The Maharashtra Devdasi System (Abolition) Act, 2005

Act 33 of 2006

Keyword(s):
Control Board, Dedication, Devdasi, Devdasi Prevention Officer, Temple

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असा. क्र. ७५ रजिस्टर्ड नं. एमएच/एमआर/साऊथ-२२९/२००६-०८

महाराष्ट्र शासन राजपत्र

असाधारण
प्राधिकृत प्रकाशन

शुक्रवार, ऑगस्ट ११, २००६/श्रावण २०, शके १९२८

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra *Devdasi* System (Abolition) Act, 2005 (Mah. Act No. XXXIII of 2006), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XXXIII OF 2006.

(First published, after having received the assent of the President, in the "Maharashtra Government Gazette", on the 11th August 2006.)

An Act to provide for a comprehensive law to abolish the practice of dedication of women as Devdasis to Hindu deities, idols, objects of worship, temples or religious institutions, and to protect the women so dedicated against exploitation, and for matters connected therewith or incidental thereto.

WHEREAS it is expendient to abolish the practice of dedicating women to the Hindu deities, idols, objects of worship, temples or religious institutions as devdasis which is in existence in some parts of the State ;

[किंमत : रुपये ९.००]

AND WHEREAS such practice of Devdasis is derogatory to the dignity of women leading to their exploitation ;

AND WHEREAS with a view to suggest effective measures to abolish such practice and to rehabilitate the Devdasis in the society to enable them to lead respectable life, the Government of Maharashtra had appointed a study group ;

AND WHEREAS after considering the recommendations made by the study group, it is considered expedient to enact a comprehensive law providing for effectively abolishing "*Devdasi*" system, so as to enable them to live with dignity ; and to make stringent deterrent provisions for punishing the persons who are responsible for or involved in, this practice of *Devdasis* and matters connected therewith or incidental thereto ; it is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :—

Short title extent and commencement.

1. (*1*) This Act may be called the Maharashtra *Devdasi* System (Abolition) Act, 2005.

(*2*) It extends to the whole of the State of Maharashtra.

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

Definitions.

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

(*a*) "Control Board" mean the *Devdasi* Practice Control and Eradication Board established under section 5 ;

(*b*) "dedication" means the preformance of any act or cermony by whatever name called, by which a woman is dedicated, voluntarly or otherwise, to the service of a Hindu deity, idol, object of worship, temple or religious institution as *Devdasi* or *Jogtin* or by any other name ;

(*c*) "Devdasi" means a woman dedicated to a Hindu deity, idol, object of worship, temple or religious institution, named as *Devdasi, Jogtin* or by any other name ;

(*d*) "*Davdasi* Prevention Officer" means an officer appointed under section 10 ;

(*e*) "District Committee" means a District *Devdasi* Practice Control Committee or Committees constituted under section 8 ;

(*f*) "Government" means the Government of Maharashtra ;

(*g*) "prescribed" means prescribed by rules made under this Act ;

(*h*) "temple" means a place by whatever name called dedicated to or used as a place of religious worship ; and

(*i*) "woman" means a female human being of any age.

3. (*1*) Notwithstanding any custom, usage or law to the contrary whether before or after the commencement of this Act, dedication of a woman as *Devdasi* is prohibited and is hereby declared unlawful and to be of no effect. Dedication as *Devdasi* unlawful.

(*2*) Taking part in or abetting the performance of any such act or ceremony of dedication or any attempt or preparation for dedication of a woman as *Devdasi* or propagation of the practice of *Devdasi* is also hereby prohibited and declared unlawful.

4. (*1*) Notwithstanding any custom, usage, rule or any law to the contrary, no marriage contracted by a woman being a *Devdasi* shall be invalid and no issue of such marriage shall be illegitimate by reason only of such woman being a *Devdasi*. Marriage of *Devdasi*.

(*2*) Co-habitation by any man with a *Devdasi* as husband and wife for a reasonably long period under the same roof shall, *primafacia,* raise the presumption of legal and valid marriage subsisting between the two of them and any offspring of such co-habitants shall be legitimately entitled to have the hereditary right in the property of such couple, as per the personal law by which such persons are being governed.

5. (*1*) The State Government shall, by notification in the *Official Gazette,* establish for the State with effect from the date specified therein, a Board to be called the Devdasi Practice Control and Eradication Board (hereinafter referred to as "the Control Board"). Control Board.

(*2*) The Control Board shall consist of the following members namely :—

(*a*) a person, who is or has been a Judge not below the rank of a Selection Grade District Judge, to be appointed by the Government in consultation with the High Court of Judicature, at Bombay .... Chairman ;

(*b*) two other persons to assist the Chairman, who shall be the persons of ability, integrity and standing having adequate knowledge and experience of dealing with the problems relating to exploitation of women, to be nominated by the Governmnet, of whom at least one shall be a woman, nominated in consultation with the State Women's Commission .... Members ;

(*c*) the Commissioner of Women and Child Development of Government .... *Ex officio* Member-Secretary.

(*3*) The term of office of the members of the Control Board shall be of five years.

(*4*) No act or proceeding of the Control Board shall be invalid by reason only of a vacancy therein, or any defect in nomination of any members, if such act or proceeding is otherwise in accordance with the provisions of this Act.

(*5*) Appointments made, from time to time, as members under clause (*b*) of sub-section (*2*) shall be published in the *Official Gazette*.

(*6*) The Control board shall meet at such time and place and shall observe such procedure in regard to the transaction of its business as the Chairman may think fit.

(*7*) The non-official members nominated by the State Government under clause (*b*) of sub-section (*2*) shall receive such fees and allowances as may be prescribed.

Powers, functions and duties of Control Board.

6. (*1*) The Control Board shall endeavour for achieving the objectives of this Act, and for effective implemantation of the provisions of this Act, supervision of the working of the District *Devdasi* Practice Control Committees and the *Devdasi* Prevention Offices, and shall also study the various problems of *Davdasis* in the entire State and suggest to the Government various remedial or preventive measures which, in its opinion, need to be taken to effectively control and eradicate the practice of *Devdasis* in the State.

(*2*) The Control Board shall, for the purposes of this Act have all the powers of a Civil Court while trying a civil suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely :— 5 of 1908.

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

(*b*) requiring the discovery and production of any document ;

(*c*) receiving evidence on affidavits ;

(*d*) requisitioning any public record or copy thereof from any Court or office ;

(*e*) issuing Commissions for the examination of witnesses or documents ; and

(*f*) such other matters as may be prescribed.

(*3*) The other powers, functions and duties of the Control Board shall be such as may be prescribed.

(*4*) The Control Board shall carry out any directions, which may be issued by the State Government, from time to time, for effective and smooth implementation of the provisions of this Act.

Disqualification and removal of nominated members.

7. (*1*) A non-official member nominated under clause (*b*) of sub-section (*2*) of section 5 shall be disqualified for being nominated or for being continued as, a member, if such member,—

(*a*) is convicted by a Criminal Court for an offence involving moral turpitude ; or

(*b*) is of unsound mind and stands so declared by a competent court ; or

(*c*) is an undischarged insolvent ; or

(*d*) refuses to act or becomes incapable of acting as the member ; or

(*e*) is otherwise in the opinion of the Government, unsuitable to continue as a member.

(*2*) The State Government may, remove a member who is found to be or has become, disqualified under sub-section (*1*), as the member of the Control Board :

Provided that, no person shall be removed under clauses (*d*) and (*e*) of sub-section (*1*), unless that person has been given a reasonable opportunity of being heard.

Constitution of District Committee.

8. (*1*) The State Government may, by notification in the *Official Gazette,* constitute a District *Davdasi* Practice Control Committee (hereinafter referred to as " the District Committee "), for such District or Districts, as deemed fit, for the purposes of this Act :

Provided that, the District Committee constituted for a district may have under its jurisdiction and work as the District Committee for more than one districts.

(*2*) A District Committee shall consist of the following members, namely :—

(*a*) the Chief Judicial Magistrate of the District or any of the Districts, for which a common District Committee is constituted	Chairman ;
(*b*) three persons to assist the Chairman, who shall be the persons of ability, integrity and standing and have adequate knowledge and experience of dealing with the problems relating to exploitation of women, to be nominated by the State Government, of whom at least one shall be a woman, nominated in consultation with the State Women's Commission	Members ;
(*c*) the District Women and Child Development Officer	*Ex officio* Member-Secretary.

(*3*) The term of office of the members of every District Committee shall be of five years from its constitution.

(*4*) No act or proceeding of the District Committee shall be invalid by reason only of a vacancy therein, or any defect in the nomination of any member, if such act or proceeding is otherwise in accordance with the provisions of this Act.

(*5*) Appointments made, from time to time, as members under clause (*b*) of sub-section (*2*) shall be published in the *Official Gazette.*

(*6*) The District Committee shall meet at such time and place, as the Chairman of such Committee may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

(*7*) The members nominated under clause (*b*) of sub-section (*2*) shall receive such fees and allowances as may be prescribed.

(*8*) The provisions of section 7 regarding the disqualification and removal of the non-official members nominated by the State Government shall, *mutatis mutandis,* apply to the members of a District Committee, nominated under clause (*b*) of sub-section (*2*).

Powers, functions and duties of District Committee.

9. The powers, functions and duties of the District Committee shall be as follows, namely :—

(*1*) For the purposes of this Act, the Committee shall have,—

(*a*) all the powers of a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters, namely :— 5 of 1908.

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

(*ii*) requiring the discovery and production of any document ;

(*iii*) receiving evidence on affidavits ;

(*iv*) requisitioning any public record or copy thereof from any Court or office ;

(*v*) issuing Commissions for the examination of witnesses or documents ; and

(*vi*) such other matters as may be prescribed.

(*b*) the power to carry out or empower search of any premises where a woman is or is believed to have been confined, for being dedicated as or on having been dedicated as a *Devdasi* or where the commission or preparation for the commission of an offence under this Act is or is believed to be going on, and the

2 of 1974. provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall apply, as far as may be, to the searches and seizures under this sub-section.

(*2*) To pass appropriate orders in any matter in respect of any *Devdasi* being considered by it, regarding the custody and rehabilitation of such *Devdasis* by fixing the responsibility in respect of rehabilitation by any person or institution responsible for the commission of the offence of dedication under this Act, independent of the action if any, of prosecution of such offenders initiated or to be initiated under section 11 of the Act.

(*3*) To award in desering cases, a maintenance allowance, in accordance with Government scheme to avoid destitution and to rehabilitate such *Devdasis*.

(*4*) To undertake various measures for eradication of the practice of *Devdasis,* and protection and rehabilitation of the *Devdasis* in accordance with the Government schemes or schemes of local salf Government or any other Government agencies, as may be prescribed.

(*5*) To recommend appointment of an administrator for any charitable trust where the Managing Committee of such trust has been found to be guilty, by the Committee of the offence of dedication under this Act, notwithstanding anying contained in any other law for the time being in force, and also for suspension of any member of the trust individually or for the entire Trustee Committee found to be guilty of the commission of any offence under this Act, as the case may be.

(*6*) To pass any order which it deems fit for the fulfillment of the object of this Act.

(*7*) To perform such other functions and duties as may be prescribed.

Devdasi Prevention Officers.

10. (*1*) The State Government may, by notification in the *Official Gazette,* appoint for the whole State or such part or parts thereof as may be specified in that notification, an officer or officers to be known as *Devdasi* Prevention Officer.

(*2*) It shall be the duty of the *Devdasi* Prevention Officer—

(*i*) to detect and prevent the contravention of, the provisions of this Act by any person in the area of his jurisdiction, by taking such action under this Act as he deems fit ; and to report such cases to the concerned District Committee ;

(*ii*) to collect evidence for the effective prosecutions of persons contravening the provisions of this Act ; and to report the same to the concerned District Committee ; and

(*iii*) to discharge such other functions as may be assigned to him by the State Government, the Control Board and the District Committee ; and to work in co-ordination with the Control Board and concerned District Committee.

(*3*) The State Government may, by notification in the *Official Gazette,* invest the *Devdasi* Prevention Officer with such powers of a Police Officer as may be specified in the notification and the *Devdasi* Prevention Officer shall exercise his powers subject to such limitations and conditions as may be specified in the notification.

(*4*) Each *Devdasi* Prevention Officer shall associate with the non-official members of the concerned District Committee and work in co-ordination with them.

Offences and penalties.

11. (*1*) Any person who, after the commencement of this Act,—

(*a*) performs, permits takes part in or abets, or who, allows in the premises under his control, the performance of any ceremony or act of dedication of a woman as a *Devdasi* shall, on conviction, be punishable with imprisonment which may extend to three years but which shall not be less than two years and with a fine, which may extend to fifty thousand rupees but which shall not be less than ten thousand rupees :

Provided that, when the offence under clause (*a*) is committed by the parents or relatives of the women such as brother, sister, uncle or aunt, the offender or offenders shall, on conviction be punishable with imprisonment which may extend to five years but which shall not be less than two years and with a fine which may extend to fifty thousand rupees but which shall not be less than ten thousand reupees ; and

(*b*) propagates the practice of *Devdasi* shall, on conviction, be punishable with imprisonment which may extend to three years but which shall not be less than one year and with a fine which may extend to fifty thousand rupees but which shall not be less than ten thousand rupees.

(*2*) Any other contravention or violation of the provisions of this Act or rules made thereunder or orders, if any, issued by the Control Board or District Committee under the provisions of this Act shall, constitute an offence under this Act and the person guilty of such contravention or violation shall be liable to be prosecuted, and on conviction, punishable with imprisonment which may extend to six months and fine which may extend to ten thousand rupees.

12. (*1*) All offences under sub-section (*1*) of section 11, except offences under sub-section (*2*) of the said section shall be cognizable and non-bailable. Congnizance of offence.

(*2*) No Court inferior to that of the Metropolitan Magistrte or a Judicial Magistrate, First Class, shall try any offence under this Act.

2 of 1974. **13.** Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 shall apply to any offence under this Act. Limitation not to apply for taking cognizance.

14. Every Court trying the offence under this Act shall, as far as possible dispose of the case on priority and shall adopt the summary procedure. Procedure to be followed in trial.

15. (*1*) It shall be the duty of the Police Officer incharge of a Police Station who has received any information regarding the Commission of an offence under the provisions of this Act to forward a copy of that information forthwith to the concerned District Committee. Copy of information by police to be forwarded to District Committee.

(*2*) The district Committee, on receiving such information, in co-ordination with the *Devdasi* Prevention Officer, take all necessary followup actions in such matter to ensure that the culprits are brought to book and they are prosecuted and punished for the commission of the offence under this Act.

16. (*1*) Every Court, wherein a case filed has resulted in conviction of the accused under this Act, shall, by order direct that a copy of the judgment or as the case may be, the final order thereof, shall forthwith be forwarded to the concerned District Committee. Copy of judgment to be forwarded to District Committee.

(*2*) It shall be the duty of the concerned District Committee, in co-ordination with the *Devdasi* Prevention Officer to take necessary followup actions to ensure due compliance with the Court orders by all concerned.

(*3*) The District Committee shall, every three months review all cases within its area of jurisdiction for ensuring due implementation of the Court orders by all concerned, and shall submit a compliance report to the Control Board and to Government in the Women and Child Development Department.

17. (*1*) Where any person is convicted of any offence punishable under this Act, it shall be competent for the Court convicting the persons to cause the name and place of residence of such person to be published by the police in the local newspaper where such *Devdasi* dedication had taken place together with the fact that the Publication of fact of conviction, etc.

offender had been convicted and punished for such offence with such other particulars as the Court may consider to be appropriate in the circumstances of the case. A copy of such publication may be sent by the police to the Commissioner, Women and Child Development, Maharashtra State, Pune.

(2) No publication under sub-section (*1*) shall be made until an appeal (if any) filed against such order has been finally disposed of.

Public servants.

18. Every member of the Control Board and of the District Committee, and the *Davdasi* Prevention Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

19. No suit, prosecution or other legal proceedings shall lie against the Government, any officer or the authority of the Government or any person for anything which is done, or intended to be done in good faith under this Act or rules made thereunder.

Power to make rules.

20. (*1*) The State Government may, by notification in the *Official Gazette,* and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, 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, and notify such decision in the *Official Gazette,* the rule shall, from the date of such notification, 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 or omitted to be done under that rule.

Removal of difficulty.

21. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette,* do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty:

Provided that, no such order shall be made under this sub-section after the expiry of a period of two years from the date of commencement of this Act.

(*2*) Every order made under sub-section (*1*) shall be laid, as soon as may be after it is made, before each House of the State Legislature.

Bom. X of 1934.

22. (*1*) The Bombay Devdasis Protection Act, 1934 is hereby repealed. Repeal and saving.

(*2*) Notwithstanding such repeal, anything done or any action taken under or in pursuance of the said Act before such repeal, shall continue to have effect and section 7 of the Bombay General Clauses Act, 1904, shall apply with respect to the repeal of the said Act. Bom. I of 1904.

शासकीय मध्यवर्ती मुद्रणालय, मुंबई

असा. क्र. ८२ रजिस्टर्ड नं. एमएच/एमआर/साऊथ-२२९/२००६-०८

सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

शुक्रवार, सप्टेंबर १५, २००६/भाद्र २४, शके १९२८

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

ERRATA

In the English translation of the Maharashtra *Devdasi* System (Abolition) Act, 2005 (Mah. XXXIII of 2006), published in the *Maharashtra Government Gazette,* Extraordinary, Part VIII, dated the 11th August 2006, at pages 628-638,—

(1) on page 630,—

(*a*) in line 15, *for* "*primafacia*" *read* "*prima facie*";

(*b*) in line 37, *for* "Governmnet" *read* "Government";

(2) on page 631, in line 17, *for* "implemantation" *read* "implementation";

(3) on page 634, in line 11, *for* "desering" *read* "deserving";

(4) on page 635, in line 23, *for* "women" *read* "woman";

(5) on page 636, in line 38, *for* "persons" *read* "person".

शासकीय मध्यवर्ती मुद्रणालय, मुंबई