

[Translation in English of the Sivagiri Mutt (Emergency Provisions) Act, 1997, published under the authority of the Governor].

ACT 17 OF 1997

THE SIVAGIRI MUTT (EMERGENCY PROVISIONS) ACT, 1997<sup>\*</sup>

AN

ACT

to provide for the taking over, in the public interest of the Management of the "Sree Narayana Dharma Sangom Trust" having Head quarters at Sivagiri Mutt, Varkala, for a limited period and for matters connected therewith or incidental thereto.

*Preamble.*—WHEREAS the Sree Narayana Dharma Sanghom Trust having its Headquarters at Varkala has been founded by the great reformer and Saint Sree Narayana Guru, as an institution for the propagation of a unique philosophy upholding marvel values and inspiring social reforms and a social order where there is One Caste, One Religion and One God;

AND WHEREAS the said Trust has, in the course of time, been endowed with assets and properties situate in several parts of the State of Kerala and outside the State;

AND WHEREAS the said Trust, besides its main activities at Varkala, is running several institutions including hospitals and educational institutions in different parts of the State of Kerala and outside the State under a deed of Trust dated 28-5-1103 ME and later under a scheme settled by the High Court of Kerala in A.S. No 14 of 1956 (K);

AND WHEREAS the said Trust has been an institution commanding universal regard and attention as a sacred place of pilgrimage drawing and inspiring followers and devotees from all over India;

AND WHEREAS there were complaints of serious misuse, non-accounting and misappropriation of funds of the Trust;

AND WHEREAS , of late, serious disputes have arisen between those concerned with the administration of the said Trust and of its properties *inter se*, the beneficiaries, followers and the devotees forming themselves into fighting groups and taking sides leading to a situation where there is an atmosphere of violence, unrest and

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<sup>\*</sup> Received the assent of the Governor on the 28<sup>th</sup> day of December, 1997 and published in the Kerala Extraordinary Gazette No. 338 dated 19<sup>th</sup> February, 1998.

tension in Sivagiri Mutt and all other institutions governed by the Trust, seriously affecting their administration;

AND WHEREAS proceedings under section 145 of the Code of Criminal Procedure, 1973, in regard to the possession of the Trust including Sivagiri Mutt at Varkala are in force and the Trust and its properties have passed into the possession of the Receiver appointed by the District Magistrate, Thiruvananthapuram;

AND WHEREAS the rival factions of the Sanyasins are asserting possession and control in the administration of the Trust properties even after the taking over of the possession and management of the properties of the Trust by the Receiver appointed by the District Magistrate, Thiruvananthapuram and thereby causing breach of peace in the respective institutions;

AND WHEREAS in view of the situation which has so arisen with regard to the management of the Trust along with all institutions owned, possessed or run by the Trust, it is necessary to take over, in the public interest, for a limited period, the management thereof and, any delay in taking over the management of the Trust would be highly detrimental to the interest and objectives of the Trust;

BE it enacted in the Forty-eighth Year of the Republic of India as follows:-

## CHAPTER I

### PRELIMINARY

1. *Short title and Commencement.*—(1) This Act may be called the Sivagiri Mutt (Emergency Provisions) Act, 1997.

(2) It shall be deemed to have come into force on the 9th day of October, 1997.

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

(a) 'Administrator' means the Administrator appointed under section 5;

(b) 'appointed day' means the 9th day of October, 1997.

(c) 'Council' means the Advisory Council constituted under sub-section (1) of section 6;

(d) 'prescribed' means prescribed by rules made under this Act;

(e) 'scheme' means the scheme of the Trust as settled by the High Court of Kerala in A. S. No. 14 of 1956 (K);

(f) 'Tribunal' means the Tribunal appointed under section 9;

(h) 'Trust' means the 'Sree Narayana Dharma Sanghom Trust' formulated under the scheme and includes Sivagiri Mutt and all other properties of the said Trust.

## CHAPTER II

### TAKING OVER OF THE MANAGEMENT OF THE SREE NARAYANA DHARMA SANGHOM TRUST

*3. Management of the Trust to vest in Government for a limited period.*—(1) On and from the appointed day the management of the Trust shall vest in the Government for a period of two years:

Provided that, if the Government is of the opinion that in order to secure the proper management of the Trust it is expedient that such management should continue to vest with Government after the expiry of the said period of two years, it may issue directions, from time to time, to extend such period of management for such further period, so, however, that the total period shall not exceed five years from the appointed day.

(2) The Trust shall be deemed to include all assets, rights, powers, privileges and all properties, hospitals, educational institutions and such other institutions as are owned by, and those over which, the Trust has any right or interest.

*4. General effect of vesting.*—Notwithstanding anything contained in any other law for the time being in force or in any deed or in any scheme or other document or instrument settled or drawn up for the regulation or administration of the Trust,—

(a) on and from the appointed day, every member of the governing body of the Trust shall cease to exercise any power of management in relation to the Trust;

(b) no resolution in relation to the Trust shall be passed at any meeting of the members in relation to any act of management, without prior sanction of the Government.

(c) no proceeding by way of right to sue for execution of the Trust, right to Trustees or for appointment of a Receiver in respect of the Trust or its properties

which have vested with the Government under section 3 shall lie in any court except with the consent of the Government.

**5. Administration of the Trust.**—(1) The Government shall, as from the appointed day, appoint a person or a body of persons as the Administrators for the purpose of taking over the management of the Trust and the Administrator shall carry on the management for and on behalf of the Government.

(2) The Administrator may authorise such person as he thinks fit also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers, and subject to the general or special directions given or imposed by the Administrator, the person so authorised to exercise any powers of the Administrator may exercise those powers in the same manner and with the same effect as if such power had been conferred on that person directly by this Act and not by way of authorisation.

(3) If, on the appointed day, any suit, appeal or other proceeding, of whatever nature, in relation to any property which has vested in the Government under section 3, instituted or preferred by or against the Trust is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the taking over of the management of the Trust or of anything continued in this Act, but the suit, appeal, or other proceeding may be pursued, prosecuted, or enforced by or against the Government.

(4) The Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any courts, tribunal or other authority) to the Administrator, as to his powers and duties as the Government may deem desirable and the Administrator may apply to the Government at any time for instructions as to the manner in which he shall conduct the management of the Trust or in relation to any matter arising in the course of such management.

(5) Subject to the other provisions of this Act and to the control of the Government, the Administrator shall be entitled to exercise the powers of the Trust Board or the Executive Council or, as the case may be, of the Board of Trustees of the Trust, in relation to the management of the affairs of the Trust.

(6) All administrative expenses of the trust including the remuneration, as may be fixed by the Government, of the administrator and other persons authorised by him under sub section (2) shall be paid from the trust fund.

**6. Advisory Council.**—(1) As soon as may be after the appointed day, but not later than three months from that day, the Government shall constitute an Advisory Council to advise the Administrator in the management of the Trust.

(2) The Council may, on its own motion or on the motion by the Government or the Administrator, as the case may be, render advice on any matter concerning the management of the Trust.

(3) Every person in charge of the management of the Trust or any one of the institutions of the Trust including Mutts, temples, hospitals and educational institutions, immediately before the appointed day shall, within ten days from that day or within such further period that the Government may allow in this behalf, furnish to the Administrator a complete inventory of all properties and assets including particulars of amounts received by way of donations, offerings, fees, booklets and investments forming part of, or relatable to, the Trust immediately before the appointed day and all liabilities and obligations of the Trust in force immediately before the appointed day and also all agreements entered into by the Trust in force immediately before the appointed day.

(4) In rendering advice under sub-section (2), the Council shall endeavour to secure that—

(i) the objectives and aims of the functioning of the Trust are promoted;

(ii) harmony among the Trustees, beneficiaries and the public is promoted and a congenial atmosphere re-established in the Trust;

(iii) programmes are promoted and developed with a view to realising the objectives envisaged in the scheme settled for the Trust.

(5) The Council shall render necessary advice to the Government for the preparation of a proper list of members who have voting rights at an election to the Trust Board, give further directions as are necessary to draw up such a list of members with specific direction as to qualification for enrolment of member from the date of previous election to the Trust Board and direction for holding a fresh election before the expiry of the term of management by the Administrator so as to enable a newly elected Trust Board to be in place when the Administrator vacates office in accordance with the provisions of this Act. The election so held to the Trust Board under this sub-section shall be under the supervision of the Council and in the event the election is approved by the Council, it shall declare such approval and publish the same, in such manner as it may deem fit, and there upon, such election shall be final and conclusive and shall not be called in question in any court on any ground whatsoever.

(6) All the expenses of the Council including the allowances and remuneration of the members of the Advisory Council shall be paid from the trust fund.

*7. Delivery and possession of properties of the Trust.*—(1) Every person having, on the appointed day, in his possession or control any property forming part of, or

relatable to, the Trust shall deliver forthwith such property to the Administrator or to any Officer of the Government as authorised by the Government in this behalf.

(2) Any person who has, on the appointed day, in his possession or in his control any records, papers, books or other documents relating to the Trust (including the Minute Books, Resolutions) the current cheque books, any letters, memorandum, notes and other materials related to the Trust shall, notwithstanding anything contained in any other law for the time being in force, be liable to account to the Administrator for the same.

**8. Relinquishing of management before the specified period.**—(1) If at any time, it appears to the Government that the purpose for which the management of the Trust had been taken over has been fulfilled or that, for any other reason, it is not necessary that the management of the Trust should remain vested with the Government, it may, notwithstanding anything contained in sub-section (1) of section 3 by order published in the Gazette, relinquish the management with effect from such date as specified in the order.

(2) On and from the date specified in the order made under sub-section (1), the management of the property forming part of, or relatable to, the Trust shall vest in the Trust Board of the Trust and such management shall be carried on in accordance with the provisions of the scheme. All orders made and actions taken by the Administrator shall continue as if such orders were passed and action taken by the Trust Board in accordance with the scheme.

**9. Tribunal.**—(1) If any dispute arises concerning the right, title and interest including the right to possession in regard to any property relatable of the Trust or in respect of which the Administrator takes over possession or claims or take over possession under the powers conferred by this Act, such dispute shall be resolved by the decision of the Tribunal to be constituted under this Act.

(2) The Tribunal under sub-section (1) shall be a person who has been a Judge of a High Court and shall be appointed by the Government on such terms and conditions as may be prescribed.

(3) The decision of the Tribunal shall be valid and binding on the parties as if it is a decree passed by a Civil Court.

(4) The Trustees, beneficiaries or any other person substantially interested in matters concerning the Trust, or the Government, may move the Tribunal for resolving any dispute.

(5) The Tribunal shall, for the purpose of resolving any dispute under this section, have the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery, inspection and production of documents;

(c) recording evidence on oath, requisitioning any public record from any court or office;

(d) issuing commissions for the examination of witnesses or document;

(e) such other matters as may be prescribed.

(6) The Tribunal shall have powers to regulate its own procedure and hold sittings at place or places as desired by it.

(7) All expenses incurred by the Tribunal shall be paid out of the Consolidated Fund of the State.

10. *Appeal*.—Any person aggrieved by the decision of the Tribunal may, within thirty days from the date of such decision, prefer an appeal to the High Court and such appeal shall be heard and disposed of by a Bench consisting of not less than two Judges of the High Court.

### CHAPTER III

#### MISCELLANEOUS

11. *Act to have overriding effect*.—The provisions of this Act or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this act or in any decree or order of any Court.

12. *Protection of action taken in good faith*.—(1) No suit, prosecution or other legal proceedings shall lie against the Government or any officer or other employee of the Government or the Administrator or any person authorised under sub-section (2) of section 5 by the Administrator for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceedings shall lie against the Government or any officer or other employee of the Government or the Administrator or any other person authorised under sub-section (2) of section 5 by the Administrator 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.

**13. *Penalties.*—Any person who—**

(a) having in his possession or custody or control any asset or property forming part of, or relatable to, the Trust wrongfully withholds such property from the Administrator or any person authorised by him under this Act, or

(b) wrongfully obtains possession of any such asset or property forming part of, or relatable to, the Trust; or

(c) wilfully retains any asset or property forming part of, or relatable to, the Trust or removes or destroys it; or

(d) wilfully withholds or fails to deliver any books, papers or other documents relatable to the Trust which may be in his possession or custody or under his control to the Administrator or any person authorised by him under this Act; or

(e) fails, without any reasonable cause, to furnish any inventory of properties and assets as provided in section 6,

shall on conviction, be punishable with imprisonment for a term which may extend to two years or with fine, which may extend to ten thousand rupees, or with both.

**14. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the provisions 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 term of office of the method of filling casual vacancies among, and the allowances and other remuneration, if any, payable to, the members of the Advisory Council under section 6;

(b) the additional matters in respect of which the Tribunal shall have the powers of a Civil Court under clause (e) of sub-section (5) of section 9; and

(c) any other matter which is required to be, or may be, prescribed or in respect of which rules may be made, under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one session or in two 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.

15. *Repeal and saving.*—(1) The Sivagiri Mutt (Emergency Provisions) Ordinance, 1997 (15 of 1997) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.