



## **The Odisha Hindu Religious Endowments Act, 1969**

Act 2 of 1970

**Keyword(s):**

Collector, Endowment Fund, Listed Institution, Math, Religious Institution, Temple

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**THE ORISSA HINDU RELIGIOUS ENDOWMENTS ACT, 1969**

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**SCHEDULE**

**<sup>1</sup>[THE ORISSA HINDU RELIGIOUS ENDOWMENTS  
ACT, 1969]**

[ Received the assent of the President on the 22nd January 1970,  
first published in an extraordinary issue of the  
Orissa Gazette, dated the 4th February 1970 ]

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO HINDU  
RELIGIOUS INSTITUTIONS AND ENDOWMENTS

BE it enacted by the Legislature of the State of Orissa in the  
Twentieth Year of the Republic of India, as follows:—

CHAPTER I

Preliminary

1. (1) This Act may be called the Orissa Hindu Religious Endowments Act, 1969. Short title  
extent appli-  
cation and  
commence  
ment.

(2) It shall extend to the whole of the State of Orissa and shall apply to all Hindu public religious institutions and endowments other than the institutions and endowments governed by Shri Jagannath Temple Act, 1955.

Orissa Act  
11 of 1955.

*Explanation I*—The expression “Hindu religion” shall include Jain, Buddhist and Sikh religions and the expressions “Hindu” and “Hindu public religious institutions and endowments” shall be construed accordingly.

Orissa Act  
11 of 1955

*Explanation II*—The expression “endowments governed by Shri Jagannath Temple Act, 1955” shall include properties recorded in the name of Lord Jagannath which are held by any math or other religious institutions.

(3) It shall come into force on such date as the State Government may, by notification, appoint in that behalf.

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1. For Statement of Objects and Reasons, See *Orissa Gazette* Extraordinary, dated the 19th March, 1969 (651) and for Select Committee Report See *Orissa Gazette*, Extraordinary, dated the 25th September, 1969 (1502).

( Secs. 2-3 )

Power to extend Act to public religious institutions and endowments.

2. The State Government may, by notification extend to any public endowment of a charitable and religious institution all or any of the provisions of this Act and the rules made thereunder, and may declare such extension to be subject to such restrictions and modifications as they think fit:

Provided that before issuing such notification, the State Government shall, publish in the Gazette a notice of their intention to do so, fix a period not being less than two months from the date of publication of the notice for persons interested in the institution and endowment concerned to show cause against the issue of such notification and consider their objections, if any.

Definitions

3. In this Act unless the context otherwise requires —

- (a) " Administrator " means the Administrator appointed under section 15 ;
- (b) " Board " means the Orissa Hindu Religious Endowment Board established under section 4 ;
- (c) " Collector " includes any Deputy Collector who is specially empowered by the State Government to discharge any of the functions of a Collector ; and any Deputy Collector to whom the Collector may, by general or special order, transfer any of his functions under this Act ;
- (d) " Committee " means an Area Committee established under section 5 ;
- (e) " Endowment Fund " means the Orissa Hindu Religious Endowments Administration Fund established under section 67 ;
- (f) " Hereditary Trustee " means the trustee of a religious institution succession to whose office devolves by hereditary right or by nomination by the trustee for the time being in office or is regulated by custom or is specifically provided for by the founder, so long as such scheme of succession is in force ;

Orissa Act 2  
of 1952.

- (g) "Listed Institution" means a religious institution which has been included in the list of religious institutions prepared by the Board or by the Commissioner appointed under the Orissa Hindu Religious Endowments Act, 1951;
- (h) "Math" means an institution for the promotion of the Hindu religion presided over by a person whose duty is to engage himself in spiritual service or who exercises or claims to exercise spiritual headship over a body of disciples and succession to whose office devolves in accordance with the directions of the founder of the institution or is regulated by custom and includes places of religious worship other than a temple and also places of instruction or places for maintenance of Vidyarthies or places for rendering charitable or religious services in general which are or may be appurtenant to such institution;
- (i) "Non-hereditary Trustee" means a trustee who is not a hereditary trustee;
- (j) "Person having interest" means —
- (a) in the case of a math, the founder of the math or any descendant of such founder or a disciple of the math or a person belonging to the denomination, sect or sampradaya to which the math belongs;
- (b) in the case of a temple, the founder of the temple or any descendant of such founder or a person who is entitled to attend or is in the habit of attending the performance of worship or service in the temple or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts and offerings thereat; and
- (c) in the case of a specific endowment, a person who is entitled to attend or is in the habit of attending the performance of the specific service or charity for which the specific endowment has been created or who is entitled to partake or is in the habit of partaking in the benefit of such service or charity,



(Sec.—3 contd.)

and includes the trustee of a math or temple;

(k) "prescribed" means prescribed by rules made by the State Government under this Act;

(l) "Religious Endowment" or "Endowment" means all property belonging to or given or endowed for the support of maths or temples or given or endowed for the performance of any service or charity connected therewith or of any other religious charity any include the institution concerned and the premises thereof and also all properties used for the purposes or benefit of the institution and includes all properties acquired from the income of the endowed property:

Provided that gifts of immovable properties made as personal gifts to the hereditary trustee of a math or temple or the archaka, sevaka, service-holder or other employee of a religious institution shall not be so included, if the donee has been possessing and enjoying the same with a separate and distinct identity all along;

*Explanation I*—Any jagir or inam granted to an archaka, service-holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the said archaka, service-holder or employee but shall be deemed to be a religious endowment.

*Explanation II*—All property which belonged to or was given or endowed for the support of a 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" or "endowment" within the meaning of the definition, notwithstanding that, before or

( Sec. 3---contd. )

after the commencement of this Act, the 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 :

Provided that this Explanation shall not be deemed to apply in respect of any property which has vested in any person before the commencement of this Act by the operation of the law of limitation ;

*Explanation III*—Where an endowment has been made or any property has been given for the support of an institution which is partly of a religious and partly of a secular character or where an endowment made or property given is appropriated partly to religious and partly to secular uses, such endowment or property or the income therefrom shall be deemed to be a religious endowment and its administrations shall be governed by the provisions of this Act;

- (m) “religious institution” means a math, a temple and endowments attached thereto or a specific endowment and includes an institution under the direct control of the State Government;
- (n) “rules” means rules made by the State Government under this Act;
- (o) “specific endowment” means any property or money endowed—
  - (a) for the performance of any specific service on charity in a Math or temple ; or
  - (b) for the performance of any other religious charity; but does not include any jagir or inam of the nature, described in Explanation I to clause (l);
- (p) “temple” means a place, by whatever designation known used as a place of public religious worship and dedicated to, or for the benefit of, or used as of right by, the Hindu community, or any

( Sec. 4 )

class or section thereof, as a place of public religious worship and also includes any cultural institution or Mandap or library connected with such a place of public religious worship;

- (q) "Tribunal" means the Religious Endowment Tribunal mentioned in section 20;
- (r) "trustee" means a person by whatever designation known, in whom the administration of a religious institution and endowment is vested, and includes any person or body or which is liable as if such person or body were a trustee;
- (s) "year" means the financial year.

## CHAPTER II

### Authorities

Constitution  
and incorpo-  
ration of the  
Board.

4. (1) The State Government shall establish a Board for the State of Orissa to be called the Orissa Hindu Religious Endowment Board.

(2) The Board shall be a body corporate by the said name having perpetual succession and a common seal, with powers, subject to the provisions of the Act and the rules made thereunder, to acquire, hold and dispose of property, both movable and immovable and to contract and may by the said name sue and be sued.

(3) The Board shall consist of the following members, namely:—

- (a) an officer of the State Government to be nominated by them, who shall be the President of the Board;
- (b) one member to be elected from among themselves by the spiritual heads of the Maths:

Provided that in the case of a Math having no spiritual head the managing trustee thereof shall be treated as the spiritual head for the purposes of this clause;

( Sec. 5 )

- (c) one member to be elected from among themselves by the managing trustees of the listed institutions other than Maths;
- (d) one member to be elected from among themselves by the members of the Orissa Legislative Assembly;
- (e) one member to be nominated by the State Government to represent the institutions under their direct control.

(4) Notwithstanding anything contained in sub-section (3) for the purpose of constituting the Board for the first time the members referred to in clauses (b), (c) and (d) of the said sub-section shall be nominated by the State Government, so far as may be, from among persons belonging to the categories specified in the said clauses:

Provided that the member under the aforesaid clause (d) shall be nominated in consultation with the Speaker of the Legislative Assembly.

(5) The election of the members of the Board shall be held in the prescribed manner.

5. The State Government shall, after consultation with the Board, divide each district into such number of local areas as they deem fit and for each such local area there shall be established a Committee to be called the Area Committee which shall consist of the following members, namely:—

- (a) the Chairman, to be nominated by the State Government from among officer not below the rank of a Deputy Collector;
- (b) such number of non-official members not being less than two and more than four as the State Government may determine, one of whom shall be nominated by the Board and the remaining members shall be nominated by the State Government:

Provided that no person shall be eligible for nomination under clause (b) unless he is a resident of the concerned local area:

Provided further that a local area may, having regard to the number of religious institutions situate therein comprise of the whole of a district.

## ( Secs. 6—10 )

- 6.** The names of the members elected or nominated under section 4 or section 5 shall be published in the Gazette.
- 7.** Save as otherwise provided in this Act, the term of office of the non-official members of the Board or of the Committee shall be three years from the date of publication of their names under section 6.
- 8.** A person shall not be eligible to be elected or nominated as a member of the Board or of any Committee, if he—
- (a) does not profess the Hindu religion ;
  - (b) is less than twenty-five years of age ;
  - (c) is of unsound mind and stands so declared by a competent court ;
  - (d) has applied for being adjudged an insolvent or is an undischarged insolvent ; or
  - (e) has been convicted of an offence involving moral turpitude which, in the opinion of the State Government renders him unfit to be a member.
- 9.** (1) The President of the Board or the Chairman of any Committee may resign his office by writing under his hand addressed to the State Government.
- (2) Any non-official member of the Board may resign his office by writing under his hand addressed to the President of the Board who shall forward the same to the State Government.
- (3) Any non-official member of a Committee may resign his office by writing under his hand addressed to the Chairman of the Committee who shall forward the same to the State Government.
- (4) A resignation tendered under this section shall take effect as soon as the same reaches the addressee.
- 10.** In the case of a casual vacancy in the office of any non-official member of the Board or a Committee occurring otherwise than by efflux of time

Publication  
of names of  
members.

Term of the  
office.

Disqualifi-  
cations of  
members.

Resignation  
of member-  
ship.

Casual  
vacancy.

## ( Secs. 11—13 )

the vacancy shall be filled up by nomination or election, as the case may be, within three months from the date of occurrence of the vacancy and the person so nominated or elected shall hold office for the residue of the term of office of the member in whose place he is so nominated.

11. No act or proceeding of the Board or of any Committee shall be invalid by reason only of the existence of any vacancy amongst its members or any defect or irregularity in the constitution thereof. Vacancy not to invalidate proceedings.

12. (1) If in the opinion of the State Government, the Board or any Committee fails in the due performance of its duties or abuses the powers vested in it, they may, after giving the Board or, as the case may be, the Committee an opportunity of showing cause within a period not exceeding two months and after considering the cause, if any, shown, supersede the Board or Committee and shall reconstitute it within six months. Supersession and reconstitution of Board or Committee and removal of members.

(2) During the period intervening the date of supersession and the date of reconstitution of the Board or, as the case may be, the Committee the powers and functions of the Board or Committee shall be exercised and performed by such officer as the State Government may appoint in that behalf.

(3) The State Government may remove any non-official member of the Board or of any Committee, if he—

- (a) fails, without excuse sufficient in the opinion of the State Government, to attend three consecutive meetings of the Board or the Committee, as the case may be ;
- (b) refuses to act or is incapable of acting or acts in a manner which the State Government, after hearing any explanation that he may offer, consider to be prejudicial to the interests of religious institutions ; or
- (c) is or becomes subject to any of the disqualifications specified in section 8.

13. The business of the Board and the Committee shall be conducted in such manner as the Board may provide by regulations made by it with the prior approval of the State Government. Conduct of business.

## (Secs. 14—16)

Allowances payable to members.

14. (1) The President of the Board shall be paid monthly allowances by the State Government at such rates as they may determine.

(2) No non-official member of the Board or any Committee shall be paid any salary or other remuneration for services rendered by him but shall be entitled to travelling and daily allowance for attending meetings of the Board or Committee, as the case may be, at such rates as may be prescribed.

(3) The President of the Board and the Chairman of a Committee shall be entitled to travelling and daily allowance according to the rules applicable to them.

Administrator and Assistant Administrator.

15. (1) The Board shall have an Administrator who shall be appointed by the State Government from among officers not below the rank of an Additional District Magistrate who shall be professing the Hindu religion.

(2) The State Government may appoint one or more Assistant Administrators from among the gazetted officers in the State professing the Hindu religion who shall assist the Administrator in the discharge of his functions under this Act.

(3) The Administrator shall be the Secretary to the Board and shall be its Chief Executive Officer.

(4) The salary and allowances payable to the Administrator and the Assistant Administrator, if any, shall be paid out of the Endowment Fund.

(5) The Administrator shall exercise the powers and perform the functions conferred or assigned to him by or under this Act or the rules made thereunder.

Employees of the Board and their conditions of service.

16. (1) The Board may, with the prior approval of the State Government, create such posts in its establishment as may be necessary for the efficient discharge of its functions.

(2) The method of recruitment of the employees of the Board and their conditions of service relating to salary, leave, disciplinary action and other matters shall be as may be prescribed.

(Secs. 17—19)

17. The State Government shall, in consultation with the Board, nominate one of their officers to be the Secretary to the Committee who shall perform such functions as are assigned to him by or under this Act.

Secretary  
of the  
Committee.

18. (1) Subject to the provisions of this Act the general superintendence of all religious institutions and endowments shall vest in the Board and it may do all things which are reasonable and necessary to ensure that the religious institutions and endowments are properly administered and their income is duly appropriated for the purposes for which they were founded or for which they exist.

General  
powers and  
functions of  
the Board.

(2) Without prejudice to the generality of the provisions of sub-section (1) the Board shall also exercise all the powers and discharge all the functions specifically conferred on it by or under this Act.

19. (1) Subject to the provisions of this Act and the rules made thereunder and to the general control of the Board, the Committee established in respect of any local area shall, in respect of religious institutions situate within such area, the annual income of which does not exceed two thousand and five hundred rupees, exercise and perform the following powers and duties of the Board, namely:—

Powers and  
functions  
of the  
Committee

- (a) general superintendence of such religious institutions including the doing of all things which are reasonable and necessary to ensure that the institutions are properly managed;
- (b) enquiry into allegations made against a trustee or an Executive Officer and disposal of the same in accordance with the provisions of this Act and the rules made thereunder;

Provided that where such allegation relates to any immovable property or jewellery belonging to the institution or relates to any established custom thereof the Committee shall, after holding an enquiry, furnish a report to the Board;

- (c) calling for records and informations under section 27;



(Secs. 20—22)

- (d) inspection of properties and documents under section 28;
- (e) reference to the Tribunal of cases of alienation in contravention of section 30;
- (f) appointment of Executive Officers where provision in that behalf is made in a scheme framed under section 51 and removal of any such Officer; and
- (g) such other powers and functions as may be entrusted to the Committee by the Board.

(2) The powers and functions of the Administrator in relation to any of the matters covered by clauses (a) to (g) of sub-section (1) shall, when such matter is being dealt with by the Committee, be exercised and performed by the Chairman of the Committee.

Religious  
Endowment  
Tribunal.

20. (1) For each local area within the jurisdiction of a Subordinate Judge there shall be a Tribunal known as the Religious Endowment Tribunal.

(2) The Subordinate Judge having jurisdiction in the aforesaid local area and where there are more than one Subordinate Judge having such jurisdiction, the principal Subordinate Judge, shall be the member of the Tribunal:

Provided that in cases where the said Subordinate Judge does not profess the Hindu religion, the State Government may appoint any other Officer of the judicial service not below the rank of a Subordinate Judge to be the member of the Tribunal.

Functions  
of the  
Tribunal.

21. The Tribunal shall discharge such adjudicating and other functions as are conferred on it by or under this Act.

### CHAPTER III

#### Registration of religious institutions

Preparation  
of a list of  
institutions  
and a register  
for each  
institution.

22. (1) For every religious institution, there shall be prepared and maintained a register showing—

- (a) the names of past and present trustees and particulars as to the custom, or the direction of the founder, if any, regarding succession to the office of trustee;

(Sec. 22-*contd.*)

- (b) particulars of all endowments of the institution and all titledeeds and other documents including the properties standing in the names of the trustees relating thereto;
- (c) particulars of the scheme of administration and of the scale of expenditure;
- (d) the names of all offices to which any salary, emoluments or perquisite is attached and the nature, time and conditions of service in each case;
- (e) the jewels, gold, silver, precious stones, all vessels and utensils and other movables belonging to the institution with their estimated value;
- (f) particulars of the idols and other images in or connected with the institution, whether intended for worship or for being carried in processions;
- (g) such other particulars as may be required by the Board.

(2) The register shall be prepared, signed and verified by the trustee of the institution concerned or by his authorised agent and submitted by him to the Board, in duplicate within one year from the commencement of this Act or from the founding of the institution, as the case may be, or within such further period not exceeding one year as may be allowed by the Board:

Provided that each trustee or his agent specially authorised by him in that behalf shall be required to swear an affidavit that the list of properties, both movable and immovable, owned by the institution as shown in the register is exhaustive:

Provided further that a register so signed and verified which has been submitted before the commencement of this Act in accordance with the provisions of the Orissa Hindu Religious Endowments Act, 1951 shall be deemed to be a register submitted under sub-section (2).

Orissa Act  
2 of 1952.

(54-73(a) Law.)

## (Sec. 23)

(3) The Administrator may, after such enquiry as he may consider necessary, recommend such alterations or omissions or additions in the register as he may think fit.

(4) The Board may, after receiving the register and the recommendations, if any, of the Administrator with respect thereto and making such further inquiry as it may consider necessary, direct the trustee to make such alterations, omissions or additions in the register as it may deem fit.

(5) The trustee shall carry out the orders of the Board and then submit the register to the Board for approval within six months from the date of the order failing which the register shall be deemed to have been corrected accordingly.

(6) A copy of the register as approved by the Board shall be furnished to the trustee and also to the concerned Committee, if any.

(7) The Board shall maintain a list of all religious institutions in the State.

(8) The list of religious institutions prepared and maintained by the Commissioner of Endowments appointed under the Orissa Hindu Religious Endowments Act, 1951 shall, for the purposes of sub-section (7), be deemed to be the list maintained by the Board, Orissa Act 2 of 1952.

Annual  
verification  
of the regis-  
ter.

23. (1) The trustee or his authorised agent shall scrutinise the entries in the register every year, or after such interval, as may be prescribed, and submit to the Board for its approval, a verified statement showing the alterations, omissions or additions required in the register.

(2) The Board may, thereupon, after such inquiry as it may consider necessary, direct what alterations, omissions; or additions, if any, should be made in the register.

(3) A copy of the order made under sub-section (2) shall be furnished to the trustee and also to the concerned Committee, if any.

(4) The trustee shall carry out the alterations, omissions or additions ordered by the Board in the copy of the register kept by him, within six months from the date of the order failing which the copy of the register shall be deemed to have been corrected accordingly.

( Secs. 24—28 )

Orissa Act 2 of 1952. 24. All registers prepared and maintained under the Orissa Hindu Religious Endowments Act, 1951 shall be deemed to be registers prepared and maintained under this Act. Saving of existing registers.

## CHAPTER IV

**Administration and management of religious institutions**

25. The trustee of a religious institution shall carry out all orders and directions issued under the provisions of this Act by the Board, the Committee or the Administrator. Trustee bound to obey orders issued under the Act.

26. (1) The trustee of every religious institution shall administer its affairs and apply its funds and properties in accordance with the terms of the trust, the usages of the institution and all lawful directions which a competent authority may issue in respect thereof. Care required of trustee and his power.

(2) A trustee shall, subject to the provisions of this Act, be entitled to exercise all powers incidental to the provident and beneficial administration of the religious institution and to do all things necessary for the due performance of the duties imposed on him.

(3) A trustee shall not be entitled to spend the funds of the religious institution for meeting any costs, charges and expenses incurred by him in any suit, appeal or application or other proceeding for, or incidental to, his removal from office or the taking of any disciplinary action against him :

Provided that the trustee may reimburse himself in respect of such costs, charges or expenses if he is specifically permitted to do so by an order passed under section 75.

27. The trustee of every religious institution shall furnish to the Board such accounts, returns, reports or other information relating to the administration of the institution in his charge, its funds, property or income or money connected therewith, or the appropriation thereof, as the Board may require, and at such time and in such form as it may direct. Trustee to furnish accounts, returns, etc.

28. (1) The President, any other member of the Board, any member of the Tribunal, or any officer or other person deputed in that behalf by the Board or by the State Government, may inspect all movable and immovable properties belonging to and all records, correspondence, plans, accounts and other documents relating to, any religious institution, and Inspection of property and documents.

( Secs. 29-30 )

it shall be the duty of the trustee of such institution and all officers and servants working under him, his agent and any person having concern in the administration thereof, to afford all such assistance and facilities as may be necessary or reasonable required in regard to such inspection, and also to produce any such movable property or document for inspection, if so required.

(2) For the purposes of inspection as aforesaid the inspecting authority shall, subject to the local practice, custom or usage, have power to enter at any reasonable hour the premises of any religious institution or any place of worship.

(3) If any such inspecting authority is resisted in the exercise of such power or discharge of such duty, the Magistrate having jurisdiction shall, on a written requisition from such authority direct any police officer not below the rank of a Sub-Inspector to render such help as may be necessary to enable the inspecting authority to exercise such power or discharge such duty.

(4) Nothing in this section shall be deemed to authorise any person to enter the premises or place referred to in sub-section (2) or any part thereof unless such person professes the religion to which the premises or place relates.

Trustee to  
furnish list of  
properties.

29. (1) The trustee of every religious institution having an annual income of more than two thousand and five hundred rupees shall submit to the Board every year on or before the 31st May, a list of properties, both movable and immovable, belonging to the institution.

(2) The trustee of every other religious institution shall submit a similar list as aforesaid to the Board and also to the Committee having jurisdiction every three years on or before the 31st May and shall also submit a statement along with the said list showing the total income and expenditure of the institution for each of the preceding three years.

Alienation of  
immovable  
trust  
property.

30. (1) Notwithstanding anything contained in any law for the time being in force no transfer by exchange, sale or mortgage and no lease for a term exceeding five years of any immovable property belonging to, or given or endowed for the purposes of any

## ( Sec. 31 )

religious institution shall be made unless it is sanctioned by the Board as being necessary or beneficial to the institution and such transfer shall be void and inoperative unless the sanction as aforesaid has been accorded prior to the transfer.

(2) In according such sanction, the Board may declare it to be subject to such conditions and directions as it may deem necessary regarding the utilisation of the amount raised by the transaction, the investment there of and in the case of a mortgage, regarding the discharge of the same within a reasonable period.

(3) A copy of the order made by the Board under this section shall be communicated to the trustee and shall be published in such manner as may be prescribed.

(4) The trustee may within three months from the date of receipt of a copy of the order and any person having interest may, within three months from the date of the publication of the order, prefer an appeal before the Tribunal which may modify the order or set it aside.

(5) The order of the Board made under this section shall, subject to the provisions of subsection (4), be final.

16 of 1908 31. (1) Notwithstanding anything contained in the Indian Registration Act, 1908, the Registering authority shall not accept for registration any deed of alienation of immovable property belonging to any religious institution unless a certified copy of the order made under section 30 sanctioning such alienation is filed along with the deed : Restriction on registration of document.

Provided that in cases where no such order under section 30 is produced before the Registering authority a copy of the deed may be filed along with the same and thereupon the Registering authority shall, after registration of the deed, transmit the copy so filed to the Board.

(2) Upon receipt of the copy of the deed the Board may make such enquiry as it deems fit and if it is satisfied that the alienation has been made in contravention of section 30 it may refer the matter to the Tribunal.

(Secs. 32—35)

Recovery of immovable property unlawfully alienated.

32. (1) Whenever it comes to the notice of the Board that any immovable property belonging to any religious institution has been alienated in contravention of section 30 it shall refer the matter to the Tribunal.

(2) Upon receipt of a reference made under the preceding sub-section or under sub-section (2) of section 31 the Tribunal shall hold a summary enquiry in the prescribed manner and on being satisfied that any such property has been so alienated, shall deliver possession of the same to the trustee of the institution.

(3) Nothing contained in this section shall debar any person aggrieved by any action taken by the Tribunal under this section from instituting a suit in the Civil Court for establishing his right.

Removal of encroachment of endowment land.

33. (1) The provisions contained in the Orissa Prevention of Land Encroachment Act, 1954 shall be applicable, as far as may be, in respect of unauthorised occupation of any land belonging to any religious institution as if it were property of Government within the meaning of that Act. Orissa Act. 15 of 1954.

(2) The Board may make an application for taking up appropriate proceedings under the said Act to the authority competent thereunder and thereupon it shall be lawful for such authority to take action in accordance with the provisions contained in that Act.

Authority of trustee to incur expenditure for securing the health, safety or convenience of pilgrims and worshippers.

34. The trustee of a religious institution may, out of the funds in his charge, after satisfying adequately the purposes of the institution, incur expenditure on arrangements for training of Vidyarthies and for securing the health, safety and convenience of disciples pilgrims and worshippers visiting the institution.

Power of trustee of math or temple over trustees of specific endowments.

35. The trustee of a specific endowment made for the performance of any service or charity connected with a math or temple shall perform such service or charity subject to the general superintendence of the trustee of the math or temple and shall obey all lawful orders issued by him.

## ( Sec. 37 )

Resump-  
tion and re-  
grant of  
inam gran-  
ted for the  
performance  
of any cha-  
rity or ser-  
vice connec-  
ted with a  
math or tem-  
ple in case of  
alienation of  
the inam or  
of failure  
to perform  
the charity  
or service.

37. (1) Any exchange, gift, sale or mortgage or lease of the whole or any portion of any inam or jagir granted for the support or maintenance of a religious institution or for the performance of a charity or service connected therewith or of any other religious charity made, confirmed or recognised by the State Government, shall be null and void.

(2) The Collector may, on his own motion, or on the application of the trustee of the religious institution or of the Board or of any person having interest in the institution who has obtained the consent of such trustee or the Board, by order, resume the whole of any part of any such inam or jagir on one or more of the following grounds, namely:—

- (i) that the trustee of the institution or the holder of such inam or jagir or portion thereof, as the case may be, has made an exchange, gift, sale, mortgage or lease of such inam or jagir or portion thereof ;  
or
- (ii) that the religious institution has ceased to exist or the charity or service in question has in any way become impossible or incapable of performance ; or
- (iii) that the holder of such inam or jagir or portion thereof has failed to perform or make the necessary arrangements for performing in accordance with the custom or usage, the charity or service for performing which the inam or jagir had been made, confirmed or recognised as aforesaid, or any part of the said charity or service, as the case may be ; or
- (iv) that such service is no longer required,

and while passing an order under this sub-section, the Collector shall determine whether such inam or jagir or the inam comprising such portion, as the case may be, is a grant of the interests of both the landlord and the ryot or only of the interest of the landlord;



## ( Sec. 36 )

36. (1) Where a specific endowment attached to a math or temple consists merely of a charge on property and there is failure in the due performance of the service or charity, the trustee of the math or temple concerned may require the person in possession of the property on which the endowment is a charge to pay the expenses incurred or likely to be incurred in causing the service or charity to be performed otherwise and in default of such person making payment as required the Administrator may, on the application of the trustee and after giving the person in possession a reasonable opportunity of stating his objections in regard thereto, by order, determine the amount payable to the trustee.

Enforcement  
of service  
or charity in  
certain cases.

(2) Where the person in possession of the property on which the endowment is a charge is not the person responsible in law for the performance of the service or charity and any amount is paid by or recovered from the person in possession, the Administrator may, on the application of the person in possession and after giving the person responsible in law a reasonable opportunity of stating his objections in regard thereto, by order, require the person so responsible to pay to the person in possession the amount so paid or recovered.

(3) Against an order of the Administrator under sub-section (1) or sub-section (2), the trustee or the person affected may, within one month of the date of the receipt of the order by him, prefer an appeal before the Board which may modify or cancel the same.

(4) On application by the trustee to the Collector of the district in which the property referred to in sub-section (1) is situate, or on application by the person in possession to the Collector of the district in which is situated any property of the person responsible in law, as the case may be, the Collector shall recover from the person in possession, or the person responsible in law, as the case may be, the amount specified in the order of the Administrator as modified by the order of the Board, if any, and the expenses of such recovery, as if they were arrears of land revenue, and pay to the trustee, or, as the case may be, to the person in possession, the amount due to him

(Sec. 37—contd.)

Provided that in the absence of evidence to the contrary, the Collector shall presume that any minor inam is a grant of both the landlord's interest and the ryot's interest.

(3) Before passing an order under sub-section (2) the Collector shall give notice to the trustee, to the Board, to the inamdar or jagirdar concerned or where only a portion of the inam or jagir is affected, to the holder of such portion as well as to holder or holders of the other portion or portions and to the alienee, if any, of the inam, or jagir, hear their objections, if any, and hold such inquiry as may be prescribed.

(4) A copy of every order passed under sub-section (2) shall be communicated to each of the persons mentioned in sub-section (3) and shall also be published in the manner prescribed.

(5) Any party aggrieved by an order of the Collector under sub-section (2) may prefer an appeal before the Tribunal within such time as may be prescribed and the Tribunal may, after holding such enquiry as may be prescribed, pass an order confirming, modifying or cancelling the order of the Collector.

(6) All orders passed by the Collector under sub-section (2) shall, subject to any order passed in an appeal, if any, under sub-section (5), be final.

(7) Any party aggrieved by an order passed under this section may institute a suit in the Civil Court for determining whether the concerned inam comprises the interests of both the landlord and the ryot or only the interest of the landlord, within one year from the date of the order of the Tribunal, or, where no appeal has been preferred, within one year from the expiry of the period prescribed for filing of an appeal.

(8) Except as otherwise provided in sub-section (5) or sub-section (7), an order of resumption passed under this section shall not be liable to be questioned in any court of law.

(Sec. 38)

(9) Where any inam or any portion thereof is resumed under this section, the Collector or the Tribunal, as the case may be, shall by order, regrant such inam or portion—

(i) as an endowment to the religious institution concerned ; or

(ii) in case of resumption on the ground that the religious institution has ceased to exist or that the charity or service in question has in any way become impossible or incapable of performance, as an endowment for appropriation to such religious, educational or charitable institution as the Board may recommend.

(10) The order of regrant made under subsection (9), shall, on application made to the Collector within the time prescribed, be executed by him in the manner prescribed.

## CHAPTER V

### Religious institutions other than maths and specific endowments attached thereto

Non-hereditary trustees, their number and appointment.

38. (1) The Board shall, in cases where there is no hereditary trustee, appoint non-hereditary trustees in respect of each religious institution other than maths and specific endowments attached thereto and in making such appointments, it shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the said institution is chiefly maintained.

(2) A non-hereditary trustee shall hold office for such period not exceeding five years as may be fixed by the Board unless in the meanwhile the trustee is removed or dismissed or his resignation is accepted by the Board or he otherwise ceases to be a trustee.

(3) Every non-hereditary trustee lawfully holding office at the commencement of this Act shall be deemed to have been duly appointed under this Act for the unexpired portion of his term of office.

## (Sec. 39)

39. (1) The Board, in the case of a hereditary trustee, and the Administrator, in the case of a non-hereditary trustee, may suspend, remove or dismiss the trustee of any religious institution, not being a math—

Power to suspend, remove or dismiss trustees.

- (a) for persistent default in the submission of budgets, accounts, reports or returns or in payment of contribution or other dues payable to Government ;
- (b) for wilful disobedience of any order issued under the provisions of this Act by the Board or the Administrator ;
- (c) for any malfeasance, misfeasance, breach of trust or neglect of duty in respect of the trust or alienation of the trust property in contravention of this Act or the Orissa Hindu Religious Endowments Act, 1951 ;
- (d) for any misappropriation of, or improper dealing with, the properties of the institution of which he is a trustee ;
- (e) for unsoundness of mind or other mental or physical defect or infirmity which renders him unfit for discharging the functions of a trustee :

Orissa Act 2 of 1952.

Provided that no non-hereditary trustee shall be removed or dismissed by the Administrator without the approval of the Board.

(2) When it is proposed to take action under sub-section (1), the Board or the Administrator, as the case may be, shall frame charges against the trustee concerned and give him an opportunity of meeting such charge, of testing the evidence adduced against him and of adducing evidence in his favour ; and the order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding on each charge with the reasons therefor.

(3) Pending the disposal of the charges framed against the trustee, the Board or the Administrator, as the case may be, may place the trustee under suspension and appoint a fit person to discharge the functions of the trustee.

## (Sec. 40)

(4) A non-hereditary trustee, who is suspended, removed or dismissed by the Administrator under sub-section (1), may within one month from the date of the receipt of the order of suspension, removal or dismissal, prefer an appeal before the Tribunal.

(5) A hereditary trustee who is suspended, removed or dismissed by the Board under sub-section (1) may, within two months from the date of receipt of the order, prefer an appeal before the High Court.

(6) No appeal under sub-section (4) or sub-section (5) shall be entertained unless the person affected by the order complies with it and makes over charge of his office or unless such a condition is waived by the Tribunal or the High Court, as the case may be, in view of the exceptional nature of the case.

(7) A hereditary trustee so suspended, removed or dismissed may be allowed such maintenance as may be fixed by the Board considering the financial condition of the institution and the rules made in this behalf.

(8) Proceedings taken up by the Board under this section against any hereditary trustee shall be disposed of within a period of six months from the date of framing of charges, unless in any case the period is extended by the State Government, and the order of suspension, if any, pending the disposal of the proceedings shall, unless the proceedings are sooner disposed of, cease to have effect on the expiry of the the aforesaid period of six months or the extended period, as the case may be.

Disqualifica-  
tion of  
trustee.

40. A trustee shall cease to hold office as such, if he—

- (a) is sentenced by a Criminal Court to transportation or to imprisonment for a period of more than six months, for an offence involving moral turpitude, such sentence not having been cancelled or reduced to a period of six months or less, or the offence not having been pardoned ; or
- (b) applies to be adjudicated or is adjudicated insolvent ; or
- (c) ceases to profess the religion to which the institution belongs.

## (Sec. 41)

41. (1) When a permanent vacancy occurs in the office of the hereditary trustee of such religious institution, the next in the line of succession shall be entitled to succeed to the office. Filling up of vacancies in the office of hereditary trustee.

(2) When a temporary vacancy occurs in such an office by reason of the suspension of the hereditary trustee under sub-section (1) of section 39 or by reason of his ceasing to hold office under the provisions of section 40, the next in the line of succession shall be appointed by the Board to discharge the functions of the trustee until his disability ceases.

(3) When a permanent or temporary vacancy occurs in such an office and there is a dispute respecting the right of succession to the office, or when such vacancy cannot be filled up immediately or when a hereditary trustee is a minor and has no legally appointed guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as such guardian, the Board may appoint a fit person to discharge the functions of the trustee of the institution until the disability of the hereditary trustee ceases or another hereditary trustee succeeds to the office or for such shorter term as the Board may direct and any such interim trustee may be removed by the Board on any of the grounds specified in sub-section (1) of section 39.

*Explanation I*—In making any appointment under this sub-section the Board shall have due regard to the claims of members of the family, if any, entitled to the succession.

*Explanation II*—For the purposes of this sub-section the legally appointed guardian shall, if he also happens to be the trustee referred to in sub-section (2), be deemed to be a person unfit to act as such guardian.

(4) Nothing in this section shall affect the right of any person aggrieved by an order of the Board passed under sub-section (3) to establish the right to hold office of the hereditary trustee in a court of law :

Provided that such court shall have no power to stay the operation of the order of the Board pending the disposal of the suit or other proceedings arising in relation thereto.

(Secs. 42-43)

Appointment  
of office-hol-  
ders and  
servants in  
religious  
institutions.

42. (1) Vacancies, whether permanent or temporary, amongst the office-holders or servants of a religious institution shall be filled up by the trustee in cases where the office or service is not hereditary.

(2) In cases where the office or service is hereditary the next in the line of succession shall be entitled to succeed.

(3) Where—

(a) there is dispute respecting the right of succession ; or

(b) such vacancy cannot be filled up immediately ;

(c) the person entitled to succeed is a minor without a legally appointed guardian fit and willing to act as such ; or

(d) the hereditary office-holder or servant is suspended from his office under sub-section (1) of section 43,

the trustee may appoint a fit person to discharge the functions of the office or perform the service, until the disability of the office-holder or servant ceases or another person succeed to the office or service, as the case may be.

*Explanation*—In making any appointment under this sub-section, the trustee shall have due regard to the claims of members of the family, if any, entitled to the succession.

(4) Any person affected by an order of the trustee made under sub-section (3) may, within one month from the date of the receipt of the order by him, prefer an appeal before the Board whose decision thereon shall be final :

Provided that no appeal shall be entertained unless the person affected by the order complies with it and makes over charge of his office or unless such a condition is waived by the Board at its descretion.

Punishment  
of office-  
holders and  
servants of  
religious  
institutions.

43. (1) All office-holders and servants attached to a religious institution or in receipt of any emolument or perquisite from the institution shall, whether the office or service is hereditary or not, be controlled by the trustee; and the trustee may fine, suspend, remove or dismiss any of them for breach of trust, in capacity, disobedience of orders, neglect of duty, misconduct or for any other sufficient cause.

## ( Secs. 44-45 )

(2) Any office-holder or servant punished by a trustee under sub-section (1) may, within one month from the date of the communication of the order to him, prefer an appeal before the Board whose order thereon shall be final.

(3) If any such office-holder or servant against whom an order of fine, suspension, removal or dismissal has been made by the trustee or the Board, as the case may be, disobeys such order, he shall, unless he shows reasonable cause to the satisfaction of the Board, be liable to pay to the Endowment Fund within such date as may be specified in the order such penalty not exceeding two hundred rupees and in case of default a daily fine not exceeding twenty rupees. The penalty to be paid by such person shall in no case be paid from the fund of the institution concerned.

(4) If such penalty is not paid within the time fixed or within such further time as may be granted by the Board, the Collector of the district, in which any property of the person against whom an order is made under sub-section (3) is situate, shall, on a requisition made to him by the Board, recover the amount as if it were an arrear of land revenue.

44. Without prejudice to the other provisions of this Act no office-holder or servant of a temple shall have the right to be in possession of the jewels or other valuable belongings of the temple except under such conditions and safeguard as the Board may by general or special order direct.

Office-holders and servants of temples not to be in possession of jewels or other valuable articles except under certain conditions.

45. (1) The trustee of a religious institution may, from time to time, submit to the Administrator proposals fixing the scale of expenditure in the institution, and the amounts which should be allotted to the various objects or ceremonies connected with such institution or the proportion in which the income or other property of the institution may be applied to such object or ceremonies.

Fixing of standard scales of expenditure.

(2) The trustee shall publish such proposal at the premises of the institution and in such other manner as the Administrator may direct, together with a notice stating that, within one month from the date of such publication, any person having interest might submit his objections or suggestions to the Administrator.



( *Sec. 46* )

(3) After the expiry of the said period, the Administrator shall, after considering the objections or suggestions, if any, received by him, pass such order as he thinks fit on such proposals having regard to the established usage of the institution and its financial position and communicate a copy of the order to the trustee and to the persons, if any, filing objections or suggestions.

(4) The trustee or any person having interest may, within one month from the date of receipt of the order by the trustee, prefer an appeal before the Board whose decision thereon shall be final.

(5) The scale of expenditure for the time being in force in an institution shall not be altered by the trustee except in accordance with the procedure laid down in this section:

Provided that the Administrator may, at any time on his own motion, for sufficient cause, direct the trustee to modify the scale of expenditure.

(6) The trustee or any person having interest may, within one month from the date of the receipt by the trustee of any direction issued under the proviso to sub-section (5) prefer an appeal against such direction before the Board whose decision thereon shall be final.

## CHAPTER VI

## Maths

Disqualifica-  
tion and  
removal of  
hereditary  
trustees.

46. (1) A hereditary trustee of a math shall be disqualified and shall cease to hold his office, if he—

- (a) is of unsound mind; or
- (b) is suffering from any physical or mental disease or defect or infirmity which renders him unfit to be a trustee; or
- (c) has ceased to profess and practise the Hindu religion or the tenets of the math; or
- (d) is sentenced by a criminal court to transportation or to imprisonment for a period of more than six months for an offence involving moral turpitude, such sentence not having been cancelled or reduced to a period of six months or less or the offence not having been pardoned; or

- (e) has committed breach of trust in respect of any of the properties of the math; or
- (f) persistently and wilfully defaults in discharging his duties or functions under this Act or any other law for the time being in force or in making payment of contribution or other dues payable to the Endowment Fund.

(2) The Tribunal may, *suo motu*, or on receipt of a complaint or allegation in that behalf from the Board or from any person having interest in the institution make an enquiry in the prescribed manner and after giving the concerned trustee a reasonable opportunity of being heard, determine whether or not such trustee is or has become disqualified and declare by an order in that behalf whether the trustee is disqualified temporarily or for his life-time.

(3) Any person aggrieved by the order of the Tribunal under sub-section (2) may, within sixty days from the date of receipt of the order by him, prefer an appeal before the High Court.

(4) Subject to the rules made in that behalf, any trustee so disqualified may be allowed such maintenance as may be fixed by the Board having regard to the financial condition of the institution.

(5) If a trustee is declared disqualified under this section, it shall be the duty of the Board to appoint one or more persons to discharge the functions of the trustee of the institution and in making any such appointment the Board shall have due regard to the claims of the next in line of succession and failing this of the disciples of the math:

Provided that in case of temporary disqualifications the appointment shall be until such period when the disqualification ceases.

47. (1) When—

- (a) a vacancy occurs in the office of the trustee of a math or a specific endowment attached to a math except as provided in section 46 and there is either a dispute respecting the right of succession to such office or any other reason for which the vacancy cannot be filled up immediately ;  
or

- (b) the trustee is a minor and there is either no recognised guardian fit and willing to act as such or a dispute respecting the person who is entitled to Act as such guardian,

the Board, after being satisfied that an arrangement for the administration of the math and its endowment or of the specific endowment, as the case may be, is necessary, shall make such appointment and arrangement as it thinks fit until the dispute is settled or another trustee succeeds to the office, as the case may be, and any interim trustee appointed under this sub-section may be removed by the Board on any of the grounds specified in sub-section (1) of section 39.

(2) In making any appointment under sub-section (1) the Board shall have due regard to the claims of the disciples, if any of the math, and in the absence of any such disciple the Board shall take into consideration the claims of the disciples of any other math belonging to the denomination, sect or sampradaya to which the math wherein the vacancy has occurred belongs.

(3) Nothing in this section shall affect the right of any person aggrieved by the order of the Board made under sub-section (1) to establish his right of succession to the office of the trustee in a court of law :

Provided that such court shall have no power to stay the operation of the order of the Board pending disposal of the suit or other proceeding arising in relation thereto.

Fixing of  
standard  
scales of  
expenditure.

48. (1) This trustee of every math or specific endowment attached to a math may, from time to time, submit to the Board proposals for fixing the scale of expenditure in the institution, and the amounts which should be allotted to the various objects or ceremonies connected with the institution or the proportions in which the income or other property of the institution may be applied to such objects or ceremonies.

(2) The trustee shall publish such proposals at the premises of the math and in such other manner as the Board may direct, together with a notice inviting objections and suggestions from persons having interest to be submitted to the Board within one month from the date of such publication.

(Sec. 49)

(3) If, on a scrutiny of such proposals and the objections and suggestions, if any, made by persons having interest, the Board is of opinion that the scale of expenditure or any item in the scale of expenditure is at variance with the established usages of the institution or for sufficient reasons needs modification, it may call for an explanation from the trustee and after considering the same, may pass such order as it thinks fit on such proposals and communicate a copy of the order to the trustee and to the persons, if any, filing objections or suggestions.

(4) The trustee or any person having interest may, within one month from the date of receipt by the trustee of any order made under sub-section (3), prefer an appeal before the Tribunal.

49. (1) When the hereditary trustee of a math appoints his successor he shall give intimation in writing to the Board and all subsequent changes in the nomination shall also be intimated likewise within three months of the nomination. Appointment of successors by hereditary trustees.

(2) For the purpose of succession to the office of trustee of the math the last nomination so intimated shall be recognised by the Board.

(3) Where no such nomination is made in respect of any math during the life-time of the trustee thereof, the Board shall be competent to appoint an interim trustee in respect of the math until a duly appointed trustee takes over office and the interim trustee so appointed may be removed by the Board on any of the grounds specified in sub-section (1) of section 39.

(4) In making the appointment of an interim trustee under sub-section (3) the Board shall have due regard to the claims, of the disciples, if any, of the math and in the absence of any such disciple the Board shall take into consideration the claims of the disciples of any other math belonging to the denomination, sect or sampradaya to which the math wherein the vacancy has occurred belongs.

(5) Any person aggrieved by the order of the Board appointing an interim trustee under sub-section (3) may, within ninety days from the date of the order, institute a suit in a competent Civil Court to establish his right to the office of hereditary trustee of the math.

( *Sec. 50* )

(6) The order made by the Board shall, subject to the decision in the suit, if any, instituted as aforesaid, be final.

(7) Notwithstanding anything contained in any other law for the time being in force where an interim trustee has been appointed under sub-section (3) and either—

- (a) no suit is instituted under sub-section (5) within the period specified therein; or
- (b) a suit having been so instituted has been dismissed, the Board shall, subject to the directions contained in the trust deed, if any, relating to the math, appoint a hereditary trustee for the math and the trustee so appointed shall be subject to the other provisions of this Act in the same manner as a trustee duly nominated by this predecessor :

Provided that in the absence of any such direction as aforesaid the Board shall, in making the appointment have due regard to the claims of persons referred to in sub-section (4).

## CHAPTER VII

## Inquiries

Tribunal  
to decide  
certain  
disputes.

50. (1) If any question or dispute arises as to—
- (a) whether an institution is a public religious institution;
  - (b) whether an institution is a temple or math;
  - (c) whether a trustee holds or held office as a hereditary trustee;
  - (d) whether any property or money is of a religious endowment or specific endowment;
  - (e) whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution and what the established usage of a religious institution is in regard to any other matter;

(Sec. 51)

(f) whether any institution or endowment is wholly or partly of a religious or secular character and whether any property or money has been given wholly or partly for religious or secular purposes; or

(g) where property or money has been given for the support of an institution or the performance of a charity, which is partly of a religious and partly of a secular character or when any property or money is given for appropriation partly to religious and partly to secular purposes, as to what portion thereof shall be allocated to religious purposes.

such question or dispute shall be decided by the Tribunal.

(2) The burden of proof in all disputes covered by clauses (a) and (d) shall lie on the person claiming the institution to be private or the property or money to be other than that of a religious endowment or specific endowment, as the case may be.

51. (1) Whenever there is reason to believe that in the interest of the proper administration of any religious institution a scheme may be settled for it, the Board shall proceed to frame a scheme in the manner hereinafter provided.

(2) Before proceeding to frame a scheme in respect of any religious institution the Board shall consult in the prescribed manner the trustee of the institution and persons having interests therein and hold an enquiry in the prescribed manner; and if after such consultation and enquiry the Board is satisfied that it is necessary or desirable to frame a scheme it shall, by order recording the reasons therefor, frame a scheme for the administration of the institution.

(3) A scheme settled under sub-section (2) for a temple or its specific endowment may contain provision for—

(a) fixing the number of non-hereditary trustees;

Power of  
Board to  
frame  
scheme.

( *Sec. 51—contd.* )

- (b) removing any existing trustee, whether hereditary or non-hereditary, anything in section 39 to the contrary notwithstanding:

Provided that where provision is made in the scheme for the removal of hereditary trustee, provision shall also be made therein for the appointment as trustee of the person next in the line of succession who is qualified;

- (c) appointing a new trustee or trustees in addition to or in the place of, any existing trustee or trustees;
- (d) defining the powers and duties of the trustee or trustees;
- (e) the appointment of an Executive Officer, who shall be a person professing the religion to which the temple belongs on such salary as may be fixed to be paid out of the funds of the institution; and defining the powers and duties of such trustee or officer.

(4) A scheme settled under sub-section (2) for a math may contain provision for—

- (a) the appointment of an Executive Officer, who shall be a person professing the Hindu religion, on such salary as may be fixed to be paid out of the funds of the math;

(b) defining the powers and duties of the trustee or the Executive Officer;

- (c) associating one or more persons with the trustee or constituting a separate body for the purpose of participating or assisting in the whole or any part of the administration of the endowment of such math or of the specific endowment or for the purpose of advising the trustee:

Provided that such person or persons or the members of such body shall be chosen from persons having interest in such math or endowment.

(Sec. 52)

(5) An Executive Officer appointed under this section may be removed from office by the Board on any of the grounds specified in sub-section (1) of section 39.

(6) The Board may determine what the properties of the religious institution are and append to the scheme a schedule containing a list of such properties.

Provided that the absence of such a schedule shall not invalidate the scheme:

Provided further that such determination shall not affect the rights of persons who are in hostile possession of any of the said properties.

(7) The Board may, pending the framing of a scheme for a temple or specific endowment appoint a fit person to discharge all or any of the functions of the trustee thereof and define his powers and duties.

(8) All schemes framed under the Orissa Hindu Religious Endowments Act, 1951, which were in force immediately prior to the coming into force of this Act shall, for all purposes, be deemed to be schemes framed under this Act.

(9) The Board may, at any time, after consulting the trustee and the persons having interest, by order, modify or cancel any scheme settled or deemed to be settled under this Act.

(10) Every order of the Board settling, modifying or cancelling a scheme shall, subject to the provisions of section 53, be binding on the trustee, the Executive Officer and all persons having interest.

52. (1) The Board may, on being satisfied that the purpose of a religious institution has from the beginning been or has subsequently become impossible or incapable of realisation, or that the machinery for effecting such purpose has failed or no longer exists, or that after providing adequately for the purposes of the institution and after setting apart a sufficient sum for the repair and renovation of the buildings connected therewith there is a surplus which is not required for such purposes, by any order, direct that the endowments of the institution or such surplus as is declared to be available, as the case may be, Cypres application of funds.



(Secs. 53—54)

be appropriated to religious, educational or charitable purposes not inconsistent with the objects of the institution:

Provided that in the case of a temple founded and maintained by a community or a specific endowment attached to such a temple, the endowments or surplus as aforesaid shall, as far as possible, be utilised for the benefit of the community for the purposes mentioned above.

(2) It shall be competent to the Board when giving a direction under sub-section (1) to determine what portion of such endowments or surplus shall be retained as a reserve fund for the religious institution and to direct the remainder to be appropriated to the purposes specified in that sub-section.

(3) The Board may, at any time by order, modify or cancel any order passed under sub-section (1) or a similar order passed under the Orissa Hindu Religious Endowments Act, 1951. Orissa Act 2 of 1952.

(4) The order of the Board under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of section 53, be binding on the trustee, the Executive Officer and all persons having interest.

Appeal

53. (1) Any person aggrieved by any order passed by the Board under sub-section (2) or sub-section (9) of section 51 or under section 52, may, within ninety days from the date of receipt of the order under section 51 or from the date of publication of the order under section 52, as the case may be, prefer an appeal before the High Court.

(2) Any party aggrieved by an order of the Tribunal made under section 50 may, within ninety days from the date of the order, prefer an appeal before the High Court.

## CHAPTER VIII

### Religious Institutions under direct control

Appointment  
Executive  
Officer.

54. (1) For every institution or a group of institutions under the direct control of the State Government the Board shall, as soon as may be, appoint an Executive Officer who shall be a person professing the Hindu religion.

(Secs. 55—59)

(2) The Executive Officer may be paid such salary and allowances, if any, as may be determined by the Board from the fund of the religious institution concerned.

55. (1) The Executive Officer shall hold office for such period as may be fixed by the Board and he shall exercise such powers and perform such duties as may be assigned to him by the Board.

Term of office and duties of 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.

45 of 1868

56. The Board may suspend, remove or dismiss the Executive Officer in the prescribed manner.

Removal of Executive Officer.

57. (1) The Executive Officer shall, after due enquiry, submit proposals for fixing the scale of expenditure in the institution and the amounts which shall be allotted to the various objects or ceremonies connected with the institution or the proportion in which the income or other property of the institution may be applied to such objects and ceremonies.

Fixing of standard scale of expenditure.

(2) The Executive Officer shall publish the proposals at the premises of the institution and in any other manner as the Administrator may direct together with a notice stating that within one month from the date of publication any person having interest may submit objections or suggestions to the Administrator.

(3) After expiry of the said period the Administrator shall, after considering the objections and suggestions received by him, pass such order as he thinks fit on such proposals and communicate a copy of the order to the Executive Officer and to the persons, if any, filing objections or suggestions.

58. Subject to such general or special directions as may be issued by the State Government, the Board may delegate any of its powers and functions in relation to religious institutions under the direct control of the State Government to any officer not below the rank of an Additional District Magistrate and may, at any time, withdraw any power or function so delegated.

Delegation of powers in relation to institutions under direct control.

59. The Executive Officer appointed under Section 54 shall be deemed to be a trustee for the purposes of section 43 and Chapters IX, X and XI.

Executive Officer deemed to be a trustee for certain purposes.

(Secs. 60—61)

Advisory  
Council for  
any group of  
institutions  
under direct  
control.

60. (1) The State Government may constitute an Advisory Council for any one or group of religious institutions under their direct control.

(2) The Advisory Council may advise the Board or the concerned Committee or Executive Officer regarding the management of the affairs of the institution concerned.

(3) The composition, term of office and the procedure for the conduct of business of the Advisory Council shall be such as may be prescribed.

## CHAPTER IX

## Budget, Accounts and Audit

Budgets of  
religious  
institutions.

61. (1) The trustee of every religious institution liable to pay contribution under sub-section (3) of section 67 shall, before the end of December in each year, submit to the Administrator in such form as may be fixed by him, a budget showing the probable receipts and disbursements of the institution during the following financial year.

(2) Every such budget shall make adequate provisions for—

- (a) the scale of expenditure for the time being in force and in the case of a math, its other customary expenses including the nitis and other religious pursuits ;
- (b) the due discharge of all liabilities binding on the institution ;
- (c) the repair and renovation of the buildings connected with the institution ;
- (d) expenditure on religious, educational and charitable purposes not inconsistent with the objects of the institution which shall not be less than five per centum of the gross income unless the Administrator otherwise directs ;
- (e) the maintenance of a working balance ;
- (f) the amount of expenditure that may be incurred by the trustee under section 34.

## (Secs. 62—64)

(3) The Administrator may, on receipt of the budget, make such alterations, omissions or additions therein as he may deem proper.

(4) Notwithstanding anything contained in any other law for the time being in force or any custom or practice obtaining to the contrary, the provisions made for remuneration of any office-holder or for any other item of expenditure in respect of any institution may be increased, decreased or modified by the Administrator if such increase, decrease or modification is considered necessary in view of the financial condition of the institution.

(5) A trustee may, within one month of the date of the receipt by him of the order passed by the Administrator under sub-section (3) or (4), prefer an appeal against such order before the Board.

62. (1) The trustee of every religious institution shall keep regular accounts of all receipts and disbursements. Accounts and audit.

(2) The accounts of every religious institution which is liable to pay contribution shall be subject to annual audit and the accounts of every other religious institution shall be audited once in every three years or if the Board so directs in any case or classes of cases, at a shorter interval.

(3) The audit of the accounts of religious institutions belonging to the former category as aforesaid shall be made by Auditors appointed by the State Government in consultation with the Accountant-General and in the case of any other religious institution, by the special Audit staff appointed by the Board.

63. After completing the audit for any year or any shorter period, or for any transaction, or series of transactions, as the case may be, the Auditor shall send a report to the Board. Authority to whom audit report is to be submitted.

64. (1) The Auditor shall specify in his report all cases of irregular, illegal or improper expenditure or of failure to recover moneys or other property due to the religious institution, or of loss or waste of money or other property thereof, caused by negligence or misconduct. Contents of audit report

## ( Sec. 65 )

(2) The Auditor shall also report on any other matter relating to the accounts as may be prescribed, or on which the Board may require him to report.

Rectification  
of defects  
disclosed in  
audit and  
order of  
surcharge  
against  
trustee.

65. (1) The Administrator shall send a copy of every audit report relating to the accounts of a religious institution to the trustee thereof, and it shall be the duty of such trustee to remedy any defects or irregularities pointed out by the Auditor and report the same to the Administrator.

(2) The Administrator shall forward to the Board the report, if any, of the trustee made under sub-section (1), together with such remarks as he may make thereon.

(3) If, on a consideration of the report of the Auditor along with the report, if any, of the trustee the Board is satisfied that the trustee or any employee of the institution concerned with the management of the trust property was guilty of misappropriation or wilful waste of the funds of the institution or of gross negligence resulting in a loss to the institution, it may, after giving notice to the trustee or to the employee, as the case may be, to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, by order, certify the amount so lost and direct the trustee or the employee concerned to pay such amount personally, within such time as may be specified in the order.

(4) The trustee or the employee who is aggrieved by an order made under sub-section (3) may, within one month of the receipt of the order, prefer an appeal before the Tribunal.

(5) The sum specified in the order of surcharge shall be paid within the time specified in such order, unless the trustee or, as the case may be, the employee has appealed to the Tribunal to modify or set aside the order and has obtained an order for stay.

(6) An order of surcharge made under this section against a trustee or employee shall not bar a suit for accounts against him except in respect of matters finally dealt with by such order.

( Secs. 66—67 )

(7) The Collector of the district, in which is situate any property of the trustee or the employee from whom an amount by way of surcharge is recoverable, shall, on a requisition made by the Administrator recover such amount as if it were an arrear of land revenue and pay the same to the religious institution concerned.

66. The provisions of this Chapter shall apply to every religious institution, notwithstanding anything to the contrary contained in any scheme settled or deemed to be settled under this Act. <sup>Application of the provisions of this Chapter.</sup>

## CHAPTER X

## Finance

67. (1) There shall be established a fund to be called the "Orissa Hindu Religious Endowments Administration Fund" which shall vest in and be administered by the Board. <sup>Endowments Fund.</sup>

(2) The following sums shall be credited to the said fund namely:—

- (a) contributions levied under sub-section (3) ;
- (b) fees levied under section 78 ;
- (c) penalties realised under section 76 ;
- (d) any grant or contribution by the State Government, any Local authority or any individual whether corporate or not ;
- (e) any sum borrowed by the Board from the State Government.
- (f) all amounts standing to the credit of the Endowment Fund constituted under the Orissa Hindu Religious Endowments Act, 1951 ;
- (g) any other sum which may be credited by or under any of the other provisions of this Act.

Orissa Act 2  
of 1952.

(3) Every religious institution having an annual income exceeding two thousand and five hundred rupees shall, from the income derived by it, pay to

(Secs. 68—69)

the Endowment Fund annually such contribution not exceeding seven per centum of its income as may be prescribed :

Provided that where there has been a fall in the income of any religious institution in respect of any year due to cyclone, flood, drought or other natural calamities the Board may, with the approval of the State Government, remit the payment of contribution by such institution in respect of that year.

(4) Every religious institution which is liable to pay contribution as aforesaid shall pay to the Endowment Fund annually for meeting the cost of auditing its accounts such further sum not exceeding one and half per centum of its income as the Administrator may determine.

(5) The annual payments referred in subsections (3) and (4) shall be made, notwithstanding anything to the contrary contained in any scheme settled or deemed to be settled under this Act for the religious institution concerned.

(6) The Endowment Fund shall be utilised for meeting the expenses incidental to the purposes of this Act including the cost of auditing the accounts of religious institutions and the cost of any staff maintained for conducting the said audit.

Recovery of costs and expenses incurred on legal Proceedings. 68. All costs, charges and expenses incurred by the Board, in connection with legal proceedings in respect of any religious institution to which the Board is a party, shall be payable out of the funds of such religious institution.

Assessment and recovery of contribution and costs and expenses. 69. (1) The contributions, costs and expenses payable under sections 67 and 68 shall be assessed in the prescribed manner by the Administrator on the basis of the average income of the preceding three years for the following three years and the amount so assessed shall be intimated to the trustee.

(2) The trustee may, within fifteen days from the date of the receipt of such intimation or within such further time as may be granted by the Administrator, file his objection thereto, if any, before the Administrator in writing and the Administrator shall, after considering such objection, make an order confirming, withdrawing or modifying the assessment so made.

## (Sec. 69—contd.)

(3) Any trustee aggrieved by an order made under sub-section (2) may, within one month from the date of the order, prefer an appeal before the Board.

(4) The amount assessed under this section shall be paid by the trustee within one month from the date of receipt of the intimation under sub-section (1), or where an objection has been filed or an appeal has been preferred, within one month from the date of the order passed on the objection or, as the case may be, in the appeal, or within such further time as may be granted by the Administrator.

(5) If the trustee fails to pay the amount aforesaid within the time allowed, the Collector of the district in which any property of the religious institution is situate shall, on a requisition made to him in the prescribed manner by this Administrator and subject to the provisions of this section, recover such amount as if it were an arrear of land revenue.

(6) The Collector shall, on receipt of a requisition under sub-section (5), withhold the amount mentioned therein out of any allowance, grant or other dues payable by the State Government to the religious institution concerned, but where such allowance, grant or other dues are insufficient for the purpose the Collector shall withhold the amount available and recover the balance as if it were an arrear of land revenue.

(7) Places of worship, including temples and tanks, and places where Utsavas are performed, idols, Vahanas, jewels and such vessels and other articles of the religious institution as may be necessary in accordance with the usage of the institution for purposes of worship or ceremonial processions shall not be liable to be proceeded against in pursuance of sub-sections (5) and (6).

(8) Instead of selling the property after attachment thereof under the provisions of the Orissa Public Demands Recovery Act, 1962, it shall be open to the Collector at the instance of the Administrator to appoint a receiver to take possession of the property or such portion thereof as may be necessary and collect the income thereof until the amount sought to be recovered is realised. The remuneration, if



(Secs. 70—71)

any, paid to the receiver, and the other expenses incurred by him, shall be paid out of the income of the institution concerned.

(9) No objection which could be preferred or which was preferred and rejected by the Administrator under sub-section (2) shall be entertained under the said Act.

(10) No suit, prosecution or other legal proceeding shall be entertained in any Court of Law against the Board or any officer or servant of the State Government for any thing done or intended to be done in good faith in pursuance of this section.

70. It shall not be competent for the Administrator to levy any contribution for more than three years immediately preceding the year in which the intimation of assessment is issued under section 69.

Contribution not to be levied for more than Six years immediately preceding the year in which notice of assessment is issued.

Common Good Fund.

71. (1) It shall be lawful for the Board to create a fund called the Orissa Hindu Religious Endowments Common Good Fund (hereinafter referred to as the Common Good Fund) out of the contributions voluntarily made by—

- (a) any individual or association of persons;
- (b) any religious institution;
- (c) any local authority; or
- (d) any other body or institution.

(2) A contribution to the Common Good Fund may be made without indicating any purpose for which the amount contributed is to be utilised:

Provided that specific purpose may be indicated in such purpose is consistent with the purposes mentioned in clauses (a), (b) and (c) of sub-section (4) and the amount contributed is not less than one thousand rupees.

(3) The Common Good Fund shall vest in and shall be administered by the Board.

(4) Subject to the rules made in that behalf and to such instructions may be issued by the State Government from time, the Common Good Fund shall be utilised for—

- (a) making grants and advancing loans to such religious institutions as may be in need of financial assistance;

( Secs. 72—74 )

- (b) the repair and renovation of ancient temples and shrines and the establishment of new ones;
- (c) the establishment of educational institutions for imparting instructions on religion ; and
- (d) charitable purposes :

Provided that any amount contributed for any specific purpose shall be utilised only for the purpose.

72. The Board may borrow money from the State Government subject to such terms and conditions as they may fix. Power to borrow.

## CHAPTER XI

### Miscellaneous

73. All public officers having custody of any record, register, report or other document relating to a religious institution or any movable or immovable property thereof shall furnish such copies or extracts from the same as may be required by the Board or the Tribunal. Public officers to furnish copies of or extracts from certain documents.

74. (1) Where a person has been appointed as trustee or Executive Officer of any religious institution or to discharge the functions of a trustee of any religious institution and such person is resisted in or prevented from obtaining possession of the religious institution or of the record, accounts and properties thereof, by a trustee, office-holder or servant of the religious institution who has been dismissed or suspended from his office or is otherwise not entitled to be in possession, or by any person claiming or deriving title from such trustee, office-holder or servant, other than a person claiming in good faith to be in possession on his own account or on account of some person not being such trustee, office-holder or servant, the Board shall, on application by the person so appointed, direct delivery of possession of the religious institution and its endowments or the records, accounts and properties thereof, as the case may be, to the applicant in the prescribed manner. Putting trustee or Executive Officer in possession.

*Explanation*—A person claiming under an alienation contrary to sub-section (1) of section 30 or section 37 shall not be regarded as a person claiming in good faith within the meaning of this section.

( Sec. 74—contd. )

(2) Any person authorised by the Board or acting under its written instructions in the prescribed form, may, for the purpose of delivery of possession under sub-section (1), take or cause to be taken such steps and use or cause to be used such force as may in his opinion be reasonably necessary and may also enter upon any land or other property whatsoever and in the event of any apprehension of breach of peace in the course of such delivery of possession, the Superintendent of Police shall, on a requisition from the Board in the prescribed manner provide such police aid as may be necessary for the purpose.

(3) The Board may also make a requisition to the Collector of the district in which the property of the religious institution is situate, in the prescribed form to deliver its possession to the trustee or Executive Officer, as the case may be.

(4) On receipt of a requisition under sub-section (3) the Collector shall serve a notice on the person reported to be in occupation or his agent to vacate the said property within such time as the Collector may specify in the said notice. If such notice is not obeyed, the Collector shall remove him or depute a subordinate officer to remove such person or agent. In the case of any resistance or obstruction the Collector shall hold a summary enquiry into the facts of the case and if satisfied that the resistance or obstruction was without any just cause and that such resistance or obstruction still continues may issue a warrant for the arrest of the said person and on his appearance may send him with a warrant in such form as may be prescribed for imprisonment in the Civil Jail of the district for such period not exceeding thirtydays as may be necessary to prevent the continuance of such resistance or obstruction.

(5) No suit, prosecution or other legal proceedings shall lie against the Board or any person acting under its instruction or authorised by it for anything done in good faith under sub-sections (1) and (2).

(6) Every person authorised by the Board or acting under its instructions in pursuance of this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1869

( Secs. 75—77 )

75. (1) Whenever the trustee of any religious institution is sued in any Civil or Revenue Court in respect of any property belonging to or given or endowed for the purpose of any religious institution, notice of such suit shall be given by the Court concerned to the Board at least a month before commencement of the hearing at the cost of the party filing the suit and upon receipt of the notice the Board may take such steps as it may consider fit for protecting the interest of the institution.

Notice by Court and cost of proceedings.

(2) The costs, charges and expenses incidental to all proceedings before the Board or the Tribunal shall be at its discretion and it shall have full power to determine by whom or out of what funds and to what extent such costs, charges and expenses are to be paid; and all sums awarded on account of such costs, charges or expenses shall, on a requisition made by the Board, be recoverable as arrears of land revenue.

76. (1) If any trustee, Executive Officer or other person in whom the administration of a religious institution is vested, refuses, neglects or fails to comply with the provisions of sections 22, 23, 25, 27, 28 or 29 or fails to make over charge of the institution when so ordered he shall, unless he shows reasonable cause to the satisfaction of the Board, be liable to pay such penalty not exceeding five hundred rupees and in case of persistent default in compliance with the order a daily fine not exceeding fifty rupees as may be ordered by the Board.

Penalty for refusal by trustee, etc., to comply with provisions of this Act.

(2) Any person aggrieved by an order made under sub-section (1) may within one month from the date of the order, prefer an appeal before the Tribunal.

(3) If the penalty is not paid within the time fixed or within such further time as may be granted by the Board, the Collector of the district in which any property of the person against whom an order has been made is situate shall, on a requisition made to him by the Administrator, recover the amount as if it were an arrear of land revenue and pay the same to the Board.

77. Notwithstanding anything contained in the Court-fees Act, 1870 every petition or application or memorandum or appeal specified in column (2) of the Schedule shall bear Court-fee stamp of the value mentioned against it in column (3) thereof.

Granting of  
copies.

78. The Board shall grant copies of such documents on payment of such fees and subject to such conditions as may be prescribed and copies so granted shall be certified in the manner provided under section 76 of the Indian Evidence Act, 1872 by the Administrator or by any other officer authorised by the Board in that behalf.

Delegation  
of powers  
by the  
Board.

79. (1) Subject to such directions or instructions as the State Government may, from time to time issue, the Board may with the prior approval of the State Government, delegate any of its functions to the President or any other member of the Board or to the Administrator and may in like manner withdraw any function so delegated.

(2) The Board may fix any terms and conditions subject to which the functions so delegated shall be performed.

Power of  
Government  
to cause  
inspection  
and issue  
directions.

80. (1) The State Government may, from time to time, give to the Board such general or special directions, not inconsistent with the provisions of this Act, as they think fit and in the performance of its functions and exercise of its powers the Board shall comply with the directions so issued.

(2) The State Government may authorise any officer to inspect the office of or any property belonging to the Board or any Committee and it shall be the duty of the Board or, as the case may be, the Committee and the employees thereof to afford all reasonable facilities to such officer for the purpose of holding the inspection.

Saving of  
usages.

81. Nothing contained in this Act shall—

(a) save as otherwise expressly provided by or under this Act, affect any honour, emolument or perquisite to which any person is entitled by custom or otherwise in any religious institution or by its established usage in regard to any other matter; or

(b) authorise any interference with religious and spiritual functions of the head of a math including those relating to the imparting of religious instructions or the rendering of spiritual service.

( Secs. 82—84 )

82. Nothing contained in this Act shall 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 clauses (a), (b) and (c) of Article 26 of the Constitution.

Act not to affect rights under clauses (a) to (c) of Article 26 of the Constitution.

83. (1) No suit or other legal proceeding in respect of the administration of a religious institution or in respect of any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of Law, except under, and in conformity with, the provisions of this Act.

Bar of suits in respect of administration of religious institution.

(2) Nothing contained in this section shall affect the right of the trustee of a religious institution appointed under this Act to institute a suit to enforce the pecuniary or property rights of the institution or the rights of such institution as a beneficiary.

84. (1) The procedure to be followed at an inquiry held under this Act by the Administrator, the Board or the Tribunal or to be followed in hearing an appeal filed thereunder before the Board or the Tribunal shall be such as may be prescribed.

Procedure at inquiries and appeals.

(2) The Administrator, the Board and the Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :—

5 of 1908

- (a) summoning and enforcing the attendance of any witness and examining him on oath ;
- (b) discovery and production of any document or other material object producible as evidence ;
- (c) reception of evidence on affidavits ;
- (d) requisitioning of any public record from any court or office ;
- (e) issuing of any commission for the examination of witnesses ; and
- (f) any other matter which may be prescribed.

( Sec. 85—86 )

(3) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and for the purposes of section 196 of that Code and the Tribunal shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898.

45 of 1869  
5 of 1898

(4) The services of all processes and notices issued by the Administrator, the Board or by the Tribunal under any of the provisions of this Act shall, on requisition from the issuing authority, be effected by the Civil Court having jurisdiction in the area.

Notifications  
order etc.  
under Act.  
not to be  
questioned  
in Court of  
law.

85. Save as otherwise expressly provided in this Act no notification issued, order passed, decision made, proceedings or action taken, scheme settled, or other thing done under the provisions of this Act by the State Government, the Board, the Administrator or by the Tribunal shall be liable to be questioned in any Court of Law.

Power to  
make rules.

86. (1) \*The State Government may, after previous publication, make rules to carry out all or any of 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 effectual exercise of the powers vested in the State Government under this Act ;
- (b) the form and manner in which applications and appeals shall be submitted ;
- (c) the procedure to be followed in making inquiries and hearing appeals, other than appeals before the High Court, under this Act and the powers vested in a Civil Court which may be exercised while making an inquiry ;
- (d) the inspection of documents and fees to be levied for such inspection ;
- (e) the mode of service of processes and notices and the fees to be levied therefor ;

\*For the Orissa Hindu Religious Endowments (Criminal) Rules, 1974, See Orissa Gazette, extraordinary, dated the 2nd June, 1970 (No. 624).

( *Sec. 86-contd.* )

- (f) the grant of certified copies and the fees to be levied therefor ;
- (g) the budgets, reports, accounts, returns or other information to be submitted by trustees ;
- (h) the custody and investment of the funds of religious institutions ;
- (i) the method of calculating the income of a religious institution for the purpose of levying contribution and the rate at which it shall be levied ;
- (j) the manner in which the accounts of religious institutions shall be audited and published, the time and place of audit and the form and contents of the Auditor's report ;
- (k) the security, if any, to be furnished by officers and servants employed for the purposes of this Act and by non-hereditary trustees appointed thereunder ;
- (l) the preservation, maintenance, management and improvement of the properties and buildings of religious institutions ;
- (m) the inspection and supervision of the properties and buildings of religious institutions by such persons as the State Government may direct, the reports to be submitted by such persons and the fees leviable for such inspection, supervision and report ;
- (n) the preservation of the images in temples ;
- (o) the methods by which religious institutions should promote the interest of such institution ;
- (p) the qualifications to be possessed by the officers and servants for appointment to non-hereditary offices in religious institutions, the qualifications to be possessed by hereditary servants for succession to office and the conditions of service of all such officers and servants ;



## ( Sec. 87 )

- (q) the qualifications, method of recruitment, pay, grant of leave, allowance and travelling allowance, personal conduct and punishment of Executive Officers appointed for any religious institution or institutions under direct control and paid officers appointed under schemes settled or deemed to be settled under this Act and their conditions of service ;
- (r) the method of recruitment of the employees of the Board and their conditions of service relating to salary, leave, disciplinary action and other matters ;
- (s) the custody, investment and utilisation of the Endowment Fund and the Common Good Fund ;
- (t) the manner in which the accounts of the Endowment Fund and the Common Good Fund shall be maintained and audited and the audit report shall be published ;
- (u) any other matter which is to be or may be prescribed or provided for by rules.

Repeal and  
savings.

87. (1) The Orissa Hindu Religious Endowments Act, 1951, is hereby repealed.

Orissa Act  
2 of 1952.

(2) Notwithstanding such repeal—

- (a) all rules made, notifications issued, order passed, decisions made, proceedings or actions taken, schemes settled and things done by the State Government or any other authority under the said Act shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made, issued, passed, taken, settled or done by the appropriate authority under the corresponding provisions of this Act ;
- (b) trustees and Executive Officers appointed under the said Act shall be deemed to be trustees and Executive Officers appointed under this Act ; and

( Sec. 88 )

(c) all costs, fees, penalties and contributions which have accrued due under the said Act immediately prior to the coming into force of this Act shall be payable to the Board as if such amounts were due to the Board under the corresponding provisions of this Act.

Orissa Act of 1952. **88. (1)** All proceeding under the Orissa Hindu Religious Endowments Act, 1951, which were pending immediately prior to the date of commencement of this Act shall stand transferred to the appropriate authority and, so far as may be, shall be dealt with as if such proceedings were commenced under the corresponding provisions of this Act. Transitory provisions.

(2) All amounts realised by the Board on account of costs, fees, penalties and contributions due under the said Act and all amounts credited to the Endowment Fund under clause (f) of sub-section (2) of section 67 shall be applied towards payment of the dues of the State Government from the Endowment Fund constituted under this Act.

## SCHEDULE

( See section 77 )

*Court-fees payable for documents*

Section	Description of document	Proper fee
		Rs.
30	Appeal to the Tribunal	.. 15
36	(a) Application to the Administrator for payment of expenses.	.. 2
	(b) Appeal to the Board	.. 5
	(c) Application to the Collector	.. 2
37	Appeal to the Tribunal under sub-section (5)	.. 15
39	(a) Appeal to the Tribunal	.. 25
	(b) Appeal to the High Court	.. 50
42	Appeal to the Board against the order of the trustee	.. 2
	Appeal to the Board against the order of the trustee	.. 2

[ 69—73(a) Law ]

( Sch.-contd. )

Section	Description of document	Proper fee Rs.
45	Appeal to the Board under sub-sections (4) and (6) ..	20
46	Appeal to the High Court against the order of the Tribunal under sub-section (2).	50
48	Appeal to the Tribunal against the order of the Board under sub-section (3).	15
50	Application for decision of any question or dispute ..	15
51 (a)	Application to the Board for settling a scheme ..	10
(b)	Application to the Board for modification of scheme ..	10
52 (a)	Application to the Board regarding application of funds	5
(b)	Application to the Board for modification or cancellation of the order passed under sub-section (1).	5
53 (a)	Appeal to the High Court against the order of the Board framing, modifying or cancelling a scheme under sections 51(2) and 51(9).	50
(b)	Appeal to the High Court against an order of the Board under section 52.	50
(c)	Appeal to the High Court against the order of the Tribunal under section 50.	50
61	Appeal to the Board against the order of the Administrator on the Budget Estimate.	10
65	Appeal to the Tribunal against the order of the Board under sub-section (3) regarding the defects disclosed by audit.	20
69	Objection petition by the trustee regarding assessment of income.	2
74	Application for putting trustee in possession of properties.	2
76	Appeal to the Tribunal against order imposing penalty	10
	All adjournments and miscellaneous petitions to the Administrator, Board or Tribunal.	1

**THE ODISHA HINDU RELIGIOUS ENDOWMENTS  
(AMENDMENT) ACT, 2018**

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## LAW DEPARTMENT

### NOTIFICATION

The 9th November, 2018

No.12360–I-Legis-31/2018/L.—The following Act of the Odisha Legislative Assembly having been assented to by the Governor on the 8th November, 2018 is hereby published for general information.

ODISHA ACT 25 OF 2018

### THE ODISHA HINDU RELIGIOUS ENDOWMENTS (AMENDMENT) ACT, 2018

AN ACT FURTHER TO AMEND THE ODISHA HINDU RELIGIOUS ENDOWMENTS ACT, 1951.

BE it enacted by the Legislature of the State of Odisha in the Sixty-ninth Year of the Republic of India as follows: —

Short title and commencement

1. (1) This Act may be called the Odisha Hindu Religious Endowments (Amendment) Act, 2018.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Amendment of section 42.

2. In the Odisha Hindu Religious Endowments Act, 1951 (hereinafter referred to as the principal Act), in section 42, —

Odisha Act  
2 of 1952.

(a) in sub-section (1), the following proviso shall be added, namely:—

“Provided that the Assistant Commissioner or the Deputy Commissioner, as the case may be, before making any order for framing of a scheme for the administration

of the Institution under clause (a) and clause (b) of this sub-section, shall obtain prior approval of the State Government through the Commissioner.”;

(b) after sub-section (1), the following sub-sections shall be added, namely:—

“(1-a) On receipt of the proposal made under sub-section (1) from the Assistant Commissioner or the Deputy Commissioner, as the case may be, for framing of a scheme for administration of the religious institution, the Commissioner with his suggestion, if any, shall submit the same to the State Government for its approval.

(1-b) The State Government may either accord the approval or reject or modify the proposal for framing of such scheme as it may deem fit in the interest of the concerned religious institution.”;

(c) in sub-section (2),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) fixing the number of non-hereditary trustees and the manner of appointment of such trustees:

Provided that not less than fifty per centum of the trustees shall be appointed by virtue of their office amongst the officers of the State Government of the Sub-division in which the religious institution is situated and in case of non-availability of required number of officials, it may extend to the whole of the district.”;

(ii) in clause (c), the following proviso shall be added, namely:—

“Provided that no new trustee or trustees, in addition to or in place of any existing trustee or trustees shall be appointed without consultation with the Collector concerned.”; and

(iii) in clause (e), for the words and comma “ the appointment of the paid Executive Officer,” the words and commas “subject to the prior consultation with the Collector of the district concerned, the appointment of the paid Executive Officer,” shall be substituted;

(d) in sub-section (3), in clause (a), for the words and comma “the appointment of a paid Executive Officer,” the words and commas “subject to the prior consultation with the Collector of the district concerned, the appointment of a paid Executive Officer,” shall be substituted;

(e) in sub-section (5), for the words “appoint a fit person” the words “and appoint a fit person in consultation with the Commissioner” shall be substituted;

(f) in sub-section (7), the commas, words and figure “,subject to the provision of section 44,” shall be omitted;

(g) for sub-section (8), the following sub-section shall be substituted, namely:—

“(8) An Executive Officer appointed in pursuance of a scheme framed under this section may be removed by the appointing authority for all or any of the reasons specified in section 28 and an appeal against the order of removal shall lie to the State Government, if preferred within thirty days from the date of the order.”; and

(h) after sub-section (8), the following sub-section shall be inserted, namely:—

“(9) Any person aggrieved by the order passed under sub-section (1) or sub-section (6) may, within sixty days from the date of receipt of such order, prefer an appeal to the High Court.”.

Amendment of section 44.

3. In the principal Act, in section 44, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any person aggrieved by an order under section 41 or section 43 may, within thirty days from the date of receipt of the order under section 41 or section 43, as the case may be, prefer an appeal to the Commissioner.”.

Amendment of the Schedule.

4. In the principal Act, in the Schedule, —

(a) for the entries appearing in columns (2) and (3) against section 42 appearing in column (1), the following section with its entries shall be substituted under the appropriate columns, namely:—

(1)	(2)	(3)
“42(i)	Application to the Assistant Commissioner or the Deputy Commissioner for settling a scheme	10
(ii)	Application to the Authority for modification of a scheme	10
(iii)	Appeal to the High Court against the orders passed under sub-section (1) or (6)	50.”;and

(b) in section 44 appearing in column (1), items (ii) and (v) along with the entries thereto, appearing in columns (2) and (3) shall be omitted.

Effect of provisions of amendments.

5. (1) Notwithstanding anything to the contrary contained in the principal Act, rules and the scheme, every non-hereditary trustee appointed under the scheme and holding office immediately before the date of commencement of the Odisha Hindu Religious (Amendment) Act, 2018 shall cease to hold offices as such on expiration of three months



from the date of commencement of the said Amendment Act and the non-hereditary trustee shall be appointed in accordance with the principal Act as amended by the said Amendment Act within the period of three months, who shall assume the office of trustee after expiration of such period of three months.

(2) In the event the non-hereditary trustee could not be appointed in accordance with the provisions of principal Act as amended by the said Amendment Act, the Commissioner shall appoint a fit person for a period of six months from the date of expiry of the period of said three months.

By order of the Governor

SASHIKANTA MISHRA

Principal Secretary to Government