

Provided further that it shall be competent for the Government to appoint a Regional Joint Commissioner as an Executive Officer to any institution and it shall be competent for the Commissioner to appoint a Deputy Commissioner or an Assistant Commissioner as an Executive Officer to any institution basing on the annual income of such institution.

(3) The Executive Officer appointed and exercising the powers and discharging the duties shall be a person professing Hindu Religion and shall cease to exercise those powers and discharge those duties when he ceases to profess that religion.

(a) The Executive Officer appointed under this section shall be responsible for carrying out all lawful directions issued by such trustee from time to time.

(b) The Executive Officer shall, subject to such restrictions as may be imposed by the Government,

(i) be responsible for the proper maintenance and custody of all the records, accounts and other documents and of all the jewels, valuable money, funds and other properties of the Institution or Endowment;

(ii) arrange for the proper collection of income and for incurring or expenditure:

(iii) sue or be sued in the name of the institution or Endowment in all legal proceedings.

Provided that any legal proceedings pending immediately before the commencement of this Act by or against an institution or Endowment in which any person other than an Executive Officer is suing or being sued shall not be affected;

(iv) deposit of monies received by the institution or endowment in such bank or treasury as may be prescribed and be entitled to sign all orders or cheques against such moneys

Provided that the Executive Officer shall not encash the fixed deposit certificates pertaining to any scheme or specific endowment under any circumstances

- (v) have power in cases of emergency to direct the execution of any work or the doing of any act which is provided for in the budget for the year or the immediate execution or the doing of which is in his opinion necessary for the preservation of the properties of the institution or endowment or for the service or safety of pilgrims resorting thereto and to direct that the expenses of executing such work or the doing of such work or the doing of such act shall be paid from the funds of the institution or endowment:

Provided that the Executive Officer shall report forthwith to the Trustee, any action taken by him under this sub-clause and the reasons therefore and obtain approval

- (b) The Executive Officer shall, with the prior approval of the trustee institute any legal proceedings in the name of the institution or endowment or defend any such legal proceedings;
- (c) The Executive Officer appointed under this section shall be the employee of the Government and the conditions of his service shall be such as may be determined by the Government. The salary, allowances, pension and other remuneration of Executive Officer shall be paid out of the consolidated fund of the State and later recovered from the Endowment Administrative Fund."
- (e) It shall be the duty of the Executive Officer of every Religious or Charitable Institution to foster faith, devotion and ethical conduct in the society, by facilitating formation of a Bhaktha Samajam attached to each Institution, on voluntary basis, consisting of the devotees thereof in order to periodically organize Bhajans, Religious discourses devotional and other Religious programs such as Nagara Sankeertans etc., appropriate to the Custom, Usage, Tradition and Sampradayams of the Institution concerned.

(10) Section (8) of the Bill: No change

(11) Section (9) of the Bill is to be modified to bring in greater accountability and adherence to staffing norms and procedures by incorporating of a provision to take the prior permission of the competent authority before filling up vacant posts. Following modifications need to be brought out in Section 35 of the principal Act,-

(i) for sub-section (1) together with the proviso, the following sub-section shall be substituted, namely:-

“(1) Every vacancy in the approved cadre strength whether permanent or temporary, amongst the office holders or servants of a charitable or religious institution or endowment shall be filled by the Trustee with the prior permission of the competent authority:

Provided that in the case of a charitable or religious institution or endowment whose annual income exceeds rupees ten lakhs the Executive Officer shall appoint the office holders and servants thereof with the prior permission of the competent authority.

“Provided that in the case of appointment of religious officeholders such appointment shall be made keeping in view the Agamas of the respective institutions and preference shall be given to those who are well versed with the Agama, custom and usage of the respective institution”.

(12) Section 10 of the Bill: No change

(13) Section 11 of the Bill: No change

(14) Since a new institution called the Endowments Tribunal is being set-up, the existing Section (45) of the principal Act needs to be amended to entrust the functions being currently by the Deputy Commissioner to this body. Accordingly, in section 45 of the principal Act for the words “Deputy Commissioner” wherever it occurs the words “Endowments Tribunal” shall be substituted and in sub section (2) for the word “he” the word “it” may be substituted.

(15) In view of the fact that an apex body called Dharmika Parishad is being set-up the powers being currently exercised by the Commissioner will be henceforth transferred to the new body.

Accordingly, Sections pertaining to superintendence of Mutts in Sections 51, 52, 53, 54 and 55 have to be modified as follows:

- (i) for the word "Commissioner" wherever it occurs, the words "Dharmika Parishad" shall be substituted.
- (ii) for sub section (4) the following sub section shall be substituted, namely:-
"(4) any mathadhipathi or trustee aggrieved by an order passed by the Dharmika Parishad under sub section (2) may within ninety days from the date of the order appeal to the High Court against such order.

In section 52 for the word "Commissioner" wherever it occurs the words "Dharmika Parishad" and in sub section (1) for the word "he" the word "it" shall be substituted.

In section 53 in sub-section (1) for the word "Commissioner" the words "Dharmika Parishad" shall be substituted.

In section 54 for the word "Commissioner" wherever it occurs the words "Dharmika Parishad" shall be substituted and in sub-section (2) for the word "him" the word "it" shall be substituted

In section 55 for the word "Commissioner" wherever it occurs the words "Dharmika Parishad" shall be substituted and in sub-section (1) for the word "he" the word "it" may be substituted and in sub-section (6) for the word "court" the words "High Court" shall be substituted.

(16) Section (12) of the Bill -

In addition to the existing provisions the following additional changes may be incorporated. No fixed percentage need be specified for the contribution to the Common Good Fund. Only an enabling clause needs to be put so that there is enough flexibility to carefully calibrate the quantum based on the changing requirements and the income flows:

In section 57 of the principal Act, --

(1) In subsection (1),-

- (i) in clause (i) for the word, bracket and letter "clause (d)" the word, bracket and letters "clauses (a) and (d)" shall be substituted;
- (ii) in clause (ii) the bracket letter word "(a) or" shall be omitted;

(2) In sub section (2) for clause (b), the following clause shall be substituted, namely:-

“(b) Where the budget relates to an institution or endowment whose annual income exceeds fifty thousand rupees, the budget shall also make provision for payment of such amount to the common good fund as may be prescribed”.

- (3) in sub-section (3), after the words “ the Commissioner” the words “the Additional Commissioner, the Joint Commissioner” shall be inserted;
- (4) in sub-section (5), after the words “ the Commissioner” the words “ the Additional Commissioner, the Joint Commissioner” shall be inserted.

(17) Section (13) of the Bill:

In section 58 of the principal Act, in sub-section (2) the following changes may be made regarding the income limits for getting the accounts audited.

- (1) in clause (a) for the words “rupees one lakh” the words “rupees twenty five lakhs” shall be substituted.
- (2) in clause (b), for the words, “five thousand rupees”, the words “rupees two lakhs” shall be inserted;
- (3) in clause (c), for the words “five thousand rupees”, the words “rupees two lakhs” shall be substituted.

(18) Section (14) of the Bill:

The Select Committee felt that low income temples need not be compelled to pay contribution to the endowments administration fund and the quantum of contribution should be decided by the Dharmika Parishad on a rational basis keeping in view the income of the temples and the fund required to be pooled up. The proposed contribution to Dhoopa Deepa Naivedyam Fund mentioned in the proviso in Section (14) of the Bill is to be omitted because this will be covered under the Common Good Fund. Accordingly, the following changes have to be made:

In Section 65 of the principal Act, in sub-section (1), for the words, “not less than rupees five thousand”, the words “not less than rupees fifty thousand” shall be substituted and the words “subject to a maximum of fifteen per centum of the annual income” shall be omitted.

- (19) A new fund to ensure all employees in the temples, who have been recruited by competent authorities as per the sanctioned strength following the prescribed procedures, get salaries by a process of cross subsidization needs to be set-up a new provision has to be incorporated as follows:

In the principal Act after section 65 the following new section shall be inserted, namely:-

Archakas, other office holders and servants' salary and other emoluments fund

"65-A A fund shall be created and vested with the Commissioner for the purpose of payment of salaries and other emoluments to all such Archakas, officeholders and servants of charitable and Hindu Religious Institutions and Endowments published under section 6 of the Act who have been appointed by competent authorities as per the sanctioned cadre strength following the prescribed procedure. Every such institution shall pay contribution annually to such fund at the rate prescribed from their annual income as defined under sub section (5) of section 65. The procedure for collection of contribution to and disbursement from the fund shall be such as may be prescribed.

- (20) The provision regarding Dhoopa Deepa Naivedyam Programme is to be brought under Section (17) which deals with the Common Good Fund. Since this is one of the most important programmes intended to revitalize old dilapidated temples it would be advisable to earmark 25% of the fund for this purpose. Accordingly, in section 70 in sub section (1) in clause (b) for sub clause (i) and the proviso there under the following sub clause and the proviso shall be substituted namely:-

- "(i) Dhoopa Deepa Naivedhyam which encompasses renovation, preservation and maintenance including payment of salaries to Archakas of Hindu Charitable and Hindu Religious Institutions or Endowments which are in needy circumstances and promotion and propagation of purpose and objects connected therewith;

Provided that the amount to be utilized for the above purpose shall not be less than twenty five per centum of the receipts to the said fund during the preceding year."

(21) Section 15 of the Bill: No change

(22) In view of the new institution of Endowments Tribunal being set-up the existing functions of Assistant Commissioner / Deputy Commissioner in Sections 83, 84, 85, 87 and 88 of the principal Act have to be transferred to the Tribunal and the appellate powers clearly defined. Accordingly, the following changes have to be brought about:

In section 83 for the words "Deputy Commissioner" wherever they occur, the words "Endowments Tribunal" shall be substituted and in sub section (2) and (4) for the word "he" the word "it" shall be substituted and in sub section (6) for the word "him" the word "it" shall be substituted;

For section 84 the following section shall be substituted:-

Mode of eviction on failure of removal of the encroachments as directed by the Endowments Tribunal

"84.-(1) Where within the period specified in the order under sub-section (4) of Section 83, the encroacher has not removed the encroachment and has not vacated the land, building or space, the Assistant Commissioner having jurisdiction over the subdivision may remove the encroachment and obtain possession of the land, building or space, encroached upon, taking such police assistance as may be necessary. Any Police Officer whose help is required for this purpose shall be required to render the necessary help to the Assistant Commissioner.

(2) Nothing in sub section (1) shall prevent any person aggrieved by any order of the Endowments Tribunal under subsection (4) of section 83 from preferring an appeal before the High Court to establish that the Charitable or religious Institution or Endowment has no title to the land, building or space.

Provided that no appeal shall be preferred after expiry of ninety days from the date of receipt of the order under sub-section (4) of section 83.

Provided further that no such appeal shall be preferred by a person who is let in to the possession of land, building or space, or who is a lessee, licensee or mortgagee of Institution or Endowment.

For section 85 the following section shall be substituted, namely:-

- "85 (1) Where the Deputy Commissioner knows or has reason to believe that a group or groups of persons, without any entitlement and with the common object of occupying any land, which is the property belonging to charitable or religious institution or endowment, are occupying or have occupied any such land and if such group or groups of persons have not vacated the land on demand by the Deputy Commissioner or any officer authorized by him in this behalf, he shall make an application to the Endowments Tribunal having jurisdiction over the area in which the institution or endowment is situated for eviction of encroachers.
- (2) Where, in any proceedings taken under this section, or in consequence of anything done under this section, a question arises as whether any land is the property of the charitable or religious institution or endowment, such land shall be presumed to be the property of the charitable or religious institution or endowment until the contrary is proved.
- (3) Notwithstanding anything in this Act, any order of eviction passed by the Endowments Tribunal under sub-section (1) shall be final and shall not be questioned in any court.

For section 87 the following section shall be substituted, namely:-

Power of Endowments Tribunal to decide certain disputes and matters

- 87.(1) The Endowments Tribunal having jurisdiction shall have the power, after giving notice in the prescribed manner to the person concerned, to enquire into and decide any dispute as to the question -
- (a) whether an institution or endowment is a charitable institution or endowment;
 - (b) whether an institution or endowment is a religious institution or endowment ;
 - (c) whether any property is an endowment, if so whether it is a charitable endowment or a religious endowment ;
 - (d) whether any property is a specific endowment :

- (e) whether any person is entitled by custom or otherwise to any honor, emoluments or perquisites in any charitable or religious institution or endowment and what the established usage of such institution or endowment is in regard to any other matter ;
 - (f) whether any institution or endowment is wholly or partly of a secular or religious character and whether any property is given wholly or partly for secular or religious uses ; or
 - (g) where any property or money has been given for the support of an institution or endowment which is partly of a secular character and partly of a religious character or the performance of any service or charity connected with such institution or endowment or the performance of a charity which is partly of a secular character and partly of a religious character or where any property or money given is appropriated partly to secular uses and partly to religious uses, as to what portion of such property or money shall be allocated to secular or religious uses.
 - (h) Whether a person is a founder or a member from the family of the founder of an Institution or Endowment.
- (2) The Endowments Tribunal may, pending his decision under sub-section (1), pass such order as he deems fit for the administration of the property or custody of the money belonging to the institution or endowment.
- (3) The Endowments Tribunal may while recording its decision under sub-section (1) and pending implementation of such decision, pass such interim order as it may deem fit for safeguarding the interests of the institution or endowment and for preventing damage to or loss or misappropriation or criminal breach of trust in respect of the properties or moneys belonging to or in the possession of the institution or endowment.
- (4) The presumption in respect of matters covered by clauses (a), (b), (c), (d), and (e) in sub-section (1) is that the institution or the endowment is a public one and that the burden of proof in all such cases shall lie on the person claiming the institution or the endowment to be private or the property or money to be

other than that of a religious endowment or specific endowment, as the case may be.

- (5) Notwithstanding anything contained in the above sub sections the Deputy Commissioner having jurisdiction shall continue to enquire into and decide the disputes referred to in sub-section (1) until the constitution of the Endowments Tribunal.

For section 88 the following section shall be substituted, namely:-

Right of appeal against the decision of the Endowments Tribunal under Section 87

“88. Any person aggrieved by the decision of the Endowments Tribunal under section 87 and section 119 may, within ninety days from the date of receipt of the decision prefer an appeal to the High Court”

(23) Section 16 of the Bill: No change

(24) Section 17 of the Bill: No change

(25) In order to maintain the sanctity of Tirumala Hills certain additional provisions prohibiting certain acts have to be incorporated as requested by the TTD. Accordingly, in section 114 of the Principal Act, in sub section (3)-

(1) in clause (a) after sub clause (vii) the following sub clauses shall be added, namely:-

(viii) tonsuring or hair-cutting in places other than those earmarked for the said purpose by the Executive Officer.

(ix) unlicensed Hawkers and Vendors.

(x) dealing in any manner with Seva Ticket, Prasadam and accommodation belonging to the Tirumala Tirupathi Devasthanam except at such places and by persons specially authorized in this behalf by him.”

(26) Section 18 of the Bill: No change

(27) The powers currently being exercised by the Commissioner have to be transferred to the Endowments Tribunal.

Encroachment:

"118. The provisions in section 83, 84, 85, and 86 shall apply to Tirumala Tirupathi Devasthanams and the powers therein shall be exercised by the Endowments Tribunal."

For section 119 of the principal Act the following section shall be substituted, namely:-

Enquires

"119. The provisions in section 87 shall apply to Tirumala Tirupathi Devasthanams and the powers therein shall be exercised by the Endowments Tribunal."

(28) Section 19 of the Bill: Omitted

(29) Section 20 of the Bill: No change except for the power to approve a scheme being given to the Dharmika Parishad instead of the Government

(30) Section 21 of the Bill: No change

(31) Section 22: The first clause related to Bhakta Samajams omitted and clause related to Sanathana Dharma Parishad modified as follows:

For section 152 of the principal Act the following section shall be substituted, namely:-

Constitution of Andhra Pradesh Dharmika Parishad

"152.(1) The Government shall, by notification in the Andhra Pradesh Gazette constitute the 'Andhra Pradesh Dharmika Parishad' for the State consisting of the following members, namely:-

- (i) Minister for Endowments who shall be the Chairman;
- (ii) The Principal Secretary/Secretary to Government, Revenue Department in charge of religious and Charitable Institutions and Endowments;
- (iii) The Commissioner of Endowments who shall be member secretary;
- (iv) The Executive Officer, Tirumala Tirupathi Devasthanams.
- (v) One representative each from the Chairmen of Boards of Trustees from section 6 (a)(i) and (ii), section 6 (b)(i) and (ii), section 6 (c)(i) and (ii) and two Mathadhipathis published under section 6(d) of the Act.
- (vi) Retired Senior officer of the Government who is a devout Hindu and has experience of and commitment to improve

the Hindu Temple system, to be nominated by the Government

- (vii) A retired senior officer of the endowments department
 - (viii) Retired judge of the High Court who is a devout Hindu and has commitment to improve the Hindu Temple system.
 - (ix) A legal luminary/Advocate aged more than 62 years who is a devout Hindu and has experience and has commitment to improve the Hindu temple system.
 - (x) Two prominent philanthropists who have a track record of establishment, maintenance and supporting various endowments, Charitable and Hindu religious institutions to be nominated by the Government.
 - (xi) Two agama pandits to be nominated by the Government
 - (xii) One chartered accountant who is a devout Hindu and has a commitment to improve the Hindu temple system, to be nominated by the Government
- (2) The Parishad may for the purpose of consultation, invite any person having experience and specialized knowledge in any subject under its consideration to attend its meetings and every such person shall be entitled to such allowances as may be prescribed.
- (3) The powers, functions and term of office etc of the members of Andhra Pradesh Dharmika Parishad shall be such, as may be prescribed.
- (4) The Government may by order delegate its powers and functions to the Andhra Pradesh Dharmika Parishad.

(32) Section 23 of the Bill: No change

(33) The Select Committee feels that a legal forum for speedy disposal of cases related to land leases encroachments and other matters would help in augmenting the income of temples, recovery of encroached lands and expeditious settlement of disputes. Accordingly, a new body called the Endowments Tribunal has been proposed and new sections in the Act have to be incorporated as follows:

162. (1) The Constitution of Endowments Tribunal
Government may, for the purpose of this Act, constitute as many Tribunals as it may think fit, for the

determination of any dispute, question or the matter relating to a Charitable Institution, Dharmadayam, Religious Charity, Religious Endowments, Religious Institution or any Institution as defined in the Act and also define the local limits and jurisdiction of each of such Tribunals.

- (2) Where any application is made relating to any property of the institution which falls within the territorial limits of the jurisdiction of two or more Tribunals, such application may be made to the Tribunal within the local limits of whose jurisdiction the Head Office or the main institution is located and where any such application is made to the Tribunal aforesaid, the other Tribunal or Tribunals having jurisdiction shall not entertain any application for the determination of such dispute question or other matter.
- (3) The Tribunal shall consist of a Chairman and one other member to be appointed by the Government.
- (4) The Chairman shall be a person who is or has been a judicial officer not below the rank of a District Judge and a member shall be a person, who holds or has held a post not below the rank of Additional Commissioner of Endowments.
- (5) The Government may, from time to time, likewise reconstitute any Tribunal constituted under sub-section (1) or may abolish such Tribunal.
- (6) The procedure followed by a Tribunal and the manner of taking decision there at and the procedure and conduct of its business shall be such as may be prescribed.
- (7) No act or proceeding of any Tribunal shall be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect, in the constitution or reconstitution thereof.

18. The Select Committee has taken into consideration the views of all the stakeholders and tried to incorporate provisions that, in its collective

wisdom, would achieve the avowed objectives of the reform process. The Committee believes that the opportunity given by the Legislature to suggest refinements to the amendments was invaluable. We heard the voices of many organizations and individuals. All of them have greatly enriched our deliberations. Underlying their statements was a deep commitment that the Temple system needs to be revitalized, that the traditions, customs, rituals sanctified over long years of evolution need to be preserved and nurtured. We respect these sentiments. Our recommendations are made with these views as a backdrop. We do hope that this set of recommendations will result in a system that is better, in however small way, than what obtains today. The Committee believes that the reform effort that has now been set in motion is a collaborative process with an underlying spirit of dialogue and shared vision with the ultimate objective of improving the quality of life - a process that our ancient seers had encapsulated in the following words:

Sahanavavatu Sahanau bhunakthu, Saha veeryam Karavavahai
Tejeswinavadheetamastu, Maa Vidvishava hai
Om Shantih, Shantih, Shantih

(May the all pervading God protect us, may he guide and sustain us by granting the fruits of knowledge, may he give us the strength and right understanding, may our study enlighten us, may we not harbor any ill will towards each other, may peace and harmony be with us all.)

The Committee expresses its gratitude to Dr.I.V.Subba Rao, Principal Secretary, Revenue, Shri P.Sundar Kumar, Commissioner, Endowments, Shri Madan Mohan Reddy, Secretary, Law and all the officials in Revenue, Endowments and Law departments who assisted the Committee in its deliberations. The Committee also places on record the excellent support provided by Shri Tuljanand Singh, Secretary, Legislature and his team of dedicated professionals in finalizing this report.

Place: Hyderabad

Date : 15.11.2007

Juvvadi Ratnakar Rao,
Minister, Endowments &
Chairman, Select Committee