

# SHRI KAILA DEVI TEMPLE BOARD ACT, 2009

A

## Draft Bill

"To provide for better management, administration and public safety in Kaila devi temple, Karauli together with its endowments as well as lands and buildings attached or appurtenant to these."

Be it enacted by the Rajasthan State Legislature in the Sixtieth Year of the Republic of India as follows: -

**1. Short title and commencement.-** (1) This Act may be called Kaila devi temple, Board Act, 2009.

(2) It shall come into force at once.

**2. Act to override other laws.-** This Act shall have effect notwithstanding anything to the contrary contained in any law or in any scheme of management, decree, custom, usage or instrument.

**3. Definitions.-** In this Act, unless the context otherwise requires,-

(a) "Board" means Kaila devi temple board constituted under this Act;

(b) "Endowment" means all property, movable or immovable belonging to or given or endowment in any name for the maintenance, improvement, addition for the performance of worship in the Temple or any service or charity connected therewith or for the benefit, convenience safety or comfort of the pilgrims visiting the temple and includes --

(i) The idols installed in the temple,

(ii) The premises of the temple.

(iii) all lands and other properties, movable or immovable wherever situate and all income derived from any source whatsoever, and standing in any name dedicated to the Shri Kaila Devi Trust or placed for any religious, pious or charitable purposes under the Board or purchased from out of endowments or income accruing from such endowments and all offerings and bents made for and received on behalf of the temple, and

(iv) The properties, movable or immovable, held by the Trustees of Kaila devi temple, trust in capacity of being trustees including funds constituted and managed by the Trustees;

(c) "Chief Executive Officer" means the Chief Executive Officer of the Thikana appointed under this Act;

(d) "Prescribed" means prescribed by rules made under this Act;

(e) "Temple" means the temple of Kaila devi temple.

(f) " Kaila devi temple, Trust" means the trust known by this name under the deed of trust registered under the Rajasthan Public Trusts Act, 1959 by the Devasthan Department;

(g) "Temple Fund" means the endowment and includes.- all sums, offerings, bents and any other gift or contribution made for the benefit of the temple and also includes all the endowments which have been or may hereafter be made for the benefit of the temple, its seva puja and for the purposes subservient to the purpose mentioned in the deed of Kaila Devi Trust.

(h) "Sewa Puja" means all kinds of service, worship, rites and rituals as performed traditionally in the temple.

**4. Vesting of property:** - The ownership of the temple and all its endowments including all offerings which have been or may hereafter be made and the temple fund shall vest in the deity of the temple.

**5. Administration to vest in the Board.-** (1) The administration, management and governance of the temple and all its endowments including all offering which have been or may hereafter be made shall vest in the Board constituted under the Act.

(2) The Board shall be a body corporate by the name of Shri Kaila devi temple Board and shall have perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and may sue or be sued in the said name.

**6. Composition of the Board:** - (1) The Board shall consist of the President, the Collector, the Devasthan Commissioner, Chief Executive Officer and ten other members.

(2) The State Government shall nominate eight members in the following manner.

(i) three members who have distinguished themselves in the service of Hindu religion or culture, specially in the Vaishnava Sampradaya.

(ii) three members who have distinguished themselves in the administration, legal affairs and social service.

(iii) two eminent Hindus of the state of Rajasthan.

The State Government shall nominate one of the members thus nominated as the president of the Board.

(3) The Collector and the Commissioner Devasthan shall be Ex-officio member of the board.

(4) The Chief Executive Officer shall be ex-officio members-secretary of the Board.

(5) A person shall not be eligible for nomination as the president or a member of the Board; if --

(i) he is of unsound mind and stands so declared by a competent court, or

(ii) he has been convicted of any offence involving moral turpitude, or

(iii) he has applied for being adjudicated an insolvent or is an discharged insolvent, or

(iv) he is a minor or a deaf-mute or suffering from leprosy, or

(v) he is an office-holder or a servant of the temple or is in receipt of any emoluments or perquisites from the temple, or

(vi) he is interested in a subsisting contract for making any supplies to, or executing any work on behalf of the temple or as legal practitioner for or against the temple, or

(vii) he does not profess Hindu religion.

**7. Term of office of the members.-** The member of the Board, other than the Ex-officio members thereof, shall, subject to the provisions of section 8, 9 and 11 hold office for a period of five years from the date of their nomination:

Provided that the outgoing members shall continue to hold office till the reconstitution of the Board.

**8. Relinquishment of office.-** Any member, other than the ex-officio members of the Board may resign his office by giving a notice in writing to the State Government and on such resignation his office shall become vacant.

**9. Removal of members.--** (1) The State Government may remove from office any member, other than the ex-officio members of the Board, on any of the following grounds, namely:--

(a) that he is or has become disqualified for such appointment for any of the reasons specified in sub-section (5) of section 6; or

(b) that he has absented himself form more than four consecutive meetings of the Board without obtaining leave of absence; or

(c) that he has been guilty of corruption or misconduct in the administration of the endowment.

(2) No person shall be removed under this section unless he has been given a reasonable opportunity of showing cause against his removal.

**10. Filling up of casual vacancy.-** Casual vacancies in the office of the President or any member of the Board, other then the ex-officio members, caused by death, resignation, removal or

otherwise shall be filled up for the rest of the period of the Board by the State Government by appointment of persons who are not disqualified under sub-section (5) of section 6.

**11. Dissolution and reconstitution of Board.--**

(1) If in the opinion of the State Government the Board is not competent to perform or persistently makes default in performing the duties imposed on it under this Act, or exceeds or abuses its powers, or fails to comply with the directions issued by the State Government, the State Government after due inquiry, may, by notification in the Official Gazette, dissolve the Board and direct the immediate reconstitution of another Board in accordance with the provisions of this Act.

(2) Before issuing a such notification under sub-section (1) the State Government shall communicate to the Board the grounds on which it proposes to do so, fix a reasonable time for the Board to show cause against the proposal and consider its explanations or objections, if any.

(3) Where the Board is dissolved under this section, the State Government shall appoint a person to perform the functions and exercise the powers of the Board until the constitution of another Board in accordance with the provisions of this Act.

**12. Eligibility of Persons for re-appointment.-** Any person ceasing to be a member shall, unless disqualified under sub-section (5) of section 6, be eligible for re-appointment.

**13. Liability for loss etc.--** Every member of the Board including the President shall be liable for the loss, wastes or misapplication of any money or other property belonging to, or constituting the endowment if such loss, waste or misapplication is a direct consequence of his willful act or omission while holding office, and a suit for compensation may be instituted against him by the Board or by the State Government.

**14. Remuneration to members.--** Every member of the Board including the President shall be entitled to receive from out of the temple funds such traveling and halting allowances as may be prescribed.

**15. Office and meetings of the Board.--** (1) The office of the Board shall be at Karauli,

(2) The quorum for a meeting of the Board shall be six.

(3) Every meeting of the Board shall be presided over by the President and in his absence by a member to be chosen by the members present to preside for the occasion.

(4) Question arising at a meeting of the Board shall be decided by a majority of the votes of the members present there and voting and, in every case of equality of votes, the President or the person presiding shall have power to exercise his casting vote.

**16. Defect or vacancy not to invalidate acts.--** No act or proceeding of the Board or of any person acting as the President or a member of the Board shall be deemed to be invalid by reason

only of the existence or a vacancy among its members or a defect in the constitution thereof or on the ground that the President or any member of the Board was not entitled to hold or to continue in office by reason of any disqualification or by reason of any irregularity or illegality in his appointment.

**17. Duties of the Board.--** Subject to the provision of this Act and of the Rules made there under the Board shall manage the endowments including the properties, both movable and immovable, incomes, bhents and offerings of the temple, seva-puja in accordance with established tenants of the temple through hereditary pujaries, and also secular affairs of the temple. The Board shall also ensure arrangement and grants for the observances of daily rituals and daily worship at the temple.

Provided that the State Government shall have the power to issue specific directions to the Board with regard to performance of its duties, and the Board shall comply such directions.

**18. Saving of established usages and customs.-** Save as otherwise expressly provided in or under this Act, nothing herein contained shall affect any established usages of the temple or the rights, honors, emoluments and perquisites to which any person may, by custom or otherwise, be entitled in the temple.

**19. Alienation of movable and immovable properties.-**

(1) No jewelries or other valuable movable property of non-perishable nature of which the administration vests in the Board shall be transferred without the previous sanction of the Board, and if the value of the property to be transferred exceeds one lace, the previous approval of the State Government shall also be necessary.

(2) No immovable property attached or appurtenant to the temple shall be leased for more than five years or mortgaged, sold or otherwise alienated without the previous sanctions of the State Government.

**20. Chief Executive Officer.-** (1) The State Government shall appoint a person professing the Hindu religion to be the Chief Executive Officer of the temple.

(2) The Chief Executive Officer shall be a whole-time officer of the temple and shall be paid out of the temple fund such salary as the State Government may from time to time fix.

(3) The other conditions of service of the Chief Executive Officer shall be such as may be determined by the State Government.

(4) The Chief Executive Officer shall, subject to the control of the Board, have general power to carry out the provisions of this Act.

(5) He shall also Act as Secretary to the Board.

**21. Powers and duties of the Chief Executive Officer.-** (1) Subject to such direction as may be issued for time to time the Chief Executive Officer shall be responsible for the custody of all the records and properties of the temple and shall arrange for the proper collection of the offerings made in the temple.

(2) He shall have power-

(i) to lease out for a period not exceeding three years the lands and buildings of the temple, which are ordinarily leased out, and

(ii) to call for tenders for works or supplies and accept such tenders when the amount or value thereof does not exceed twenty thousand rupees.

(3) The Chief Executive Officer may, in cases of emergency, direct the execution of any work or the doing of any Act which is not provided for in the budget for the year and the immediate execution or doing of which is, in his opinion, necessary for the preservation of the properties of the temple or for the service or safety of the pilgrims resorting thereto, and may further direct that the expenses of executing such work or doing such act shall be paid from the funds of the temple. In every such case the Chief Executive Officer shall forthwith report to the Board the action so taken and the reason therefore.

(4) The Chief Executive Officer shall perform such other duties and exercise such other powers as may be prescribed or as may be delegated to him by the Board.

**22. Other officers and servants.-** The Board may subject to any general or special directions issued by the State Government, appoint, suspend, remove dismiss or reduce in rank or in any way punish all officers and servants of the Board other than Chief Executive Officer, in accordance with rules made by the State Government:

Provided that the Board may, subject as aforesaid, direct that one person shall be appointed to discharge the duties of any two or more officers.

**23. Budget.-** (1) The Board shall, within three months from taking charge of its office, and thereafter at last one month before the commencement of each official year prepare or cause to be prepared a budget for the succeeding year and shall consider and pass the same at a meeting before the commencement of the year.

(2) A copy of the budget so passed shall be sent to the State Government.

**24. Accounts.-** (1) The Board shall, within six months from the end of each official year, make up correct accounts of the receipts and expenditure in connection with the administration of the temple for the preceding year.

(2) Such accounts shall be audited by an auditor to be appointed by the State Government, which shall also fix the remuneration to be paid to such auditor out of the funds of the temple.

(3) The auditor shall submit his report to the Board and send a copy of the same to the State Government.

(4) The State Government may give such directions and pass such orders on the report of the auditor or otherwise as it may think fit and the Board shall carry them out.

**25. Administration Report.-** (1) The Board shall annually prepare and submit to the State Government a report on the administration of the affairs of the temple and its endowments within six months of the close of each year.

(2) Such report, together with the accounts of the temple and the report of the auditor thereon, shall be published in the Official Gazette.

**26. Power of State Government to call for information and accounts.-** The State Government shall have power to call for all such information and accounts as may, in its opinion, be reasonably necessary to satisfy it that the affairs of the temple are being properly administered and the funds of the temple are being duly appropriated to the purpose for which they exist; and the Board shall on such requisition, furnish forthwith such information and accounts to the State Government.

**27. Inspection.-** The State Government may depute any person to inspect any movable or immovable property, records, correspondence, plans, accounts and other documents relating to the temple and its endowments and the Board and its officers and servants shall be bound to afford all facilities to such person for such inspection.

**28. Purposes for which the temple fund may be utilized.-**

(1) The funds of the temple may be utilized for all or any of the following purpose, namely: -

(i) the administration and maintenance of the temple and the performance of the daily worship and ceremonies and the observance of festivals therein;

(ii) the foundation and maintenance of hospitals and dispensaries for the relief of the pilgrims and worshippers visiting the temple and other education and charitable purposes including monthly food offering;

(iii) the construction and maintenance of dharam-shalas and rest house for the use and accommodation of such pilgrims and worshippers;

(iv) the provisions of water supply and other sanitary arrangements therein;

(v) the acquisition of any property authorised by the State Government; and

(vi) the construction and maintenance of roads and communications and the lighting thereof for the convenience of the pilgrims and worshippers.

(2) Without prejudice to the purposes referred to in sub-section (1) the Board may, with the previous sanction of the State Government, order that the surplus funds of the temple be utilized for-

(a) the establishment of institutions in which special provision is made for the study of Hindu religion, philosophy, shastras and for promoting the cultivation of Indian arts and culture;

(b) promoting the study of sanskrit and Hindi;

(c) the establishment and maintenance of a hospital or a leper asylum for the benefit of Hindus generally;

(d) the construction and maintenance of a poor home for destitute persons professing the Hindu religion who are physically disabled and help less; and

(e) any charitable, religious or educational purposes not inconsistent with the objects of the temple.(3) The order of the Board under sub-section (2) shall be published in the prescribed manner.

**29. Power to make rules.-** (1) The State Government may make rules, consistent with this Act, for carrying out all or any of the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, it shall have power, to make rules with reference to-

(a) all matters which under any provisions of this Act may be or are expressly required or allowed to be prescribed or provided for by rules;

(b) the grant of traveling and halting allowance to the members of the Board;

(c) the preparation of the budget estimates for the temple;

(d) the preparation and sanction of estimates and acceptance of tenders in respect of public works and for supplies;

(e) the convening of meetings and transaction of business of the Board;

(f) the audit of the accounts of the temple and the particulars to be mentioned in the audit report;

(g) the recovery of amounts payable to auditors appointed by the State Government; and

(h) the conditions of service of the officers and servants of the temple.

(3) Any rule under this Act may be made so as to have retrospective effect from such date not earlier than the date of the commencement of this Act, as the State Government may by notification in the Official Gazette, appoint.



(4) The rules made under this Act shall be placed before the House of the State Legislature at the session thereof next following.

**30. Suits.-** (1) The State Government may institute a suit in the Court of District Judge to obtain a decree-

(a) vesting any property in the Board; or

(b) declaring what portion of an endowment or the interest therein shall be allocated to any particular subject; or

(c) directing the furnishing of accounts; or

(d) granting such further or other relief as the nature of the case may require.

(2) Section 92 and 93 and Rule 8 of Order 1 of the First Schedule to the Code of Civil Procedure, 1908 (Central Act V of 1908) shall have no application to any suit claiming any relief in respect of the administration or management of the temple and no suit in respect of such administration or management shall be instituted except as provided by this Act.

**31. Resistance or obstructions in obtaining possession.-** If in obtaining possession of the properties of the temple to which it is entitled under section-4 the Board is resisted or obstructed by any person, it may make an application to the Magistrate having jurisdiction, complaining of such resistance or obstruction, and such Magistrate shall, unless he is satisfied that the resistance or obstruction was occasioned by any person claiming in good faith to be in possession on his own account or by virtue of some right independent of that of the temple, make an order that the Board be put into possession, such order shall, subject to the result of any suit which may be filed to establish the right to the possession of the property, be final.

**32. Costs of suit, etc.-** The costs, charges and expenses, of and incidental to, any suit, application or appeal under this Act shall be in the discretion of the court which may direct the whole or any part of such costs, charges and expenses to be not from the funds of the temple or to be borne and paid in such manner and by such person as it thinks fit;

Provided that all costs and expenses incurred by the Board in connection with any legal proceedings required in the interest of the temple shall be payable out of the funds of the temple.

**33. Transitional provision.-** The State Government may, after the commencement of this Act and before the constitution of the Board, appoint one or more persons to discharge all or any of the duties of the Board.

**34. Power to remove difficulties.-** If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order, give such directions and make such provisions as may appear to it to be necessary for the purpose of removing the difficulty.

**35. Immunity to Board.**- No suit, prosecution or other legal proceeding shall be maintainable against the Board or any person acting under the direction of the Board or the President, member or any officer or servant of the Board or any body there of in respect of anything lawfully and in good faith and with due care and attention done under this Act.