and void unless it is sanctioned by the State Government as being necessary or beneficial to the Institution and such sanction shall be made subject to such restrictions or conditions as may be prescribed :Provided that before such sanction is accorded, particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions and all objections and suggestions received in that behalf shall be duly considered by the State

Government.(2)Where it is found subsequently that the permission under sub-section (1) has been obtained by fraud or misrepresentation the State Government shall be competent to cancel the permission so granted, after giving due opportunity of being heard to all the concerned.(3)Every sale of immovable property sanctioned under sub-section (1) shall be effected by public auction in the prescribed manner and subject to confirmation by the Commissioner within a period to be prescribed :Provided that the State Government may in the interest of the Notified Institution or the Declared Institution and for reasons to be recorded in writing permit the sale of such immovable property otherwise than by public auction.(4)Whenever any alienation, transfer or other act in respect of immovable property which is not valid under sub-section (1) comes to the knowledge of the Assistant Commissioner, he may after such inquiry as he deems necessary to make issue notice to the alienee or other person in possession to restore such land to the institution to which it belongs within three months from the date of service of notice and in default of compliance the Assistant Commissioner shall take steps to resume and restore such land or building to the institution in accordance with the provisions of the Karnataka Public Premises (Eviction of unauthorised Occupants) Act, 1974.

## **Chapter X**

### **Appeal, Revision and Execution of Orders**

#### **63. Revisions! Powers of Commissioner.**

(1)The Commissioner may call for and examine the records and proceedings before the Assistant Commissioner or Deputy Commissioner for the purpose of satisfying himself as to the correctness of the finding or order recorded or passed by the Assistant Commissioner or Deputy Commissioner and may either annul, reverse, modify or confirm the said finding or order or may direct the Assistant Commissioner or Deputy Commissioner to make further enquiry or take such additional evidence as he may think necessary or he may himself take the additional evidence :Provided that the Commissioner shall not record or pass any order without giving the party affected thereby an opportunity of being heard.(2)Nothing in sub-section (1) shall entitle the commissioner to call for and examine the record of any case during the period in which an appeal can lie or after an order has been passed by him on such appeal.

#### **64. Computation of Limitation.**

- In computing the period of time fixed for an appeal or revision under this Act, the provisions of section 5, 12 and 14 of the Limitation Act, 1963 shall apply.

#### **65. Civil Procedure Code to apply to Proceedings under the Act.**

- Save in so far as they are inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908 shall apply to all proceedings under this Act.



## **66. Officers holding enquiries to have powers of Civil Court.**

- In holding enquiries under this Act, the Officer holding the same shall have the same powers as are vested in courts in trying a suit, in respect of the following matters under the Code of Civil Procedure, 1908, namely, -(a) Proof of facts by affidavit; (b) summoning and enforcing attendance of any person and examining him on oath; (c) compelling the production of documents; (d) issuing of commission.

## **67. All enquiries to be Judicial Proceedings.**

- All enquiries and appeals under this Act shall be deemed to be judicial proceedings within the meaning of sections 193 or 228, and for the purposes of section 196, of the Indian Penal Code and every authority holding enquiry or hearing appeal shall be deemed to be a civil court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

## **68. 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 required to be decided or dealt with by an officer or authority under the Act or in respect of which the decision or order of such officer or authority is made final and conclusive.

# **Chapter XI**

## **Miscellaneous**

## **69. Removal of Discrimination in the distribution of Prasada or Theertha.**

(1) Notwithstanding anything contained in this Act or in any text, rule of interpretation of Hindu Law or any custom or usage forming part of the law or in any other law or in any decree of court, no discrimination shall be made in the distribution of prasada or theertha in any temple or other religious place on grounds only of caste, sex, place of birth, or any of them. Explanation. - In this section, -(a) 'Prasada' means any cooked rice or other eatable, any fruits, flower, leaf, vibuthi, kumkuma, tulsi, bilwari, turmeric, sandal paste or other like thing distributed as prasada by whatsoever name called; (b) 'Theertha' means sacred water, jaggery water or milk and includes other like things distributed as theertha in a temple by whatsoever name called; (2) Nothing contained in this Act shall, save as otherwise provided in sub-section (1) and in clause (2) of Article 25 of the Constitution, be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by Article 26 of the Constitution.

## **70. Commissioner, and other Officers to be Public Servants.**

- The Commissioner, Deputy Commissioners, Assistant Commissioners and other subordinate officers appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code and the Prevention of Corruption Act, 1988 (Central Act 49 of 1988).

## **71. Costs and expenses incurred on legal proceedings by the Commissioner, etc.**

- All costs, charges and expenses incurred by the Commissioner or the Deputy Commissioner or Assistant Commissioner as a party to, or in connection with legal proceedings under this Act in respect of any Hindu Religious institution or Charitable Endowment shall, be payable out of the property or funds of such institution, except in case where the liability to pay the sum has been laid on any party or other person personally and the right to reimbursement under this section has been negated in express terms.

## **72. Costs of proceedings before Courts.**

- The costs, charges and expenses of and incidental to any suit, appeal or application under this Act before any court including the High Court, shall be in the discretion of the Court, which may direct the whole or part of such costs, charges and expenses to be met from the property or funds of the religious institution concerned or to be borne and paid in such manner and by such person as it thinks fit.

## **73. Costs of proceedings before the Commissioner or the Deputy Commissioner or Assistant Commissioner.**

- The costs, charges and expenses of, and incidental to, any appeal, application or other proceeding before the Commissioner or the Deputy Commissioner or the Assistant Commissioner shall be in his discretion and he shall have full power to determine by whom or out of what property or funds and to what extent such costs charges and expenses are to be paid.

## **74. Court fees.**

- Notwithstanding anything contained in the Karnataka Court Fees and Suits Valuation Act, 1958, no Court fee shall be payable in respect of any suit, petition or application filled under this Act by the Commissioner, Deputy Commissioner or Assistant Commissioner in his official capacity.

## **75. Immunity from suits and proceedings.**

(1) No suit, prosecution or other proceedings shall be instituted against the State Government or any officer or authority in respect of anything done or purported to be done in good faith under this

Act.(2)No suit shall, without the previous sanction of the State Government, be instituted against the Commissioner in respect of a Charitable Institution or Hindu Religious Institution of which he has been appointed or authorised to act as a Trustee or Manager or such other position.

## **76. Power to make Rules.**

(1)The State Government may, after previous publication and by notification, make such rules as may be necessary for the purposes of carrying into effect the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely,-(a)designation, powers, duties and functions of subordinate officers appointed under section 5 ;(b)regulation of emoluments, hours of work and conditions of service of Archakas under section 12, and of the temple servants under section 15;(c)pattern of temple servants under section 14 ;(d)conduct of affairs of the Advisory Committee under section 20 ;(e)duties and powers of superintendence and control, which the Commissioner, Deputy Commissioner or Assistant Commissioner has to perform or exercise generally or in respect of a notified institution under section 24 ;(f)the authority competent to constitute the committee of management under section 25 and the procedure for appointment of members of such committee and verification of their antecedents and other matters;(g)the procedure for conduct of meetings of the committee of management under section 27 ;(h)the form of appeal and the fee to be paid for filing an appeal under the Act;(i)the form and manner of submissions of annual audited accounts and property statements under section 41 ;(j)the manner of enquiry under section 43 ;(k)the inspection of documents and the fees to be levied for such inspection;(l)the fees to be levied for the issue and service of processes and notices;(m)the grant of certified copies and the fees to be levied thereof;(n)the form of budget to be submitted by the Chairman, Manager, Executive Officer or such other person under Chapter VII;(o)the percentage of audit fee;(p)the preservation, maintenance, management and improvement of the properties and buildings of Notified Institutions and Declared Institutions including architectural, sculptural and epigraphical features;(q)the particulars which an account should contain and the manner in which the accounts of Notified Institutions shall be audited and the time and place of audit and the form and contents of the auditor's report;(r)the preparation and sanction of the estimates and acceptance of tenders in respect of constructions and for supply of stocks to Notified Institutions;(s)paying expenses of a person attending an enquiry under section 50;(t)any other matter which has to be or may be prescribed under the Act.(3)Every rule made under this section and every notification issued under section 77 shall be laid as soon as may be after it is made or issued before each House of the State Legislature 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 in which it is so laid or the sessions immediately following, both Houses in making any modification in the rule or order or that the rule or order should not be made, the rule or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order.

## **77. Power to remove difficulties.**

(1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government may, by notification make such provisions as appear to it to be necessary or expedient for removing the difficulty. (2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in commencement of this Act), the State Government may, by notification, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty. (3) The provisions made by any notification under sub-section (1) or sub-section (2) shall have effect as if enacted in this Act and any such notification may be made so as to be retrospective to any date not earlier than the appointed day.

## **78. Repeal and Savings.**

(1) The following enactments, namely:-(a) The Religious Endowments Act, 1863 (Central Act XX of 1863); (b) The Charitable Endowments Act, 1890 (Central Act VI of 1890); (c) The Charitable and Religious Trusts Act, 1920 (Central Act No. XIV of 1920); shall not apply to the Charitable Endowments and Hindu Religious Institutions governed under this Act. (2) The following enactments namely:-(a) The Bombay Public Trust Act, 1950 (Bombay Act No. XXIX of 1950); (b) The Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951); (c) The Coorg Temple Funds Management Regulation, 1892 (Regulation IV of 1892). (d) the Mysore Religious and Charitable Institutions Act, 1927 (Mysore Act VII of 1927); and (e) the Hyderabad Endowment Regulations, 1349F; (f) The Renuka Yellamma Devasthanam (Administration) Act, 1974 (Karnataka Act 34 of 1974). (g) The Coorg Temples Fund Management Act, 1956 (Coorg Act VIII of 1956). Provided that section 6 of the Karnataka General Clauses Act, 1899 (Karnataka Act III of 1899) shall be applicable in respect of the repeal of the said enactment and section 8 and section 24 of the said Act shall be applicable as if the said enactments are repealed and re-enacted by this Act.

## **79. Amendment of Karnataka Act 32 of 1974.**

- In the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 (Karnataka Act 32 of 1974), in section 2, in clause (e), for sub-clause (iv), the following shall be substituted, namely:-(iv) a Notified Institution or Declared Institution under the Karnataka Hindu Religious Institutions and Charitable Endowments Act 1997.