

The Bihar Ancient Monuments and Archaeological Sites, Remains and Art Treasures Act, 1976

JHARKHAND

India

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Act 19 of 1976

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The Bihar Ancient Monuments and Archaeological Sites, Remains and Art Treasures Act, 1976 Bihar Act 19 of 1976 [Dated 14.8.1976] Published in Bihar Gazette, Extraordinary, dated 24.8.1976 and received assent on 14.8.1976. An Act to provide for preservation of Ancient Monuments and Archaeological Sites and remains other than those declared by or under law made by Parliament to be of national importance for the regulation of Archaeological excavations and for the protection of antiquities in the State of Bihar. Be it enacted by the Legislature of the State of Bihar in the Twenty fifth year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Bihar Ancient Monuments and Archaeological Sites, Remains and Art Treasures Act, 1976. (2) It extends to the whole of the State of Bihar. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, - (a) "ancient monument" means any structure, erection or monument or any tumulus or place of internment, or burning or any cave, rock-sculpture, inscription or monolith, which is of historical, archaeological or artistic interest, and which has been in existence for not less than one hundred years and includes - (i) the remains thereof; (ii) the site thereof; (iii) the portion of land adjoining such site which may be necessary or required for the preservation, protection, upkeep and maintenance of the same; and (iv) the means of access thereto and of convenient inspection and repairs thereof; (b) "antiquity" includes - (i) any coin, sculpture, painting, epigraph, or other work of art or craftsmanship; (ii) any article, object or thing detached from a building or cave; (iii) any article, object or thing illustrative of

science, art, crafts, literature, religion, customs, morals or politics in by-gone ages;(iv)any article, object or thing of historical interest; and(v)any article, object or thing which the State Government may by reason of its historical or archaeological association, by notification in the official Gazette, declare to be an antiquity for the purposes of this Act and which has been in existence for not less than one hundred years; and(vi)any manuscript, record or other document which is of scientific, historical, literary or aesthetic value and which has been in existence for not less than seventy-five years.(c)"Art treasure" means any human work of art, not being an antiquity declared by the State Government by notification in the official Gazette, to be an art treasure for the purposes of this Act having regard to its historical and aesthetic value:Provided that no declaration under this clause shall be made in respect of any such work of art so long as the author thereof is alive;(d)"archaeological officer" means any officer of the Department of Archaeology and Museums of the State Government not below such rank as the State Government may from time to time prescribe;(e)"archaeological site and remains" means any area which contains or is reasonably believed to contain ruins or relics of historical or archaeological importance and which have been in existence for not less than one hundred years and includes-(i)such portion of land adjoining the area as may be required for fencing or covering in or otherwise preserving it; and(ii)the means of access to, and convenient inspection of the area;(f)"Director" means the Director of Archaeology and Museums of the State Government and includes any officer authorised by the State Government to perform the duties of the Director;(g)"maintain" with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and cleansing of a protected monument and the doing of any act which may be necessary for the purpose of preserving a protected monument or of securing convenient access thereto;(h)"owner" includes-(i)a joint owner invested with powers of management on behalf of himself and other joint owners and the successor-in-title of any such owner; and(ii)any manager or trustee exercising powers of management and the successor-in-office of any such manager or trustee;(i)"prescribed" means prescribed by rules made under this Act;(j)"protected area" means any archaeological site and remains which is declared to be a protected area by or under this Act;(k)"protected monument" means an ancient monument which is declared to be a protected monument by or under this Act; and(l)"State Government" means the State Government of Bihar.

Protection of Ancient Monuments and Archaeological Sites and Remains

3. Powers of State Government to declare ancient monuments, etc., to be protected monuments and areas.

(1)Where the State Government is of opinion that any ancient monument or archaeological site and remains requires protection under this Act, it may, by notification in the Official Gazette, give two month's notice of its intention to declare such ancient monument or archaeological site and remains to be a protected monument or a protected area, as the case may be; and a copy of every such notification shall be affixed in a conspicuous place near the monument or the site and remains, as the case may be.(2)Any person interested in any such ancient monument or archaeological site and remains may, within two months after the issue of the notification, object to the declaration of the monuments or the archaeological site and remains, to be a protected monument or a protected area.(3)On the expiry of the said period of two months, the State Government may, after considering the objections, if any, received by it, declare by notification in the Official Gazette, the ancient

monument or the archaeological site and remains, as the case may be, to be a protected monument or a protected area.(4)A notification published under Section (3) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the ancient monument or the archaeological site and remains to which it relates is a protected monument or a protected area for the purposes of this Act.

4. Acquisition of rights in a protected monument.

(1)The Director may with the sanction of the State Government, purchase, or take a lease of, or accept a gift or bequest of, any protected monument.(2)Where a protected monument is without an owner, the Director may, by notification in the Official Gazette, assume the guardianship of the monument.(3)The owner of any protected monument may, by written instrument, constitute the Director the guardian of the monument, and the Director may, with the sanction of the State Government, accept such guardianship.(4)When the Director has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Director had not been constituted a guardian thereof; and the provisions in this Act relating to agreement executed under Section 5 shall apply to the written instrument executed under sub-section (3).(5)Nothing in this section shall affect the use of any protected monument for customary religious observances.

5. Preservation of protected Monument by Agreement.

(1)The Director, when so directed by the State Government, shall propose to the owner of a protected monument to enter into an agreement with the State Government within a specified period for the maintenance of the monument.(2)An agreement under this section may provide for all or any of the following matters, namely:-(a)the maintenance of the monument;(b)the custody of the monument and the duties of any person who may be employed to look after it;(c)the restriction of the owner's right-(i)to use the monument for any purpose;(ii)to charge any fee for entry into, or inspection of, the monument;(iii)to destroy, remove, alter or deface the monument, or(iv)to build on or near the site of the monument;(d)the facilities of access to be permitted to the public or any section thereof or to archaeological officers or to persons deputed by the owner or any archaeological officer or other officer or authority authorised by the State Government to inspect or maintain the monument;(e)the notice to be given to the State Government in case the land on which the monument is situated or any adjoining land is offered for sale by the owner, and the right to be reserved to the Government to purchase such land, or any specified portion of such land, at its market value;(f)the payment of any expenses incurred by the owner or by the Government in connection with the maintenance of the monument;(g)the proprietary or other rights which are to vest in the State Government in respect of the monument when any expenses are incurred by the State Government in connection with the maintenance of the monument;(h)the appointment of an authority to decide any dispute arising out of the agreement; and(i)any matter connected with the maintenance of the monument which is a proper subject of agreement between the owner and the State Government.(3)The State Government or the owner may, at any time, after the expiration of three years from the date of execution of an agreement under this section, terminate it on giving six months' notice in writing to the other party:Provided that when the agreement is terminated by the

owner, he shall pay to the State Government the expenses, if any, incurred by it on the maintenance of the monument during the five years immediately preceding the termination of the agreement or, if the agreement has been in force for a shorter period, during the period the agreement was in force.(4)An agreement under this section shall be binding on any person claiming to be the owner of the monument to which it relates, from, through or under a party by whom or on whose behalf the agreement was executed.

6. Persons competent to exercise powers of owners under Section 5, in respect of protected monument, when owner is under disability or when it is a village property.

(1)If the owner of a protected monument is unable by reason of minority or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by Section 5.(2)In the case of a protected monument which is a village property, the headman or other village officer exercising powers of management over such property may exercise the powers conferred upon an owner by Section 5.(3)Nothing in this section shall be deemed to empower any person not being of the same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

7. Application of endowment to repair a protected monument.

(1)If any owner or other person competent to enter into an agreement under Section 5 for the maintenance of a protected monument refuses or fails to enter into such an agreement, and if any endowment has been created for the purpose of keeping such monument in repair or for that purpose among others, the State Government may institute a suit in the Court of the district judge or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the district judge, for the proper application of such endowment or part thereof.(2)On the hearing of an application under sub-section (1), the district judge may summon and examine the owner and any person whose evidence appears to him necessary and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were a decree of the civil court.

8. Failure or refusal to enter into an agreement.

(1)If any owner or other person competent to enter into an agreement under Section 5 for the maintenance of a protected monument refuses or fails to enter into such an agreement, the State Government may make an order providing for all or any of the matters specified in sub-section (2) of Section 5 and such order shall be binding on the owner or such other person and on every person claiming title to the monument from, through or under, the owner or such other person.(2)Where an order made under sub-section (1) provides that the monument shall be maintained by the owners or other person competent to enter into an agreement, all reasonable expenses for the maintenance of the monument shall be payable by the State Government.(3)No order under sub-section (1) shall

be made unless the owner or other person has been given an opportunity of making a representation in writing against the proposed order.

9. Power to make order prohibiting contravention of agreement under Section 5.

(1) If the Director apprehends that the owner or occupier of a protected monument intends to destroy, remove, alter, deface, imperil or misuse the monument or to build on or near the site thereof in contravention of the terms of an agreement executed under Section 5, the Director may, after giving the owner or occupier an opportunity of making a representation in writing, make an order prohibiting any such contravention of the agreement: Provided that no such opportunity need be given in any case when the Director, for reasons to be recorded, is satisfied that it is not expedient or practicable to do so. (2) Any person aggrieved by an order under this section may appeal to the State Government within such time and in such manner as may be prescribed, and the decision of the State Government shall be final.

10. Enforcement of agreement.

(1) If an owner or other person who is bound to maintain a monument by an agreement executed under Section 5 refuses or fails, within such reasonable time as the Director may fix, to do any act which in the opinion of the Director is necessary for the maintenance of the monument, the Director may authorise any person to do any such act, and the owner or other person shall be liable to pay the expenses of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement. (2) If any dispute arises regarding the amount of expenses payable by the owner or other person under sub-section (1), it shall be referred to the State Government whose decision shall be final.

11. Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner.

- Every person who purchases, at a sale for arrears of land revenue or any other public demand, any land on which is situated a monument in respect of which any instrument has been executed by the owner for the time being under Section 4 or Section 5, and every person claiming any title to a monument from, through or under, an owner who executed any such instrument, shall be bound by such instrument.

12. Acquisition of protected monument.

- If the State Government apprehends that a protected monument is in danger of being destroyed, injured, misused or allowed to fall into decay, it may acquire the protected monument under the provisions of the Land Acquisition Act, 1894 (I of 1894), as if the maintenance of the protected monument were a public purpose within the meaning of that Act.

13. Maintenance of certain protected monument.

(1)The State Government shall maintain every monument which has been acquired under Section 12 or in respect of which any of the rights mentioned in Section 4 have been acquired.(2)When the Director has assumed the guardianship of a monument under Section 4, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting the monument and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

14. Voluntary contributions.

- The Director may receive voluntary contributions towards the cost of maintaining a protected monument and may give such general or special directions as he considers necessary for the management and application of the contributions so received by him:Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

15. Protection of place of worship from misuse, pollution or desecration.

(1)A protected monument maintained by the State Government under this Act which is a place of worship or shrine shall not be used for any purpose} inconsistent with its sanctity.(2)Where the State Government has acquired a protected monument under Section 12, or where the Director has purchased or taken a lease or accepted a gift or bequest or assumed guardianship of a protected monument under Section 4, and such monument or any part thereof is used for religious worship or observances by any community, the Director shall make due provision for the protection of such monument or part thereof, from pollution or desecration-(a)by prohibiting the entry therein, except in accordance with the conditions prescribed with the concurrence of the persons, if any, in religious charge of the said monument or part thereof, of any person not entitled t so to enter by the religious usages of the community by which the monument or part thereof is used, or(b)by taking such other action as director may think necessary in this behalf.

16. Relinquishment of State Government rights in a monument.

- With the sanction of the State Government, the Director may,-(a)where rights have been acquired by the Director in respect of any monument under this Act by virtue of any sale, lease, gift or will relinquish, by notification in the official Gazette, the rights so acquire to the person who would for the time being be the owner of the monument if such rights had not been acquired; or(b)relinquish any guardianship of a monument which he has assumed under this Act.

17. Right of access to protected monuments.

- Subject to the provisions of this Act and the rules made thereunder, the public shall have a right of access to any protected monument. Protected Area

18. Restrictions on enjoyment of property rights in protected area.

(1) No person, including the owner or occupier of a protected area, shall construct any building within the protected area or carry on any mining, quarrying, excavating, blasting or any operation of a like nature in such area, or utilise such area or any part thereof in any other manner without the permission of the State Government: Provided that nothing in this sub-section shall be deemed to prohibit the use of any such area or part thereof for the purpose of cultivation if such cultivation does not involve the digging of more than one foot of soil from the surface. (2) The State Government may, by order, direct that any building constructed by any person within a protected area in contravention of the provisions of subsection (1) shall be removed within a specified period and, if the person refuses or fails to comply with the order, the Director may cause the building to be removed and the person shall be liable to pay the cost of such removal.

19. Power to acquire a protected area.

- If in the opinion of the State Government any protected area contains an ancient monument or antiquities, it may acquire such area under the provisions of the Land Acquisition Act, 1894 (I of 1894) in the interest of public purposes. Archaeological Excavations

20. Excavations in protected areas.

- An archaeological officer or an officer authorised by him in this behalf or any person holding a licence granted in this behalf under this Act (hereinafter referred to as the licensee) may, after giving notice in writing to the Director and the owner, enter upon and make excavations in any protected area if it is not inconsistent with the provisions of Section 24 of the Ancient Monuments Provisions, Archaeological Sites and Remains Act, 1958 (24 of 1958).

21. Excavations in areas other than protected areas.

- Subject to the provisions of Section 24 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (XXIV of 1958), where an archaeological officer has reason to believe that any area, not being a protected area contains ruins or relics of historical or archaeological importance, he or an officer authorised by him in this behalf may after giving notice in writing to the Director and the owner, enter upon and make excavations in the area if it is not inconsistent with the provisions of Section 24 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958).

22. Compulsory acquisition of antiquities, etc., discovered during excavation operations.

(1)Where, as a result of any excavations made in any area under Section 20 or Section 21, any antiquities are discovered, the archaeological officer or the licensee, as the case may be, shall-(a)as soon as practicable, examine such antiquities and submit a report to the State Government in such manner and containing such particulars as may be prescribed;(b)at the conclusion of the excavation operations, give notice in writing to the owner of the land from which such antiquities have been discovered, as to the nature of such antiquities.(2)Until an order for the compulsory acquisition of any such antiquities is made under sub-section (3), the archaeological officer or the licensee, as the case may be, shall keep them in such safe custody as he may deem fit.(3)On receipt of a report under sub-section (1), the State Government may make an order for the compulsory acquisition of any such antiquities at their market value.(4)When an order for the compulsory purchase of any antiquities is made under sub-section (2), such antiquities shall vest in the State Government with effect from the date of the order.

23. Excavation, etc., for archaeological purposes.

- Save as provided in Section 21 no archaeological officer or other authority shall undertake, or authorise any person to undertake, any excavation or other like operation for archaeological purposes in any area which is not a protected area except with the previous approval of the State Government and in accordance with such rules or directions, if any, as the State Government may make or give in this behalf.

24. Power of State Government to control moving of antiquities.

(1)If the State Government consider that any antiquity or class of antiquities ought not to be moved from the place where they are without their sanction, the State Government may, by notification in the official Gazette, direct that any such antiquity or any class of such antiquities shall not be moved except with the written permission of the Director.(2)Every application for permission under sub-section (1) shall be in such form and contain such particulars as may be prescribed.(3)An appeal shall lie to the State Government against an order refusing permission whose decision shall be final.

25. Acquisition of antiquities by State Government.

(1)If the State Government apprehends that any antiquity mentioned in a notification issued i under sub-section (1) of Section 24, is in danger of being destroyed, removed, injured, misused or allowed to fall into decay or is of opinion that, by reason of its historical or archaeological importance, it is desirable to preserve such antiquity in a public place, the State Government may make an order for the compulsory acquisition of such antiquity and the Director shall thereupon give notice to the owner of the antiquity to be acquired.(2)Where a notice of compulsory acquisition is issued under sub-section (1) in respect of any antiquity, such antiquity shall vest in the State Government with effect from the date of the notice.(3)The power of compulsory acquisition given by this section shall

not extend to any image or symbol actually used for bona fide religious observances. Principles of Valuation and Compensation

26. Compensation for loss or damage.

- Any owner or occupier of land who has sustained any loss or damage or any diminution of profits from the land by reason of any entry on, or excavations in, such land or the exercise of any other power conferred by this Act, shall be paid compensation by the State Government for such loss, damage or diminution of profits.

27. Assessment of value or compensation.

(1) The value of any property which the State Government is empowered to purchase at such value under this Act, or the compensation to be paid by the State Government in respect of anything done under this Act, shall, where any dispute arises in respect of such value or compensation, be ascertained in the manner provided in Sections 3, 5, 8 to 34, 45 to 47, 51 and 52 of the Land Acquisition Act, 1894 (1 of 1894), so far as they can be made applicable: Provided that, when making an enquiry under the Land Acquisition Act, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the State Government within such time as may be fixed and one a person nominated by the owner, or in case the owner fails to nominate an assessor within such time as may be fixed by the Collector in this behalf by the Collector. (2) The value of any antiquity which the State Government is empowered to acquire at such value under this Act, or the compensation to be paid by the State Government in respect of any thing done under this Act, where any dispute arises in respect of such value, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the owner, or in case the owner fails to nominate an assessor within such time as may be fixed by the Collector in this behalf. (3) Notwithstanding anything in sub-section (1) or in the Land Acquisition Act, 1894 (1 of 1894), in determining the market value of any antiquity in respect of which an order for compulsory acquisition is made under sub-section (3) of Section 22 or under sub-section (1) of Section 25, any increase in the value of the antiquity by reason of its being of historical or archaeological importance shall not be taken into consideration. Miscellaneous

28. Delegation of powers.

- The State Government may, by notification in the Official Gazette, direct that any powers conferred on it by or under this Act shall, subject to such conditions as may be specified in the direction be exercisable also by such officer or authority subordinate to the State Government as may be specified in the directions.

29. Licence for dealing in antiquities.

- No person shall deal in antiquities except under a licence granted by the State Government.

30. Bar to sell, etc. of antiquities.

- Subject to provisions of Sections 5 and 8 of the Antiquities and Art Treasures Act, 1972 (52 of 1972) no person shall, without the permission of the State Government, sell, remove or make gift of, any antiquity or art treasure or otherwise transfer its ownership.

31. Authority to make enquiry and take photograph of any antiquity.

- An archaeological officer, authorised by the State Government in this behalf, may enquire into and take photograph of any antiquity in possession, or custody of any person, or religious institution, or private museum.

32. Declaration as to any antiquity.

(1)Whoever owns or is in possession, custody or control of any antiquity, on the date of the coming into force of this Act, shall, within the period of sixty days from the commencement of this Act, make a declaration to that effect to the Director, or to such authority, and in such form, as may be prescribed.(2)Whoever owns or comes in possession, custody or control of any antiquity after the coming into force of this Act, shall within the period of fifteen days of owning or coming into possession, custody or control of such antiquity, make a declaration to that effect to the Director, or to such authority, and in such form, as may be prescribed:Provided that the above provisions shall not apply to the officers of the Archaeological Survey of India.

33. Report regarding loss of antiquity.

- Whoever owns or is in possession, custody or control of any antiquity, shall, in the event of its loss or destruction, give intimation within seven days of the loss or destruction thereof, to such authority and in such form as may be prescribed.

34. Powers of entry, search, seizure, etc.

(1)Any person being an officer of Government, authorised in this behalf by the State Government may, with a view to securing compliance with the provisions of this Act or to satisfying himself that the provisions of this Act have been complied with:(i)enter and search any place;(ii)seize any antiquity or art treasure in respect of which he suspects that any provision of this Act has been, is being, or is about to be, contravened and thereafter take all measures necessary for securing the production of the antiquity or art treasure so seized in a Court and for its safe custody, pending such production.(2)The provisions of *Sections 102 and 103 of the Code of Criminal Procedure, 1898 (5 of 1898) relating to search and seizure shall, so far as may be applied to searches and seizures under this section.

35. Power to determine whether or not an article, etc., is antiquity or art treasure.

- If any question arises whether any article, object or thing or manuscript, record or other document is or is not an antiquity or is or is not an art treasure for the purposes of this Act, it shall be referred to the Director, Archaeology and Museums, Bihar[†] or to an officer authorized by him and the decision of the Director or such officer, as the case may be, on such question shall be final.* Now section 100 of Cr.P.C., 1973.[†]In view of applicability of this Act to Jharkhand [u/s 84, Bihar Reorganisation Act, 2000] this may be read as "Jharkhand".

36. Penalties.

(1)Whoever-(i)destroys, removes, injures, alters, defaces, imperils or misuses a protected monument, or(ii)being the owner or occupier of a protected monument contravenes an order made under sub-section (1) of Section 8 or under subsection (1) of Section 9, or(iii)removes from a protected monument any sculpture, carving, image, bas-relief, inscription or other like object, or(iv)does any act in contravention of sub-section (1) of Section 18,(v)fails to make the declaration as required under Section 32, or(vi)fails to give intimation as required under Section 33,shall be punishable with imprisonment which may extend to three months or with fine which may extend to five thousand rupees or with both.(2)Whoever-(i)deals in antiquity without licence granted by the State Government, or(ii)sells, removes or makes gift of, any antiquity, or art treasure or otherwise transfers its ownership, without the permission of the State Government, or(iii)commits theft of any antiquity from any temple, archaeological site, private museum or any place of religious importance.shall be punishable with imprisonment which may extend to three years or with fine which may extend to ten thousand rupees or with both.(3)Any person who moves any antiquity in contravention of a notification issued under sub-section (1) of Section 24 shall be punishable with fine which may extend to five thousand rupees, and the court convicting a person of any such contravention may, by order, direct such person to restore the antiquity to the place from where it has been removed.

37. Jurisdiction to try offences.

- No court inferior to that of a Magistrate of the second class shall try any offence under this Act.

38. Certain offences to be cognizable.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence under clause (i) or clause (ii) of sub-section (1) of Section 36 shall be deemed to be a cognizable offence within the meaning of that Code.

39. Special provision regarding fine.

- Notwithstanding anything in Section 32 of the Code of Criminal Procedure, 1898 (V of 1898), it shall be lawful for any Magistrate of the first class specially empowered by the State Government in this behalf to pass a sentence of fine exceeding two thousand rupees on any person convicted of an offence which under this Act is punishable with fine exceeding two thousand rupees.

40. Recovery of amount due to State Government.

- Any amount due to the State Government from any person under this Act, may, on a certificate issued by the Director or an archaeological officer authorised by him in this behalf, be recovered in the same manner as an arrear of land revenue.

41. Ancient monuments, etc., no longer requiring protection.

- If the State Government are of opinion that it is no longer necessary to protect any ancient and historical monument or archaeological site and remains under the provisions of this Act, it may, by notification in the official Gazette, declare that the ancient and historical monument or archaeological site and remains, as the case may be, has ceased to be a protected monument or a protected area for the purposes of this Act.

42. Power to correct mistakes, etc.

- Any clerical mistake, patent error or error arising from accidental slip or omission in the description of any ancient monument or archaeological site and remains declared to be a protected monument or a protected area, by or under this Act may, at any time, be corrected by the State Government by notification in the official Gazette.

43. Protection of action taken under the Act.

- No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done or in good faith intended to be done in the exercise of any power conferred by this Act.

44. Power to make rules.

(1)The State Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:-(a)the prohibition or regulation by licensing or otherwise of mining, quarrying, excavating, blasting or any operation of a like nature near a protected monument or the construction of buildings on land adjoining such monument and the removal of unauthorised building;(b)the grant of licences and permissions to make excavations for archaeological purposes in protected areas, the authorities, by whom and the

restrictions and conditions subject to which such licences may be granted, the taking of securities from licensees and the fees that may be charged for such licences;(c)the right of access of the public to a protected monument and the fee, if any, to be charged therefor;(d)the form and contents of the report of an archaeological officer or a licensee under clause (a) of sub-section (1) of Section 22;(e)the form in which application for permission under Section 18 or Section 24 may be made and the particulars which they should contain;(f)the form and manner of preferring appeals under this Act and the time within which they may be preferred;(g)the manner of service of any order or notice under this Act;(h)the manner in which excavations and other like operations for archaeological purposes may be carried on;(i)any other matter which is to be or may be prescribed.(3)Any rule made under this section may provide that a breach thereof shall be punishable-(i)in the case of a rule made with reference to clause (a) of subsection (2), with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees or with both;(ii)in the case of a rule made with reference to clause (b) of sub-section (2), with fine which may extend to five thousand rupees;(iii)in the case of a rule made with reference to clause (c) of subsection (2), with fine which may extend to five hundred rupees.(4)Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before expiry of the session in which it is so laid or the session immediately following, both the Houses agree in making any modification in the rule or both the House agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

45. Act not applicable to certain ancient monuments or archaeological sites and remains or antiquities.

- Nothing in this Act shall apply-(a)to ancient monuments or archaeological sites and remains which have been, or may hereafter be, declared by or under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (XXIV of 1958) or by or under any other law made by Parliament to be of national importance; or(b)to antiquities to which the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (XXIV of 1958), apply for the time being; or(c)to ancient monuments or archaeological sites and remains or antiquities to which the provisions of the Ancient Monuments Preservation Act, 1904 (VII of 1904) apply for the time being.

46. Repeal and Saving.

(1)The Bihar Ancient Monuments and Archaeological Sites and Remains Second Ordinance, 1976 (Bihar Ordinance No. 138 of 1976) is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken in the exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action taken.