

KERALA GRANDHASALA SANGHAM (TAKING OVER OF MANAGEMENT) ACT, 1977 (NO.19 OF 1977)

110 THE KERALA GRANDHASALA SANGHAM (TAKING OVER OF MANAGEMENT) ACT, 1977 (Act 19 of 1977) CONTENTS Preamble. Sections 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16 17. 18. 19. 20 21. Short title and commencement. Definitions. Board to take over management of the undertaking of the Grandhasala Sangham. Effect of notified order issued under section 3. Contracts in bad faith, etc., may be cancelled or varied. No right to compensation for termination of office. Applicability of Kerala Non-trading Companies Act and Articles of Association. Conditions of service, etc. of existing employees. Power of Government to cancel order notified under section 3. Duty to deliver possession of property and documents relating thereto. Duty to furnish particulars. Powers of Inspection. Penalty for false statement. Limitation on prosecution. Protection of action taken under the Act. Over-riding effect of Act. Payment of remuneration and expenses out of the funds of Grandhasala Sangham. Power of Government to give directions. Power to make rules. Power to remove difficulties. Repeal and saving. 117 THE-KERALA GRANDHASALA SANGHAM (TAKING OVER OF MANAGEMENT) ACT, 1977 * (ACT 19 OF 1977) An Act to provide for the taking over in the public interest of the management of the undertaking of the Kerala Grandhasala Sangham, with a view to ensuring the proper working of that Sangham and for matters connected therewith or incidental thereto. Preamble —WHEREAS in the Interest of the libraries in the State and in the public interest it is necessary to provide for the taking over of the management of the undertaking of the Kerala Grandhasala Sangham by the State for a limited period With a view to ensuring the proper working of that Sangham and for matters connected therewith or incidental thereto, BE it enacted in the Twenty-eighth Year of the Republic of India as follows :--- CHAPTER I PRELIMINARY Short title and commencement.—(1) This Act may be called the Kerala Grandhasala Sangham (Taking over of Management) Act, 1977. It shall be deemed to have come into force on the 16th day of (2) March, 1977. 2. this Act, unless the context otherwise requires,— (a) (b) (d) (e) "articles of association" means the articles of association of the Grandhasala Sangham; "district committee" means a district committee constituted under article 24(a) of the articles of association; "executive committee" means the executive committee of the Grandhasala Sangham referred to in article 24 of the articles of association, "governing council" means the governing council of the Grandhasala Sangham constituted under article 24 of the articles of association; • 'Grandhasala Sangham' means the Kerala Grandhasala Sangham registered under the Travancore Companies Act, 11 14 (IX of 11 14); "notified order" means an order notified in the Gazette; * Received the assent of the President on the 12th day of August, 1977 and published in the Kerala Gazette Extra ordinary No. 476 dated 12th August, 1977. (g) (h) 118 "prescribed" means prescribed by rules made under this Act; ' taluk union committee' means a taluk union committee referred to in clause (3) of article 38 of the articles of association; ' undertaking' Includes all assets, rights, leaseholds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, equipments, auto-stores, mobiles and other vehicles, cash balances, reserve fund, investments and book debts and all other rights and interest arising out of such property as were immediately before the date of the notified order under subsection (1) of section 3, in the ownership, possession, power or control of the Grandhasala Sangham, and all books of account, registers and all other documents of whatever nature relating thereto

CHAPTER II TAKING OVER OF MANAGEMENT OF THE UNDERTAKING OF GRANDHASALA SANGHAM 3. Board to take over management of the undertaking of the Grandhasala Sangham —(1) The Government may, by notified order, appoint a body of persons (hereinafter referred to as the 'Board of Control') to take over the management of the undertaking. (2) 'The Board of Control shall consist of a Chairman and such number of other members not exceeding as the Government may think (3) The Government may, either in the notified order issued under subsection (1) or in a subsequent order, specify that one or more of the members of the Board of Control shall be full-time member or full time members thereof. (4) The term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Board of Control shall be such as may be prescribed. remuneration and the (5) The salaries, allowances and other conditions of service of the members of the Board of control shall be such as may be determined by the Government. (6) notified order

issued under sub-section (1) shall remain in force for such period not exceeding two years as may be specified in the order: Provided that if the Government are of opinion that in order to secure the proper management of the undertaking it is expedient that any such notified order should continue in force after the expiry of the period specified in that order, they may, from time to time, by notification in the Gazette, extend such period by not more than six months at a time, but no such notified order shall in any case remain in force for more than five years. 119 4. • Effect of notified order issued under section 3.— (1) On the issue of a notified order under section 3 appointing a Board of Control to take over the management of the undertaking,— (a) all persons in charge of the management of the Grandhasala Sangham, including the President, Vice-President, General Secretary, Joint Secretaries and Treasurer and other members of the governing council, members of the executive committee and members of the district committees, and taluk union committees shall be deemed to have vacated their offices, as such; (b) the Board of Control shall alone be entitled, notwithstanding anything contained in any law for the time being in force, to exercise all the powers of the governing council, executive committee, district committees and taluk union committees; (c) as from the date of the notified order, the undertaking of the Grandhasala Sangham shall be deemed to be in the custody of the Board of Control who shall, as soon as may be after such date, take such step; as may be necessary to take into its possession or under its all properties, assets and effects and all actionable claims comprised in the undertaking. (2) Subject to the other provisions contained in this Act and to the control of the Government, the Board of Control shall take such steps as may be necessary for the purpose of efficiently managing the affairs of the Grandhasala Sangham and shall exercise such other powers and have such other duties as may be prescribed

5. Contracts in bad faith, etc., may be cancelled or varied.—Without prejudice to the provisions contained in section 4, the Board of Control may, with the previous approval of the Government, make an application to any court having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered into at any time before the issue of the notified order under sub-section (1) of section 3, between the Grandhasala Sangham and any other person, and the court may, if satisfied after due enquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interest of the Grandhasala Sangham, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall cease to have effect or, as the case may be, have effect subject to such variations

6. No right to compensation for termination of office.—Notwithstanding anything contained in any law for the time being in force, no person who ceases to hold any office by reason of the provisions contained in clause (a) of sub-section (1) of section 4 shall be entitled to any compensation for the loss of office: Provided that nothing contained in this section shall affect the right of any such person to recover from the Grandhasala Sangham moneys recoverable otherwise than by way of such compensation. 120 7. Applicability of •Kerala Non-trading Companies Act and •Articles of Association —(1) Notwithstanding anything contained in the Kerala Non- Trading Companies Act, 1961 (42 of 1961), the Articles of Association of the Grandhasala Sangham shall stand suspended for the period during which the notified order under sub-section (1) of section 3 is in force. (2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Act and subject to such exceptions, restrictions and limitations, if any, as the Government may, by notification in the Gazette, specify in this behalf, the Kerala Non-trading Companies Act, 1961 (42 of 1961), shall continue to apply to the Grandhasala Sangham in the same manner as it applied theretofore the issue of the notified order under sub-section (1) of section 3

8. Conditions of service, etc. of existing employees —(1) Every officer or other employee employed, immediately before the date of the notified order under sub-section (1) of section 3, in connection with the affairs of the undertaking shall, during the period in which such notified order is in force, hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to gratuity and other matters as he would have held under the Grandhasala Sangham such notified order had not been issued. (2) Where the Grandhasala Sangham has established a provident, gratuity, welfare or any other fund for the benefit of its officers and other employees, such fund shall, with effect on and from the date of the notified order under sub-section (1) of section 3, stand transferred to, and vested in, the Board of Control. 9 Power of Government to cancel order notified under section 3 —If at any time it appears to the Government on the application of any member of the

Grandbasala Sanghaxn or otherwise that the pul pose Of the notified order under sub-section (l) of section 3 has been fulfilled or that for any other reason It is not necessary that the ordCl should remain in force, the Govern- ment may, by notified order, cancel such order

CHAPTER III MISCELLANEOUS IO. Duty to deliver Possesstion of pope?ty and documents relating thereto.— (1) As soon as may be after the issue of the notified order under.sub-section (l) of section 3, every person having possession, custody or control of any property of the Grandhasala Sangham shall dehver the property to the Board of Control or to any such person as may be'authorised by the Board in this behalf (2) Any person wto on the commencement of this Act, bas in his possession or under his control •any books, documents Or other papers relating to the undertaking, including any letters or other gwnmunications 121 between him and the Grandha;ala Sangham, shall, notwithstanding anything contained in any law for the time being in force, be liable to account for the said books, documents and other Dapers (including such letters or other communications) to the Board of Control and shall deliver them up to the Board or to any such person as may be authorised by the Board in this behalf. (3) The Government may take all necessary steps for securing possession of all properties of the Grandhasala Sangham. II . Duty to furnish particulars.—The Grandhasala Sangham shall, within ten days from the date of the notified order under sub-section (l) of section 3 or within such further period as the Government may allow In this behalf, furnish to the Board of Control a complete inventory of all the properties and assets gncluding particulars of booklets and investments and belongings) of the angham at the commencement of this Act and of all the liabilitis and obligations of the Sangham subsisting at such commencement and also of all agreements entered into by the Sangham and in force at such commencement

12. Powers of For the purpose of ascertaining whether any property is the property of the Grandhasala Sangham oc for any other purpose mentioned in this Act or the rules made thereunder, any person authorized by the Government in this behalf shall have the right—(a) to enter and inspect any premises; (b) to require any person having the possession, custody or control of any regmster or record of the Grandhasala Sangham to produce such register or ecord. (c) to require the occupier of any property belonging to, or claimed to be the property of, the Grandhasala Sangham, to submit to the person so authorised such accounts, books or other docu• ments or to furnish to him such mformation as he may reasonably think necessary; and (d) to examine any person having the control of, or employed in connection with, the Grandhasala Sangham and to require him to make-any statement touching the affairs of the Sangham. (2) Any person authorised by the Government under sub-section (l) shall be decmed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860). 13 Penally for false statement.—(l) If any person.— (a) when required by this Act or by any order made under this Act to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or believes to be false or does not believe to be true; or (b) makes any such statement as aforesaid in any book, account, record, return or other document which he is required by any order made under this Act to submit, 3414301B. 122 he shall be punishable with imprisonment for a t' rm which may extend to two vears. or With fine which may extend to two thousand 1 upees, 01 With bc th.' (2) Any person who— (b) (d) having in his possession custody or control any propertv form- ing part of the assets of the Grandhasala Sangham, wrongfully withholds such property from the Boald of Control; or wrongfully obtains possession of any propel ty forining pal t of the assets of the Grandhasala Sangham, or wilfully withholds or fails to produce to any pel son authorised undel this Act, any register, record .or other document which may be In his possession, custody or control; 01 fails without any reasonable cause to submit any accounts, books or other documents when required to do so, shall be punishable with Imp isonment for a term which may extend to two years, or with fine which may extend to two thousand 1 upees, or with both, 14. Lzmitatwn on P' osecution.—No court shall take cognizance an offence punishable under this Act except with the pt evious sanction of the Government or of an officer authorised by the Govei nment in this behalf

15. Protecton of action taken under the Act —No surt, prosecution or other legal proceedings shall lie against the Govei mnent 01 the Board of Control or anv member thereof or any other person fol. anything which is in good faith done or intended 'to be done under this Act 16. Over-rtding effect of Act.—The provisions of tLis Act or any rule shall have effect notwithstanding anything or order made thereunder inconsistent therewith contained In any law 01 her than this Act ot any instrument having effect by virtue

of any law other than this Act. 17 Payment of remuneration and expenses out of the funds of (handhasala Sangham —All salaries, allowances and other remuneration paid to the Charman and other members of the Board of Control 01 any other person who may be appointed or employed in connection With the aims of the management of the Grandhasala Sangham and all other expenses duly incurred In connection With such management shall be paid out of the funds of the Grandhasala Sangham

18. Power of Government to give directions.—Notwithstanding anything contained in the foregoing provisions of this Act, the Government may give such directions to the Board of Control, (as the Government may deem fit, for the proper management of the undertaking of the Grandhasala Sangham and the Board of Control shall comply With such directions. Power to make The Government may, by notification 19. In the Gazette, make rules to carry out the purposes of this Act. 123 (2) Every rule made under this Act, shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be completed in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session next following, the Legislative Assembly makes any modification in the rule or decides 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. If any difficulty arises in giving effect 20 Power to remove difficulties. to the provisions of this Act, the Government may, by order, as occasion requires, do anything not inconsistent with the provisions of this Act which appears to them to be necessary for the purpose of removing the difficulty: Provided that no such order shall be made after the expiry of two years from the commencement of this Act

21. Repeal and saving.—(1) The Kerala Grandhasala Sangham (Taking Over of Management) Ordinance, 1977 (11 of 1977), is hereby repealed. (2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Act.