

## **OBJECTIVES AND CHAPTER SCHEME OF THE MAHARASHTRA PUBLIC TRUST ACT, 1950**

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### **Abstract:**

The Maharashtra Public Trusts Act is the piece of legislation that governs public trust in the state of Maharashtra. The Bombay Public Trusts Act, 1950 was renamed The Maharashtra Public Trusts Act by the Maharashtra state with retroactive effect beginning on May 1, 1960. The Act's goal is to provide appropriate rules for the efficient management of public religious trusts and charity trusts in the territory governed by the State of Bombay. In addition, it is in the nature of the sensible person to control and create better rules for the administration of public religious and charitable trusts in the State of Bombay. The research paper includes a fundamental framework, goals, and purpose of the Maharashtra Public Trusts Act.

### **Keywords:**

Preliminary, establishment, ,charitable purposes and validity of certain public trusts, ,registration of public trusts, Functions of Charity Commissioner, procedure, jurisdiction and appeals and Miscellaneous, Maharashtra Public Trusts Act.

## **Introduction:**

In the state of Maharashtra, all public charitable trusts are governed under the Maharashtra Public Trust Act, 1950. An Act to regulate and enhance the management of public charitable and religious trusts in the State of Bombay. While the Charity Commissioner is the trusts' guardian in line with the MPT Act, it is required to properly regulate and provide for the management of public charitable and religious trusts in the State of Bombay. Public trusts are governed, supervised, and controlled by the office of the Charity Commissioner. Registration with the Charity Commissioner is a requirement for all public trusts in order to ensure efficient management and administration..

## **Concept of Trust:**

Although the phrase "non-profit" refers to "non-profit distribution," trusts are sometimes referred to as "non-profit organisations." In order to further explain the non-profit ideology, it is said that a trust shouldn't be allowed to go through losses and produce profits on its own. Furthermore, if any profit is generated, it should be used for charity purposes rather than being distributed to the trustee or any other organisation member(s) through dividends or any other methods.

## **Definition of Trust:**

A temple, math, wakf, church, synagogue, agiary, or other place of public religious worship, a dharmada, or any other religious or charitable endowment, and a society formed either for a religious or charitable purpose, or for both, and registered under the Society Registration Act, 1860 are all examples of trusts as defined in Section 2 of the Maharashtra Public Trust Act, 1950. A trust is

described as "an duty appended to the ownership of property and growing out of a confidence reposed in and accepted by him for the benefit of another" under Section 3 of the Indian Trusts Act.

Now, under section 9(1) of the Maharashtra Public Trust Act, the objectives for which a trust may be constituted are clearly stated and understood. In accordance with section 9(1) of the Maharashtra Public Trust Act, public charitable trusts may be registered with the office of the charity commissioner for any one or more purposes that include some provisional distinction, first and foremost in educational drive, second and providing reliefs with regard to poverty or even distress situation, third and regarding medical reliefs, and fourth and while providing provisional administration for facilities with interest of recreation or other purposes.

The termination of the trust if "its purpose becomes unlawful" is one of the main features of Section 77 of the Indian Trusts Acts, 1992. Furthermore, the gap is such that no Public Trusts Act, not even the Maharashtra Public Trust Act of 1950, contains such a provision of termination or dissolution of any legitimate Public Charitable Trust.

The minimum and maximum number of trustees necessary to form a Board of Trustees are not specified in the Act, hence it follows that even one trustee may serve on the Board. This is not, however, a wise or desirable course of action. The charity commissioner typically demands a minimum of three trustees at the time of registration in order to establish and manage a trust. The number of trustees that can serve on a trust's Board is not legally capped at a certain amount. The trust deed should specify the minimum and maximum number of trustees. The surviving trustees may, in addition to the composition of trustees, appoint new trustees, up to the number specified in the trust deed, through the provision of resolutions and the processing and filing of change reports under the jurisdiction of the Charity Commissioner. The trust deed also expedites the need that a new trustee be appointed by the surviving trustee or trustees.

However, the legality involved under the applicable legislation enables the trustee to be held accountable up to and including joint and multiple culpability. Furthermore, anyone with an interest may approach the apex authority, in this case the Deputy or Assistant Charity Commissioner, for the attornment provision provided under the Maharashtra Public Trust Act, 1950, even if the trustee is found to be inactive with the work thereby assigned in accordance with the regulations of the trust Act. Furthermore, a trustee is not permitted to transfer any of his responsibilities to a co-trustee or to any other person, save that, generally speaking, executive acts may be transferred. However, a trustee must exercise for enjoyment when required to do soon personal discretion and not delegate it.

According to Section 41 D of the Maharashtra Public Trust Act of 1950, the Charity Commissioner has the authority to suspend, remove, or dismiss any trustee of a public trust if certain conditions are met, including the following: (1) persistently failing to submit accounts, reports, or returns; (2) willfully disobeying any lawful order issued by the department; (3) persistently failing to perform their duties or breaching their fiduciary duties; and (4) misappropriation or improper use of funds.

It has often been observed that situations involving the theft, fraud, etc. of trust property exist and can be pursued in either criminal or civil trials. The DCC/ACC may provide a duplicate certificate in the event that the original certificate is lost, destroyed, or defaced in exchange for a small charge. The requirement stipulates that moveable or immovable possessions, etc., should be submitted to information within a period of 90 days from the day of change as given under section 22 of the Maharashtra Public Trust Act, 1950, if there are any changes to the trust regarding the trustees. Additionally, the modification that the trustee declares to be a binding obligation must be documented in books once it has received legality confirmation and legitimate authority's seal of approval. As soon as the authorities is satisfied with the change's legality and validity, it must be registered. The

Maharashtra Public Trust Act of 1950 and the Indian Trusts Act do not expressly prohibit foreigners, non-Indian nationals, or non-resident Indians from holding the position of trustee.

Thus, the researcher has provided a thorough explanation of the trust-building process. The next step in the development involves the historical perspective on the creation of the trust, such as the creation of the Tendulkar committee and its careful consideration of each clause of the Bombay Public Trust Act. The Maharashtra Public Trust Act, 1950, is the successor of the Bombay Public Trust Act. The motivation for the Act's beginning and its thorough explanation from the preamble to particular Sections will be supported by the aforementioned chapter.

### **CHAPTER SCHEME OF MAHARASHTRA PUBLIC TRUST ACT, 1950.**

Maharashtra Public Trust Act, 1950 constitutes of Twelve Chapters which includes Chapter I as the Preliminary Chapter, Chapter II includes establishment, Chapter III includes charitable purposes and validity of certain public trusts, Chapter IV includes registration of public trusts, Chapter V includes budget, accounts and audit and Chapter V-A includes powers and duties of, and restriction on, trustees, Chapter VI includes control, Chapter VII includes their functions and powers of charity commissioner and Chapter VII-A includes special provision as respects religious and charitable institutions and endowments which vest in, or the management of which vest in, the state government, Chapter VIII - Public Trust Administration Fund, Chapter IX—Assessors (which is been deleted from the Act), Chapter X - Offences and Penalties, Chapter XI. Functions of Charity Commissioner, procedure, jurisdiction and appeals and Chapter XII - Miscellaneous. A brief of each chapter is elaborated as below.

#### **CHAPTER I: Preliminary**

The Maharashtra Public Trust Act, 1950's definition, scope, and application are covered in Chapter I. The whole State of Maharashtra is covered by the Maharashtra Public Trusts Act. The State Government notifies the Official

Gazette of the date on which any public trust or class of public trusts must comply with the requirements of this Act. The State Government may also, by a similar notification, direct that any public trust or class of public trusts shall be exempt from all or any of the provisions of this Act as of the date specified therein, subject to such conditions as may be specified in the notification. Different dates may be specified for such trusts in different areas.

## **CHAPTER II: ESTABLISHMENT.**

Chapter II of the Act contains Sections 3 to 8 of the M.P.T. Act, 1950. the definitions of charity commissioner and joint charity commissioner, as well as the requirements for appointment. The Charity Commissioner is a designated official who shall wield the authority and perform the tasks and obligations established by or in accordance with the terms of this Act. The State Government may appoint the Charity Commissioner by publishing a notice in the Official Gazette. To be appointed as the Charity Commissioner or a Joint Charity Commissioner, a person must be holding or have held a judicial position of no lesser rank than that of a District Judge, a Judge of the Bombay City Civil Court, or the Chief Judge of the Presidency Small Cause Court: Provided As long as they have been for at least 10 years and are currently holding or have previously held one of the following judicial positions: I an advocate registered under the Indian Bar Councils Act, 1926, (ii) an Additional Chief Judge of the Court of Small Causes, Bombay, or (iii) both (or the Advocates Act, 1961) (ii) a High Court attorney (iii) a pleader registered in accordance with the Bombay Pleaders Act, 1920

## **CHAPTER III: CHARITABLE PURPOSES AND VALIDITY OF CERTAIN PUBLIC TRUSTS**

The objectives of the charitable trust span Sections 9 through 13. The betterment of the standard of living for those who use the facilities primarily is a benevolent goal; this does not only apply to religious instruction or worship. It also covers

the promotion of any other objective of wide public utility, as well as the reduction of poverty or hardship, healthcare assistance, educational opportunities, recreational opportunities, or other leisure-time activities. A public trust established for purposes that include charitable or religious objectives as well as non-charitable or non-religious purposes should not be ruled invalid because of the non-charitable or non-religious purposes alone.

#### **CHAPTER IV: REGISTRATION OF PUBLIC TRUSTS**

Chapter IV, Sections 14 through 31. In addition to establishing and changing the boundaries of existing regions and subregions, the State Government has this power. Each area or subarea must have a Public Trusts Registration Office: Considering that one Public Trusts Registration Office may serve two or more areas or sub-regions: A single location or subregion may have one or more Joint Public Trusts Registration Offices as well. To make administrative work simpler for such regions and subregions, the State Government may open offices in each district that is a component of each region or subregion. The State Government may designate an Assistant Charity Commissioner or Deputy Charity Commissioner to manage one or more Public Trusts Registration Offices or Joint Public Trusts Registration Offices. Books, indexes, and other records shall be kept and maintained by the Deputy or Assistant Charity Commissioner in charge of each Public Trusts Registration Office or Joint Public Trusts Registration Office. The data that might also be necessary must be included in such books, indexes, and other registers. The public trust to which this Act has been applied is managed by a trustee.

#### **CHAPTER V: BUDGET, ACCOUNTS AND AUDIT AND CHAPTER V-A: POWERS AND DUTIES OF, AND RESTRICTION ON, TRUSTEES.**

In one section of Chapter V, the function of financial accounting is discussed, while in the other, the range of trustees' duties is described. The M.P.T. Act, 1950's Chapter V, Sections 31A to 34, covers the responsibilities of the trustees

to produce a budget for the Charity Commissioner, the method for maintaining the books of accounts, the auditing of the balance report that must be made of the trust's various assets, and the obligation of the auditor to transcribing the balance sheet and any other irregularities, if any.

The M.P.T. Act of 1950's Sections 35 to 36B are included in Chapter V-A. The Chapter mainly discusses how public trust funds are invested and their limitations. Second, alienation of real property held in public trust, which is further divided into I trustee powers and responsibilities and (ii) a registry of real and personal property.

## **CHAPTER VI. CONTROL**

This Chapter includes Sections 37 through 41-F. In these parts, the Chapter defines the power of authority and its control over work. First, the chapter briefly discusses the authority of inspection and supervision, followed by an explanation of an auditor's report or a complaint. Thirdly, the report-to-Charity Commissioner procedure, fourthly, the Charity Commissioner's authority to issue orders based on reports received under Section 39 or to remand matters, etc., and finally, the Order of Surcharge procedure, which is further separated as, The power of the Commissioner to direct the State Government and hospitals to designate specific beds, etc. for the treatment of poorer patients at no cost or at a reduced rate, continuing with the disjoint of the procedure of order of surcharge, is more properly categorised as the power of the Charity Commissioner to direct hospitals, etc. (ii) the ability to launch investigations; iii) people (other than public trust) collecting money, subscriptions, or donations; iv) the ability to suspend, remove, and dismiss trustees; v) the ability to take action to protect charities; and, finally, vi) the ability to seize property in certain circumstances.

## **CHAPTER VII: THE FUNCTIONS AND POWERS OF CHARITY COMMISSIONER AND CHAPTER VII-A: SPECIAL PROVISION AS RESPECTS RELIGIOUS AND CHARITABLE INSTITUTIONS AND ENDOWMENTS WHICH**

## **VEST IN, OR THE MANAGEMENT OF WHICH VEST IN, THE STATE GOVERNMENT.**

The authorities and authority that a Charity Commissioner has while exercising his or her jurisdiction are outlined in Sections 42 to 56-B of Chapter VII. This is the Chapter Catalog: First, Maharashtra's Charity Commissioner will be a corporation sole with perpetual succession, a common seal, and the ability to sue and be sued in his corporate name. Second, under Act 6 of 1890, the Maharashtra Charity Commissioner will be the Treasurer of Charitable Endowments. Third, the Charity Commissioner will have the authority to appoint, suspend, remove, or discharge trustees and to vest property in new trustees. Fourthly, a lawsuit brought by, against, or involving public trusts or others, which is further divided into the Charity Commissioner's ability to create, combine, or alter schemes. 50. Charity Commissioner's approval for filing a lawsuit Sections 92 and 93 of the Civil Procedure Code do not apply to public trusts, which includes actions against assignees for valued consideration that are not time-barred. Seventy-fourth, a bequest made under a will for the benefit of the public trust, the last three of which are Dharmada and Cypres, and the court's authority to hear applications that involve public charitable or religious purposes also include the trustee's right to request directions and initiate legal action.

## **CHAPTER VIII - PUBLIC TRUST ADMINISTRATION FUND**

This Chapter includes Sections 57 to 61. The Chapter's foundation is the management of a public trust fund. The Chapter gives a brief overview of the following topics: Public Trusts Administration Fund; Contribution by Public Trusts to Public Trusts Administration Fund; Penalties as a means of recovering Contributions; Application of Public Trusts Administration Fund; and, finally, State Government's ability to direct credit funds created under any Act in the Schedule to Public Trusts Administration Fund created under this Chapter.

**CHAPTER IX—ASSESSORS:** Deleted by Mah. 22 of 1967, s. 5.

## **CHAPTER X - OFFENCES AND PENALTIES**

Sections 66 to 67-A are drafted under this Chapter and list the offences and consequent punishments for violating any of the aforementioned operating authorities. This chapter defines the term "penalty" as well as the terms "other offences," "compounding of offence," and "penalty for violation of provisions of section 36," "penalty for violation of provisions of section 41AA," and "penalty for violation of section 41C."

## **CHAPTER XI.FUNCTIONS OF CHARITY COMMISSIONER, PROCEDURE, JURISDICTION AND APPEALS.**

Sections starting at numbers 68 to 77 are included in this chapter. The chapter briefly discusses the duties, responsibilities, and authority of the Deputy or Assistant Charity Commissioner, the Charity Commissioner's duties, responsibilities, and authority, and appeals from the findings of the Deputy or Assistant Charity Commissioner. The Charity Commissioner may request and review the record of any proceedings before the Deputy or Assistant Charity Commissioner. Fourth, appeal to the Divisional Commissioner and application from the Charity Commissioner's decision made in accordance with Sections 40, 41, 41C, and 43(2)(a) and (c), 50A, 70 or 70A, etc. Finally, other Sections of the Chapter cover, among other things, inquiries to be judicial inquiries, Charity Commissioner, Joint Charity Commissioner, Deputy or Assistant Charity Commissioner, etc., to be civil court within sections 345 and 346 of Criminal Procedure Code, 1973, application of Limitation Act, Civil Procedure Code to apply to proceedings before Court under this Act and lastly to recovery of sums due under section 18, 20, 41, 79A, 79C or 79CC or rules.

## CHAPTER XII - MISCELLANEOUS

This Chapter contains Sections 78 through 88. The chapter largely explains the duties of the Charity Commissioner and other officials as public servants. It also discusses the ability to finalise rebuilt records and to collect fees and expenditures paid by the Charity Commissioner during judicial processes. Thirdly, compensation expenses for frivolous or vexatious procedures before the Charity Commissioner, etc., are included in the costs of proceedings before courts, including the High Court. Fourthly, the court fee must be paid in accordance with Schedule B's guidelines. Additional provisions of the Chapter cover the following: bar of jurisdiction; indemnity from suits and proceedings; trial of offences under this Act; previous Charity Commissioner approval required for prosecution; rules; further repeals and savings resulting from the implementation of Bombay XXIX of 1950 in other areas of State; and Act not to apply to certain wakf to which Act XXIX of 1954 applies or to Gurudwara. The chapter on miscellaneous includes provisions for removing obstacles.

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