

THE KERALA CHRISTIAN CHURCH PROPERTIES AND INSTITUTIONS TRUST BILL

A BILL

To promote the more democratic, efficient and just administration of the temporal affairs and properties of the Churches (Sabha) to constitute Christian Charitable Trusts and Committees for controlling the resources and finances and for the management of the properties of the churches and to provide for election to the Committees at different levels of the administrative units, viz., Parish / Basic Units, Diocese / Central / Revenue District, and State levels -

BE it enacted in the Fiftynineth year of the Republic.

1. Intention.

- i Even though the religious assets of the Christian Churches in Kerala have been handled from the ancient times as if they had been Trusts, they have not been till now registered as such, and this has given rise to various legal intricacies. In this context, the present Bill is intended to bring in a democratic framework in the administration of temporal assets of the various churches at the same time as these temporal properties are brought within the Biblical and thereby truly Christian modality in their administration.
- ii It is further envisaged through this Bill that representatives from the basic unit (Parish) be elected to the Parish / Basic Unit, Diocese / Central / Revenue District and State levels, and through this process set up Trust Committees, Trustees and Managing Trustees at various levels.

2. Disclaimer.

The present Act doesn't propose to get involved in or to formulate opinions or to make decisions on any matters connected with the teachings and practices of the various Churches about faith and theology.

3. Short title, extent and commencement.

- i This Act will be called 'The Kerala Christian Church Properties and Institutions Trusts Act, 2009'.
- ii It extends to the whole of the State of Kerala.
- iii It shall come into force at once.

4. Definitions.

- i "Christian" means a person who believes in Jesus Christ as his Lord and Saviour.
- ii "Church" means the body of persons who congregate to worship Christ as their Lord at the local and denominational level as well as a building made for public worship by Christians.
- iii "Local Level" means Parish/Basic unit level.
- iv "Denomination level" means churches such as Catholic, Jacobite or Marthomite.
- v "Church Property" means and includes,
 - a) The whole or part of a church or chapel building or any building fit to be used or intended to be used as a church or a chapel.
 - b) Land acquired for the purpose of putting up a church or chapel or for constructing a new church or chapel in the place of an existing church.
 - c) Land acquired for providing a churchyard or extending an existing churchyard and / or burial ground.
 - d) Any land, building or other assets acquired by or for the purpose of a church.
 - e) Land, building or other assets donated or gifted or sold by any person or persons in favour of the church for being used as church property.
 - f) Land acquired and / or used for providing access to or for improving the amenities of any church, churchyard or burial ground.
 - g) Land procured for the use by the church and institutions such as seminaries, religious universities, hospitals, schools, colleges, orphanages, priest homes, retreat centres, commercial buildings,

agricultural farms, estates, training centres, work-shops, media and publishing enterprises, catechetical institutes, rehabilitation centres and other movable properties.

vi "Prescribed" means prescribed by rules made under this Act.

5. Constitution of Christian Church Properties and Institutions Trusts for each Parish Church -

- i Notwithstanding anything contained in any law including ecclesiastical law, custom, usage or practice, every parish church shall be registered as a Christian Charitable Trust in the name of that particular church within a period not exceeding six months from the date of commencement of this Act.
- ii. The Parish Trust Assembly shall prepare a Memorandum and Bye-laws of the Trust at a meeting specially convened for the said purpose.
- iii. The day-to-day administration of the Trust shall be carried out by the Trustee Committee in accordance with the provisions contained in this Act and the Rules.

6. The General Assembly of the Parish / Basic Unit, Diocese / Central / Revenue District, and State Level Trusts and the Trustees thereof.

- i All heads of families and all those who are above eighteen years of age and are members of the Parish / basic unit shall constitute the Trust Assembly with right to vote.
- ii The Trust Assembly is to elect the Managing Trustee and other trustees and three internal auditors from among members of each parish / basic unit.
- iii On the basis of the number of families in the parish / basic unit, at the ratio of one member each to the Diocese / Central / Revenue District level for three hundred families or part thereof members to the second tier of Trust (Diocese / Central / Revenue District Level Trust) should be elected from the parish / basic unit Trust Assembly.
- iv Each Parish / basic unit Assembly should elect one member to the State level Trust.
- v On the basis of the number of families in the parish / basic unit Trust, seven Trustees including the Managing Trustee for a parish / basic unit Trust Assembly having families within a hundred number, and thereafter three more Trustees for each additional hundred families and part thereof should be elected.
- vi The Diocese / Central / Revenue District Trust Assembly should elect the Diocesan / Central / Revenue District Managing Trustee and the Trustees and three Internal Auditors.
- vii Twentyfive Trustees shall be elected in the Diocesan /Central / Revenue District Trust.
- viii Three internal auditors and a hundred and one Trustees should be elected in the Trust of the State Trust Level.
- ix The right to remove for justifiable reasons and thereafter elect new Managing Trustee or Trustees or internal auditors or Trust functionaries is vested with the respective Trust Assemblies.

7. Disqualifications

- i Those who are against Christian faith, and those who are atheists or convicted criminals are disqualified from holding any responsible positions under the Christian Charitable Trusts.
- ii Also disqualified for the same are psychiatric patients, the mentally – retarded, those who are alcoholics and given to the use of narcotics, those that lead an immoral life and anyone who is not a member in the Trust itself.

8. Donor of the Trust

- i The Managing Trustee of each Trust will be the donor (the person responsible for executing the registration of the Trust) in the case of each respective Trust.
- ii The subject matter of each Trust will be the institutions, assets and movable and immovable properties and riches; on these all members of the Trust will have joint ownership and authority.

9. Registration of the Christian Charitable Trusts

All Christian Charitable Trusts shall be registered under the provisions of the Societies Registration Act of 1866 / Kerala Public Charitable Societies Act.

10. Fees Payable for Registration

The Government may prescribe the fee payable for registration of the Trust.

- 11. Vesting of Church Properties** – Upon Registration of a Trust under Section 9 of this Act, all properties of the church, movable and immovable assets and cash shall be vested with the Board of Trustees.
- 12. Duties of the Christian Charitable Trusts -**
 - i The Christian Charitable Trusts shall manage all the assets and properties of the Trust and collect and receive :
 - a) All income therefrom;
 - b) All money received by the Trusts by way of contributions from the parishioners and donations to the church.
 - c) Sums of money realized by way of loans, sale, exchange etc., of immovable and movable properties.
 - d) Any other sum received by or on behalf of the church from any person or persons;
 - e) The Trustee Committee shall defray all reasonable expenses in relation to the management and administration of the Trust.
- 13. Accounts and Audit -**
 - i The Trustee Committee shall maintain all books of accounts and other books in relation to the accounts and prepare an annual statement of accounts in such form as may be decided by the Trustee Committee.
 - ii The accounts of the Trust shall be audited by one or more Internal Auditors appointed by the Annual Trust Assembly of the respective Trust.
 - iii The Trust Committee shall forthwith remedy any defect or irregularity pointed out by the Internal Auditors and report the action taken to the next Annual Trust Assembly of the respective Trust.
- 14. The Constitution of the Diocese / Central / Revenue District Level Christian Charitable Trusts**
 - i The Diocese / Central / Revenue District level Christian Charitable Trust shall elect a Trustee Committee consisting of 25 members.
 - ii The Diocese / Central / Revenue District Christian Charitable Trust shall manage all the assets and properties of the Diocese / Central / Revenue District level Trust, collect all income therefrom and defray all reasonable expenses in relation to the management and administration of the same Trust.
 - iii The Diocese / Central / Revenue District level Trust shall maintain all books of accounts and other books in relation to the accounts of the same Trust and prepare an annual statement of accounts in such form as may be decided by the same Trustee Committee itself.
 - iv The Diocese / Central / Revenue District level Trust shall forthwith remedy any defect or irregularity pointed out by the Internal Auditors and report the action taken to the Trust Assembly of the same level.
 - v Besides internal audit, the accounts of the said Trust shall be audited by a Chartered Accountant or a firm of Chartered Accountants nominated for the purpose by the Annual Trust Assembly of the Diocese / Central / Revenue District level Trust.
- 15. Constitution of the State Level Christian Charitable Trust -**
 - i The State level Christian Charitable Trust shall consist of the Major Arch Bishop / Arch Bishop / Bishop / Head of the Church as its chairman and 10 members elected by each of the Diocese / Central / Revenue District Trust at the Trust Assembly of each of the respective Trust.
 - ii The State level Christian Charitable Trust shall thereafter constitute a State Trustee Committee consisting of 101 members elected by the State Trust Assembly.
 - iii The State Trustee Committee shall manage all the assets and properties of the State level Trust, collect all income therefrom and defray all reasonable expenses in relation to the management and administration of the State level Trust of the respective Church.
 - iv The State Trustee Committee shall maintain all books of accounts and other books in relation to the accounts at the State level and prepare an Annual Statement of Accounts in such form as may be decided by the State Trustee Committee itself.
 - v The accounts of the state level trust shall be audited by one or more internal auditors appointed at the Annual Trust Assembly of the State level Trustee Committee.
 - vi The State Trustee Committee shall forthwith remedy any defect and irregularity pointed out by the

Internal Auditors and report the action taken to the State level Christian Trust Assembly.

- vii Besides internal audit, the accounts at the state level shall be audited by a Chartered Accountant or a firm of Chartered Accountants nominated for the purpose by the Annual Trust Assembly of the State.

16. Church Commissioner -

- i There shall be a Church Commissioner for supervising the functions of the various Trust Committees constituted under this Act and the implementation of the provisions of this Act.
- ii The Church Commissioner shall be an officer not below the rank of a Secretary to the Government appointed by the Government.
- iii The Parish / basic unit Trustee Committees, the Diocese / Central / Revenue District Trustee Committees and the State Trustee Committee shall submit their annual statements of accounts to the Church Commissioner.
- iv The Parish / basic unit Trustee Committees, Diocese / Central / Revenue District Trustee Committees / State Trustee Committee shall pay an amount of Rs..... to the Government.

17. Presiding Officers of Trusts

- i The Vicar / Pastor / Spiritual Minister of each parish / basic unit will preside over the parish level Trust Assembly and Trustee / Committee. With the approval of the Parish / basic unit level, the person of the same category immediately below the former's rank can preside over the above – mentioned Assemblies and Meetings.
- ii The bishop / pastor / spiritual minister of each diocese / central / Revenue District level will preside over the Diocesan / Central / Revenue District Trust Assembly and Committees of Trustees. With the approval of the Bishop / Pastor/ Spiritual Minister of the Diocese / Central / Revenue District level Trust, the person of the same category immediately below the rank of the former can preside over the above-mentioned Assemblies and Meetings. The persons thus deputed could be Auxiliary Bishops or Priests / Pastors / Spiritual Ministers.
- iii At the State level Trust Assembly and the State level Trustees Committee, the State level Spiritual Head / any Bishop / Priests / Pastor deputed by the former can preside.
- iv In the event of anyone designated by this Bill to preside over the three tier Assemblies or Trustees Committees declining to do so, the respective Managing Trustees will have the right to preside over Assemblies and Trustee Committees.
- v Further, in the event of either those that are legally designated to preside or the Managing Trustees declining to preside, members of each respective Assembly can elect a President by means of the mandate of simple majority and depute that same person as the President for each particular session of the Assembly or Committee meeting.

18. Administration

- i As envisaged under this Act, the day-to-day administration of the three – tier Trust will be vested with the respective Trustee Committees.
- ii All money, gold, silver, other materials and riches that are denoted or gifted from members of the Trust and persons of other communities.
- iii Assets, money and materials accrued or acquired from movable and immovable properties by means of rent, share, cess, mutual exchange or sale.
- iv Donations, gifts, shares, grants-in-aid received by institutions, endowments etc that are received from either one person or several persons or from the Govt. or from foreign countries.

19. Rights of the Trustees of the three – tier Trusts.

- i All reasonable expenses that are met with for the administration of the Christian Charitable Trusts are to be borne by the respective Trusts.
- ii The Trustees of the three – tier Trusts can receive allowances as determined by the respective Trusts and such amounts can be received as per vouchers.
- iii When engaged in the official execution of the objectives of the Trust, such traveling allowances and dearness allowances as required can be received by the Managing Trustee and other Trustees who are involved in it, and it may be done as per vouchers.

20. The Rights and Duties of the three-tier Trusts.

- i The formation and practice of Christian faith according to Christian principles is the duty of each Christian. The exercise of the same is a fundamental right and duty of the three-tier Trusts.
- ii Another important obligation of the three-tier Trust is to protect the fundamental and human rights, as well as to ensure the freedom and natural justice of all members and render all the necessary spiritual services to the members of the Trust who have accepted Christ as their Saviour.
- iii It is yet another important duty of the Trusts to see to it that the civil liberties and other rights guaranteed under the Constitution of India to the citizens are protected, and further to keep a vigil over these aforesaid rights as well as the human rights of the members of the Trusts and the spiritual ministers of the Church.
- iv The three – tier Trust Committees have to execute the below – mentioned obligations in keeping with the general spiritual ministry of the Churches.
 - a) Proper facilities and arrangements are to be provided for the services of the spiritual ministers, and financial remuneration as they deserve is to be compensated for the same.
 - b) In the case of spiritual ministers that serve in parish churches / basic ecclesiastical units in Diocese / Central / Revenue District units / the State level, and in Christian Universities, seminaries, catechetical institutions or in other service centres they are to be compensated financially in keeping with the present living conditions and such should include monthly allowances, traveling allowances, dearness allowance etc.
 - c) Facility for residence in keeping with the times should be arranged for Spiritual Ministers at the behest of the Trusts.
 - d) The Trusts are bound to ensure that the Spiritual Ministers do not default in the spiritual ministers that they are to render to the members of the respective Trust members, till they (the former) legally or voluntarily retire from the ministry.
 - e) The Trusts are bound to pay salary / allowances to all spiritual ministers and other employees who do not receive salary / allowances from the Govt. but work in institutions under the three-tier Trusts.

21. Budget, Income-cum-expenditure Accounts, Reports of Activities.

- a) By Budget what is meant in this Act is the official statement of the Income and Expenditure Accounts that are envisaged for the ensuing financial year by the parish / basic unit, diocese / central / revenue District level / the State level Trusts for the activities and enterprises during the said period by the said units.
- b) It is mandatory that the Budget for the ensuing year, the report of activities and income-cum-expenditure statements of the financial year ended along with the Report of the Internal Audit and the certified Audit Report of the Chartered Accountant be presented in the respective Trust Assembly for discussion and approval by this body.

22. Penalty

Violation of any of the provisions of this Act shall be actionable under the civil / Criminal law of the land notwithstanding anything contained in any ecclesiastical law or custom or usage.

23. Power to prescribe Rules

The State Govt. may, by notification in the official Gazette, prescribe rules to carry out the provisions of this Act.