



The Rabindra Cultural Institutions (Taking Over of Management) Act, 1980

Act 53 of 1980

Keyword(s):

Date of Vesting, Notified Institution, Rabindra Cultural Institution

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West Bengal Act LIII of 1980¹

THE RABINDRA CULTURAL INSTITUTIONS (TAKING OVER OF MANAGEMENT) ACT, 1980.

AMENDED West Ben. Act XL of 1989.

[5th February, 1981.]

An Act to provide for the taking over for a limited period in the public interest for better management and control ²{and the subsequent acquisition} of Rabindra Cultural Institutions in West Bengal.

WHEREAS it is expedient in the public interest to provide for better management and control of Rabindra Cultural Institutions in West Bengal and for that purpose to provide for ³[the taking over for a limited period of the management and subsequent acquisition of such institutions;]

⁴AND WHEREAS under article 300A of the Constitution of India, no person shall be deprived of his property save by authority of law;

It is hereby enacted in the Thirty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. This Act may be called the Rabindra Cultural Institutions ⁵[(Taking over of Management and subsequent Acquisition)] Act, 1980. Short title.
2. In this Act, unless the context otherwise requires,— Definitions.
 - (a) "date of vesting", in relation to any Rabindra Cultural Institution, means the date on which the management of the Institution vests in the Government under section 3;
 - (b) "Government" means the Government of the State of West Bengal;

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IV of the 7th April, 1980, page 758; for the report of the Select Committee, see the report of that Committee presented before the Assembly on the 27th August, 1980; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of that Assembly held on the 28th April, 1980, 6th May, 1980 and 27th August, 1980.

²The words within the square brackets were inserted by s. 2 of the Rabindra Cultural Institutions (Taking over of Management) (Amendment) Act, 1989 (West Ben. Act XL of 1989).

³The words within the square brackets were substituted for the words "the taking over of the management of such institutions for a limited period;" by s. 3(a), *ibid.*

⁴Preamble was inserted by s. 3(b), *ibid.*

⁵The words and brackets within the square brackets were substituted for the words and brackets "(Taking over of Management)" by s. 4, *ibid.*

(Section 3.)

- (c) "notification" means a notification published in the *Official Gazette*;
- (d) "notified Institution" means a Rabindra Cultural Institution the management whereof has vested in the Government under section 3;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "Rabindra Cultural Institution" means an Institution, by whatever name or description it is known, set up or initiated on the occasion of the birth centenary of Rabindranath Tagore, or set up or initiated subsequently but before the coming into force of this Act, with a view to perpetuating his memory, either wholly or partly with Government funds, and used as a venue for cultural or recreational activities including the holding of seminars, civic receptions and musical and dramatic performances, but does not include any Institution established and maintained by any religious denomination for religious and charitable purposes.

Vesting of management of Institutions in the Government.

3. (1) Where the Government is satisfied that for proper management of any Rabindra Cultural Institution it is expedient in the public interest so to do, it may, by notification, declare that the management of such Institution shall vest in the Government on and from such date as may be specified in the notification.

(2) Every notification issued under sub-section (1) shall remain in force for a period of two years from the date specified therein:

Provided that if the Government is of opinion that it is expedient in the public interest that the management should continue to vest in the Government for any further period or periods, it may, from time to time, by notification, extend the period by such further period (but not exceeding one year at a time) as may be specified in the notification:

Provided further that the total period for which the management of a Rabindra Cultural Institution shall remain vested in the Government shall, in no case, exceed four years:

¹Provided also that in the case of acquisition of a notified Institution under section 3A, any notification issued under sub-section (1) or under the first proviso to this sub-section shall remain in force till the date of such acquisition.

Explanation.—For the purposes of this Act, the period (including extension, if any), during which the management of a Rabindra Cultural Institution shall remain vested in the Government under this section shall hereafter be referred to as the "period of vesting".

¹The third proviso was added by s. 5 of the Rabindra Cultural Institutions (Taking over of Management) (Amendment) Act, 1989 (West Ben. Act XL of 1989).

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(Section 3A.)

3A. (1) The Government may, if it so thinks fit, at any time within the period of vesting acquire a notified Institution by notification.

Acquisition
of notified
Institution.

(2) On and from the date of the notification referred to in sub-section (1) (hereinafter referred to as the date of acquisition),—

- (i) the notified Institution acquired under sub-section (1) (hereinafter referred to as the Institution) shall stand transferred to, and vest absolutely in, the Government, free from all encumbrances;
- (ii) the institution shall be run by the Government as a State Institution;
- (iii) any contract, whether express or implied, or other arrangement, whether made under any statute or otherwise, in relation to the management of any property or other affairs of the institution, and in force immediately before the date of acquisition shall be deemed to have terminated on and from the date of acquisition;
- (iv) every person (not being a part-time or over-aged employee) who has been an employee of the institution before the date of acquisition shall, on and from the date of acquisition, become an employee of the Government and shall hold office on the same terms and conditions as would have been admissible to him if there had been no such acquisition and shall continue to do so unless and until his employment under the Government is duly terminated or until the terms and conditions of his service are duly altered by the Government by rules made in this behalf:

Provided that the services of every person who express his unwillingness to continue in service in terms of the provisions of this clause shall stand terminated with effect from the date of acquisition or from any other date to be notified by him;

- (v) notwithstanding anything contained in any law for the time being in force or in any contract, custom or usage to the contrary, the transfer of the service of any employee of the institution to the service of the Government shall not entitle such employee to any compensation on any account whatsoever and no claim in this behalf shall be entertained by any court, tribunal or other authority.

¹Sections 3A and 3B were inserted by s. 6 of the Rabindra Cultural Institutions (Taking over of Management) (Amendment) Act, 1989 (West Ben. Act XL of 1989).

(Sections 3B, 4.)

Acquisition
without
compensa-
tion.

3B. For the removal of doubts, it is hereby declared that there shall not be paid any compensation for the acquisition of any notified Institution by authority of this Act under article 300A of the Constitution of India.

General
effect of
vesting.

4. (1) A notified Institution shall, during the period of vesting be run for the purposes for which it was established.

(2) Before the expiry of the period of vesting, the Government may, by notification, make over the management of the notified Institution to the authority under whose management the Institution was before the date of vesting, with effect from the date to be specified in the notification.

(3) If the management of the notified Institution has not been made over under sub-section (2), the Government shall, on the expiry of the period of vesting, make over the management of the notified Institution to the authority under whose management such Institution was immediately before such vesting.

(4) The Administrator appointed under section 5 shall cease to function with effect from the date on which the management of the notified Institution is made over to the authority under sub-section (2) or sub-section (3), as the case may be.

(5) The notified Institution shall be deemed to include all assets, rights, powers, authorities and privileges in relation to that Institution and all property, movable and immovable, including lands, buildings, stores, instruments, machinery, cash balances, reserve fund, investment and all other rights and interests in or arising out of such property as were immediately before the date of vesting in the ownership, possession, power or control of that Institution and all books of account, registers and all other documents of whatever nature relating thereto.

(6) Any contract (whether express or implied) or other arrangement (whether under any statute or otherwise) in so far as it relates to the management of the notified Institution and in force immediately before the date of vesting, or any order made by any court in so far as it relates to the management of the notified Institution and in force immediately before the date of vesting shall be deemed to have terminated on that date.

(7) All persons in whom the management of the notified Institution vests immediately before the date of vesting shall, as from that date, be deemed to have vacated their offices and shall cease to exercise any power of control.

¹See foot-note 1 on page 367, *ante*.

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(Section 5.)

(8) Notwithstanding any judgment, decree or order of any court, tribunal or other authority or anything contained in any law (other than this Act) for the time being in force, every Receiver, Official Liquidator or other person in whose possession or custody or under whose control the notified Institution or any part thereof may be immediately before the date of vesting, shall, on that date, deliver possession of the notified Institution or such part thereof, as the case may be, to the Administrator appointed under section 5.

(9) The Government may take, or cause to be taken, all necessary steps for obtaining the possession of the notified Institution.

5. (1) The Government shall, by order in writing, appoint an Administrator who shall be an Officer not below the rank of Sub-divisional Information Officer for the purpose of management of a notified Institution in accordance with the provisions of this Act and the rules made thereunder.

Appoint-
ment of
Administra-
tor.

(2) On the appointment of an Administrator under sub-section (1), the charge of management of the notified Institution shall vest in such Administrator and all persons in charge of the management of such Institution, immediately before such appointment, shall cease to be in charge of such management and shall be bound to deliver to the Administrator all assets, books of account, registers or other documents in their custody relating to such Institution.

(3) The Government may issue such directions to the Administrator as to his powers and duties (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) as the Government thinks fit and the Administrator may apply to the Government at any time for instructions as to the manner in which he shall carry on the management as to the notified Institution or in relation to any matter arising in the course of such management.

(4) Subject to other provisions of this Act and the rules made thereunder and the control of the Government, an Administrator shall be entitled (notwithstanding anything contained in the West Bengal Societies Registration Act, 1961 or in any other law for the time being in force) to exercise all the powers, in relation to the notified Institution, of the Governing Body or, as the case may be, of the board of trustees or of the executive committee, including the powers to dispose of any property or assets of such notified Institution whether or not such powers are derived from any law for the time being in force or from the memorandum and rules and regulations of the concerned notified Institution or from any other source.

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Management) Act, 1980.*

[West Ben. Act

(Section 6.)

(5) Any person who, on the date of vesting, has in his possession or control any books, papers or other documents relating to the notified Institution, shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers and other documents, to the Administrator and shall deliver them up to the Administrator or to such other person as may be authorised by the Administrator in this behalf.

(6) Every person in charge of the management of the notified Institution immediately before the date of vesting, shall, within ten days from that date or within such further period as the Government may allow in this behalf, furnish to the Administrator a complete inventory of all properties and assets (including particulars of book debts, investments and belongings) forming part of the notified Institution immediately before the date of vesting and of all liabilities and obligations of the notified Institution subsisting immediately before the date of vesting.

Management
of notified
Institution
pending
appointment
of
Adminisra-
tor.

6. (1) Until an Administrator has been appointed under section 5, the person-in-charge of management of a notified Institution immediately before the date of vesting shall, on and from that date, be in charge of the management of such Institution for and on behalf of the Government and the management of such Institution shall be carried on by such person subject to the provisions of sub-section (2) and such directions, if any, as the Government may issue in this behalf and no other person (so long as such management continues) shall exercise any power of management in relation to such notified Institution.

(2) No person referred to in sub-section (1) shall—

- (i) incur any expenditure otherwise than for the purpose of making payments of salaries to employees or commissions to agents or for the purpose of meeting the day to day expenditure;
- (ii) transfer or otherwise dispose of any asset or create any charge, hypothecation, lien or other incumbrance thereon;
- (iii) enter into any contract of service or agency, whether expressly or by implication, for purposes connected with the affairs of the notified Institution or vary the terms and conditions of any contract subsisting on the date of vesting.

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(Sections 7-10.)

7. (1) Notwithstanding anything contained in the West Bengal Societies Registration Act, 1961 or in the memorandum and the rules and regulations of the notified Institution, so long as the management of the notified Institution remains vested in the Government—

Application of West Ben. Act XXVI of 1961.

- (a) it shall not be lawful for the members of such notified Institution to appoint or nominate any person to be a member of the Governing Body (by whatever name called),
- (b) no resolution passed at any meeting of the members of such notified Institution or at any meeting of the Governing Body (by whatever name called) on or after the date of vesting shall be given effect to unless approved by the Government,
- (c) no proceeding for the dissolution of the notified Institution or for its merger with any other Institution or for the appointment of a receiver shall lie in any court except with the consent of the Government.

(2) Subject to the provisions of this Act, the West Bengal Societies Registration Act, 1961 shall continue to apply to the notified Institution in the same manner as it applied thereto before the date of vesting.

8. (1) No suit, prosecution or other legal proceeding shall lie against the Government, the Administrator or any officer of Government in respect of anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Government, the Administrator or any officer of the Government for any damage caused, or likely to be caused, by anything which is in good faith done or intended to be done under this Act.

9. The Government may, by notification, direct that all or any of the powers (except the power to make rules) exercisable by it under this Act may also be exercised by such person and on such conditions as may be specified in the notification.

Delegation of power.

10. Every debt arising out of any loan advanced to a notified Institution by the Government for carrying on the management of such Institution shall have priority over all other debts, whether secured or unsecured, incurred before the management of the Institution vested in the Government under this Act, and such debts shall be paid out of the assets of the notified Institution unless such assets are insufficient to meet them in which case they shall abate to the extent of insufficiency.

Debts incurred for purposes of the notified Institution to have priority.

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Management) Act, 1980.*

[West Ben. Act LIII of 1980.]

(Sections 11-14.)

Penalty.

11. (1) If any person contravenes the provisions of this Act he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one thousand rupees or with both.

(2) No Court shall take cognizance of any offence punishable under this Act except with the previous sanction of the Government.

Act not to
apply to
certain
Institutions.

12. (1) The provisions of this Act shall not apply to any Institution which is owned by or is under the management of the Central Government or a State Government or a Corporation established by or under an enactment (including an Ordinance) or a Government company as defined in section 617 of the Companies Act, 1956.

1 of 1956.

(2) For the purposes of sub-section (1), the management of an Institution by a receiver or any authorised person appointed by the Central Government or a State Government under any law for the time being in force shall be deemed to be management by the Central Government or the State Government, as the case may be.

Act to have
overriding
effect.

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any judgment, decree or order of any court, tribunal, or other authority or any instrument having effect by virtue of any law other than this Act.

Power to
make rules.

14. (1) The Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be or is required to be prescribed or made by rules.