

West Bengal Act XVI of 1949

THE MAHAJATI SADAN ACT, 1949.

[Passed by the West Bengal Legislature.]

[Assent of the Governor General was first published in the *Calcutta Gazette*, of the 14th April, 1949.]

An Act to provide for the speedy acquisition of the land and the unfinished buildings thereon, commonly known as the Mahajati Sadan, for the continuance and completion of the erection of the Mahajati Sadan, for the maintenance, management and use thereof and for the creation of a body of trustees.

WHEREAS certain sums of money were subscribed by the people of India with the object of erecting a building to be used and utilised mainly for purposes described in the Second Schedule and were collected by a Committee called the Subhas Congress Fund Committee constituted at a meeting of the people of Calcutta for the purpose of collecting such subscriptions;

AND WHEREAS in furtherance of the said object Netaji Subhas Chandra Bose took a lease of the land described in item (a) of the First Schedule from the Corporation of Calcutta and initiated the erection thereon of the buildings hereinafter referred to as the Mahajati Sadan of which the foundation stone was laid by Kaviguru Rabindra Nath Tagore;

AND WHEREAS the erection of the Mahajati Sadan could not be completed for being so used and utilised by Netaji Subhas Chandra Bose;

AND WHEREAS it is expedient to provide for the speedy acquisition of the properties described in the First Schedule, for the continuance and completion of the erection of the Mahajati Sadan, for the maintenance, management and use thereof and for the creation of a body of trustees;

It is hereby enacted as follows:—

1. (1) This Act may be called the Mahajati Sadan Act, 1949. Short title and commencement.

¹(2) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "the Board" means the Board of trustees for the Mahajati Sadan constituted under this Act,

(b) "Collector" means the First Land Acquisition Collector, Calcutta,

(c) "person interested" has the same meaning as in the Land Acquisition Act, 1894,

¹The Act came into force on the 1st May, 1949, vide Government of West Bengal, Judicial Department, notification No. 2186J., dated the 23rd April, 1949.

(Sections 3—6.)

- (d) the expression "purposes of the Mahajati Sadan" means purposes relating to the erection, equipment, maintenance, repairs, additions, alterations, management, control, use or application of the Mahajati Sadan or of any property or Fund held for or in connection with the Mahajati Sadan and includes the purposes referred to in clause (i) of section 8,

- (e) "trustee" means a member of the Board.

Incorporation of Trustees.

3. Subject to the provisions of this Act, the entire management and control of the Mahajati Sadan shall, on and from the date on which the notification referred to in section 8 is published in the *Official Gazette*, be vested in a Board to be called "the Trustees for the Mahajati Sadan" and the Board shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property both movable and immovable and to enter into contracts and do all acts necessary and consistent with the purposes of this Act and shall by the said name sue and be sued.

Constitution of the Board.

4. (1) The Board shall be constituted by the Provincial Government in such manner and consisting of such number of trustees not exceeding eleven, of whom not more than four may be *ex-officio* trustees, as may be prescribed by rules made by the Provincial Government.

(2) All acts done by a majority of the trustees present and voting at a meeting of the Board and all acts done in pursuance of a majority decision of the trustees obtained by circulation to the trustees of the matter requiring decision shall be deemed to be acts of the Board.

(3) The Board may appoint a person to act as its Secretary and may also appoint in such manner as may be prescribed by rules made by the Provincial Government a Managing Committee and such other Committees as the Board may think fit and delegate to such Committee or Committees such of its powers as it may deem expedient.

(4) Orders for the payment of money on behalf of the Board shall be deemed to be sufficiently authenticated if signed by two trustees and countersigned by the Secretary of the Board.

Trustees, Officers and servants to be public servants.

5. Every trustee and every member of the Managing Committee and every officer and servant of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Act XLV
of 1860.

Acquisition.

6. (1) The Provincial Government may acquire the properties described in the First Schedule (hereinafter in this section referred to as the said properties) by publishing in the *Official Gazette* a notice to the effect that the Provincial Government has decided to acquire the said properties in pursuance of this section.

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(Sections 7, 8.)

(2) When the notice as aforesaid is published in the *Official Gazette*, the said properties shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Provincial Government free from all incumbrances, and thereupon the Provincial Government may take possession of the said properties in such manner as it may think fit.

(3) When the said properties are acquired in pursuance of this section, there shall be paid to the persons interested such compensation as may be determined and apportioned by the Collector—

(a) in accordance with agreements reached between the persons interested and the Provincial Government, or

(b) where no such agreement can be reached, in the manner and in accordance with the principles set out in the Land Acquisition Act, 1894, so, however, that the market value referred to in clause first of sub-section (1) of section 23 of the said Act shall be deemed to be the market value of the said properties on the date of publication of the notice referred to in sub-section (1),

and claimed by such persons within three months from the date of publication of the notice referred to in sub-section (1).

(4) The decision of the Collector under sub-section (3) shall be final and shall not be called in question in any Court.

7. When the properties described in the First Schedule are acquired in pursuance of section 6, the erection of the Mahajati Sadan shall be continued and completed as far as may be in accordance with the original plan approved by Netaji Subhas Chandra Bose and sanctioned by the Corporation of Calcutta with such alterations therein as the Provincial Government may think fit, and the Mahajati Sadan shall thereafter be equipped in such manner as the Provincial Government may think fit.

Erection of
Mahajati
Sadan.

8. Upon the completion of the erection and equipment of the Mahajati Sadan under section 7, the Provincial Government may, by notification in the *Official Gazette*, direct the Board to take possession of the properties described in the First Schedule together with the Mahajati Sadan as so erected and equipped and thereupon—

Property to
vest in the
Board.

(i) the Board shall receive and take possession of and hold the same in trust for such purposes as may be prescribed by rules made by the Provincial Government consistently with the objects set out in the Second Schedule, and

(ii) all sums of money in the custody of the aforesaid Subhas Congress Fund Committee and all other property whether movable or immovable which have been or may hereafter be given, bequeathed or otherwise transferred for the purposes of

I of 1894.

(Sections 9—13.)

the Mahajati Sadan or acquired by the Board for the said purposes shall vest in the Board to be held in trust for the purposes of the Mahajati Sadan.

**Mahajati
Sadan
Fund.**

9. (1) There shall be formed for the Mahajati Sadan a fund to be called the **Mahajati Sadan Fund** to which shall be credited—

- (a) the sums of money paid or granted by the Provincial Government and the Corporation of Calcutta either as contributions for the maintenance of the Mahajati Sadan or otherwise for the purposes thereof,
- (b) all other sums of money received by the Board for the purposes of the Mahajati Sadan, and
- (c) all income derived from any property owned or managed by the Board for the purposes of the Mahajati Sadan.

(2) The Mahajati Sadan Fund shall become vested in the Board and shall be under the control and be held in trust for the purposes of the Mahajati Sadan.

(3) All monies creditable to the Mahajati Sadan Fund shall be received by the Secretary to the Board and shall forthwith be paid into the Imperial Bank of India to the credit of an account to be called the Mahajati Sadan Fund Account.

**Contribu-
tion by the
Provincial
Govern-
ment.**

10. The Provincial Government shall, for the purposes of the Mahajati Sadan, contribute annually to the Board a sum of twenty-five thousand rupees and may contribute such other sum as the Provincial Government may think fit.

**Contribu-
tion by the
Corpora-
tion of
Calcutta.**

11. Notwithstanding anything contained in the Calcutta Municipal Act, 1923, the Corporation of Calcutta shall, for the purposes of the Mahajati Sadan, contribute annually to the Board a sum of five thousand rupees and may contribute such other sums as the Corporation may, from time to time, determine.

**Ben. Act
III of 1923.**

**Repairs to
the Maha-
jati Sadan.**

12. The Provincial Government shall contribute annually a sum not less than five thousand rupees for the purposes of causing such repairs, additions or alterations to be executed to the main and subsidiary buildings of the Mahajati Sadan and to the equipments thereof as, in the opinion of the Provincial Government, are necessary.

**Mainten-
ance of
accounts
by the
board.**

13. The accounts of the Board shall be kept, audited and published in accordance with such rules as may be made by the Provincial Government and shall show the initial expenditure incurred by the Provincial Government—

- (a) under section 6 for acquiring the properties described in the First Schedule, and

(Sections 14—16.)

- (b) under section 7 for completing the erection of the Mahajati Sadan and for equipping the same.

14. The Provincial Government may call upon the Board to furnish it with any extract from any proceedings of the Board or from any record under the control of the Board or with any information concerning the administration of the Mahajati Sadan and the Board shall thereupon furnish the same without unreasonable delay. Returns.

15. (1) If the Provincial Government, after such inquiry as it may deem fit, is satisfied— Control and supersession of the Board.

- (a) that any of the duties imposed or powers conferred upon the Board by or under this Act has not been performed or exercised or has been performed or exercised in an imperfect, inefficient or unsuitable manner, or

- (b) that adequate financial provision has not been made for the performance of any such duty or for the proper maintenance of the Mahajati Sadan, or

- (c) that the Board has otherwise exceeded or abused its powers,

the Provincial Government may, by notification in the *Official Gazette*, declare the Board to be incompetent or to have exceeded or abused its powers, as the case may be, and direct that the Board shall be superseded for such period not exceeding six months as may be specified in the notification.

(2) When the Board is superseded under the provisions of sub-section (1)—

- (a) all trustees and all members of any Committee appointed by the Board shall, from the date of the publication of the notification under that sub-section, vacate their offices as such trustees and members,

- (b) all powers and duties of the Board shall, during the period of supersession, be exercised and performed by such person or persons as the Provincial Government may appoint in this behalf,

- (c) all funds and other property vested in the Board shall, during the period of supersession, vest in the Provincial Government, and

- (d) before the expiration of the period of supersession the Board shall be reconstituted in accordance with the provisions of section 4.

16. No act done or proceedings taken under this Act Validation. shall be invalid merely by reason of—

- (a) the existence of any vacancy or any defect in the constitution of the Board or any Committee appointed by the Board,

(Sections 17, 18.)

- (b) any person having ceased to be a trustee or a member of any Committee, or
- (c) any omission, defect or irregularity not affecting the merits of the case.

Power of
Provincial
Govern-
ment to
make rules.

17. (1) The Provincial Government may after previous publication 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 following matters, namely:—

- (a) the number, and the manner of selection and appointment, of trustees including *ex-officio* trustees, and the periods of time for which such trustees shall hold office,
- (b) the circumstances in which and the authority by which a trustee appointed under section 4 may be removed,
- (c) the manner in which and the authority by which a vacancy in the office of a trustee appointed under section 4 shall be filled,
- (d) the minimum number of meetings of the Board during any year,
- (e) the manner in which a majority decision of the trustees shall be obtained by circulation to the trustees of the matter requiring decision,
- (f) the appointment of Committees and the delegation thereto of any powers exercisable by the Board under this Act,
- (g) the erection, equipment, maintenance and management of the Mahajati Sadan,
- (h) the purposes for which and the manner in which the Mahajati Sadan or any property or fund held for the purposes of the Mahajati Sadan shall be used and applied,
- (i) the form of accounts to be kept by the trustees, and the audit and publication of such accounts, and
- (j) the appointment, remuneration and conditions of service of officers and servants employed by the Board.

(3) All rules made under this section shall be published in the *Official Gazette* and on such publication shall have effect as if they were enacted in this Act.

Power of
the Board
to make
regulations.

18. Subject to such rules as may be made under section 17, the Board may, with the previous sanction of the Provincial Government, make regulations to provide for all or any of the following matters, namely:—

- (a) the appointment of dates, times and places for meetings of the Board and of the Committees,

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(The First and Second Schedules.)

the manner in which such meetings shall be convened, the quorum necessary for transaction of business and the procedure at such meetings,

- (b) defining the powers and duties of the Secretary of the Board.

THE FIRST SCHEDULE.

(a) Premises No. 166, Chittaranjan Avenue in Calcutta, being all that piece or parcel or plot of rent-free land measuring 1 bigha 19 cottahs 4 chittaks 34 square feet more or less situate on the east side of the Chittaranjan Avenue in the town of Calcutta bounded in the following manner, that is to say, on the *North* by Mitra Lane, on the *South* by Munshi Sadaruddin Lane, on the *East* by a passage between this plot and the plot of land now in the occupation of Burrabazar Yubak Sabha and their Gymnasium and on the *West* by Chittaranjan Avenue,

(b) together with all buildings, structures and erections standing or being on the said land, which said premises and buildings are commonly known as the Mahajati Sadan, and

(c) together with all rights, easements and appurtenances whatsoever belonging or attached or appurtenant to the said land, buildings, structures and erections or held or enjoyed therewith.

THE SECOND SCHEDULE.

The Mahajati Sadan may, *inter alia*, be used for the following purposes, that is to say:—

- (1) A hall to be erected within the building, Mahajati Sadan, may be used for holding public meetings and lectures to educate and enlighten the members of the public, and particularly the citizens of Calcutta, in the present day civic, municipal or other cultural and political problems as also for holding such other lectures and discourses as may be beneficial to the mental and moral outlook of the citizens of Calcutta on reasonable terms and conditions and on payment of a reasonable fee or rent therefor to cover the cost of maintenance and depreciation charges.
- (2) Accommodation may be provided in a part of the said building for a big library containing literature on all subjects of interest to the citizens of Calcutta and in as many languages as possible with books of reference for the free use of the literate citizens of the city of Calcutta.
- (3) Suitable portions of the said building may be—
 - (a) used to accommodate a club or association for the physical culture of such members of the public of Calcutta as may choose to join the same, with

(The Second Schedule.)

permission to such club or association to use and utilise a portion of the grounds of the Mahajati Sadan remaining open and available for such use;

(b) allotted to the Working Committee of the Indian National Congress for accommodating such portion of the offices of the All-India Congress Committee as it may deem fit;

(c) made over to the Bengal Provincial Congress Committee or the Provincial Congress Organisation of Bengal for their use subject to a right of re-entry in the event of the said Committee or Organisation—

(i) ceasing to have a lawful existence for the time being,

(ii) declining to continue or to be in occupation or charge of, or relinquishing possession or charge of, the portion so made over to it, or

(iii) failing to observe and perform any of the terms or conditions for such use.