

The Emblems And Names (Prevention Of Improper Use) Act, 1950

UNION OF INDIA

India

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Act 12 of 1950

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The Emblems And Names (Prevention Of Improper Use) Act, 1950(12 of 1950)

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Statement of Objects and Reasons.-The General Assembly of the United Nations Organisation recommended in 1946 that members of the United Nations should take necessary legislative or other appropriate measures to prevent the use, without proper authority, and in particular for commercial purposes, of the emblem, the official seal and the name of, the United Nations and of the abbreviations of that name. A similar recommendation has since been received also from the World Health Organisation for prevention of the use of its name (and abbreviations), emblem and official seal. Instances have also come to light of the use in India (and abroad) of the Indian National Flag and emblem and of the names or pictorial representation of Mahatma Gandhi and other national leaders, for commercial and trade purposes and in a manner likely to offend the sentiments of the people. The provisions of the Indian Trade Marks Act, 1940, Indian Patents and Designs Act, 1911, Indian Merchandise Marks Act, 1889, and the Indian Companies Act, 1913, are not adequate to prevent these abuses. The Bill seeks to prevent the improper use of these names, emblems, etc., for the purpose of trade, business, calling, profession, patent or design, and to impose a penalty for misuse of emblems, etc., specified in the Schedule and empowers the Central Government to make additions, and amendments in the Schedule as and when necessary. An Act to prevent the improper use of certain emblems and names for professional and commercial purposes. Be it enacted by Parliament as follows:-

1. Short title, extent, application and commencement

(1) This Act may be called The Emblems and Names (Prevention of Improper Use) Act, 1950. (2) It extends to the whole of India [- -] and also applies to citizens of India outside India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions

.In this Act, unless the context otherwise requires, (a) emblem means any emblem, seal, flag, insignia, coat-of-arms or pictorial representation specified in the Schedule; (b) competent authority means any authority competent under any law for the time being in force to register any company, firm or other body of persons or any trade mark or design or to grant a patent; (c) name includes any abbreviation of a name.

3. Prohibition of improper use of certain emblems and names

.Notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions as may be prescribed by the Central Government, use, or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government or of such officer of Government as may be authorised in this behalf by the Central Government.

4. Prohibition of registration of certain companies, etc

(1) Notwithstanding anything contained in any law for the time being in force, no competent authority shall, (a) register any company, firm or other body of persons which bears any name, or (b) register a trade mark or design which bears any emblem or name, or (c) grant a patent in respect of an invention which bears a title containing any emblem or name, if the use of such name or emblem is in contravention of section 3. (2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority may refer the question to the Central Government, and the decision of the Central Government, thereon shall be final.

5. Penalty

.Any person who contravenes the provisions of section 3 shall be punishable with fine which may extend to five hundred rupees.

6. Previous sanction for prosecution

.No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction of the Central Government or of any officer authorised in this behalf by general or special order of the Central Government.

7. Savings

.Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

8. Power of the Central Government to amend the Schedule

.The Central Government may, by notification in the Official Gazette, add to or alter the Schedule, and any such addition or alteration shall have effect as if it had been made by this Act.

9. Power to make rules

(1)The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.(2)Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of 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.The Schedule(See sections 2(a) and 3)

1. The name, emblem or official seal of the United Nations Organisation.

2. The name, emblem or official seal of the World Health Organisation.

3. The Indian National Flag.

4. The name, emblem or official seal of the Government of India or of any State, or any other insignia or coat-of-arms used by any such Government or by a Department of any such Government.

5. The emblems of the St. John Ambulance Association (India), and the St. John Ambulance Brigade (India), consisting of the device of a white eight pointed cross embellished in the four principal angles [- - -], whether or not

the device is surrounded or accompanied by concentric circles or other decoration or by lettering.

6. The name, emblem or official seal of the President, Governor, 7. Any name which may suggest or be calculated to suggest

(i)the patronage of the Government of India or the Government of a State; or(ii)connection with any local authority or any corporation or body constituted by the Government under any law for the time being in force.

8. The name, emblem or official seal of the United Nations Educational, Scientific and Cultural Organisation.

9. The name or pictorial representation of Rashtrapati, 9-A. The name or pictorial representation of Chatrapati Shivaji Maharaj or Mahatma Gandhi or Pandit Jawahar Lal Nehru, Shrimati Indira Gandhi or the Prime Minister of India except the pictorial use thereof on calendars where only the name of the manufacturers and printers of the calendars are given and the calendars are not used for advertising goods.

10. The medals, badges or decorations instituted by the Government from time to time or the miniatures or replicas of such medals, badges or decorations or the names of such medals, badges or decorations or of the miniatures or replicas thereof.

11. The name, emblem or official seal of the International Civil Aviation Organisation.

12. The word Interpol which is an integral part of the International Criminal Police Organisation.

13. The name, emblem or official seal of the World Meteorological Organisation.

14. The name and emblem of the Tuberculosis Association of India.

15. The name, emblem and official seal of the International Atomic Energy Agency.

16. The names of Ashoka Chakra and Dharma Chakra, or the pictorial representation of Ashok Chakra as used in Indian National Flag or in official seal or emblem of the Government of India or of any State Government or of a Department of any such Government.

17. The name of the Parliament or the Legislature of any State, or the Supreme Court, or the High Court of any State, or, the Central Secretariat, or the Secretariat of any State Government or any other Government office or the pictorial representation of any building occupied by any of the aforesaid institutions.

18. The name and emblem of the Rama Krishna Math and Mission consisting of a swan floating on water, with a lotus in the foreground and the rising sun in the background, the whole being encircled by a wild serpent (facing right), with the words "ॐ नमो भगवते वासुदेवाय" superimposed on the bottom portion.

19. The name and emblems of Sri Sarada Math and Ram Krishna Sarada Mission consisting of a swan (facing right) floating on waters, with a lotus in the foreground and the rising sun in the background, the whole being encircled by a wild serpent (facing right) with the words "ॐ नमो भगवते वासुदेवाय" superimposed at the bottom portion.

20. The name of The Bharat Scouts and Guides with its emblem.

21. The name and emblem of the International Olympic Committee consisting of five inter-laced rings.

22. The name and the emblem of the National Youth Emblem which is in black and white and carries profiles of the faces of two onward looking young persons male and female inscribed within a circle. Both faces are turning towards the right and the profile of the male face is in black and is situated behind that of the female face. The back of profile of the female face forms the tail and wing of a dove flying in the opposite direction with its beak extending outside the circle and carrying a twig with leaf. The profile of the dove is in white and the balance space of the profile of the female face is covered with horizontal lines in black. The space between the black profile of the male face and the circle is also covered by horizontal lines in black. The space in between the profile of the dove and the circle to the left of the dove

is also in black. The leaf and twig is in black. One eye of the dove is shown in the form of a dot.

23. The name and the emblem of the auroville consisting of two concentric circles; the inner circle is joint to the other circle with five equidistant radial lines to form five petals one of the radial line is oriented vertically downwards. An inner dot is placed at the center of the symbol. The petals may be shaded in orange or any other colour or may be unshaded.

24. The name of Sri Sathya Sai Central Trust and its two emblems described below:

(i) In the middle, it has a lotus flame that is spreading light of goodwill in all directions. Five universal human values Truth, Right Conduct, Peace, Love and Non-violence are placed in the outer circle. These are universal values that are common to all faiths and beliefs. The emblem has no specific colour stipulation. (ii) This emblem is a Sarvadharm (multi-religious) Symbol and equality of all religions symbol. It depicts symbols of major world religions Om-in Sanskrit/Devnagri (Hinduism and Sikhism), Cross (Christianity), Crescent and Star (Islam), Fire (Zoroastrianism), and Wheel (Dharma Chakra revered by Buddhists and Jains). All signs are placed in a circle signifying their equality. In the middle circle, there is a Lotus Flame that signifies Purity, Virtue and Character. This emblem is used in various colours and no specific colour is officially notified.

25. The name of Sri Sathya Sai.

26. The logo/emblem of the NHRC described below:

(i) The logo features the Ashoka Chakra at its heart. The petals in the upper half of the Chakra, which is derived from the National Flag, change to brilliant orange rays radiating upwards and outwards. Like the sun's rays, these too are indicative of hope and movement, with a far reaching penetrating quality. The rays benefit all, without distinction, and are not subject to limitations of any kind. The entire symbol is guarded by two side arms which seem to raise it and protect it, thereby suggesting universal love and hopequalities which are the birthright of all mankind. (ii) The Sanskrit quotation Sarve Bhavantu Sukhinah is also incorporated in the logo.

27. The name National Human Rights Commission and its abbreviation NHRC/nhrc.