

Haj Committee Act, 2002

35 of 2002

[June 11, 2002]

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SCHEDULE 1 :- THE SCHEDULE

Haj Committee Act, 2002

35 of 2002

[June 11, 2002]

An Act to establish a Haj Committee of India and State Haj Committees for making arrangements for the pilgrimage of Muslims for Haj, and for matters connected therewith Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:

CHAPTER 1

PRELIMINARY

1. Short title and commencement :-

(1) This Act may be called the Haj Committee Act, 2002.

(2) It shall come into force on such date or dates as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act and for different States.

2. Definitions :-

In this Act, unless the context otherwise requires,

(e) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be;

(f) "pilgrim" means a Muslim proceeding to, or returning from, Haj;

(i) "State Government", in relation to a Union territory, means the Administrator of that Union territory appointed by the President under Article 239 of the Constitution.

CHAPTER 2

HAJ COMMITTEE OF INDIA

3. Constitution and incorporation of Haj Committee of India

:-

(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a Committee by the name of the Haj Committee of India.

(2) The Committee shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, to create a charitable trust or endowment, and to contract and shall by the said name sue and be sued.

(3) The Committee shall have its headquarters at Mumbai and as and when the Committee considers it functionally necessary, additional regional offices may be opened in consultation with the Central Government.

4. Composition of Committee :-

The Committee shall consist of the following members, namely:

(iii) four persons not below the rank of Joint Secretary to the Government of India nominated by that Government to represent the Ministries of External Affairs, Home, Finance and Civil Aviation,

as ex officio members;

5. Notification of members :-

As soon as may be after the nomination of the members of the Committee under Section 4, the Central Government shall publish in the Official Gazette the names of all such members.

6. Term of office :-

(2) The allowances payable to, and the other terms and conditions of, the Chairperson, Vice-Chairpersons and Members shall be such as may be prescribed.

7. Chairperson and Vice-Chairpersons :-

(2) If the Committee fails to elect the Chairperson or the Vice-Chairpersons the Central Government may appoint a member of the Committee to be the Chairperson thereof or Vice-Chairpersons, as the case may be.

(3) The Chairperson shall exercise such powers and discharge such duties as may be prescribed.

(5) The election of the Chairperson and the Vice-Chairpersons shall be notified by the Central Government in the Official Gazette.

(6) The term of office of the Chairperson and the Vice-Chairpersons, as the case may be, shall be co-terminus with the term of the Committee and no person shall hold office of the Chairperson or the Vice-Chairpersons, as the case may be, for more than two consecutive terms.

(7) Any casual vacancy in the office of the Chairperson or a Vice-Chairperson shall be filled for the remainder of the term in accordance with sub-section (1) or sub-section (2), as the case may be.

8. Reconstitution of Committee :-

(1) The Central Government shall take or cause to be taken all necessary steps for the reconstitution of a new Committee at least four months before the expiry of the term, or the extended term, as the case may be, of the Committee.

9. Duties of Committee :-

(2) The Central Government shall afford all reasonable assistance to the Committee in the discharge of the duties specified in sub-

section (1).

10. Meetings of Committee :-

(1) The Committee shall meet at least three times in a year before the commencement of the Haj season to plan and make arrangements for Haj and once after that to review all arrangements made by the Committee.

(2) In addition to the meetings specified in sub-section (1), the Committee may hold meetings as and when requisitioned by at least one-third of its members or when considered necessary by the Chairperson.

(3) The number of members required to make a quorum at any meeting of the Committee shall be one-third of its members.

(4) All matters shall be decided by a majority of votes of the members present and, in the event of an equality of votes, the Chairperson or other person presiding shall have a casting vote.

(5) The Committee shall observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by bye-laws.

11. Appointment of Standing Committees and sub-committees :-

(2) The Committee may also appoint other sub-committees for such purposes as it may think fit and any such sub-committee shall consist of such number of members and other persons as may be determined by bye-laws made in this behalf by the Committee.

12. Disqualification for being nominated, or for continuing, as a member of Committee :-

A person shall be disqualified for being nominated, or for continuing as a member of the Committee, if he

(i) is not a citizen of India;

(iii) is less than twenty-five years of age;

(iv) is of unsound mind and stands so declared by a competent court;

(v) is an undischarged insolvent;

(vi) has been convicted of an offence which, in the opinion of the

Central Government, involves a moral turpitude;

13. Resignation of Chairperson, Vice-Chairperson and Members :-

The Chairperson the Vice-Chairperson or any other member may resign his office by writing under his hand addressed to the Central Government and it shall be effective from the date of such resignation.

14. Removal of Chairperson, Vice-Chairperson and Members. :-

(2) Where the Chairperson or a Vice-Chairperson of the Committee is removed under sub-section (1), he shall also cease to be a member of the Committee.

15. Filling of a casual vacancy :-

(1) When the seat of a member becomes vacant by his removal, resignation, death or otherwise, a new member shall be nominated or elected, as the case may be, in his place and such member shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred.

(2) Any casual vacancy under sub-section (1) shall be filled up by the same category to which the former member belonged.

16. Chief Executive Officer and other employees :-

(1) The Central Government shall appoint a person, from a panel of Muslim officers of the Central Government and of the State Governments not below the rank of Deputy Secretary to the Government of India, to be the Chief Executive Officer of the Committee on such terms and conditions as may be prescribed.

(2) The Chief Executive Officer shall be the ex officio Secretary of the Committee.

(3) The Chief Executive Officer shall be appointed for a period of three years, which may be extended by a maximum period of one year by the Central Government.

(4) The Chief Executive Officer shall execute the decisions of the Committee and perform such other functions as may be prescribed :

Provided that in case of any difference of opinion between the Chief

Executive Officer and the Committee, he shall bring the matter to the notice of the Central Government, whose decision thereon shall be final.

(5) The Committee may, with the previous sanction of the Central Government, employ such other officers and employees as it deems necessary to carry out the purposes of this Act. on such terms and conditions as may be prescribed.

CHAPTER 3

STATE HAJ COMMITTEES

17. Establishment and incorporation of State Haj Committee

:-

(2) The State Committee shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, to create a charitable trust or endowment, and to contract and shall by the said name sue and be sued.

(4) An agreement under this section shall be published, in a case referred to in clause (a) of sub-section (2), in the Official Gazette of the participating States and in a case referred to in clause (b) of that sub-section, in the Official Gazette of the participating Union territory or Union territories and participating State or States.

(5) Any reference in this Act to the State Committee shall, unless the context otherwise requires, be construed as including a Joint State Committee.

18. Composition of State Committee :-

(2) In case where there is no Muslim member in any of the categories mentioned in clauses (i) and (ii) of sub-section (1), or where there is no Legislative Council in a State, nomination may be made in such manner as may be prescribed.

19. Notification of members :-

As soon as may be after the nomination of the members of a State Committee under sub-section (1) of Section 18, the State Government shall publish, in the Official Gazette of that State, the names of all such members.

20. Term of office :-

(2) The allowances payable to, and the other terms and conditions of the Chairperson and members shall be such as may be prescribed.

21. Chairperson :-

(2) If the State Committee fails to elect a Chairperson, the State Government may appoint a member of the State Committee to be the Chairperson thereof.

(3) The election of the Chairperson shall be notified by the State Government in the Official Gazette of the State.

(4) The term of office of the Chairperson shall be three years and no person shall hold the office of the Chairperson for more than two consecutive terms.

(5) Any casual vacancy in the office of the Chairperson shall be filled in accordance with sub-section (1) or sub-section (2), as the case may be.

22. Reconstitution of a State Committee :-

(1) The State Government shall take or cause to be taken all necessary steps for the reconstitution of a new State Committee at least four months before the expiry of the term of the State Committee.

23. Disqualification for being nominated, or for continuing, as a member of the Committee :-

A person shall be disqualified for being nominated, or for continuing, as a member of the State Committee, if he

(i) is not a citizen of India;

(ii) is not a resident of that State;

(iv) is less than twenty-five years of age;

(v) is of unsound mind and stands so declared by a competent court;

(vi) is an undischarged insolvent;

(vii) has been convicted of an offence which, in the opinion of the State Government, involves a moral turpitude;

24. Resignation of Chairperson and members :-

The Chairperson or any other member may resign his office by

writing under his hand addressed to the State Government and it shall be effective from the date of such resignation.

25. Removal of Chairperson and members :-

(2) Where the Chairperson of the State Committee is removed under sub-section (1), he shall also cease to be a member of the State Committee.

26. Filling of a casual vacancy :-

(1) When the seat of a member becomes vacant by his removal, resignation, death or otherwise, a new member shall be nominated in his place and such member shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred.

(2) Any casual vacancy under sub-section (1) shall be filled up by the same category to which the former member belonged.

27. Duties of State Committee :-

(1) It shall be the duty of a State Committee to implement the policy and directions of the Committee in the interests of Haj pilgrims.

(2) The State Committee shall provide assistance to the Haj pilgrims including in the matter of their transport between their home States and the point of exit from India and their transit accommodation at points of exit.

(3) The State Committee shall discharge such other duties in connection with Haj as may be prescribed by the State Government concerned, in consultation with the Central Government.

28. Meetings of State Committee :-

(1) A State Committee shall meet at least twice in a year before the Haj day and once after the Haj is over.

(2) The number of members required to make a quorum at any meeting of the State Committee shall be one-third of its members.

(3) In addition to the number of meetings specified in sub-section (1), the State Committee may hold meetings as and when requisitioned by at least one-third of its members or when considered necessary by the Chairperson.

(4) All matters shall be decided by a majority of votes of the members present and, in the event of an equality of votes, the Chairperson or other person presiding shall have a casting vote.

29. Executive Officer and other employees of State Committee :-

(2) The Executive Officer of the State Committee shall act as its Secretary.

(3) The Executive Officer shall execute the decisions of the State Committee and perform such other functions ,as may be prescribed :

Provided that in case of any difference of opinion between the Executive Officer and the State Committee, he shall bring the matter to the notice of the State Government whose decision thereon shall be final.

(4) The State Committee shall, with the previous sanction of the State Government, employ such officers and other employees as it deems necessary to carry out the purposes of this Act.

(5) The term of office and conditions of service of officers and other employees shall be such as may be prescribed.

CHAPTER 4

FINANCE, ACCOUNTS AND AUDIT

30. Central Haj Fund :-

The Committee shall have its own fund to be called the Central Haj Fund, and there shall be placed to the credit thereof the following sums, namely:

(b) money collected from pilgrims for performance of Haj;

(c) the income from all deposits and investment of the Committee's funds;

(d) the sums realised from the sale of the effects of deceased pilgrims and sums of money left by them, which are unclaimed and have lapsed to the Central Government;

(e) any sums loaned by the Central or a State Government, or any other source approved by the Government;

(f) any amount that may be legally due to the Committee from any source; and

(g) the amount standing at the commencement of this Act to the credit of the Haj Fund or the Indigent Pilgrims Fund established under the Haj Committee Act. 1959 (51 of 1959).

31. Application of Central Haj Fund :-

The Central Haj Fund shall, subject to the provisions of this Act and the rules made thereunder, be under the control and management of the Committee, and shall be applied to the following purposes, namely:

(a) pay and allowances of the Chief Executive Officer and other employees of the Committee;

(b) payment of charges and expenses incidental to the objects specified in Section 9; and

(c) any other expenses which are required to be met by the Committee or a State Committee, as approved by the Central Government.

32. State Haj Fund :-

The State Committee shall have its own fund to be called the State Haj Fund and the following sums shall be placed to the credit thereof, namely:

(i) all sums of money paid to it or any grant made by the Committee for the purposes of this Act;

(ii) any grant or loan that may be made to the State Committee by the State Government, or any other source for the purposes of this Act, as approved by the State Government;

(iii) any amount that may be legally due to the State Committee from any source; and

(iv) the moneys, if any, standing to the credit of a State Haj Committee, at the commencement of this Act.

33. Application of State Haj Fund :-

The State Haj Fund shall, subject to any rules that may be made under this Act, be under the control and management of the State Committee and shall be applied to the following purposes, namely:

(i) pay and allowances of the employees of the State Committee other than its Executive Officer whose pay and allowances shall be borne by the State Government;

(iii) any other expenses, as approved by the State Government which are required to be met by the State Committee.

34. Accounts and audit :-

(1) The Committee and every State Committee shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed by the Central Government, or as the case may be, the State Government.

(2) The accounts shall be examined and audited annually by such auditors as the Central Government or, as the case may be, the State Government may approve.

(3) The accounts of the Committee or the State Committee as certified by the auditor together with the audit report thereon shall be forwarded annually by the said Committee to the Central Government, or as the case may be, the State Government.

(4) The Central Government shall, as soon as may be after the receipt of the audit report under sub-section (3), cause the same to be laid before each House of Parliament.

(5) The State Government shall, as soon as may be, after the receipt of the audit report under sub-section (3), cause the same to be laid before the State Legislature.

CHAPTER 5

MISCELLANEOUS

35. Powers of Committee to issue Pilgrim Passes and levy fees :-

(1) The Committee shall have the power to issue a travel document called "Pilgrim Pass" to a Haj pilgrim for his departure from India as a bona fide pilgrim to Saudi Arabia and the said pilgrim shall be deemed to be exempted from the provisions of Section 3 of the Passports Act, 1967 (15 of 1967).

(2) Notwithstanding anything contained in the Passports Act, 1967 (15 of 1967), the Central Government may, in consultation with the Committee, levy such fees for registration of Haj pilgrims, issuance of Pilgrim Pass by the Committee and other related matters, as may be prescribed in connection with rendering of such services.

36. Supersession of Committee :-

(3) An order of supersession made under this section together with

a statement of the reasons therefor shall be laid before each House of Parliament as soon as may be after it has been made.

(4) A State Government may exercise the same powers and duties in respect of a State Committee as mentioned in sub-sections (1), (2) and (3) of this section subject to the conditions mentioned therein and any directions issued by the Central Government in this regard.

37. Membership of Committee or State Committee not to constitute office of profit :-

Notwithstanding anything contained in any other law for the time being in force, the office of a member of the Committee or State Committee shall not be deemed to be an office of profit.

38. Vacancies etc., not invalidate proceedings of Committee :-

No act or proceeding of the Committee or of a State Committee or of a Joint State Committee, as the case may be, shall be invalid by reason only of the existence of any vacancy amongst its members, or any defect in the constitution thereof.

39. Officers and employees of Committee to be public servants :-

The officers and employees of the Committees and other persons duly appointed to discharge any duty under this Act or rules or bye-laws made thereunder, shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860).

40. Indemnity :-

No suit, prosecution or other legal proceeding shall lie against the Chairperson, Vice-Chairpersons or any member of the Committee or a State Committee in respect of anything in good faith done or purporting to have been done under this Act, except with the prior permission of the Central or State Government, as the case may be.

41. Power to amend Schedule :-

(1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification published in the Official Gazette, amend the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

42. Redressal of grievances :-

Any Haj pilgrim, who is aggrieved by the discharge of any of the duties performed by the Haj Committee or the State Haj Committee, shall make a representation for the redressal of his grievance to the Haj Committee or the State Haj Committee, as the case may be, and the same shall be disposed of by the said Committee, if necessary, after hearing the aggrieved person.

43. Vesting of properties and other rights, etc., in Committees :-

(1) On and from the commencement of this Act, all assets, rights, leaseholds, powers, authorities and privileges and all properties, movable and immovable, including lands, buildings, stores, cash balances, cash on hand, reserve funds, investments and all other rights and interests in or arising out of such properties as were immediately before such commencement in the ownership, power or control of Haj Committee, Mumbai, constituted under the Haj Committee Act, 1959 (51 of 1959) and all books of account, registers and all other documents of whatever nature relating thereto shall vest absolutely in and belong to the Committee.

(2) On and from the commencement of this Act, all assets, rights, leaseholds, powers, authorities and privileges and all properties, movable and immovable, including lands, buildings, stores, cash balances, cash on hand, reserve funds, investments and all other rights and interests in or arising out of such properties as were immediately before such commencement in the ownership, power or control of Haj Committee of a State and, all books of account, registers and all other documents of whatever nature relating thereto shall vest absolutely in and belong to the Haj Committee of a State.

(3) All debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Committee or a State Committee immediately before such commencement for or in connection with the purposes of the Committee or a State Committee shall be deemed to have been incurred, entered into and engaged to be done by, with or for the Committee or a State Committee, as the case may be.

(4) All sums of money due to the Committee or a State Committee immediately before such commencement shall be deemed to be due to the Committee or a State Committee, as the case may be.

(5) All contracts made with and all instruments executed on behalf of the Haj Committee, Mumbai or the Haj Committee of a State shall be deemed to have been made or executed on behalf of the Committee, or as the case may be, the State Committee and shall be performed accordingly.

(6) In all suits and legal proceedings pending on the commencement of this Act in or to which the Haj Committee, Mumbai or the Haj Committee of a State was a party, the Committee, or as the case may be, the State Committee shall be deemed to have been substituted therefor.

44. Power to make rules :-

(1) The Central Government may, by notification, make rules to carry out the purposes of this Act.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree 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.

45. Power to make bye-laws :-

(2) Bye-laws made by the Committee under this section shall be submitted to the Central Government and shall not take effect until they have been confirmed by the Central Government.

(3) Bye-laws which have been confirmed by the Central Government shall be published in the Official Gazette.

46. Power to delegate :-

Subject to the provisions of this Act and the rules made thereunder, the Committee may, by general or special order in writing, with the prior approval of the Central Government,

delegate to any member or Chief Executive Officer of the Committee, and subject to such conditions and limitations, as may be specified in the order, such of its powers under this Act (except the powers to make bye-laws under Section 45) as it may deem necessary.

47. Power to make rules by State Governments :-

(1) The State Governments may, in consultation with the Central Government, by notification make rules to carry out the purposes of this Act in respect of the State Committees.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

48. Provisions as to employees of the existing Committee before the commencement of this Act :-

Every officer and other employee of any of the existing Committee and the State Committee, as the case may be, shall, on and from the commencement of this Act. stand transferred to or become an officer or other employee of the Committee or the State Committee, as the case may be, with such designation as such Committee may determine and shall hold office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions of service as he would have held under the Haj Committee constituted under the Haj Committee Act, 1959 (51 of 1959) and shall continue to do so as an officer or other employee of the Committee till such time the terms and conditions are duly altered by such Committee :

Provided that the tenure, remuneration and terms and conditions of service of any such officer or other employee of the Committee or of a State Committee, as the case may be, shall not be altered to his disadvantage without the previous sanction of the Central Government or State Government, as the case may be :

Provided further that any service rendered by any such officer or other employee before the commencement of this Act shall be deemed to be the service rendered under the Committee or, as the case may be, the State Committee.

49. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall lie against the Government or any officer or other employee of the Government or the Committee constituted under this Act in respect of anything

which is in good faith done or intended to be done under this Act.

50. Power to remove difficulties :-

(2) Any order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

51. Power to give directions :-

The Central Government may, in exercise of its powers and performance of its functions under this Act, issue directions in writing to the Committee or the State Government or the State Committee and such Committee, State Government or State Committee, as the case may be, shall be bound to comply with such directions.

52. Repeal :-

(1) The Haj Committee Act, 1959 (51 of 1959) is hereby repealed.

(2) Notwithstanding such repeal, the Haj Committee constituted under the said Act shall, until the establishment of the Committee under this Act, continue to function as if this Act had not been passed and on such notification under Section 5 on the establishment of the Committee, the former Committee shall stand dissolved.

(3) Notwithstanding such repeal, anything done or any action taken under the Haj Committee Act, 1959 (51 of 1959) shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE 1

THE SCHEDULE

[See Sections 4(0) and 41(1)]
Zone-I. National Capital Territory of Delhi, Rajasthan, Jammu and Kashmir, Punjab, Haryana, Himachal Pradesh and Union Territory of Chandigarh.
Zone-II. Uttar Pradesh, Bihar, Uttaranchal and Jharkhand.
Zone-III. Andhra Pradesh, Madhya Pradesh, Chhattisgarh and Orissa.
Zone-IV. Assam, West Bengal, Tripura, Manipur, Sikkim, Meghalaya, Arunachal Pradesh.

Mizoram, Nagaland and Union Territory of Andaman and Nicobar Islands.

Zone-V. Maharashtra, Gujarat, Goa and Union Territories of Daman and Diu and Dadra

and Nagar Haveli.

Zone-VI. Tamil Nadu, Kerala, Karnataka and Union Territories of Pondicherry and Lakshadweep.