

The Bodhgaya Temple Act 1949

THE BODH GAYA TEMPLE ACT, 1949

(BIHAR ACT 17 OF 1949)

110

(as modified up to the 8th February, 1955)

[Governor's assent published in the Bihar Gazette of the 6th July, 1949].

An Act to make provision for the better management of the Bodh Gaya Temple and the properties appertaining thereto.

Whereas it is expedient to make provision for the better management of the Bodh Gaya Temple and properties appertaining thereto.

It is hereby enacted as follows:-

Short title and Commencement

1. (I) This Act may be called the Bodh Gaya Temple Act, 1949.
- (II) It shall come into force at once.

Definition

2. In this Act, unless there is any thing repugnant in the subject or context-
 - (a) "the temple" means the great temple built by the site of the Mahabodhi Tree near the village of Bodh Gaya in the district of Gaya and includes the Mahabodhi Tree and Vajrasan ;
 - (b) "the temple land" means the land in which the temple and its precincts stand and shall cover such area or shall lie within such boundaries as the [2] [State] Government may, by notification direct;
 - (c) "the Mahanth" means the presiding priest for the time being of Saivite Monastery at Bodh Gaya; and
 - (d) "Committee" means the committee constituted under Section 3.

Constitution of Committee

3. (1) As soon as may be after the commencement of this the¹ [State] Government shall constitute a committee as hereinafter provided and entrust it with the management and control of the temple land and the properties appertaining thereto.
- (2) The Committee shall consist of a Chairman and eight members nominated by the [1] [State] Government, all of whom shall be Indians and of whom four shall be Buddhists and four shall be Hindus including the Mahanth:

Provided that if the Mahanth is a minor or of unsound mind or refuses to serve on the committee another Hindu member shall be nominated in his place.

- (3) The District Magistrate of Gaya shall be the ex-officio Chairman of the Committee: Provided that the¹ [State] Government shall nominate a Hindu as Chairman of the Committee for the period during which the district Magistrate of Gaya is non-Hindu.
- (4) The [1] [State] Government shall nominate a person from among the members to act as Secretary of the Committee.

69

Incorporation of Committee

4. The Committee shall be a body corporate by the name of the Bodh Gaya Temple Management Committee, having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and shall by the said name sue or be sued.

Term of office of members

5. (1) The term of office of the members of the committee shall be three years:
- Provided that the¹ [State] Government, if they are satisfied that the Committee is guilty of gross mismanagement, dissolve the Committee and constitute another Committee or assume direct control of the temple, temple land and the properties appertaining thereto.
- (2) Where a member of the Committee dies, resigns, refuses to serve on the Committee, absents himself from six consecutive meetings of the Committee, without the leave of the Committee or ceases to reside in India, or becomes incapable of working, the [¹] [State] Government may nominate a person to fill the vacancy.
- (3) Any Act done by the Committee shall not be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee.

Publication of names of Chairman and members

6. The name of the Chairman other than the District Magistrate of Gaya and of every member of the committee shall be published by the¹ [State] Government in the Official Gazette,

Office and meetings of the Committee

7. (1) The Committee shall maintain its office at Bodh Gaya.
- (2) At the meeting of the Committee the Chairman, or in his absence one of the members to be elected at the meeting, shall preside.
- (3) No business shall be transacted at any meeting unless at least four members are present.

Limitation on Committee's power to alienate property

8. (1) No movable property of a non-perishable nature appertaining to the temple shall be transferred without the previous sanction of the Committee, and, if the value of the property is more than one thousand rupees, without the previous approval of the¹ [State] Government.
- (2) No immovable property appertaining to the temple shall be leased for more than three years or mortgaged, sold or otherwise alienated except with the previous sanction of the committee and the [¹] [State] Government.

Limitation of borrowing power

9. The Committee shall have no power to borrow money from any person except with the previous sanction of the¹ [State] Government.

Duties of the Committee

10. Subject to the provisions of this Act or of any rules made thereunder, it shall be the duty of the Committee -

- (1) to arrange for -
- (a) the upkeep and repair of the temple ;
- (b) the improvement of the temple land ;

- 18
- (c) the welfare and safety of the pilgrims ; and
 - (d) the proper performance of worship at the temple and pindadan (offering of pindas) on the temple land ;
 - (2) to prevent the desecration of the temple or any part thereof or of any image therein;
 - (3) to make arrangements for the receipt and disposal of the offerings made in the Temple, and for the safe custody of the statements of accounts and other documents relating to the temple or the temple land and for the preservation of the property appertaining to the temple;
 - (4) to make arrangement for the custody, deposit and investment of funds in its hand; and
 - (5) to make provision for the payment of suitable emoluments to its salaried staff.

Right of access and worship

11. (1) Notwithstanding anything contained in this Act or in the rules framed thereunder, Hindus and Buddhists of every sect shall have access to the temple and the temple land for the purpose of worship or pindadan.

Provide that nothing in this Act shall entitle any person to perform animal sacrifice or to bring any alcoholic liqueur within the temple or on the temple land, or to enter the temple with shoes on.
- (2) If any person contravenes the provisions of the proviso to sub-Section (1), he shall be punishable with fine not exceeding fifty rupees.

Decision on dispute between Hindus and Buddhists

12. Notwithstanding anything contained in any enactment for the time being in force, if there be any dispute between Hindus and Buddhists regarding the manner of using the temple or the temple land, the decision of the¹ [State] Government shall be final.

Committee to have no jurisdiction over properties of Saivite Monastery

13. Notwithstanding anything contained in this Act or in the rules made thereunder, the Committee shall have no jurisdiction over the movable or immovable property of the Saivite Monastery of Bodh Gaya.

Audit of Accounts

14. The¹ [State] Government shall every year appoint an auditor to audit the accounts of the funds of the Committee and fix his remuneration which shall be paid from the said funds. The auditor shall submit his report to the Committee and send a copy of it to the ['] [State] Government which may issue such directions thereon, as it may deem fit, and the Committee shall carry out such directions.

Constitution of an Advisory Board

15. (1) The¹ [State] Government may constitute an Advisory Board (hereinafter referred to in this Act as the "Board") which shall consist of such number of members as the ['] [State] Government may determine.
- (2) The majority of the members of such Board shall be Buddhists who may not all be Indians.
- (3) The members of the Board shall hold office for such term as may be fixed by the ['] [State] Government.
- (4) The Board shall function purely as an Advisory body to the Committee and shall discharge its functions in the manner prescribed by the¹ [State] Government by rules made in this behalf.

Act to override Act 20 of 1863, etc

16. This Act shall have effect notwithstanding anything to the contrary contained in the Religious endowments Act² 1863, or in any decree, custom or usage.

Power of the Committee to make bye-laws

17. (1) With the previous sanction of the³ [State] Government the committee may from time, make bye - laws to carry out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such bye-laws may provide for :-
- (a) the division of duties among the Chair- man, the members and Secretary of the Committee;
 - (b) the manner in which their decision may be ascertained otherwise than at the meetings;
 - (c) the procedure and conduct of business at meetings of the Committee;
 - (d) the delegation of powers of the Committee to individual members;
 - (e) the book and accounts to be kept at the office of the Committee;
 - (f) the custody and investment of the funds of the Committee;
 - (g) the time and place of its meetings ;
 - (h) the manner in which notice of its meeting shall be given;
 - (i) the preservation of order and the conduct of proceeding at meetings and the powers which the Chairman may exercise for the purpose of enforcing its decisions;
 - (j) the manner in which the proceeding of its meeting shall be recorded;
 - (k) the persons by whom receipts may be granted for moneys paid to the Committee; and
 - (l) the maintenance of cordial relations between the Buddhists and the Hindu pilgrims.
- (3) All bye - laws, after they have been confirmed by the¹ [State] Government, shall be published in the Official Gazette, and shall thereafter have the force of law.

Power of Govt. to make rules

18. The¹ [State] Government may make rules² to carry out the purposes of this Act.

[Preface to the said Act : "The Bodh Gaya Temple Act, 1949 (Bihar Act 17 of 1949) has been amended by the Adaptation of Law Order, 1950. The amendments made by the Adaptation of Laws Order have been incorporated in the text and some other foot-notes have been added for convenience of reference" - Deputy Secretary to Government, dated the 8th February 1955].³

* * *

BYE-LAWS OF THE BODH GAYA TEMPLE MANAGEMENT COMMITTEE

Government of Bihar,
Political Department.
(General Branch)
NOTIFICATION

Patna, the 26th February, 1957

No. A/B1-1026/56-P.G. 435. The following bye-laws made by the Bodh Gaya Temple Management Committee under Sub-section (1) of Section 17 of the Bodh Gaya Temple Act, 1949 (Bihar Act 17 of 1949), having been confirmed by the State Government, are hereby published as required by Sub-section (3) of the said Section :-

By-laws under Section 17 of the Bodh Gaya Temple Act.

Definitions

1. In these bye-laws unless the context otherwise indicates:
 - (i) 'Act means the Bodh Gaya Temple Act, 1949 (Bihar Act XVIII of 1949).
 - (ii) 'rules' means rules framed by the State Government under section 18 of the Act.
 - (iii) 'Bye-laws' means the bye - laws framed by the Committee with the previous sanction of the State Government under section 17 of the Act.
 - (iv) 'Chairman' means the Chairman of the Committee.
 - (v) 'Secretary' means the Secretary of the Committee.

Meetings

2. Meetings of the Committee shall be held at the office of the Committee or at such other place at Bodh Gaya as the Chairman or in his absence, the Secretary may decide.
3. Meetings of the Committee shall be held, as far as possible, at intervals not exceeding three months.
4. The agenda for a meeting shall be prepared by the Chairman after taking into consideration suggestions (if any) received in this behalf from the members, and resolutions received in the office of the Committee at least seven days before the notice meeting is issued to members shall be included therein.
5. Notice of a meeting together with copies of the agenda shall be circulated to members by post by Express delivery letters, or by messengers in case of local members, at least, twenty-one days before the date fixed for the meeting:

Providing that in case of an emergency a meeting may be called on seven days' notice.
6. Notice of a meeting together with the agenda shall be entered in a register kept for the purpose, and the register shall be open to inspection by any member at the office of the Committee during office hours.
7. The Chairman (or, in his absence, any other member elected for the purpose by members present at the meeting) shall preside over a meeting.

8. Four members shall form the quorum at any meeting.
9. The minutes of proceedings of meetings shall be recorded by the Chairman, or, in his absence, by the member who may preside at the meeting or by such other person as may be directed by the person presiding at the meeting.
10. At a meeting other than an adjourned meeting, the minutes of the last meeting shall be read out and, if approved as having been correctly recorded or after necessary correction, if any, shall be signed by the Chairman or such other member as may be presiding at the meeting.
11. At every meeting a financial statement and a report on the work done after the last meeting of the committee (including a resume of the steps taken to implement the previous decisions of the Committee), or proposed to be undertaken in the future, shall be laid.
12. No subject once finally disposed of at a meeting shall be reopened or re-considered within six months from the date of its disposal, except with the concurrence of, at least, two-thirds of the members present at a meeting.
13. The Chairman may issue special invitations to persons who are not members of the Committee to attend a meeting and the invitees may participate in the deliberations of the Committee, but they will have no right of vote.
15. An adjourned meeting, being merely continuation of the original meeting, shall not require notice of more than seven days.
16. No matter may be considered at a meeting including a meeting adjourned for want of the quorum unless it is included in the agenda circulated under bye - law 5:

Provided that, at the request of any member or on his motion, the Chairman (or, in his absence, the member presiding at the meeting) may include any matter in the agenda if he is satisfied about its urgency.

17. Any member of the Committee may make suggestions in writing for the inclusion of any matter in the agenda of a meeting and the same shall be considered by the Chairman and, in case the Chairman does not include in the agenda any such suggestion which has been received in the office of the Committee more than seven days before the notice together with the agenda is issued to the members, he shall record the reasons for inability to include the suggestion in the agenda and inform the member concerned of it.
18. The suggestions mentioned in bye-law No. 18 shall together with the date of their receipt in the office of the Committee be entered in the order in which they are received in a register to be maintained for the purpose.
19. The Chairman, or the Secretary, in consultation with the Chairman, shall convene meetings of the Committee;

Provided that, if no meeting is held within three months, any member may send a requisition to the Chairman requesting him to call a meeting and the Chairman (or the Secretary in consultation with the Chairman) shall thereupon call a meeting of the Committee and, if the Chairman (or the Secretary) fails to call a meeting within a year, any four members may call a meeting of the Committee.

20. Within seven days of the holding of a meeting, the minutes of the proceedings of the meeting shall be circulated to all members of the Committee, and a copy thereof shall be forwarded to the State Government and the Commissioner, Patna Division by the Chairman.
21.
 - (i) If any question of importance requiring urgent consideration arises, the Secretary, with the consent of the Chairman, or the Chairman on his own motion may ascertain the opinions of the members thereon otherwise than at a meeting by referring the matter to them in writing by registered post.
 - (ii) In making the reference the question on which the opinion of the members is to be ascertained shall, as far as practicable, be framed succinctly and precisely, split into parts, if necessary, so that the answer to the parts or whole may be 'yes' or 'no'.

- 7
4
- (iii) A short explanation note shall accompany the question.
 - (iv) The decision of the majority of the members so ascertained shall operate as the decision of the Committee and shall have the same binding force and effect as that of a decision arrived at a meeting.
 - (v) The majority opinion shall be calculated and determined on the basis of opinions received in the office of the Committee before the 22nd day of the despatch of the registered letters in this regard to the members:

Provided that, if the majority opinion becomes clear before the lapse of the said period of 21 days, the Secretary shall proceed to act on it forthwith.

- (iv) The opinion so ascertained shall be reported in writing to the next meeting of the Committee and then incorporated in its minutes.

Budget

- 22. The annual budget of the Committee shall be finalised every year not later than the 31st January, and, at least, one month before the date of the meeting convened for the purpose of considering and passing the budget, the Secretary shall, in consultation with the Chairman, prepare:-
 - (i) an estimated budget of expenditure which may be incurred during the ensuing financial year;
 - (ii) a statement showing all expected receipts from all sources during the ensuing financial year;
 - (iii) an estimate of the balances likely to be available for expenditure during the ensuing financial year, and circulate them with an explanatory memorandum, to all members of the committee at least 21 days before the date of the meeting.
- 23. No expenditure shall be incurred unless it is sanctioned in the budget:

Provided that, to meet unforeseen and urgent expenditure, the Committee shall, subject to rules, be competent to sanction special grants during the year.
- 24. The power of the Committee to sanction special grants to meet unforeseen and urgent expenditure, may by a resolution of the Committee, be delegated to the Chairman and/or the Secretary.
- 25. At the meeting of the Committee convened to consider the annual budget estimates, statements and proposals, the Secretary shall place the final accounts of the financial year next preceding and the provisional accounts of the financial year.
- 26. The budget for a financial year passing at the meeting of the Committee referred to in the bye-law 23, shall be forwarded for information to the State Government, and to such other authority as the State Government may, from time to time, indicate,

Financial Provision

- 27. All money received whether by way of donation, subscription or any other manner shall be credited to the Fund of the Committee.
- 28. Charity boxes shall be opened at least a month by the Chairman or any other person authorised by him in writing, in presence of two other responsible persons who will each certify in writing what amount is taken out of each such box.
- 29. Accounts will be maintained in the local branch of the State Bank of India.
- 30. All money received by or on behalf of the Committee must be deposited in the Bank within the next three working days of the bank after such receipt.
- 31. Payments exceeding Rs. 20.00 except the payment of salaries and emoluments of the staff of the Committee, shall be made by cheques signed by the Chairman or signed by the Secretary and countersigned by the Chairman.

- 32. For all money any articles received by or on behalf of the Committee the Chairman or any other person authorised in writing by him shall issue printed receipts, the counterfoils of which shall be preserved for a period of twelve years.
- 33. The income and the property of the Committee, howsoever derived, shall be applied solely towards the proper performance of the duties of the Committee as laid down in the Act.
- 34. Subject to the control of the Chairman, the Secretary shall be in charge of the funds of the committee.
- 35. Subject to the provisions of the Act all transfer of properties, movable or immovable, whether by way of lease, mortgage, sale or otherwise shall be openly negotiated and completed :

Provided that the Chairman, or such person as may be authorised in writing by him in this behalf, may have any perishable article auctioned after giving locally notice of the auction by beat of drum.
- 36. All leases and contracts shall be made in open public bids held after seven days of proper and public notice.
- 37. The lease shall usually be given to the highest bidder for reasons to be recorded in writing by him.
- 38. In giving out contracts, the lowest tender shall ordinarily be accepted:

Provided that the Chairman will have the right to give a contract to a person whose tender is not the lowest for reasons to be recorded in writing by him.
- 39. The Chairman may authorise the Secretary or the senior most member of the staff of the Committee to keep with himself a permanent advance of a sum not exceeding Rs. 50/- for incurring expenditure on contingencies, which will be recouped by drawing regular bills after submission of proper vouchers for each item of expenditure already incurred.

Power and Duties of Office Bearers.

- 41. (i) The appointment or the dismissal of member of the staff of the Committee employed on a salary of Rs. 50/- a month and above shall rest with the Committee.
- (ii) The Chairman may appoint, suspend or dismiss any employee of the Committee whose salary is less than Rs. 50/- a month:

Provided that, all such appointments, suspensions and dismissals must be reported with the reasons therefore for information at the first meeting of the Committee held after the order or appointment, suspension or dismissal has been passed.
- (iii) The Chairman may, pending an inquiry, suspend an employee of the committee drawing a salary of Rs. 50/- a month or more for misconduct, incompetence, neglect of duty or any other sufficient cause:

Provided that he action taken along with the explanation, if any, submitted by the employee, shall be reported to the Committee for proper action all its first meeting held after the order of suspension has been passed.
- (iv) All temporary employees of the Committee, whose services may no longer be required shall be liable to be discharged after one month's notice or on payment of one month's salary in lieu thereof. Permanent employees may be removed from service after consideration of an explanation to be submitted by them within a reasonable time.
- (v) The Chairman may impose a fine not exceeding one tenth of one month's salary on any employee of the Committee drawing a salary not exceeding Rs. 50/- a month for misconduct, neglect of duty or any other sufficient cause.
- (vi) The Chairman may impose a fine not exceeding one-tenth of one month's salary on any

employees of the committee drawing a salary of Rs. 50/- a month or above but the order imposing the fine shall be submitted to the Committee for approval at its first meeting held after the order is passed and the Committee may approve, rescind, or modify the order.

- (vi) The Chairman shall call upon the employee concerned to explain his conduct and consider the explanation, if any, submitted by the employee before he passes an order imposing a fine.
 - (viii) All persons employed by a Committee shall, if required, furnish such security as the Committee may from time to time determine.
 - (ix) During the period of suspension pending enquiry into his conduct, an employee will get as subsistence allowance only one-half of the salary which he was entitled to draw on the day he was suspended.
42. The General superintendence and control of the establishments maintained by the Committee shall vest in and be exercised by the Chairman. The Chairman shall be in general control of the funds of the Committee and shall enter into contracts or execute leases or other documents and pass bills for payments, on behalf of the committee.
43. The Secretary shall be the Chief Executive Officer of the Committee, and shall exercise supervision over the staff of the committee and keep the books of accounts and other principal records of the Committee.
43. The Secretary shall be the chief Executive Officer of the Committee, and shall exercise supervision over the staff of the Committee and keep the books of accounts and other principal records of the Committee in his custody.
44. The Committee may designate the senior most member of its office staff as its Superintendent who shall :-
- (i) have the general charge of the office of the Committee and its day to day work;
 - (ii) subject to any general or special direction which the Chairman or Secretary may from time to time give, deal with routine correspondence.
 - (iii) examine and sign the cash-books and keep them in order and up-to-date;
 - (iv) he responsible for the maintenance of the purity and cleanliness of the Temple and the Temple land; and.
 - (v) look after the comforts of visitors and devotees.
45. All communication received in the office marked 'Secret', 'Confidential', or 'Personal', (or addressed by name) shall be opened by the Chairman or the Secretary (according as who is the addressee).
46. The common seal of the Committee shall remain in the custody of the Chairman, or, if he so directs in writing, of the Secretary.

Miscellaneous

47. The common seal shall be affixed to the following documents :-
- (i) all deeds of transfer executed by, or, on behalf of the Committee;
 - (ii) all written contracts entered into by the Committee;
 - (iii) the minutes of proceedings of the Committee;
 - (iv) notices of the meetings of the Committee;
 - (v) all receipts for money granted on behalf of the Committee; and
 - (vi) any other documents which in the opinion of the Chairman or the Secretary, is of importance

48. (i) For the proper maintenance of accounts and efficient discharge of its duties the Committee shall maintain necessary books and registers in its office.
- (ii) A list of such books and registers shall be maintained in the office.
- (iii) Books and registers maintained by the Committee shall be open to inspection, during office hours, by the members of the committee and with the permission of the Chairman or the Secretary, by any other person.
49. The Committee may from time to time, for any purpose connected with its work, appoint sub-committees consisting of such of its members and any others persons as it may think proper and such sub-committees shall exercise such powers and perform such functions as may be prescribed by the Committee.
50. Any addition, alteration or modification in these bye-laws may be made by the Committee by a majority of votes of the members of the Committee, subject to confirmation by the State Government and publication in the official Gazette.
51. In matters not specifically provided for in these by-laws the Committee shall be competent to pass orders and regulate its affairs in such manner as is necessary for the discharge of its duties in accordance with the Act and the rules.
52. The Committee may, by a resolution, delegate such of its powers to the Chairman or the Secretary, as it may consider necessary.
53. The Secretary shall prepare each year a report of the affairs and activities of the committee and present it at its meeting held to consider and pass the budget. A copy of the report shall be forwarded to the State Government along with the budget estimates.
54. The members of the Committee including the Chairman and the Secretary and the special invitees to the meetings of the Committee and Sub-committees shall be entitled to travelling allowance and daily allowance for attending the meetings of the Committee and its Sub-committees (and for other journeys required in connection with the work of the Committee, in the case of the Chairman and Secretary) at the following rates :
- (i) Single second class railway fare from the railway station nearest the members or special invitees, place or residence to the railway stations nearest the place of the meeting.
- (ii) Eight annas for each mile of distance travelled by road in the course of journey from the place of residence to the place of meeting.
- (iii) Daily allowance at the rate of Rs. 5/- per diem for the duration of the meeting and an allowance of Rs. 5/- as out of pocket expenses for every day spent in travelling between their places of residence and the place of the meeting and vice versa:
- Provided that, the out-of-pocket expenses shall not be paid for the day or days for which daily allowance is admissible.
- Provided further that, that employees of the State Government shall not be entitled to charge any travelling allowance or daily allowance or out-of-pocket expense from the funds of the Committee.
55. The staff of the Committee shall be entitled to such rates of travelling and daily allowances as the Chairman may, from time to time, after due consideration of the finances of the Committee, by an order in writing determine and such rates shall prevail until modified.

* * *