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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT ANATOMY BILL, 2011.

GUJARAT BILL NO. 15 OF 2011.

A BILL

to provide for the supply of unclaimed bodies of deceased persons and for donation by a person of his body after his death to hospitals and medical teaching institutions for therapeutic purposes or for the purpose of medical education or research including anatomical examination and dissection.

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Anatomy Act, 2011.

Short title and commencement.

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

Definitions

2. In this Act, unless the context otherwise requires,

- (a) "approved institution" means a hospital or medical teaching institute approved by the State Government for all or any of the purposes of this Act;
- (b) "authorised officer" means an officer authorised under section 3;
- (c) "near relative" means any of the following relatives of the deceased, namely :-
parents, children, brother, sister or spouse; and includes any other person who is related to the deceased -
 - (i) by lineal or collateral consanguinity within three degrees in lineal relationship and six degrees in collateral relationship, or
 - (ii) by marriage either with the deceased or with any relative specifically mentioned in this clause or with any other relative within the aforesaid degrees.

Explanation.— The expression "lineal and collateral consanguinity" shall have the meanings assigned to them in the Succession Act, 1925;

- (d) "natural death" means the death that occurs from natural causes such as disease or old age and not caused by suicide or killing by another or by an animal or by machinery or by an accident or death not caused under circumstances raising a reasonable suspicion that some other person has killed the deceased;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "unclaimed body" means the body of a deceased person who has no near relative or whose body has not been claimed by any of his near relatives within such period as may be prescribed.

Power of State Government to authorise officer to act under section 4.

3. The State Government may, by notification in the *Official Gazette*, authorise one or more officers to whom a report shall be made under section 4.

Unclaimed dead bodies to be used for anatomical teaching

4. (1) Where a person, under treatment in a hospital dies of natural death in such hospital and his body is unclaimed, the authority in-charge of such hospital shall, with the least practicable delay report the fact to the authorised officer and such officer shall then hand over, in the manner as may be prescribed, the unclaimed body to the authority in-charge of an approved institution for the purpose of conducting anatomical dissection and teaching.

(2) Where a person dies of a natural death in any public place or at his residence other than a hospital; and his body is unclaimed, the authorised officer shall take possession of such unclaimed body and shall hand it over, in the manner as may be prescribed, to the authority in-charge of an approved institution for the purpose specified in sub-section (1).

39 of 1925

(3) (i) Where there is any doubt as to the natural death or when for any other reason the authorised officer considers it expedient so to do, he shall forward the unclaimed body to a police officer referred to in section 2 of 1974. 174 of the Code of Criminal Procedure, 1973.

(ii) If the death appears to be natural death to the police inquest, the unclaimed body may be handed over to the Anatomy Department of the approved institute without performing post-mortem. Whether the unclaimed body is suitable for embalming and can be used for anatomical dissection and teaching purpose shall be decided by a senior officer of the Anatomy Department.

5. If any doubt or dispute arises whether a person is a near relative of the deceased, the matter shall be referred to the Executive Magistrate and his decision shall be final and conclusive.

Doubt or dispute as near relative to be referred.

6. Whoever disposes of or abets the disposal of an unclaimed body of a natural death, save as provided by this Act, or obstructs any authority incharge of an approved institution or an authorised officer from handing over, taking possession of, removing or using, such dead body for all or any of the purposes of this Act, shall on conviction, be punished with fine which may extend to five thousand rupees.

Penalty.

7. All Officers and employees of the Police, Health and other Government Departments, all officers and servants of a local authorities and all village officers and employees shall be bound to take all reasonable measures to assist the authorities and officers authorised under this Act in the discharge of their duties under this Act.

Duty of police and other officers to assist.

8. If any person, either in writing at anytime or orally in the presence of two or more witnesses during his illness whereof he dies, has expressed a request that his body be given to authorities in-charge of an approved institution for being used after his death for therapeutic purposes or for the purposes of medical education or research including anatomical examination and dissection, the near relative lawfully in possession of donor's dead body may, unless he has reason to believe that the request was subsequently withdrawn by the donor, bring the dead body to any approved institution for use in accordance with the request.

Donation of a dead body of deceased person.

9. The approved institute may refuse to accept an unclaimed body or a body brought to it under section 8, if a senior officer decides that the body is not suitable for educational purposes or that the body is not required by the said institute. Only intact dead bodies without any type of mutilation can be accepted for embalming and for teaching purpose.

Refusal to accept dead body.

10. If any of the approved institutes does not accept a dead body as provided in section 9 or after the use of it for the purposes specified in this Act, the same shall be disposed of or caused to be disposed by it in the manner as may be prescribed.

Disposal of dead body.

Registers,
returns, etc.

11. (1) The authority in-charge of the approved institute shall maintain a register of the dead bodies it received, used and disposed of in such form and in such manner as may be prescribed.

(2) Every authority in charge of the approved institution shall submit a periodical return to authorised officer in such form and in such manner as may be prescribed.

Protection of
action taken in
good faith.

12. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Officers and
employees to be
public servants.

13. All officers and employees appointed or authorised to act under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Power to make
rules.

14. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as may be after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the Session in which they are so laid or the Session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Repeal and
savings,

15. (1) The Bombay Anatomy Act, 1949, in its application to the State of Gujarat is hereby repealed.

Bom. XI of
1949

(2) Notwithstanding such repeal of the said Act, anything done or any action taken under the said Act including any rule or order made, notification issued or appointment made by or under that Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken by or under this Act and shall continue to be in force until superseded by anything done or any action taken under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

At present the Bombay Anatomy Act, 1949 is in force in the State of Gujarat which provides for the supply of unclaimed bodies of diseased persons to hospitals and medical and teaching institutions for the purpose of anatomical examination and dissection.

The said Act is an enactment of the then Bombay State and it was adopted and applied to the State of Gujarat after the 1st May, 1960.

Since considerable time is passed after the formation of Gujarat State, it is considered desirable to replace the laws enacted in the Bombay State by the Gujarat State enactments. While repealing and re-enacting the law on the subject an opportunity is taken to review the provisions of the said Act.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, the important provisions of the Bill:-

Clause 1.- This clause provides for short title and commencement.

Clause 2.- This clause defines certain terms used in the Bill.

Clause 3.- This clause empowers the State Government to authorise an officer to whom a report of unclaimed body shall be made.

Clause 4.- This clause provides that where a person under treatment in a hospital dies of natural death and his body is unclaimed, the authority-in-charge of the hospital shall report of the unclaimed body to the authorized officer and the body of such person shall be handed over to the approved institution for the anatomical dissection and teaching. It also provides for the procedure to be adopted where there is any doubt as to the natural death of a person or for other reasons.

Clause 5.- This clause provides that the matter shall be referred to the Executive Magistrate in case of doubt or dispute as to whether the person is near relative of the deceased.

Clause 6.- This clause provides for the penalty for breach of the provisions of the Act.

Clause 7.- This clause provides that it shall be the duty of police, health, and other officers and employees of Government Departments and local authorities to assist the authorities and authorised officers in discharge of their duty under this Act.

Clause 8.- This clause provides for donation of dead body of deceased person for therapeutic purposes or the purposes of medical education or research including anatomical examination and dissection.

Clause 9.- This clause provides for refusal to accept the dead body in case the body is unsuitable for educational purposes or that the body is not required by the Department.

Clause 10.- This clause provides that the dead body shall be disposed off in the manner prescribed by rules.

Clause 11.- This clause provides for the maintenance of a register of the dead bodies received, used and disposed off by the approved institution and submission of periodical return to the authorised officer.

Clause 12.- This clause provides for usual indemnity for acts done in good faith.

Clause 13.- This clause provides that all officers appointed or authorised under the Act shall be public servants.

Clause 14.- This clause empowers the State Government to make rules, by notification in the *Official Gazette*, for carrying out the purposes of the Act.

JAYNARAYAN VYAS,

FINANCIAL MEMORANDUM

The Gujarat Anatomy Bill, 2011 seeks to replace and repeal the Bombay Anatomy Act, 1949. The administrative set up already exists for carrying into effect the provisions of the existing Act, the same set up shall continue for the implementation of the provisions of the present Bill and as such, if the Act is enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

JAYNARAYAN VYAS,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1. - Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2. - Sub-clause (f) of this clause empowers the State Government to prescribe by rules the period within which the body of a deceased person shall be claimed by his near relative.

Clauses 3. - This clause empowers the State Government to authorise, by notification in the *Official Gazette*, one or more officers to whom a report under section 4 shall be submitted.

Clause 4. - (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the authorised officer shall hand over the unclaimed body of the person died of natural death in a hospital, to the authority in-charge of an approved institution for the purpose of anatomical dissection and teaching;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which the authorised officer shall hand over the unclaimed body of the person died of natural death in any public place or at his residence, other than a hospital, to the authority in-charge of an approved institution for the purpose of anatomical dissection and teaching.

Clause 10. - This clause empowers the State Government to prescribe by rules, the manner in which the unaccepted dead body shall be disposed off.

Clause 11. - This clause empowers the State Government to prescribe by rules, the form and the manner in which the authority in-charge of the approved institute shall maintain a register of the dead bodies it received, used and disposed off; and also the form and the manner in which every authority in-charge of the approved institute shall submit a periodical return to the Authorised Officer.

Clause 14. - This clause empowers the State Government to make, by notification in the *Official Gazette*, the rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 10th March, 2011.

JAYNARAYAN VYAS.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 11th March, 2011.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.