

**SHREE SIDDHI VINAYAK GANAPATI TEMPLE TRUST
(PRABHADEVI) ACT, 1980**

6 of 1981

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**SHREE SIDDHI VINAYAK GANAPATI TEMPLE TRUST
(PRABHADEVI) ACT, 1980**

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An Act to reconstitute the trust popularly known as "Shree Siddhi Vinayak Ganapati Temple Trust of Prabhadevi" and to provide for management by a Committee to enable the Trust to undertake welfare activities for the public. WHEREAS the administration of the public trust registered under the Bombay Public Trusts Act, 1950, (Bom.XXIX of 1950) with the name "Shree Siddhi Vinayak Ganapati Temple Trust at Prabhadevi Road, Dadar, Bombay" and popularly known as "Shree Siddhi Vinayak Ganapati Temple Trust of Prabhadevi" was vested in the Official trustees for the State of Maharashtra by virtue of a consent decree dated the 16th June 1936 passed by the High Court of Judicature at Bombay in Suit No. 217 of 1932; AND WHEREAS by his judgement dated the 5th July 1980 given in suo motu scheme framing proceeding No. 32 of 1977 under section 50A (1) of the Bombay Public Trusts Act, 1950, (Bom.XXIX of 1950) the Joint Charity Commissioner had inter alia appointed the Maharashtra Executor and Trustee Company Ltd., as the Custodian Trustee and vested the properties of the trust in that trust and had appointed a Board of Managing trustees and had directed the Custodian Trustee to take appropriate proceeding in the High Court for direction or transfer the properties to the Custodian Trustee on being called upon to do so within a reasonable time; AND WHEREAS, being aggrieved by this judgement the Joint Charity Commissioner, one of the parties had obtained a stay order from the Charity Commissioner against implementation of the Joint Charity Commissioner's orders; AND WHEREAS, the trust in question has large properties and is very popular among the devotees, but on account of continuous litigation the growing income of the trust could not be fully utilized so far; and it was necessary that further time and expenditure on litigation should be avoided; AND WHEREAS, the Government of Maharashtra was satisfied that for this important and popular trust there should be a separate law to reconstitute the trust and to provide for management by a Committee directly under Government supervision to enable the trust to give more facilities to the devotees and undertake wider welfare activities from its surplus funds for the general public; AND WHEREAS, both Houses of the State Legislature were not in session; AND WHEREAS, the Governor of Maharashtra was satisfied that circumstances existed, which rendered it necessary for him to take immediate action to make a law for the purposes aforesaid and for that purpose

promulgated the Shree Siddhi Vinayak Ganapati Temple Trust (Prabhadevi) Ordinance, 1980 on the 11th October, 1980; (Mah.Ord.X of 1980) AND WHEREAS, it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-first Year of the Republic of India as follows:-

1. Short title and commencement :-

(1) This Act may be called SHREE SIDDHVINAYAK GANAPATI TEMPLE TRUST (PRABHADEVI) ACT, 1980 .

(2) it shall be deemed to have come into force on the 11th October, 1980.

2. Definitions :-

In this Act unless the context otherwise requires -

(a) "appointed day" means the day on which this Act, is deemed to have come into force;

(b) "Committee" means the Committee of management of the Temple Trust as constituted under this Act;

(c) "Executive Officer" means the Executive Officer of the Committee;

(d) "Management Fund" means the Management Fund of the Committee constituted under this Act,

(e) "member" means a member of the Committee, and includes the Chairman and the Treasurer of the Committee;

(f) "Official Trustee" means the Official Trustee for the State of Maharashtra appointed under the Official Trustees Act, 1913;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "regulations" means regulations made by the Committee under this Act;

(1) "Temple" means a temple of Ganapati and other deities belonging to the Temple Trust and popularly known as Shree Siddhi Vinayak Ganapati Temple at Prabhadevi in Bombay;

(j) "Temple Trust" or "Trust" means the Trust of the Temple constituted under this Act;

(k) "Trust Fund" means the Fund of the Temple Trust constituted under this Act.

3. Reconstitution of Temple Trust and transfer to and vesting of properties in that Trust :-

On the appointed day, in place of the public trust registered under the Bombay Public Trusts Act, 1950 , by the name of Shree Siddhi Vinayak Ganapati Temple Trust at Prabhadevi Road, Dadar, Bombay (hereinafter referred to as "the public trust") a trust by the name of "Shree Siddhi Vinayak Ganapati Temple Trust (Prabhadevi)" shall be deemed to be reconstituted under, this Act, and all properties, whether movable or immovable (including all assets, rights, liabilities and obligations) of the Public Trust, which was being held and administered by the Official Trustee immediately before that date, shall, by virtue of this Act, stand transferred to, and vested in, the deity of Ganapati in the Temple for the purposes of the reconstituted trust to be called the Temple Trust or the Trust, and in place of the Official Trustee, the Executive Officer shall on behalf of the Committee be entitled to their possession and management from that day.

4. Transfer of possession of properties of Temple Trust :-

(1) The Official Trustee and every other person in possession of any immovable property of the public trust which has vested in the Temple Trust under section 3 , shall hand over possession thereof, along with movable property thereon, with a full inventory, to the Executive Officer on behalf of the Committee forthwith.

(2) The Official Trustee and every other person in possession of any movable property of the public trust (including deposits in banks or investments in shares or securities or ornaments, jewellery or other valuable property) so vested shall, within sixty days or such longer period from the appointed day as the Committee may allow, transfer or cause to be transferred, such property, with a full inventory, to the Executive Officer on behalf of the Committee.

(3) Where any property is handed over or transferred under this section, the Executive Officer shall, after due verification with the inventory, pass a proper receipt to the transferor and the Executive Officer shall be responsible for its safe custody thereafter.

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(4) The Official Trustee and every other person who hands over or transfers any property of the public trust to the Executive Officer and obtains his receipt therefor is hereby indemnified, released and discharged from all accounts, suits or other legal proceedings,

claims and demands and liability in respect of that property.

5. Constitution of Committee of Management of Temple Trust :-

(1) For the purpose of management of the Temple Trust, on the appointed day, a Committee to be called "Shree SiddhiVinayak Ganapati Temple Trust Management Committee" shall be deemed to be constituted;

(2) Subject to the other provisions of this Act, the Committee shall be a body corporate by the name aforesaid, having perpetual succession, and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The State Government may, by notification in the Official Gazette, appoint a Chairman, a Treasurer and not more than seven other members to form the Committee:

Provided that, State Government may, by like notification, from time to time, increase the number of other members, but the total number of the members shall not exceed eleven.

6. Allowances to members :-

(1) They shall be paid from the Management Fund to each member such honorarium, fees and allowances for exercising his powers for performing his duties and functions as the Chairman, the Treasurer or other member, as the case may be, as may be determined by the State Government, from time to time.

(2) Notwithstanding anything contained in any other law for the time being in force, a member shall not be disqualified for being chosen as, or for being, a member of a State Legislature or local authority, merely by reason of the fact that he is a member of the Committee or that he receives any honorarium, fees or allowances under this section.

7. Term of office of members :-

(1) A member shall be appointed for a period of three years and shall be eligible for reappointment.

(2) a member may,,.by writing under his hand addressed to the State Government, resign his membership:

Provided that, such resignation shall not take effect until it is accepted by the State Government.

8. Disqualification for membership :-

(1) A person shall be disqualified for appointment as, or for being a member, if he-

(a) is a minor;

(b) has been convicted by a criminal court of any offence involving moral turpitude;

(c) is of unsound mind, and is so declared by a competent court;

(d) is an undischarged insolvent;

(e) has directly or indirectly any interest in a lease or any other transaction relating to the immovable property of the Temple Trust;

(f) is a paid servant of the Committee or has any share or interest in any contract for the supply of goods to, or for execution of any work, or the performance of any service, undertaken by the Committee in respect of "the Temple Trust;

(g) is guilty of misconduct or is otherwise unfit.

(2) If it appears to the State Government that a member has incurred any of the disqualifications aforesaid, the; State Government may, after giving such member an opportunity of showing cause, and after considering any such cause shown, remove such person from membership, and the decision of the State Government shall be final.

9. Power to appoint new members :-

The State Government may appoint a new member, when a member-

(a) resigns or dies;

(B) is for a continuous period of six months absent from India, without obtaining leave from the Committee;

(c) leaves India for the purpose of residing abroad;

(d) desires to be discharged;

(e) refuses to act;

(f) is removed or his membership is terminated by the State Government.

10. Meetings of Committee and rules of procedure :-

(1) For the transaction of its business, the Committee shall meet at such intervals as it may-determine, from time to time.

(2) The quorum for a meeting of the Committee shall be three.

(3) Every meeting of the Committee shall be presided over by the Chairman and in his absence by a member elected for the purpose by the members present.

(4) All questions arising at a meeting of the Committee shall be determined by a majority of votes of the members present. In the case of an equality of votes, the Chairman or the member presiding, as the case may be, shall have and exercise a casting vote.

(5) The Executive Officer being the Secretary of the Committee shall be responsible for the maintenance of the minutes of the proceedings of every meeting duly countersigned by the Chairman or other person presiding at the meeting.

(6) Subject to the provisions of this section, the Committee may make regulations, with the approval of the State Government, for regulating its procedure and the conduct of its business.

11. Act of Committee not invalid by reason of vacancy or defect :-

No-act or proceeding of the Committee shall be invalid by reason only of the existence of any vacancy, Amongst its members or any defect in its constitution or in appointment of any member.

12. Executive Officer and other officers of Committee :-

(1) The State Government may appoint a person, who is or has been a Gazetted Officer of Government, as Executive Officer of the Committee and he shall be ex-officio Secretary of the Committee

(2) the Committee may appoint such officers (other than Executive Officer) and servants as it thinks necessary for the efficient management of the Temple Trust and performance of its duties and functions under this Act:

Provided that, no officer and servant, who is paid a salary of over

five hundred rupees per month, shall be appointed by the Committee, without the previous approval of the State Government.

13. Powers and duties of officers of Committee :-

(1) The Executive Officer shall be the Chief Administrative Officer of the Committee. He shall, subject to the control of the Committee, have general powers to carry out the decisions of the Committee in accordance with the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing sub-section, the Executive Officer shall be responsible for the custody of all properties and records of the Trust and shall make proper arrangements for collection and deposit of offerings made in the Temple and shall have powers, subject to the control of the Committee,-

(a) to take disciplinary action against any other officer and servant of the Committee;

(b) to call for tenders for Works or supplies and accept such tenders when the amount or value thereof does not exceed two thousand rupees;

(c) to dispose of perishable offerings by auction or otherwise and credit the sale proceeds to the Temple Fund;

(d) to undertake urgent repairs or measures required for safety or convenience of the devotees:

(e) to do all other acts and things, which he is empowered to do by the Committee or under the regulations made by the Committee with the approval of the State Government.

(3) The other officers and servants of the Committee shall exercise such powers and perform such duties and functions as are assigned to them by the Committee or the Executive Officer or under the regulations made by the Committee with the approval of the State Government.

14. Terms and conditions of service of Executive Officer and other Officers and Servants :-

(1)'The Executive Officer of the Committee ^shall be appointed on such terms and conditions of service as may be determined by the State Government, from time to time.

(2) Other officers and servants of the Committee shall be appointed on such terms and conditions of service as may be determined by regulations made by the Committee with the approval of the State Government.

(3) The salary and allowances and other expenses of the Executive Officer and other officers and servants of the Committee shall be paid out of the Management Fund.

15. Allocation of servants of public trust to Temple Trust :-

Every person who immediately before the appointed day is serving in connection with the affairs of the public trust shall be deemed to have been allocated and appointed for service as from that day under the Committee in connection with the affairs of the Temple Trust, on the same salary and other conditions of service which were applicable to him immediately before that day; and such conditions of service shall not be varied to his disadvantage by the Committee, except with the previous approval of the State Government:

Provided that, nothing in this section shall affect the powers of the Committee to terminate the services of any such person in accordance with the provisions of this Act or the regulations made by the Committee with the approval of the State Government.

16. Duties and Powers of Committee :-

(1) Subject to any general or special orders of the State Government, it shall be the duty of the Committee to manage the properties and affairs of the Temple. Trust efficiently, to make proper arrangements for the conduct and performance of rituals, worship ceremonies and festivals in the Temple according to the custom and usages to provide necessary facilities and amenities to the devotees and to apply the income of the Trust to the objects and, purposes for which the Trust is to be administered under this Act.

(2) In particular but without prejudice to the generality of the foregoing sub-section, the; Committee shall-

(a) prepare the annual budget estimating the income and expenditure of the Trust and send a copy of it to the State Government;

(b) maintain proper accounts and records of the properties and the

income and expenditure of the Trust;

(c) cause the accounts of the Trust to be audited annually by such person and by such date in the next succeeding year as the State Government may direct;

(d) make regular payment of salaries, honorarium, fees and allowances and other sums payable to the members, Executive Officer and other officers and servants of the Committee from the Management Fund;

(e) take measures for the recovery of lost property or any sums due to the Trust;

(f) institute and defend any suits, prosecutions and other legal proceedings relating to the Trust in a Court or before a Tribunal or other authority;

(g) inspect or cause an inspection to be made of the properties of the Trust, from time to time, and to take prompt steps to remove any encroachments made on such properties;

(h) supply such returns, statistics, accounts and other information with respect to the Trust as the State Government may, from time to time, require;

(1) generally do all such acts as may be necessary for the purposes of proper management, maintenance and administration of the properties and affairs of the Trust.

(3) No immovable property vested in the Trust shall be leased for more than a year, or mortgaged, sold or otherwise alienated, by the Committee, except with the previous sanction of the State Government.

(4) No Jewelleries, ornaments, or other valuable moveable property vested in the Trust, the value of which is more than five thousand rupees, shall be sold, pledged or otherwise alienated, by the Committee, except with the previous sanction of the State Government.

(5) The Committee shall have no power to borrow money from any person, except with the previous sanction of the State Government.

(6) Subject to the provisions of this Act, the Committee shall have all the powers necessary for performing its duties and functions under this Act.

17. Trust Fund :-

(1) The Temple Trust shall have its own fund to be called "Shree Siddhi Vinayak Ganapati Temple Trust Fund" which shall vest in the deity of Ganapati.

(2) The following shall form part of, or be paid into, the Trust Fund:-

(a) all funds vested in the deity by virtue of the provisions of section 3 ;

(b) all sums received by way of offerings, gifts or donations to the deity or by way of puja charges or by way of sale proceeds by auction of such things received in kind;

(c) the income derived from the movable and immovable properties of the Trust and the proceeds of sale, lease or other transfer or mortgage of any such properties;

(d) any contributions and grants made to the Trust by Government or by any local authority, trusts or other institution;

(e) any sums due to the Trust and recovered by the Committee;

(f) any sums borrowed by the Committee;

(g) all other sums received and collected by the Committee or any member for or on behalf of the Trust;

(3) All money and other valuable articles belonging to the Trust Fund shall be kept in such custody or deposited in such bank or be invested in such securities in accordance with such guidelines as may be issued by the State Government, from time to time.

(4) The Trust Fund shall be operated by a member or an officer authorised by the Committee in such manner and subject to such conditions as may be prescribed.

18. Utilisation of Trust Fund :-

(1) The Trust Fund shall be utilized by the Committee for all or any of the following purposes:-

(i) the maintenance, management and administration of the Temple and the properties of the Trust;

(ii) the conduct and performance of the rituals, worship, ceremonies and festivals in the Temple according to the custom and usages;

(iii) providing facilities and amenities to the devotees for darshan of the deity and for offering prayers or performing any religious service or ceremony in the Temple;

(iv) repayment of any sums borrowed by the Committee, with the sanction of the State Government;

(v) any sums required to satisfy any judgement, decree or award of any Court or arbitral tribunal;

(vi) the payment of any taxes, rent, compensation, premia, charges and other sums payable by the Trust under any law for the time being in force.

(2) The Committee may utilize the Trust Fund for all or any of the following purposes:-

(1) development of the properties of the Trust and acquisition of movable or immovable property for the purposes of the Trust;

(ii) construction and maintenance of rest houses for the use and accommodation of the devotees;

(iii) with the previous sanction of the State Government, the establishment and maintenance of any educational institutions, hospitals, dispensaries, homes for destitute persons physically disabled or other charitable and religious institutions or giving financial aid to such institutions or persons.

19. Management Fund and its utilization :-

(1) There shall be constituted a separate fund to be called the Management Fund, which shall vest in, and be, under the control of the Committee.

(2) Having regard to the balance if available in the Management Fund, there shall be placed to the credit of this Fund every year such sum, not exceeding ten per cent of the approximate gross annual income of the Trust in the last preceding year, as may be fixed by the Committee, with the approval of the State Government. The State Government may, at any time, if found necessary, direct any additional sum to be credited to this Fund from the Trust Fund in any year.

(3) The Management Fund shall, subject to any general or special order of the State Government, be applied to-

- (a) the payment of honorarium, fees and allowances to the Chairman, Treasurer or other members of the Committee;
- (b) the payment of salaries, allowances and other sums payable to the Executive Officer, other officers and servants of the Committee;
- (c) the payment of any expenses lawfully incurred by the Committee or any member or officer or servant in the exercise of their powers and performances of their duties and functions under this Act.

20. Suits and other proceedings by or against Trust or Committee :-

In all suits and other legal proceedings by or against Temple Trust or the Committee, the pleadings shall be signed and verified by the Executive Officer and all processes in such suits and proceedings shall be issued to, or served on, the Executive Officer.

21. Continuance of legal proceedings by or against public trust and construction of references to that trust :-

(1) Where immediately before the appointed day, the public trust by the name of "Shree Ganapati Temple Trust at Prabhadevi Road, Dadar, Bombay" or any trustee thereof is a party to any legal proceedings with respect to any property, rights, liabilities or obligations vested in the reconstituted trust by the name of "Shree Siddhi Vinayak Ganapati Temple Trust (Prabhadevi)" by virtue of the provisions of this Act, the reconstituted trust or its Committee, shall be deemed to, be, substituted for the public trust or its trustee, as a party to those proceedings, or added to as a party thereto, as the case may be, and the proceedings may continue accordingly.

(2) Any reference to the public trust or its trustee in any law for the time being in force or in any rule, regulation, notification or order issued thereunder, or in any instrument or other document shall be, on and after the appointed day, unless the context otherwise requires, be construed as a reference to the reconstituted trust or its Committee, as the case may be.

22. Rules :-

(1) The power to make rules under this Act shall be exercisable by the State Government, by notification in the Official Gazette.

(2) Without prejudice to any power to make rules contained

elsewhere in this Act, the State Government may make rules for carrying out the purposes of this Act;

(3) All rules made under this Act shall be subject to the condition of previous publication:

Provided that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this Act.

(4) Every rule made under this section shall be laid as soon as may be after it is made before each House of 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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

23. Members and officers of Committee to be public servants :-

The members of the Committee and all officers and servants thereof shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 .(XIV of 1860)

24. Protection of action taken in good faith :-

No suit, prosecution or other proceeding shall lie against the State Government, the Official Trustee, the Committee or any member, officer or servant of the Committee, for anything which is in good faith done or intended to be done under this Act or the rules and regulations made thereunder.

25. Act to override other laws etc :-

The provisions of this Act shall have effect, notwithstanding anything contained in the Bombay Public Trusts Act, 1950 . the Official Trustees Act. 1913 or any other law for the time being in force, or in any scheme of management framed thereunder, or in any judgement, decree or order of any Court, Tribunal, Charity Commissioner or other competent authority or in any custom or

usage.

26. Removal of difficulties :-

If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, as occasion arises, by order do anything which appears to it to be necessary for the purpose of removing the difficulty.

Provided that, no such order shall be made after the expiry of a period of two years from the appointed day.

27. Repeal and saving :-

(1) Shree Siddhi Vinayak Ganapati Temple Trust (Prabhadevi) . Ordinance, 1980 (Mah.Ord.X of 1980) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any rule, regulation, notification or order issued or any appointment made) under the said Ordinance shall be deemed to have been done or taken issued or made, as the case may be, under the corresponding provisions of this Act.