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SOCIETIES REGISTRATION ACT, 1860

[Act No. 21 of Yr. 1860]

An Act for the registration of literary, scientific and charitable societies

Whereas it is expedient the provision should be made for improving the legal condition of societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge, [the diffusion of political education], or for charitable purposes;

Comment: *Charitable purposes which came within the language and spirit of the statute of Elizabeth (43 Eliz ch 4) could be grouped into four heads, (i) relief of poverty, (ii) education, (iii) advancement of religion and (iv) other purposes beneficial to the community not coming under any of the preceding heads. The words in Act 21/1860 are, therefore, to be understood as including religious purposes also. Hindu Public v. Rajdhani Puja Samithee AIR 1999 SUPREME COURT 964*

It is enacted as follows :-

1. Societies formed by memorandum of association and registration

Any seven or more persons associated for any literary, scientific, or charitable purpose, or for any such purpose as is described in section 20 of this Act, may, by subscribing their names to a memorandum of association, and filing the same with Registrar of Joint-stock Companies ²[***] form themselves into a society under this Act.

2. Memorandum of association

The memorandum of association shall contain the following things, that is to say,-

the name of the society;

the object of the society;

the names, addresses, and occupations of the governors, council, directors, committee, or other governing body to whom, by the rules of the society, the management of its affairs is entrusted.

A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association.

3. Registration and fees

Upon such memorandum and certified copy being filed, the Registrar shall certify under his hand that the society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of fifty rupees, or such smaller fees as ³[the State Government] may from time to time, direct; and all fees so paid shall be accounted for to ³[the State Government].

4. Annual list of managing body to be filed

Once in every year, on or before the fourteenth day succeeding the day on which, according to the rules of the society, the annual general meeting of the societies is held, or, if it rules do not provide for an annual general meeting, in the months of January, list shall be filed with the Registrar of Joint Stock Companies, of the names, addresses and occupations of the governors, council, director, committee, or other governing body then entrusted with the management of the affairs of the society.

5. Property of society how vested

The property, movable and immovable belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceedings civil and criminal, may be described as the property of the governing body of such society for their proper title.

6. Suits by and against societies

Every society registered under this Act may sue or be sued in the name of President, Chairman, or Principal Secretary, or trustees, as shall be determined by the rules and regulations of the society and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion:

PROVIDED that it shall be competent for any person having a claim, or demand against the society, to sue the President or Chairman, or Principal Secretary or the trustees thereof, if on application the governing body some other officer or person be not nominated to be the defendant.

7. Suits not to abate

No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit proceedings shall be continued in the name of or against the successor of such person.

8. Enforcement of judgment against society

If a judgment shall be recovered against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, movable or immovable, or against the body of such person or officer, but against the property of the society.

The application for execution shall set forth the judgement, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the society only, and shall require to have the judgement enforced against the property of the society.

9. Recovery of penalty accruing under bye-law

Whenever by any bye-law duly made in accordance with the rules and regulations of the society, or, if the rules do not provide for the making of bye-laws, by any bye-laws made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three-fifths of the members present at such meeting shall be necessary), any pecuniary penalty is imposed for the breach of any rule or bye-law of the society, such penalty, when accrued, may be recovered in any court having jurisdiction where the defendant shall reside, or the society shall be situate, as the governing body thereof shall deem expedient.

10. Members liable to be sued as strangers

Any member who may be in arrear of a subscription which according to the rules of the society he is bound to pay, or who shall possess himself of or detain any property of the society in a manner or for a time contrary to such rules, or shall injure or destroy any property of the society, may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of the property in the manner hereinbefore provided.

Recovery by successful defendant of costs adjudged : But if the defendant shall be successful in any suit or other proceedings brought against him at the instance of the society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the society, and in the latter case shall have process against the property of the said society in the manner above described.

11. Members guilty of offences punishable as strangers

Any member of the society who shall steal, purloin, or embezzle any money or other property, or wilfully, and maliciously destroy or injure any property of such society, or shall forge and deed, bond, security for money, receipt, or other instrument, whereby the funds of the society may be exposed to loss, shall be

subject to the same prosecution, and, if convicted, shall be liable to be punished in like manner, as any person not a member would be subject and liable to in respect of the like offence.

12. Societies enabled to alter, extend or abridge their purposes

Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such society either wholly or partially with any other society, such governing body may submit the proposition to the members of the society in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the society;

but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting.

13. Provision for dissolution of societies and adjustment of their affairs

Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims and liabilities according to the rules of the said society applicable thereto, if any, and if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal court of original civil jurisdiction of the district in which the chief building of the society is situate; and the court shall make such order in the matter as it shall deem requisite.

Assent required: Provided that no societies shall be dissolved unless three-fifths of the members shall have expressed a wish for dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose:

Government consent: Provided that ⁴[whenever any Government] is a member of, or a contributor to, or otherwise interested in any society registered under this Act, such society shall not be dissolved ⁵[without the consent of the Government of the ⁶[State] or registration].

14. Upon a dissolution no member to receive profit

If upon the dissolution of any society registered under this Act there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the said society or any of them, but shall be given to some other society, to be determined by the votes of not less than three-fifths of the members present personally or by proxy at the time of the dissolution, or in default thereof, by such court as aforesaid:

Clause not to apply to Joint-stock Companies : Provided, however, that this clause shall not apply to any society which has been founded or established by the contributions of share-holders in the nature of a Joint-stock Company.

15. Member defined

For the purposes of this Act a member of a society shall be a person who, having been admitted therein according to the rules and regulations thereof, shall have paid a subscription, or shall have signed the roll or list of members thereof, and shall not have resigned in accordance with such rules and regulations;

Disqualified members : But in all proceedings under this Act no person shall be entitled to vote or be counted as a member whose subscription at the time shall have been in arrears for a period exceeding three months.

16. Governing body defined

The governing body of the society shall be the governors, council, directors, committee, trustees, or other body to whom by the rules and regulations of the society the management of its affairs is entrusted.

17. Registration of societies formed before Act

Any company or society established for a literary, scientific or charitable purpose, and registered under Act 43 of 1850⁷, or any such society established and constituted previously to the passing of this Act but not registered under the said Act 43 of 1850 may at any time hereafter be registered as a society under this Act.

Assent required : Subject to the proviso that no such company or society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the members present personally, or by proxy, at some general meeting convened for that purpose by the governing body.

In the case of a company or society registered under this Act 43 of 1850⁷, the directors shall be deemed to be such governing body.

In the case of a society not so registered, if no such body shall have been constituted on the establishment of the society, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the society thenceforth.

18. Such societies to file memorandum, etc. with Registrar of Joint-stock Companies

In order to any such society as is mentioned in the last proceeding section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint-stock Companies ²[* * *] a memorandum showing the name of the society, the objects of the society, and the names, addresses and occupations of the governing body, together with a copy of the rules and regulations of the society certified as provided in section 2, and a copy of the report of the proceedings of the general meeting at which the registration was resolved on.

19. Inspection of documents

Any person may inspect all documents filed with the Registrar under this Act on payment of a fee of one rupee for each inspection; and any person may require a copy or extract of any document or any part of any document, to be certified by the registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be prima facie evidence of the matters therein contained in all legal proceedings whatever.

20. To what societies Act applies

The following societies may be registered under this Act:-

Charitable societies, the military orphan funds or societies established at the several presidencies of India, societies established for the promotion of science, literature, or the fine arts for instruction, the diffusion of useful knowledge, ¹[the diffusion of political education], the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public or public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.