

THE KERALA CHURCH (PROPERTIES AND INSTITUTIONS)

BILL-2021

A

BILL

to ensure fair and transparent administration of the properties and funds of the Churches in Kerala consisting of different denominations and to provide remedies for any maladministration thereof.

Preamble.- WHEREAS, it is expedient to enact a law regarding the administration of properties and funds of churches of various denominations and to provide remedies for any maladministration and matters incidental or connected therewith.

BE it enacted in the seventysecond year of the Republic of India as follows:-

1. Short title, extent and commencement .- (1) This Act shall be called “The Kerala Church (properties and institutions) Act 2021”

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. Definitions.- In this Act, unless the context otherwise requires,-

(a) “ Bishop” means the one who has been ordained as such according to the tenets of that denomination and includes any person holding the ecclesiastical status designated as Metropolitan or Suffragen Metropolitan or Moderator or Episcopa who by virtue of his office is bestowed with the authority to ordain Priests and Deacons and any other office of lower tier in the hierarchy of ordinations.

- (b) "Church" includes all denominations of the church.
- (c) "Christian" includes all persons who believe in the Bible and accept Jesus Christ as the only begotten son of God and baptised according to the tenets of the denominations concerned.
- (d) " Church Tribunal" means the Tribunal constituted by the Government of Kerala under section 8 of this Act.
- (e) "Clergyman" means a person ordained as a priest according to the tenets of the particular denomination.
- (f) "denomination" means any section of the church having a prelate and synod or council to which the members of that section owe allegiance and obedience both in spiritual and temporal matters and includes all Episcopal and non Episcopal denominations.

Explanation I.- The sect called "jehova's witnesses" shall also be deemed to be a Christian denomination.

Explanation II.- The Episcopal denomination having a Bishop at its head, which is called Synod or any other suitable term consisting of all the Bishops of that denomination besides others, if any.

Explanation III .- Non Episcopal denomination is the sect having no Bishop, but can have a Pastor or group of Pastors in whom vests the power of administration of the denomination both spiritual and temporal matters.

- (g) "Pastor" includes a preacher or Evangelist ordained or selected by a non-Episcopal denomination and any person acting himself as a Pastor or Evangelist. If there are more than one Pastor, the one recognised as the leader Pastor shall be deemed to be the prelate of that denomination.

(h) "Parish" means a local unit of the denomination either owning or allowed to use prayer hall or chapel hall which may usually be called the church of the parish.

(i) "Prescribed" means prescribed by Rules made under this Act.

(j) "Properties of the church" includes all movable and immovable properties, buildings and other assets as well as all the funds, bank deposits and other investments made by the denomination and also the properties and funds of the institutions run under the supervision or control of the supreme body of the denomination and all properties of the Parish.

3. Entitlement to hold properties by denomination.- Every denomination is entitled to hold properties which include the funds formed through membership subscriptions, offertories, donations and any other money or valuable contributions from the worshippers and non worshippers towards the administration of the denomination concerned or for any work of charity or evangelical activities or for any other work as determined by the denomination.

4. Regulations of the Denomination.- Each denomination shall have regulations for the governance of the denomination applicable to the governance of the parishes falling within the purview of the denomination.

Explanation.- If regulations are already made by any denomination and are still in force, such existing regulations shall be deemed to have been made under this section.

5. Accounts .- Every denomination shall keep accounts pertaining to all the properties and funds of the denomination including the expenditure from time to time. Accounts of every denomination shall be subjected to annual audit by a qualified Chartered Accountant or a team of

Chartered Accountants selected by the denomination for the said purpose.

6. Audit Report.- The Chartered Accountant or the team of Chartered Accountants, as the case may be, shall prepare the audit report and file the same with such office or officer indicated in the regulation. The officer authorised in the regulation shall present the Audit Report before the body of representatives of the members of the denomination either in any annual meeting or in any meeting convened for that purpose by the denomination.

7. Entitlement to hold properties by the Parish.- (1) Each parish, subject to the provisions of the regulations of the denomination, is entitled to own buildings and properties and if necessary to take such places on lease or licence arrangement. The parish is also entitled to have properties including buildings either for renting them to other persons or creating sources of income for the parish.

(2) Each parish shall maintain true and correct accounts which shall be subjected to audit by a single or a team of Auditors appointed by the parish for the said purpose. The Audit report shall be presented before the general body of the Parish for approval.

8. Constitution of Church Tribunal.- (1) The Government shall constitute a Church Tribunal which may either be a single member or a three Member Tribunal. Only a person who holds or has held the office of a District Judge shall be appointed as a single Member Tribunal. In the case of a multi-member Tribunal, the Presiding person shall be a person who holds or has held the office of a District Judge and the other members shall be persons qualified to be appointed as District Judge.

(2) The terms and conditions of the Tribunal shall be as may be prescribed. Government may appoint such officers, staff and also provide necessary fund for the effective functioning of the Tribunal.

9. Jurisdiction of the Tribunal.- (1) Any member of the denomination may file a petition before the Tribunal about any dispute relating to the administration of the properties or funds of the denomination or a Parish, provided that such person is not satisfied with the decision taken by the denomination. A dispute raised but not decided by the denomination shall also be treated as a dispute.

(2) The Tribunal Shall have the same powers as are vested in a Civil Court under Civil Procedure Code, 1908 (Central Act 5 of 1908) when trying a suit in the following matters:

- (a) Summoning and enforcing the attendance of any person and examining him on oath.
- (b) Demanding the discovery and production of any document or other materials or objects producible as evidence.
- (c) Receiving evidence on affidavit.
- (d) Requisitioning any public document or a copy thereof from any Court or Office.
- (e) Appointing Commission for examination of witnesses or in respect of any document.

(3) Any proceedings before the Tribunal has deemed to be a judicial proceedings with in the meaning of Sections 193 and 228 of Indian Penal Code, 1860 (Central Act 45 of 1860)

(4) The decision of the Tribunal shall be final.

10. **Power to make rules.**- (1) The State Government may, by notification in the Official Gazette make Rules to carry out the provision of this Act.
- (2) Every Rule made under this Act shall be laid as soon as may be after it is made before the State Legislative Assembly, while it is in session, for a total period of fourteen days, which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the legislative assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

As per Article 26 (d) of the Constitution of India, every religious denomination or any section thereof shall administer the properties of such denomination or sections in accordance with law. At present there is no law relating to administration of properties of different denominations or sections of churches. The churches in Kerala have vast properties and assets acquired through various sources. The properties are managed by the Bishops or other heads of each denomination or the Parishes. There are instances in which, church properties are alienated, mortgaged or leased out without any

consultation at proper forums resulting in financial loss to the churches and also legal proceedings in different courts.

The morale of the devotees is also affected with such activities. At present, there is no regulatory mechanism to control such arbitrary transfers of church property and the devotees have no forum to make complaints regarding such arbitrary transfers and misuse of church funds.

In these circumstances, Government feels it proper to enact a law regulating such activities. Hence this Bill.