

ASSAM STATE ACQUISITION OF LANDS BELONGING TO RELIGIOUS OR CHARITABLE INSTITUTION OF PUBLIC NATURE ACT, 1959

56 C. In the case of every Company— (a) The total income of which does not exceed Rs. 100,000, On the whole of total income (b) The total income of which exceeds On the whole of total income divided always that— Thirty-four Naye Paise in the rupee Thirty-eight Naye Paise in the rupee (i) no agricultural Income-tax shall be payable on a total Agricultural income which does not exceed Rs 3,000; and (ii) the Agricultural Income-tax payable shall in no case exceed half the amount by which the total Agricultural income exceeds Rs.3,000. ASSAM ACT No.1X OF 1961 The Assam State Acquisition of Lands Belonging to Religious or Charitable Institution of Public Nature Act, 1959 Received the assent of the President on the 2nd April 1961 [Published in the Assam Gazette, Extraordinary, dated the 12th April 1961] Act to provide for the acquisition by the State of Preamble. Short title extent and commencement. t. lands belonging to religious or charitable institutions, of public nature. Whereas it is expedient to acquire the- lands belonging to religious or charitable institutions of public nature in the State of Assam in the manner hereinafter appearing ; It is hereby enacted in the Tenth Year of the Republic of India as follows :— 1. (1) This Act may be called the Assam State Acquisition of Lands belonging to Religious or Charitable Institution of Public Nature Act, 1959. 57 (2) It extends to the whole of Assam. (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 there is anything repugnant in the subject or context,— (a) 'Agricultural year' means the year commencing on the first day of 'Bohag' or 'Baisakh' (b) "Deputy Commissioner" means Deputy Commissioner of the district in which the land in question is situated, and includes the Additional Deputy Commissioner (c) "Encumbrance" in relation to any land under this Act does not include the rights of a raiyat or agricultural or non-agricultural tenant (d) ; the Head of a religious or Charitable institution in so far as it relates to the institution shall mean a person, by whatever designation known in whom the control and management of the properties of that institution is vested whether under the terms of any enactment or grant or usages relating to this institution or any scheme of management framed by a Court under section 92 of the Code of Civil Procedure, 1908 (e) "Institution" means a religious or charitable institution of public nature including its branches, if any, established prior to the commencement of this Act and existing at the date of such commencement ; (f) 'Religious Institution' means an institution the primary purpose of which relates exclusively to religious teaching or the propagation or advancement of religion irrespective of denomination (g) "Charitable Institution" means an institution for charitable purposes including relief of the poor, education, medical relief and advancement of any other object of public utility, but does not include a purpose which relates exclusively to religious teaching or advancement of religion (h) "Religious or Charitable Institutions of Public Nature" shall include Satras, Maths, public temples, public Wakfs (that is to say, Wakfs other than {Lan Wakf -alal-aulad) including public Mosques and Dargahs, Gur Iwaras, churches or similar institutions or endowments for public purposes of charitable or religious nature (i) "Prescribed" means prescribed by the rules made under this Act ; and (j) "Tenant" means a person who holds land under another person and is, or but for a special contract, would be, liable to pay rent for that land to that other person and includes a person who cultivates the land of another person on condition of delivering a share of the produce. i, 58 CHAPTER 11 3. (1) The State Government may, from time to time by notification in official Gazette and of acquiescence that all rights in land belonging to a Religious or Charitable Institution of Public Nature shall vest in the State free from all encumbrances, with effect from the first day of the agricultural year next following the date of publication of such notification. (2) A copy of the aforesaid notification shall be served on the Head of the religious or charitable institution in the manner prescribed and further, shall be published in the offices of the Deputy Commissioner, Subdivisional Officer and the Circle Officers within whose jurisdiction the lands are situated and also in the premises of the religious and the charitable Institution concerned. (3) The publication of the notification in the official Gazette and the service of the same as provided under sub-sections (1) and (2) respectively shall be conclusive evidence of due publication thereof and of notice to all persons affected by such notification. Consequence 4. (1) Notwithstanding anything to the contrary of the contrary in any law for the time being in force or custom or any agreement or contract, express or implied, on

the publication of the notification under Section 3, all rights, title and interest in the lands of a religious or charitable institution with the subsoil (including the rights tanks, wells, fisheries, in mines, minerals, forests, grazing reserves, hats, bazars, roads and ferries) shall cease and such lands including such rights shall vest absolutely in the State free from all encumbrances with effect from the date specified in the notification. (2) No claim or liability enforceable before the date of publication of notification against the institution for any money which is secured by a mortgage or charge on the lands belonging to such institution which has vested in the State, shall be enforceable against the interest of the institution but such claim and liabilities shall be enforceable only against the compensation money payable under this Act. (3) All sup.) And proceedings and any orders of in respect of such lands 59 belonging to the institution in connection with recovery of any money as mentioned in sub. section 12) which may be pending on the date of vesting shall be dropped and shall cease to be in force

5. Notwithstanding anything contained in sub- Section 4, a religious or charitable institution, (including its individual branches, if any) shall, with effect from the date of vesting, be entitled to retain possession of (i) free of revenue, all such lands which on 01st before the last day of Chaitra, 1365 B.S. were in the ownership of the institution and were actually occupied by it by constructing buildings and raising orchards flower gardens together with the compound appurtenant thereto and all lands reserved for the resident devotees for residential purposes : Provided that the right of ownership or possession of such lands shall not be transferable or alienable (ii) tea gardens land : Provided such lands shall be liable for assessment to Cull revenue rate under any existing law

6. The Deputy Commissioner may, at any time after the lands of an institution have vested in the State, proceed to take possession thereof, and may for that purpose take such steps as may be necessary : Provided that nothing contained in this section shall be deemed to authorise the Deputy Commissioner to take possession of lands and buildings mentioned in Section 5

7. Every religious or charitable institution whose lands have been acquired under the provisions of this Act shall be paid compensation which shall be determined on the principle hereinafter described, 1 Principles of determination of compensation and the manner of payment. 60 8, (1) The gross income of the land of religious or charitable institution which has been acquired under this Act shall be computed by taking the gross annual income from rent, fisheries, forests, hats, bazars, ferries, roads, grazing reserves, mines and minerals for the agricultural year preceding the date of notification under Section 3. Explanation.—For the purpose of calculation of gross annual income from rents of an institution, all arable lands, tenanted or fallow and homesteads belonging to such institution, shall be assessed at the prevailing rate of rent or revenue whichever is higher for similar land in the neighbourhood and nearest to it and the total amount for the previous year thus arrived at will be the gross income from rents, (2) From the average gross income so computed shall be deducted the annual amount which was payable by the religious or charitable institution for the agricultural year preceding the date of notification under Section 3, as land revenue, cess, royalty, municipal tax, chaukidari tax, agricultural income-tax or any tax levied by the State and Central Government, or rent to superior landlord in respect of the land acquired, (3) A further amount shall be deducted from the gross income as the cost of management at the rates given below (a) On the first of gross income.... (b) On the next of gross (c) On the balance of gross income. Rate No deduction, At five per cent of the gross income. At ten per cent of the gross income. (4) The balance remaining thereafter shall be treated as the net income. (5) net income thus arrived at shall be paid in cash annually or perpetual as compensation to the Head of the institution for the lands acquired under this Act 61 Provided that if any person is entitled to a share of the income of any institution or to a lump-sum allowance, under the terms of any grant or endowment relating to that institution, then he shall be paid an equivalent share out of the perpetual annuity or a lump-sum allowance to be determined in the manner prescribed : Provided further that the lump-sum allowance so determined shall bear as nearly as possible the same ratio to the perpetual annuity as the allowance drawn prior to the acquisition bears to the net income as defined in this section. Ad-interim 9. Pending investigation and final determination of compensation, an ad-interim payment in cash not exceeding 75 per cent of the probable amount of compensation may be made after a preliminary enquiry on the execution by the bond and such of an indemnity claimant (ad-interim compensation shall be deemed to be part of the compensation payable under this Act and shall be deducted from and adjusted

against Option of removal of building, etc. on land vested in the State. it . Provided that interest at the rate of per cent per annum shall be payable on the balance of compensation remaining; unpaid after six months from the date of acquisition of the lands

10. Where there is any building or structure or crop on the land, which have vested in the State the owner, thereof, shall be given the option of removing it within the prescribed period and if he fails to do so within the said period, it shall be sold in public auction and the sale proceeds after deduction of the cost of auction, if any, shall be paid to him. Claims for 11. Every religious or charitable institution compensation whose rights in land have been acquired by the State. Arrear of revenue, etc., to be deducted from compensation. State Government shall prefer claim for compensation before the Deputy Commissioner within 30 days from the date of acquisition of such rights, and the Deputy Commissioner shall dispose of the claims according to the provisions of this Act

12. Where there is arrear of revenue, local rate, cess or other dues lawfully payable to the State or Central Government by a religious or charitable institution whose lands have been acquired under this Act, the Deputy Commissioner may order that it shall be realised, without prejudice to any other mode of recovery, by deduction from the compensation money in one or more instalments, and the Deputy Commissioner, or any other officer authorised in this behalf shall thereupon deduct the amount so ordered, unless it is found to the satisfaction of such officer that the amount has since been recovered in any other manner : Provided that such recovery shall not reduce the amount of compensation by more than 25 per cent of the total amount of annual compensation payable. Claims to 13. (1) Where any land acquired under this Act is subject to a mortgage or charge, the creditors shall within 30 days from the date of acquisition, prefer a claim in writing before the Commissioner or any other officer authorised in this behalf, who shall thereupon proceed with and dispose of the claim. (2) The creditor shall be paid out of the money to the extent of the claim established under sub-section (1). (3) Where there are more than one creditors, payment to them shall be made in the order of priority determined by such officer. (4) Payment to the creditor may be made in one or more instalments but in no case shall the annual amount of compensation payable to an institution fall below 80 per cent of the annuity determined by such officer after deduction of arrears of revenue, if any, under Section 12. (5) In case of any dispute as to the person or persons who are entitled to be paid out of the compensation money under the preceding sub-sections, the amount kept in deposit in Government Treasury, and the dispute shall be referred to the Civil Court of competent jurisdiction, and the amount shall then be paid in terms of the final decision of the Court

14. An appeal against the order of the Deputy Commissioner or any other officer authorised in his behalf under Sections 11 and 13, shall, if preferred within 30 days of the order, excluding the period required for obtaining a copy of the said order, lie to the District Judge. The decision of the District Judge or the order of the Deputy Commissioner or any other officer authorised in this behalf, when no appeal is preferred, shall be final. (3. Subject to the limitation prescribed under of acquired Section 4 of the Assam Fixation of Ceiling on Land Holdings Act, 1956 where the land acquired under this Act is in occupation of a raiyat on the occupation, date of notification under Section 3, it shall be settled with him, with the following status : of 1927. (a) if he has acquired the status of a privileged raiyat under the Assam (Temporarily-Settled Districts) Tenancy Act, 1935 then the land in his holding as privileged raiyat of 1935, shall be settled with him with the status of a landholder as defined in the Assam Land and Revenue Regulation, 1886 and he shall, upon such settlement be absolved from the obligation, if any, of rendering services or making payment of "bhog" to the institution concerned in respect of his holding : Provided however that notwithstanding anything contained in the Assam Land and Revenue Regulation, 1886 his right of transfer of such holding shall extend only to persons belonging to the same religion as the institution in which the ownership of the land was vested before the date of notification under Section 3 of this Act ; (b) if he has acquired the right of occupancy under any law for the time being in force, then the land shall be settled with him with the status of a landholder as defined in the Assam Land and Revenue Regulation, 1886 or of an occupancy raiyat as defined in the Tenancy Act, 1929 or the Sylhet Tenancy Act, 1936, as the case may be ; (c) if he has not acquired the status of privileged raiyat or the right of occupancy, then the land shall be settled with him with the status of a settlement-holder (other than the landholder) as defined in the Assam Land and Revenue Regulation, 1886 or of a non-occupancy tenant under the Regulation of 1886. A *san Act of

1929. Assam Act XI of 1936. 1 of 1886, 64 Goalpara Tenancy Act, 1929 or Sylhet Tenancy Act, 1936. as the may be. (1) Where the land acquired under 16. Settlement of Assam Act of 1929. case Assam Act of 1936. this unoccupied Act is not under the occupation of a raiyat on land. Assessment of the land acquired. Submission of returns the Heads religious or charitable institution. the date of notification under Section 3, it shall be at the disposal of the State Government for settlement with the categories of persons, preference being given in order of narration, has been rendered (a) Cultivator who homeless due to ejection by the land lord or due to flood, erosion or earthquake, within two years next before the coming into operation of this Act. (b) Co-operative farming society formed by landless actual cultivators. (c) Landless cultivators. (2) The Deputy Commissioner or any other officer empowered in this behalf the State Government may, for the purpose of settling any if necessary, any person in such land, eject, unauthorised possession. (3) A tenant who is in occupation of any land acquired under Section 3 but who does not take settlement of such land, shall acquire no right, title and interest in such land and shall be liable to ejection, without prejudice to any other action that may be taken under the relevant provisions of the Assam Land and Revenue Regulation, 1886 or any other law for the time being in force

17. Any land acquired under this Act shall be liable to be assessed to land revenue at full revenue rate under the provisions of the Assam Land and Revenue Regulation, 1886 or the Assam Land Revenue Re-assessment Act, 1933 or to rent under the provisions of the Goalpara Tenancy Act, 1929 or the Sylhet Tenancy Act, 1936, as the case may be, at the same full rate or rates as are applicable to similar lands in the neighbourhood. Regulation of 1886. Regulation Assam Act VIII of 1926. Assam Act I 1939. Assam Act XI of 1936

18. The Head of a religious or charitable institution shall, within three months from the date of commencement of this Act, submit to the Deputy Commissioner a return giving the particulars (f all his lands mentioned: the land (a) selected for retention under Section 5, 11, Act 29. Act 36. n 1 (b) area under occupation of tenants and (c) under occupation of any tenant. Explanation.—Under (b) above, particulars Of land under (i) privileged raiyat, (ii) occupancy raiyat, (iii) non-occupancy raiyat shall be shown separately. Under (c) above, how the land utilized; or whether it is lying fallow shall be mentioned. Collection of 19. The Deputy Commissioner may obtain the information required to be shown in the return through together with any further information as it may other agency be necessary through an agency as he may fix or as the Government may prescribe and select the area which a religious or charitable institution is entitled to retain under provisions of this Act as also the plot or plots in excess. Submission of 20. (1) On the basis of the information given statement to Government. in the returns under Section 18 which shall be duly verified through such agency as may be decided by Government or on the information obtained by the Deputy Commissioner under Section 19, the Deputy Commissioner shall prepare a draft statement showing, among other particulars, the total areas of lands held by a religious or charitable institution, the specific plots selected for retention with such institution and also the lands outside the permissible area of retention under Section 5. (2) The draft statement shall be published in the office of the Deputy Commissioner, the Subdivisional Officer, the Circle Sub-Deputy Collector and the Mauzadar, and a copy thereof shall be served on the Head of the religious or charitable institution, as the case may be, in the manner prescribed. Any objection received within 30 days of the service shall be duly considered by the Deputy Commissioner and after giving the objector an opportunity for hearing, order shall be passed on these objections. (3) Any person aggrieved by an order of the Deputy Commissioner, under sub-section (2) may, within 30 days of the order, excluding the period required for obtaining copies thereof prefer an appeal to the State Government. 66 (4) Without prejudice to any action under sub-section (3) the State Government may, of its own motion call for any record relating to the draft statement at any time within 60 days of the order of the Deputy Commissioner under sub-section (2), and after giving the Head of the religious or charitable institution concerned an opportunity of being heard pass such orders as deemed fit. (5) Any order of the State Government under sub-section (3) or (4) or of the Deputy Commissioner when no appeal is preferred under sub-section (3) or revision made under sub-section (4) shall be final. (6) The draft statement shall then be finally prepared in terms of the final order of the Deputy Commissioner or the State Government, as the case may be, and republished in the offices mentioned in sub-section (2), and no person shall then Law. ment ment 21. Appeal. be entitled to question it in any Court of (7) An authenticated copy of the final state- shall then be submitted to the State Government immediately on the publication thereof

CHAPTER 111 Miscellaneous (1) Any person aggrieved by an order under Section 8' may, within .20 days of order, excluding iiae period required for obtaining the copies of the said order, prefer an appeal to the District Yuclge. (2) The decision of the District Judge, or the original order when no appeal is preferred, shall be final. 22, Except as otherwise expressly provided in Bar to iuris• diction this Act, no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court. 23. (1) Whoever— Pena'ties. (i) (ii) wilfully fails or neglects to comply with any requirement made of him under this Act, or contravenes any lawful order passed under •this Act, or L. B's Library 67 (iii) obstructs or resists the taking by the Deputy Commissioner of any land which has vested in the State under this Act, or (iv) furnishes information which he knows or believes to be false or does not believe to be true shall, on conviction before a Magistrate, and in addition to au.y other action that may be taken against him, be punishable with fine which mav e.xtend to five thousan(l rupees. (2) Any person who fails to submit any teturn required to be submitted under Section 18 shall be punishable with a fine which may exten(l to one thousand rupees. Protection of 24. No suit or proceeding or other legal pro- action taken ceeding shall lie against any person for anything in good faith. which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, or any order made thereunder. Delegation 25. The State Government may, by notification of powers. in the official Gazette, delegate any of its powers or functions under -this Act, other than those specified in Section 3 and sub-section (4) of Section 20, to such officer or authority subordi- nate to it, and subject to such conditions, restric- tions and limitations, as may be specified in the notification

26. Subject to any conditions or restrictions P wer to order prodUC•that may be prescribed, the Deputy Commissio- tion of docu- ner may, for the purpose of this Act, require any ments, etc. person to produce any documents, paper or register which is in his possession or under his control, or to furnish any information which he may think necessary for the proper discharge of anv duties under the provisions of this Act or anv rules made thereunder. Officers hold- 27. Any o(Vicer or authoriiry holding an enquiry ing enqueriesor hearing an appeal under this Act shall have to have of the power of a Civil Court under the Code of Civil Courts Civil Procedure, 1908 in respect of,— Act V of 190B. for enforcing attendanoe, etc. (a) enforcing attendance of any person and his exam: nation on oath, (b) compelling production of documents, and 68 (c) issue of commission

28. Any sum payable to the Government under Mode of re- covery of anythe provisions of this Act may be realised as an amounts arrear of land revenue.under this Act 29. If any difficulty - arises in giving effect to Remolal of difficulties. any provisions of this Act, State Government may, as occasion requires, take any action not incon- sistent with the provisions of this Act which may appear necessary for the purpose of remo- ving the difficulty. 30. (1) The State Government may, by notifi- Power to make Rules. cation in the official Gazette, make rules for carrying out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely (a) the manner in which any notice or copy of the draft statement may be served ; '(b) the manner in which the Deputy Com- missioner shall exercise any of the powers under this Act ; (c) the procedure and fees regarding appeal, revision/or any other procee- ding under this Act : (d) the agency through which the infor- mation is to be collected under Sec- tion 19. (3) All rules made under this section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible after they are made, and shall be subject to such modification as the Legislative Assembly may make during the session in which they are, so laid or the session immediately following.