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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 6-L.—5th January, 2011.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 1 of 2011

**THE BELLEY SANKARPUR RAJIB GANDHI MEMORIAL AYURVEDIC
COLLEGE AND HOSPITAL (TAKING OVER OF MANAGEMENT AND
SUBSEQUENT ACQUISITION) BILL, 2011.**

**A
BILL**

to provide for the taking over of the management and subsequent acquisition of Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital.

WHEREAS it is expedient, in the public interest, to make better provisions for the development, control, management and maintenance of the institution commonly known as the Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital at Mouza Rambati, Jurisdiction List No. 6, Police Station Jagaddal, in the District of North 24-Parganas, said to be run by one Belley Sankarpur Rajib Gandhi Memorial Ayurvedic Society, a registered Society bearing Registration No. S/81169 under the West Bengal Societies Registration Act, 1961, with a view to promoting Ayurvedic System of Medicine and Ayurvedic Education and to provide for that

*The Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital
(Taking over of Management and Subsequent Acquisition) Bill, 2011.*

(Clauses 1-4.)

purpose for the taking over for a limited period of the management and the subsequent acquisition of all properties belonging to the said institution or held for the benefit thereof;

It is hereby enacted in the Sixty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital (Taking over of Management and Subsequent Acquisition) Act, 2011.

(2) It shall come into force at once.

Definitions.

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

- (a) “appointed day” means the date of publication of the order made under section 3 of this Act;
- (b) “administrator” means the Administrator appointed under section 7;
- (c) “land” includes benefits arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth;
- (d) “notification” means a notification published in the *Official Gazette*;
- (e) “prescribed” means prescribed by rules made under this Act;
- (f) “the institution” means Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital at Mouza Rambati, Jurisdiction List No. 6, Police Station Jagaddal, under the Panpur Keutia *Gram Panchayat* in the District of North 24-Parganas together with indoor beds, if any, and provisions for outdoor services and dispensaries, if any, attached thereto and used in connection therewith and includes all lands and buildings, equipments, lecture rooms, libraries, stores, drugs and other articles held or used in connection with, or as accessories to, or as adjuncts of, the said Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital.

Taking over management of the institution.

3. (1) The State Government shall, by order published in the *Official Gazette*, take over the management and control of the institution.

(2) An order made under sub-section (1) shall remain in force for a period of five years from the date of its publication in the *Official Gazette* or, in case of acquisition of the institution under section 4, till the date of such acquisition, whichever is earlier.

Acquisition of the Institution.

4. (1) The State Government may, at any time within a period of five years referred to in sub-section (2) of section 3, acquire the institution by notification.

(2) On and from the date of the notification referred to in sub-section (1) of this section (hereinafter referred to as the date of vesting),—

- (i) the institution togetherwith right, title and interest of the institution shall stand transferred to, and vest absolutely in, the State Government, free from all encumbrances;
- (ii) the institution shall be run by the State Government as a State institution;
- (iii) any contract, whether express or implied or other arrangement, whether made under any statute or otherwise, in relation to the management of any property or other affairs of the institution, and in force immediately before the date of vesting shall be deemed to have terminated on and from the date of vesting;

*The Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital
(Taking over of Management and Subsequent Acquisition) Bill, 2011.*

(Clause 5.)

(iv) every person (not being a part-time or an employee of the age of sixty years or more) who has been a regular employee of the institution and not engaged as a contractual one before the date of vesting shall, on and from the date of vesting, become a regular employee of the State Government and such regular employee shall, if found to be eligible as per prescribed norms formulated for the institution, hold office on the same terms and conditions as would have been admissible to him as if there had been no such vesting and shall continue to do so unless and until his employment under the State Government is duly terminated or until the terms and conditions of his services are duly altered by the State Government by rules made in this behalf:

Provided that the services of every person who expresses his unwillingness to continue in service in terms of the provision of this clause shall stand terminated with effect from the date of vesting or from any other date to be notified by him.

(3) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage, to the contrary, the transfer of the service of any employee of the institution to the service of the State Government shall not entitle such employee to any compensation on any account whatsoever and no claim in this behalf shall be entertained by any court, tribunal or other authority.

Payment of compensation.

5. (1) For the transfer to, and vesting in, the State Government of the institution under section 4, the compensation payable by the State Government for the assets of the society including the lands and buildings held or used by the institution shall be such as may be determined by the competent authority referred to in sub-section (2) of this section, subject to the condition that deduction of all grants and contributions, made by the State Government directly or through the Local Bodies to the institution for the purpose of assets including lands and buildings prior to the appointed day shall be made and subject further to the condition that the total amount of financial assistance, received from the Central Government, if any, for construction of any work of the said buildings or for other purposes of the institution prior to the appointed day, shall be taken into consideration for determination of the quantum of such compensation.

(2) The Special Land Acquisition Collector, North 24-Parganas shall be the competent authority for the purpose of this Act.

(3) Any person aggrieved by the award of the competent authority may appeal to the appellate authority within thirty days from the date of the award and the District Judge, North 24-Parganas shall be the appellate authority for the purpose.

(4) The State Government shall, after the date of the award made by the competent authority or, as the case may be, the date of the order of the appellate authority in the case of an appeal, pay to the person such amount of compensation as he may be entitled under this section:

Provided that no compensation shall be payable under this section where the right to such compensation has been relinquished in writing by a person found entitled to the compensation determined under this Act.

(5) The amount of compensation determined under this section shall carry simple interest at the rate of six *per cent per annum* with effect from the date of vesting till the date of payment of compensation.

*The Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital
(Taking over of Management and Subsequent Acquisition) Bill, 2011.*

(*Clauses 6-8.*)

Effect of taking over of management.

6. (1) The institution shall, so long as it remains under the management of the State Government, be run for the purposes for which it was being run immediately before the appointed day.

(2) The State Government may, at any time before the expiry of the period referred to in sub-section (2) of section 3, by notification, make over the management of the institution to any other person or persons as the State Government may think fit, with effect from such date as may be specified in the notification.

(3) The Administrator appointed under section 7 of this Act shall cease to function with effect from the date on which the management of the institution is made over under sub-section (2) of this section.

(4) The institution shall be deemed to include all assets, rights, powers, authorities and privileges and all property movable or immovable, including lands, buildings, equipments, lecture rooms, libraries, stores, drugs, cash balances, reserve fund, investments and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the institution and all books of accounts, registers and all other documents of whatever nature.

(5) (a) All persons constituting any Governing Body or Management Committee for the institution and all other persons exercising any power of management whatsoever in relation to the institution immediately before the appointed day shall be deemed to have vacated their offices and shall cease to exercise such power.

(b) All persons who have in their possession, custody or control any asset or assets of the institution shall forthwith deliver possession of such asset or assets to the Administrator appointed under section 7 or to such other person as may be authorised by the Administrator in this behalf.

(6) Every person in charge of the management of the institution immediately before the appointed day shall, within ten days from that day or within such further time as the State Government may allow in this behalf, furnish to the Administrator a complete inventory of all properties and assets forming part of the institution, and of all liabilities and obligation of the institution subsisting immediately before the appointed day.

Appointment of Administrator.

7. (1) The State Government shall, by order in writing, appoint an Administrator for managing the institution in accordance with the provisions of this Act and the rules made thereunder.

(2) The State Government may appoint one or more persons to assist the Administrator in carrying out his functions under this Act.

(3) The terms and conditions of service of the Administrator and other person or persons who may be appointed to assist the Administrator shall be such as may be prescribed.

(4) Subject to such directions as the State Government may issue from time to time, the Administrator shall have all the powers of management and control in relation to the institution.

Penalty.

8. Any person, who—

- (a) having in his possession, custody or control any asset, property belonging to the institution, wrongfully withholds such assets and property, or
- (b) wrongfully obtains possession of any asset and property forming part of the institution, or

*The Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital
(Taking over of Management and Subsequent Acquisition) Bill, 2011.*

(Clauses 9-16.)

- (c) wilfully withholds or fails to produce to any person authorised under this Act, any register, record or other documents which may be in his possession, custody or control, or
- (d) fails, without any reasonable cause, to submit any accounts, books or other documents, when required to do so, or
- (e) wrongfully removes or destroys any asset, property and other documents of the institution or prefer any claim under this Act which he knows or has reason to believe to be false or inaccurate,

shall be punishable with imprisonment which shall not be less than one month but which may extend to two years or with fine which may extend to ten thousand rupees, or with both.

Power to defend suits and proceedings.

9. The Administrator appointed under section 7 shall have the power to institute, defend or take part in, any suit or proceeding by or against the institution.

Delegation of power.

10. The State Government may, by notification, direct that all or any of the powers (except the power to make rules) exercisable by it under this Act may also be exercised by such person or persons and on such terms and conditions as may be specified in the notification.

Protection of action under this Act.

11. No suit, prosecution or other legal proceeding shall lie against the State Government or any Officer of that Government or the Administrator or any other person appointed under section 7 for anything which is done or intended to be done in good faith under this Act or the rules made thereunder.

Advances by the State Government.

12. (1) The State Government may, on the application made by the Administrator in this behalf, advance funds for the purpose of efficiently managing the institution and all such moneys shall be repayable with such interest as may be prescribed.

(2) Any money advanced under sub-section (1) shall, subject to the prior payment of property taxes and any sum due to Government on account of rates, taxes or fees, be a first charge upon the properties of the institution.

Contracts, agreements, etc. to remain suspended.

13. The State Government may, if it is satisfied that it is necessary or expedient so to do, direct, by notification, that the operation of all contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments, in force in relation to the institution immediately before the appointed day shall remain suspended and all rights, privileges, obligations and liabilities accruing or arising thereunder before the said date shall remain suspended or shall be enforceable with such modifications and in such manner as may be specified in such notification.

Period of limitation.

14. In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in section 13, the period during which it or the remedy for the enforcement thereof was suspended, shall be excluded.

Act to have overriding effect.

15. The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any other law.

 Power to make rules.

16. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more

*The Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital
(Taking over of Management and Subsequent Acquisition) Bill, 2011.*

(Clause 17.)

successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rule or the State Legislature agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulty.

17. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of publication of this Act in the *Official Gazette*.

STATEMENT OF OBJECTS AND REASONS.

The Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital at Mouza Rambati, Jurisdiction List No. 6, Police Station Jagaddal, under the Panpur Keutia Gram Panchayat in the District of North 24-Parganas was rendering humanitarian services including medical and health care service to the indigent persons of the locality since its inception about fourteen years back through its hospital facilities. The institution is being run by one Belley Sankarpur Rajib Gandhi Memorial Ayurvedic Society, a Society registered under the West Bengal Societies Registration Act, 1961 (West Ben. Act XXVI of 1961). The college was permitted to run from the year 2002 and so far 4 (four) batches of Bachelor of Ayurvedic Medicine and Surgery students have passed from the college. But the college is unable to maintain its standard due to paucity of fund. Every time the Central Council of Indian Medicine under the Department of Ayurved, Yoga and Naturopathic, Unani, Siddha and Homoeopathy, Government of India, New Delhi is raising objections on the shortcomings of the institution. It has been estimated that the institution may not survive privately with the existing seat capacity and the fee-structure. The State Government desire to take over the management of the institution so that the college can run properly in the perspective that there is only one Undergraduate Ayurvedic College in our State. The survival of this college is a must in the public interest.

2. Hence, to serve the public interest, the State Government have decided to take over the management of Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital so that it can function properly, adequately and according to the model specified by the Central Council of Indian Medicine.

3. The present Bill seeks to provide for taking over the management and subsequent acquisition of Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital along with its assets and liabilities held and used by it.

KOLKATA,
The 28th December, 2010.

SURJYA KANTA MISHRA,
Member-in-charge.

*The Belley Sankarpur Rajib Gandhi Memorial Ayurvedic College and Hospital
(Taking over of Management and Subsequent Acquisition) Bill, 2011.*

FINANCIAL MEMORANDUM.

There is financial implication involved in giving effect to the provisions of the Bill. Necessary provision for this purpose will be made in the budget of the Department of Health and Family Welfare, Government of West Bengal.

KOLKATA,
The 28th December, 2010.

SURJYA KANTA MISHRA,
Member-in-charge.

By order of the Governor,

K. Y. S. MANHAS,
*Pr. Secy.-in-charge to the Govt. of West Bengal,
Law Department.*