



RIGHT TO  
INFORMATION

**ఆంధ్రప్రదేశ్ రాజపత్రము**  
**THE ANDHRA PRADESH GAZETTE**  
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No. 5 ]

AMARAVATI,

MONDAY,

26<sup>th</sup> JUNE, 2023.

**ANDHRA PRADESH ACTS, ORDINANCES AND  
REGULATIONS Etc.,**

The following is the authoritative text in English Language of the Ordinance promulgated by the Governor on the 23<sup>rd</sup> June, 2023 is being published under Article 348(3) of the Constitution of India for general information:-

**ANDHRA PRADESH ORDINANCE No. 5 OF 2023.**

Promulgated by the Governor in the Seventy - Fourth Year of the Republic of the India.

**AN ORDINANCE FURTHER TO AMEND THE ANDHRA PRADESH CHARITABLE AND HINDU RELIGIOUS INSTITUTIONS AND ENDOWMENTS ACT, 1987.**

Whereas, the monetary limits prescribed for classification of Institutions under the Section 6 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act No.30/1987), were fixed in the year 2007 through an amendment Act No.33/2007. In view of the changes in the annual income receipts by templets over a period of time, it has become necessary to enable the Government to periodically revise the lower and upper limits of the income specified in each of the classifications provided for under Section 6.

And whereas, according to Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, if after the completion of the lease /license period, the tenant continues to be in possession of the land, such licensee / tenant will be treated as an encroacher. As such the Executive Authorities have to approach the Endowments Tribunal to remove such licensee / tenant from the Endowment institution lands, shops, etc., Keeping these provision in view, Rules were framed in G.O.Ms.No.426, Revenue (Endowments) Department dt. 09.11.2015 for removal of encroachers. The Hon'ble High Court, by its judgement dt. 4.7.2018 in WP Nos. 34361, 39013 and 39151/ 2016 struck down the said Rule holding that such Rules to be ultra vires the Act. The High Court further held that howsoever laudable the Rule may be, it cannot get sanctity unless the Act has been amended suitably. The statutory enablement in this regard is necessitated and accordingly provisions are proposed in the present amendment to expedite removal of encroachments from the property of the religious/ charitable or endowment institutions with checks and safeguards. It is also proposed to make the encroachment of endowment institutions lands as cognizable, non-bailable and triable offence as a warrant case.

And whereas, the Sections 84, 85 and 86 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act prescribes the procedure to be followed while removal of encroachments and group encroachments. In view of the comprehensive amendment by way of substitution of Section 83, there is no necessity for sections 84, 85 and 86. Accordingly, it is decided to omit the Sections 84, 85 & 86.

And whereas, Section 93 of the Act prescribes that while considering the records and passing orders under the said Section, the Government shall not pass any order prejudicial to any party unless he has an opportunity of making his representation. While passing urgent interim orders, it is not practicable to hear the other party. Due to the existing provisions under the Act, such interim orders passed by the Government are liable to be struck down by the Courts. Accordingly, it is decided to amend the proviso of sub-section (1) of Section 93 of the Act suitably.

And whereas, as per present Section 94 of the Act, the Government cannot review any order passed under any mistake, whether of fact or of law, or in ignorance of any material fact, except in case of orders passed under section 93.

And whereas, in the W.P.Nos.984 of 2007 dt. 11.10.2007 and 2345 of 2007 dt. 02.05.2018, the Hon'ble High Court has categorically held as follows:

"A plain reading of section 94 of the Act shows that the order passed by the Government in exercise of the revisional powers under section 93 of the Act alone is amenable for review. The power of review provided under section 94 of the Act is not a general power empowering the Government to review any order passed under the Act but it is confined only to an order passed under section 93 of the Act on the grounds specified there under."

And whereas, the experience shows that the period of 90 days is not sufficient for the Government for complete examination of the relevant files and the orders pronounced and thereby pass a considered order on review in the interest of better administration of justice. The time limit and confining the power of Government review only under section 93 of the Act have are being suitably amended, so as to provide for effective redressals within the provisions of the Act. Accordingly, it is decided to substitute the section 94 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act No.30/ 1987) suitably.

And whereas, the Legislature of the State is not now in session and the Governor of Andhra Pradesh is satisfied that the circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor hereby promulgates the following Ordinance:-

1. (i) This ordinance may be called the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Ordinance, 2023.
- (2) It shall come into force at once.

Short title and  
Commencement.

Amendment of  
Section 6.  
Act No. 30 of 1987.

2. In the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (hereinafter referred to as the Principal Act), in section 6,-

- (1) in sub-clause (ii) of clause (a), after the words "exceeds Rupees twenty five lakhs", the words "or such amount as may be fixed by the Government from time to time as notified in the official gazette" shall be added.
- (2) in sub-clause (ii) of clause (b), after the words "twenty five lakhs", the words "or such lower and higher limits of income as may fixed by the Government from time to time as notified in the official gazette" shall be added.

Substitution of  
Section 83.

3. in the Principal Act, for section 83, the following shall be substituted, namely,-

**"83. Encroachment of land, building, or any property belonging to a charitable or religious institution or endowment and the eviction of encroacher,**

- (1) Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, the encroachment of land, building, or any property of a charitable or religious institution or endowment is prohibited.
- (2) The Executive Officer of the Charitable or Religious Institution or Endowment or the Assistant Commissioner or any authority higher in rank thereof, shall, by notice, require the encroacher to remove the encroachment as hereinafter provided.

Provided that the encroacher shall be entitled to submit reply/ explanation to such notice within one week from the date of receipt of such notice, which shall be duly considered and appropriate orders thereon shall be passed,-

- (a) either with drawing the notice issued and dropping further proceedings; or

- (b) affirming the notice and duly stipulating the time within which such encroachment shall be removed.
- (3) If the encroacher fails to remove the encroachment within such stipulated period, the authority who issued the notice shall remove the encroachment with police assistance, if necessary.
- (4) For the purposes of securing police assistance, the authority concerned shall approach the jurisdictional Superintendent of Police/ Commissioner of Police who shall thereupon provide such police assistance as is deemed necessary for the removal of encroachment.
- (5) Any act of encroachment including the attempt to encroach shall be a cognizable offence, non-bailable and triable as a warrant case, in accordance with the provisions of Code of Criminal Procedure, 1973, punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which may extend to Rupees one lakh.

**Explanation:** (i) For the purpose of this Chapter the expression 'encroachment means every activity by a person or group of persons, without any lawful entitlement and with a view to illegally take possession of lands, buildings or property of an endowment institution :

- (a) Occupy the said lands buildings or property, without the approval of the competent authority sanctioning lease/ mortgage/ license, or continued occupation of land buildings or property after the expiry or cancellation of the lease, mortgage or licence or permission in respect thereof.
- (b) enter into or create illegal tenancies or lease and licences agreement or any illegal document of title in respect of such property.

- (c) Construct un-authorized structures thereon for sale or hire or for his own use and includes an attempt to encroach in the manner indicated above.
- (ii) The term encroacher shall be construed accordingly.
- (iii) This shall be in addition to the provisions herein above contained empowering the removal of encroachment in the manner provided in this section.
- (6) Any person aggrieved by the orders passed by the authority under sub-section (2) above shall have a right of appeal to the Endowments Tribunal within fifteen days from the date of receipt of the said orders.
- (7) During the pendency of the appeal, the Endowment Tribunal is competent to pass such interim orders in the interests of justice including any direction to the encroacher to deposit such amount, either as rentals or otherwise, as may be specified by it in consideration of the use and occupation of the properties in question.

Omission of Sections  
84, 85 and 86.

4. In the Principal Act, sections 84, 85 and 86 shall be omitted.

Amendment of  
Section 91.

5. In the Principal Act, in section 91,-

- (1) after clause (iv), the following clause shall be inserted, namely, -

“(v) Which has been decided by the Endowment Tribunal under section 83(6) of the Act”.

- (2) Under clause (v) as so inserted, in the existing paragraph, after the words “the Government”, the words “or Endowments Tribunal” shall be inserted.

Amendment of  
Section 93.

6. In the Principal Act, in section 93, in sub-section (1), for the existing proviso, the following shall be substituted, namely,-

“Provided that the Government may pass ex parte interim orders as per the circumstances and no final orders shall be passed prejudicial to any party unless he has had an opportunity of making his representation.”.

7. In the Principal Act, for section 94, the following shall be substituted, namely,-

Substitution of  
Section 94.

“94. Review:- (1) “The Government may, at any time, either suomotu or on application from any person interested, review any order passed by it, under the provisions of this Act, if it was passed under any mistake, whether of fact or of law, or in ignorance of any material fact, and in the interests of charitable or religious institution or endowment.

(2) It shall be competent for the Government to keep the order under review in abeyance, pending disposal of the review.

Provided further that no such final order in review shall be passed without affording an opportunity to a person aggrieved or likely to be aggrieved by the said exercise of power.”

**S. ABDUL NAZEER,**  
Governor of Andhra Pradesh.

**G. SATYA PRABHAKARA RAO,**  
Secretary to Government,  
Legal and Legislative Affairs & Justice,  
Law Department.

