

ACT NO. XXIII OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

An Act to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khawaja Moin-ud-din Chishti, generally known as Durgah Khawaja Saheb, Ajmer.

WHEREAS it is expedient to make better provision for the administration of the Durgah Khawaja Saheb, Ajmer; It is hereby enacted as follows:—

1. (1) This Act may be called the Durgah Khawaja Saheb Act, 1936. Short title and commencement.

(2) It shall come into force on such date (not later than six months after this Act receives the assent of the Governor General) as the Chief Commissioner may, by notification in the Gazette of India, appoint in this behalf.

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

- (1) "Committee" means the Durgah Committee constituted under this Act;
- (2) "Court" means the principal Court of original civil jurisdiction;
- (3) "Durgah" means the institution known as the Durgah Khawaja Saheb, Ajmer, and includes the premises called the Durgah Sharif with all buildings contained therein, together with all additions thereto or alterations thereof which may be made after the commencement of this Act;
- (4) "Durgah Endowment" includes—
 - (a) the Durgah Khawaja Saheb, Ajmer;
 - (b) all buildings and movable property within the boundaries of the Durgah Sharif;
 - (c) Durgah Jagir including all land, houses and shops and all landed property wheresoever situated belonging to the Durgah Sharif;

d) all

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(d) all other property in India, and all income derived from any source whatsoever, dedicated to the Durgah or placed for any religious, pious or charitable purposes under the Durgah Administration ; and

(e) only such offerings as are intended explicitly for the use of the Durgah.

(5) The words " trustee, Manager, or superintendent " used in this Act shall have the same meaning and application as under the Religious Endowments Act, 1863.

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3. This Act shall have effect notwithstanding anything inconsistent therewith contained in the Religious Endowments Act, 1863.

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The Committee.

4. (1) The administration and control of the Durgah Endowment shall be vested in a Committee constituted in the manner hereinafter provided.

(2) The Committee shall by the name of " The Durgah Committee, Ajmer " be a body corporate and shall have perpetual succession and a common seal and shall by the said name sue and be sued through its President.

Composition of Committee.

5. The Committee shall consist of twenty-five members of whom—

(a) one shall be Sajjadanashin for the time being *ex-officio* or his nominee ;

(b) one shall be Mutawalli for the time being *ex-officio* or his nominee ;

(c) two shall belong to the Khadim community and elected by the members of their own community possessing the qualifications mentioned in section 7 of this Act ;

(d) five shall be elected from amongst the Muslim citizens of Ajmer (other than Khadims, Mutawalli and the Sajjadanashin) by persons (other than the Khadims) possessing the qualifications mentioned in section 7 of this Act ;

(e) three shall be elected by the Muslim members of the Central Legislature ;

(f) one

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- (f) one shall be elected by the Muslim members of the North-West Frontier Province Legislative Assembly ;
- (g) one shall be elected by the Muslim members of the Bombay Provincial Legislature ;
- (h) one shall be elected by the Muslim members of the United Provinces Provincial Legislature ;
- (i) one shall be elected by the Muslim members of the Bihar Provincial Legislature ;
- (j) one shall be elected by the Muslim members of the Bengal Provincial Legislature ;
- (k) one shall be elected by the Muslim members of the Punjab Provincial Legislature ;
- (l) one shall be elected by the Muslim members of the Sind Provincial Legislature ;
- (m) one shall be elected by the Muslim members of the Madras Provincial Legislature ;
- (n) one shall be nominated by His Exalted Highness the Nizam of Hyderabad ;
- (o) four shall be Sajjadanashins of the Shrines of the Chishti Order of Sufis to be co-opted by the members elected or nominated under the preceding sub-sections (a) to (n) :

Provided that no person other than a Hanafi Muslim shall be a member thereof.

Members elected by the Provincial and Central Legislatures may not be members of Legislatures.

6. For the purpose of election of members mentioned ^{Electoral Area.} in section 5 (d) to the Durgah Committee, the electoral area shall consist of the area within the Municipal limits of the city of Ajmer.

7. Only those Muslims who are recorded as voters in ^{Qualifications of electors.} the Register of voters of the Municipal Board of Ajmer, except persons belonging to the Khadim community shall have the right to vote in the election of members under section 5 (d).

8. No

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Qualifications
of candidates
for election.

8. No person shall be qualified to be a candidate for election to the Committee unless he is qualified as a voter under section 7 and—

- (a) he can read and write Urdu,
- (b) he has not been convicted by a criminal Court of any offence involving moral turpitude, and sentenced to imprisonment for a period exceeding three months.

Term of office
of members of
Committee.

9. A member of the Committee shall hold office for a term of five years from the date of election or nomination. Casual vacancies shall be filled up by the authority which has the power to appoint the members:

Provided that a member elected or nominated to fill up a casual vacancy shall hold office only so long as the member in whose place he was elected or nominated would have held office if the vacancy had not occurred.

President and
Vice-President

10. (1) The Committee shall elect a President and a Vice-President from among its members except those who are elected under items (a), (b) and (c) of section 5.

(2) When the office of the President is vacant or in the absence of the President from any meeting, the Vice-President shall exercise the functions of the President.

(3) In the absence of the President and Vice-President, a meeting of the Committee may be presided over by a member elected by the majority of the members present at the meeting.

Powers and
duties of
the
Committee.

11. (1) The Committee shall take the place of and shall supersede the Committee appointed under section 7 of the Religious Endowments Act, 1863.

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(2) The duties and powers of the Committee shall be—

- (a) to manage the Durgah Endowment;
- (b) to keep the buildings within the boundaries of the Durgah Sharif and all buildings, houses and shops comprised in the Durgah Endowment in proper order and in a state of good repair;
- (c) to receive all moneys and other income of the Durgah Endowment;
- (d) to see that the endowment funds are spent in the manner desired by the donors;

(e) to

- (e) to pay salaries, allowances, and perquisites, and make all other payments due out of or charged on the revenues or income of the Durgah Endowment;
- (f) to engage, appoint, promote, degrade, suspend or dismiss servants of the Durgah Endowment;
- (g) to do all other such things as may be incidental or conducive to efficient administration.

(3) That the Committee will exercise its powers of administration, control and management of Durgah Endowment through the Mutawalli who shall be its Manager.

12. The Committee may appoint such and so many ^{Sub-Committees.} standing and special committees as it deems fit, and may appoint to them persons who are not members of the Committee, to exercise such powers and perform such duties as may be delegated to them by the Committee, subject to the confirmation by the Committee.

13. Save as otherwise provided under any enactment ^{Committee to observe Mohammadan Law and tenets of the Chishti Saints.} for the time being in force the Committee shall, in the exercise of its powers and the discharge of its duties, follow the rules of the Mohammadan law applicable to Hanafi Mussalmans in British India; and shall conduct and regulate the established rites and ceremonies in accordance with the tenets of the Chishti Saints.

14. The Chief Commissioner may make rules, ^{not Rules.} inconsistent with the provisions of this Act, to—

- (a) provide for the manner of elections under section 5;
- (b) provide for the authority by which and the manner in which electoral rolls shall be prepared or amended;
- (c) regulate the appointment and duties of the returning officer or officers for the election of the Committee and provide for the decision of election disputes.

15. (1) The Committee may make bye-laws ^{Bye-laws.} to carry out the purposes of this Act.

(2) In

(2) In particular and without prejudice to the generality of the foregoing power such bye-laws may provide for—

- (a) the division of duties among the President and members of the Committee ;
- (b) the establishment and term of office of Sub-Committees and their powers and duties ;
- (c) the time and place of, the quorum for, and the procedure and conduct of business at, the meetings of the Committee and of Sub-Committees ;
- (d) the security, if any, to be taken from the servants of the Committee ;
- (e) the books and accounts to be kept at the office of the Committee ;
- (f) the custody and investment of the property and funds of the Durgah ;
- (g) the details to be included in or excluded from the budget of the Durgah ;
- (h) the persons by whom receipts may be granted for money paid to the Committee ;
- (i) the accounts, returns and reports to be submitted by the trustee, Manager, or superintendent ;
- (j) maintenance of peace and order within the Durgah compound ;
- (k) the duties and powers of the trustee, Manager, or superintendent and other officers and servants of the Durgah ;
- (l) the manner of entering into contracts by or on behalf of the Committee.

(3) All bye-laws made by the Committee under this section shall first be published in draft for objections by being hung up on the premises of the Durgah.

Tribunal of
Arbitration.

16. Any dispute arising about the powers or privileges of Sajjadanashin, Mutawalli or any Khadim and the Committee, shall at the request of either side be referred to a Tribunal of Arbitration consisting of one member appointed by the Committee, one member appointed by the aggrieved party and an umpire of a rank not below that of a District Judge appointed

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IX of 1899. by the Chief Commissioner of Ajmer-Merwara. The decision of the Tribunal shall be final and no suit shall lie in any civil Court in respect of the matters decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration under the terms of this section within the meaning of the Indian Arbitration Act, 1899, and all the provisions of that Act, with the exception of section (2) thereof, shall apply accordingly.

17. No act or proceeding of the Committee shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members. Validity of proceedings of the Committee.

18. The Durgah Committee shall not be empowered to use the property, movable and immovable, of the Durgah Endowment for any purpose other than those intended by the founders of the Wakf. Restriction on powers of Committee.

19. The Committee shall in the expenditure of the income of the Durgah Endowment abide by the directions contained in the Wakf-Deed and shall allot not less than 20 per cent. of the income from Durgah Endowment to religious preaching. Expenditure of income.

20. (1) The accounts of the Durgah shall be duly audited every year by a Chartered or Registered Accountant appointed by the Committee. Audit of accounts and annual report.

(2) The Committee shall publish an annual report on the administration of the Durgah with the financial estimate and the report of the Auditor.