

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1742, CUTTACK, TUESDAY, SEPTEMBER 18, 2018/ BHADRA 27, 1940

SECRETARIAT
OF
THE ODISHA LEGISLATIVE ASSEMBLY

NOTIFICATION

The 18th September, 2018

No.8820/L.A.— The following Bill which has been introduced in the Odisha Legislative Assembly on the 17th September, 2018 is herewith published under Rule-68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information.

THE ODISHA HINDU RELIGIOUS ENDOWMENTS (AMENDMENT) BILL, 2018

A

BILL

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 percentum 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.

STATEMENT OF OBJECTS AND REASONS

Section 42 of the Odisha Hindu Religious Endowments Act,1951 provides for framing of a scheme for better administration of religious institutions and Endowments. It is provided that whenever there is any reason to believe that in the interest of the proper administration of religious institutions, a scheme may be settled for it, or, when not less than five persons having interest, make an application in writing stating that in the interests of proper administration of a religious institution a scheme should be settled for it, the Assistant Commissioner or the Deputy Commissioner, as the case may be, shall proceed to frame a scheme interalia containing provisions for fixing the number of non-hereditary trustees, removing any existing trustee or appointing a new trustee or trustees in addition to or in place of existing trustee and their powers and duties, appointing Executive Officer and their power and duties.

The Scheme are not being framed timely and properly by Assistant Commissioner and Deputy Commissioner as a result of which supervision and control of the religious institutions are not properly regulated for which the provisions are not properly implemented. It is now felt appropriate that the scheme should be framed by the Assistant Commissioner and Deputy Commissioner with the approval of the State Government through the Commissioner.

Therefore, it is considered expedient to amend Section 42 of the Odisha Hindu Religious Endowments Act,1951 to strengthen the provisions of the scheme and for smooth management of the religious institutions and to make certain consequential amendments.

The Bill seeks to achieve the above objectives.

PRATAP JENA

Member-in-Charge

A.K. SARANGI

SECRETARY

ODISHA LEGISLATIVE ASSEMBLY