



The Madhya Pradesh Dharmadaya Fund Act, 1951

Act 18 of 1951

Keyword(s):

Charitable Purpose, Dharmadaya, Dharmadaya Fund, Maintainer

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THE MADHYA PRADESH DHARMADAYA FUND ACT, 1951

(No. 18 of 1951)

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THE MADHYA PRADESH DHARMADAYA FUNDS ACT, 1951

(No. 18 of 1951) ¹

(Received the assent of the President on the 13th May, 1951; assent first published in the Madhya Pradesh Gazette on the 25th May, 1951.)

An Act to provide for the establishment, control, management and disposal of funds collected by way of Dharmadaya.

PREAMBLE

Whereas it is expedient and necessary to provide for the establishment, control, management and disposal of funds collected by way of Dharmadaya;

It is hereby enacted as follows :—

1. (1) This Act may be cited as the Madhya Pradesh Dharmadaya Funds Act, 1951.

Short title, extent and commencement.

[(2) It extends to the whole of Madhya Pradesh.]²

[(3) It shall come into force at once.]³

2. In this Act, unless there is anything repugnant in the subject or context, —

Definitions.

(i) “Charitable purpose” includes education, medical relief, relief to the poor and indigent, relief to cattle and the advancement of any other object of general public utility unconnected with any religious or denominational institution;

(ii) “Dharmadaya” means all collections made, whether in cash or in kind, by deductions made from sums payable to another person either over a transaction between the parties or from wages or earnings of workers in the course of trade, business or profession by way of being used for any charitable, religious or denominational purpose;

(iii) “Dharmadaya fund” means the fund formed under section 4 ;

1. For Statement of Objects and Reasons, see Madhya Pradesh Gazette, Extraordinary, dated the 18th March, 1950, pages 549 to 554. For Report of the Select Committee, see Madhya Pradesh Gazette, dated, the 2nd March, 1951, Part IV (A), pages 9 to 17. Proceedings in Assembly see Madhya Pradesh Legislative Assembly Proceedings, 1950, Vol IX, [page 50 dated the 29th March, 1950 Vol X pages 14 and 15] dated the 5th October, 1950; Vol. XI, page 8, dated the 27th February, 1951; pages 4 and 5, dated the 5th March, 1951.

2. Subs. by M.P. Act 23 of 1958, S. 3 (3), Sch, Part A, item 68.

3. Subs. by M.P. Act 18 of 1982, S.2.

- (iv) "Maintainer" means the person who has obtained a certificate for making dharmadaya collection under section 4 or a person in respect of whom an order has been recorded by [Collector]¹ under sub-section (2) of section 6 or a person appointed under section 7 ;
- (v) "prescribed" means prescribed by rules made under this Act.

Prohibition of collection of dharmadaya.

3. (1) No person other than a maintainer shall recover or receive from any person any sum by way of dharmadaya or administer any dharmadaya fund.

(2) No maintainer shall recover or receive from any person any sum by way of dharmadaya or administer any dharmadaya fund except for a charitable purpose.

(3) Nothing contained in sub-section (2) shall affect the provision contained in sub-section (2) of section 12 of the Central Provinces and Berar Cotton Market Act, 1932 (IX of 1932)², or the provision contained in sub-section (2) of section 11 of the Central Provinces and Berar Agricultural Produce Market Act, 1935 (XXIX of 1935)³, or shall entitle a person permitted under sub-section (1) to recover or receive dharmadaya except when the subscription is voluntary.

Establishment of fund.

4. (1) Every person desiring to establish a dharmadaya fund shall apply to the [Collector]¹ of the district in which he resides or carries on business for a certificate permitting him to establish such fund and shall give the following particulars in his application:—

- (a) the charitable purpose or purposes on which the applicant desires to spend the dharmadaya fund;
- (b) the rate at which the dharmadaya fund collections shall be made;
- (c) any other particulars which may be prescribed.

(2) If after making such enquiries as the [Collector]¹ deems fit to make in respect of an application made under sub-section (1), the [Collector]¹ considers the applicant to be a suitable person for establishing a dharmadaya fund, he shall grant to the applicant a certificate in such form and containing such particulars as may be prescribed.

(3) Every person to whom a certificate has been granted under sub-section (2) shall administer the dharmadaya fund in accordance with such conditions as may be prescribed

1. Subs. by M. P. A. O. 1956, for "Deputy Commissioner".

2. Repealed by M.P. Act, 1960 (19 of 1960) S. 43.

3. See now M.P. Act, 1972 (24 of 1973).

and shall spend it on the charitable purpose or purposes specified in the certificate or with the previous permission in writing of the [Collector]¹ on any other charitable purpose.

(4) If the [Collector]¹ decides to refuse to grant a certificate, he shall record the reasons for such refusal.

(5) An appeal shall lie against any such refusal within such time, in such manner and to such authority as may be prescribed.

5. (1) The maintainer shall spend nine-tenth of the dharmadaya collections made during a year by him on any of the purposes specified in his certificate or on a purpose permitted by or under this Act and may spend one tenth of such collections on any charitable purpose whether specified in the certificate or not:

Utilisation of fund.

[Provided that where a maintainer makes any collections in the name of a Goshala registered under the Madhya Bharat Goshala Act, 1953 (IV of 1953) he shall pay all such collections to the trustee of Goshala in accordance with the provisions of said Act.]²

(2) If the maintainer is for any reason unable to spend the dharmadaya collections made by him during the year in accordance with sub-section (1), he shall obtain previous permission of the [Collector]¹ in writing for carrying over the amount collected during the year and remaining unspent for being spent in the succeeding year.

(3) A maintainer shall not use or deal with the dharmadaya collection for his own private or for any other purpose not provided for under this Act.

6. (1) Every person who, on the date on which this Act comes into force in the area in which he resides, has in his possession any amount collected by way of dharmadaya shall, within a period of one month from such date or such further period not exceeding three months in the aggregate, as the [Collector]¹ may allow, file a statement before the [Collector]¹ in the prescribed form stating the amount of dharmadaya in his possession, the manner in which it is invested and the charitable purpose or purposes in which he proposes to spend it. Every such statement shall be accompanied by a statement of accounts of the dharmadaya collections and expenditure therefrom for a period of three years immediately preceding such date.

Statement and utility of the fund collected before the commencement of this Act.

(2) On receipt of such statement, the [Collector]¹ shall, after such enquiry as he deems fit, determine the amount of dharmadaya fund with such person and direct the person filing the statement to spend the dharmadaya collection

1. Subs. by M.P.A. O. 1956, for "Deputy Commissioner".

2. Added by M.P. Act 23 of 1958 S. 3 (3) Sch, Part A, item 68.

on such charitable purpose or purposes as may be specified by the [Collector]1 and in accordance with such terms and conditions as he may specify.

(3) In any enquiries under sub-section (2) the [Collector]1 shall not reopen accounts for any period preceding the period of three years immediately before the date on which the Act comes into force in the area concerned.

Power to direct management by person other than the maintainer.

7. (1) If the [Collector]1 finds that the accounts of any dharmadaya fund are not properly maintained by a maintainer or that the maintainer has wilfully contravened any of the provisions of this Act or any rule or direction made under this Act, then without prejudice to any other action the [Collector]1 may, after recording the reasons in writing, appoint any person or persons to manage such dharmadaya fund.

(2) The maintainer shall place at the disposal of the person or persons appointed under sub-section (1) such amounts from out of the dharmadaya fund as the [Collector]1 may, from time to time, order.

Order with respect to a defaulter.

8. If the [Collector]1 has reason to believe that—

(a) on the date on which this Act comes into force in any area, any person residing therein has in his possession any amount collected by way of dharmadaya before such date but has failed to submit a statement as required by sub-section (1) of section 6; or

(b) on or after the date on which this Act comes into force in any area, any person residing therein, has collected or has been collecting any amounts by way of dharmadaya;

the [Collector]1 may, after making such enquiry, including the inspection of accounts of such person (hereinafter referred to as the defaulter) or any other person, as may be necessary, decide whether the defaulter has in his possession any such amount, determine the amount outstanding, if any, and without prejudice to any other action under this or any other enactment, may direct the defaulter to place the amount so determined, at the disposal of such person as may be appointed by the [Collector]1 to administer the fund.

Order to credit into the fund the amount believed to be outstanding.

9. If any person, recovering or receiving dharmadaya under and in accordance with the provisions of this Act, fails to credit the same into the dharmadaya fund or if on examination of the accounts of any such person it is found that any sum from the amount recovered or received by way of dharmadaya has not been duly accounted for by such person, then

1. Subs. by M.P. A.O. 1956, for "Deputy Commissioner".

without prejudice to any other action under this or any other enactment, the [Collector]¹ may, after such enquiry as he deems fit, direct such person to credit into the fund the amount found to be outstanding.

10. (1) Any person aggrieved by an order of the [Collector]¹-

Civil suit against the order of the [Collector]¹

- (a) determining the amount of dharmadaya fund under sub-section (2) of section 6;
- (b) ordering him to place the funds at the disposal of a person or persons appointed to manage or administer a fund under section 7 or 8; or
- (c) directing a person to credit into the fund any amount found to be outstanding;

may within three months from the date of the order of the [Collector]¹ file a civil suit for setting aside or modifying the order of the [Collector]¹ on the ground that such person is not in possession of any amount of dharmadaya fund or that the amount in his possession is less than the amount specified by the [Collector]¹ :

Provided that no court shall entertain such suit unless the plaintiff furnishes security to its satisfaction for the amount mentioned in the order sought to be set aside or modified.

(2) An order of the [Collector]¹ under section 5, 6, 7, 8 or 9 shall, subject to the result of the civil suit, if any, be conclusive.

(3) Any amount payable under an order of the [Collector]¹ which becomes final under sub-section (2) shall be recoverable as arrears of land revenue.

11. The provisions of the Code of Civil procedure, 1908 (V of 1908), relating to —

Application of provision of the Code of Civil Procedure, [1908.

- (a) the proof of fact by affidavit;
- (b) the enforcing of the attendance of any person and his examination on oath;
- (c) the enforcing of the production of documents; and
- (d) the issuing of commissions;

shall apply to all proceedings under this Act, and the provision relating to the service of summonses shall apply to the service of notices thereunder.

12. The maintainer shall keep such books and accounts and furnish such returns to the [Collector]¹ as may be prescri-

Books, accounts and statement of receipt and expenditure.

1. Subs. by M.P. A.O. 1956, for "Deputy Commissioner".

bed in regard to the receipt and expenditure of money in to the dharmadaya fund.

Penalty.

13. Any person who contravenes the provisions of sections 3, 6, 8 or 12 shall be punishable with fine which may extend to one thousand rupees.

Maintainer to be trustee of the fund.

14. Every maintainer shall be the Trustee of the fund and shall have the same rights and be subject to the same liabilities as a Trustee has and is subject to in respect of a trust.

Cognizance of offences.

15. No court shall take cognizance of any offence punishable under this Act except upon a complaint made by the [Collector]¹ or an officer authorised by the [Collector]¹ in this behalf.

Rules.

16. (1) The State Government may make rules to carry out all or any of the purposes of this Act not inconsistent therewith and prescribe forms for any proceeding for which it considers that a form should be provided.

(2) In particular and without prejudice to the generality of the foregoing power the rules made under this Act may provide for-

- (a) particulars, forms and conditions under section 4;
- (b) the books and accounts to be maintained by the maintainer;
- (c) the agency for and the manner of audit and inspection of books, accounts and property in the charge of a maintainer and the payment of fees therefor;
- (d) the custody in which the fund shall be held and the objects on which the fund shall be expended;
- (e) the reports and returns to be furnished by the maintainer;
- (f) the conferral of power of entry upon premises and the inspection of the books and accounts of any person believed to have collected dharmadaya.

(3) In making any rule, the State Government may direct that a breach thereof shall be punishable with a fine which may extend to two hundred and fifty rupees and in the case of a continuing offence to a further fine which may extend to twenty five rupees for each day after the first during which the offence continues.

1. Subs. by M.P. A. O. 1956, for "Deputy Commissioner".