

HEREDITARY OFFICERS, BOMBAY ACT 1843

ACT No. XI. OF 1843

(Rep., by Bom. Act 3 of 1874)

[22<sup>nd</sup> July, 1843.]

*Passed by the Right Hon'ble the Governor General of India in Council, on the 22nd of July, 1843.*

AN Act for regulating the service of Hereditary Officers under the Presidency of Bombay.

*Preamble.* Whereas it has been found that the provisions of Regulation XVI. 1827 of the Bombay Code, are insufficient to secure the efficient discharge of the duties of Hereditary Officers:

I. It is hereby enacted that Sections XVII. And XVIII. of Regulation XVI. of 1827 of the Bombay Code, be rescinded.

II. And it is hereby enacted, that all Hereditary Officers, of whatever denomination, belonging to, or employed in the management of the Land Revenue, or of the Customs or Town Duties, or Excise, or other Revenue, or in the Police, or in the Civil Administration of the country, shall render the usual services of their respective Offices, as far as the same may be required by the Collector, or other Officer under whose control they may be placed by usage or the orders of Government.

III. And it is hereby enacted, that when the duties of an Hereditary Office fall in more than one Department it shall be competent to the Governor in Council of Bombay to prescribe What Officer Shall be vested with the control of such Office.

IV. And it is hereby enacted, that it shall be competent to the Collector or other Officer to whom the duties of an Hereditary Office are, as provided in Clause II., to be rendered, when he performance of those duties is claimed in rotation by different sharers, to require that the sharers in the wuttun shall nominate a fit and proper person from among their number, who shall hold the Office as the representative of the family either during life, or for such term, not being less in each instance than (five) 5 years, as the Collector or Controlling Officer shall determine with the sanction of the Governor in Council, and in the event of the sharers not so nominating, when required one or more of their number within a reasonable period to be fixed by the collector or Controlling Officer shall himself exercise the power of selection, subject to the approval of the Governor in Council.

V. And it is hereby enacted, that it shall be competent to the Collector or Controlling Officer to refuse to confirm the nomination by the sharers of any individual, if he shall have reason to think, that from age or personal disqualification the duties of the Office will not be properly performed by him, or if from character and past conduct the person nominated be considered unworthy of trust, provided that the grounds of such refusal shall be recorded in writing and that an appeal from such decision, shall lie to the Governor in Council, whose order thereon shall be final.

VI. And it is hereby enacted, that the collector or Controlling Officer shall have power to punish Officiating Hereditary Officers for misconduct or neglect of duty by suspension from Office, pay, and emolument, or by fine not exceeding the computed official emolument of their Offices for three months, and to levy the said fine in the mode authorized for realizing Revenue demands.

VII. And it is hereby enacted, that the collector or Controlling Officer, in cases of misconduct or incompetency on the part of an Officiating Hereditary Officer, shall have power to dismiss such Officer from his employment, but no such dismissal shall take place, except on an investigation recorded in writing, which shall be submitted for the approval and sanction of the Governor in Council.

VIII. And it is hereby enacted, that in conduction the investigation prescribed in the preceding section, the Collector or Controlling Officer shall have the same authority as a Magistrate in compelling the attendance of parties and witnesses, and the production of papers, and in taking evidence.

IX. And it is hereby further enacted, that whenever any such Hereditary Officer shall be convicted of fraud or malversation, or of any criminal offence in the conduct of the duties of the Office by any Sessions Court, it shall be lawful for the said Governor in Council, to direct the confiscation of the wuttun, either wholly or in part, and after such confiscation, the duties of the Office shall be performed by such person as the Governor in Council shall appoint, and the surplus proceeds of the wuttun shall be disposed of for the benefit of the parties previously, entitled thereto or otherwise in such manner as the said Governor in Council may direct.

X. And it is hereby enacted, that no female shall perform in person the duties of any Hereditary Office.

XI. And it is hereby enacted, that if any Hereditary Officer is incapable of personally discharging the duties of his or her Office by reason of sex, minority, mental or bodily infirmity, or manifest incapacity, it shall be lawful for the Collector or Controlling Officer to call upon him or her, or his or her Guardians to appoint a Deputy, subject to his approval, and on the party or parties failing to appoint a fit Deputy within a reasonable period, the appointment shall be made by the said Collector or Controlling Officer.

XII. And it is hereby enacted, that all Deputies appointed to perform the duties of Hereditary Offices under this Act. And under Section IV. Regulation V. 1833, of the Bombay code, shall be subject to the same rules and penalties as the Principals, and that the wuttun of the Office shall be liable to confiscation upon the conviction by any Sessions Court of any Deputy appointed by the Hereditary Officer in the same manner as it would be under the IXth Section of this Act upon the conviction of the Hereditary Officer himself.

XIII. And it is hereby enacted, that nothing contained in this Act shall be construed to debar the right of any sharer to participate in the rents and profits of any hereditary Office so held and filled as above provided, after provision shall have been made therefrom for the fit maintenance of the Officiating Hereditary Officer, for which purpose it shall be competent to the Collector or Controlling Officer to fix and assign a specific portion of such rents and emoluments, leaving the remainder only, subject to the claims of the other sharers—and further that the portion of the rents and emoluments so fixed and

assigned shall be the official remuneration of the Officiating Hereditary Officer, and shall not be liable to civil process of any Court of Law.

XIV. And it is hereby enacted, that whenever it may be necessary, as herein before provided, that the Collector or Controlling Officer shall appoint a Deputy to conduct the duties of an Hereditary Office, it shall be lawful for him to assign to such Deputy a fit remuneration form the rents and profits of the said Office.

XV. And it is hereby enacted, that the terms “Hereditary District or Village Office or Officers” or “Hereditary District or Village Revenue Office or Officers” used in Regulation XVI. 1827 and Regulation V. 1833, of the Bombay Code, shall be held to apply to all descriptions of Hereditary Offices and Officers.

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