

**ORISSA ACT XXVIII OF 1954**  
**THE ORISSA HINDU RELIGIOUS ENDOWMENTS**  
**( AMENDMENT ) ACT, 1954**

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## ORISSA ACT XVIII OF 1954

THE ORISSA HINDU RELIGIOUS ENDOWMENTS  
(AMENDMENT) ACT, 1954

[ Received the assent of the President on the 2nd  
December 1954, first published in an extraor-  
dinary issue of the Orissa Gazette, dated  
the 8th December 1954 ]

AN ACT TO AMEND THE ORISSA HINDU RELIGIOUS  
ENDOWMENTS ACT, 1951

WHEREAS it is expedient to amend the Orissa Hindu  
Religious Endowments Act, 1951, in the manner Orissa Act  
II 1952.  
hereinafter appearing :

It is hereby enacted as follows :

Short title  
and  
commence-  
ment.

1. (1) This Act may be called the Orissa Hindu  
Religious Endowments (Amendment) Act, 1954.

(2) It shall come into force at once.

Amendment  
of section 1,  
Orissa Act  
II of 1952.

2. In section 1 of the Orissa Hindu Religious Endow- Orissa Act  
II of 1952.  
ments Act, 1951 (hereinafter referred to as the said Act),  
Explanation II shall be omitted.

Amendment  
of section 3,  
Orissa Act  
II of 1952.

3. In section 3 of the said Act—

(a) clause (iv) shall be omitted ;

(b) for clause (v) the following clause shall be  
substituted, namely :—

“(v) ‘Endowment Fund’ means the Orissa Hindu  
Religious Endowments Administration Fund constituted  
under section 63”;

(c) the Explanations I and II to clause (vi) shall be  
omitted ;

(d) clause (ix) shall be omitted ;

(e) in clause (xii)—

(i) to Explanation II the following proviso shall be  
added, namely :—

“Provided that this Explanation shall not be deemed  
to apply in respect of any property which is vested in any  
person before the commencement of this Act by the  
operation of the Law of Limitation”;

(ii) Explanation IV shall be omitted;

(f) in clause (xv) for the words “any section thereof”  
the words “any class or section thereof” shall be substituted.

Amendment of sections 4, 5 and 6, Orissa Act II of 1952. Appointment of Commissioner.

4. For sections 4, 5 and 6 of the said Act, the following sections shall be substituted, namely :—

“4. The State Government may, by notification, appoint a person who professes the Hindu religion and who is a member of judicial service not being below the rank of a Subordinate Judge to be the Commissioner of endowments and he shall cease to hold office as such when he ceases to profess that religion.

Appointment of Assistant Commissioners.

5. (1) The State Government may further appoint such number of Assistant Commissioners as they may deem necessary.

(2) Persons to be appointed as Assistant Commissioners shall be persons who are holding judicial office not lower in rank than that of a Munsif.

(3) They shall be persons professing Hindu religion and shall cease to hold office as such when they cease to profess that religion.

Officers and servants to be appointed by the Commissioner.

5-A. The Commissioner of endowments may, subject to the control of the State Government, from time to time, appoint such subordinate officers and staff, as may be deemed necessary for the purpose of this Act and they shall, subject to the control of the Commissioner, discharge such functions and perform such duties as may be assigned to them by the Commissioners or the Assistant Commissioners, as the case may be.

Conditions of services of Commissioner, Assistant Commissioner, etc.

6. (1) The Commissioner, the Assistant Commissioners, the subordinate officers and staff appointed under this Act shall be the servants of the State Government and they shall draw their pay, pension, leave and other allowances from the Consolidated Fund of the State. The conditions of service of such officers shall be such as may be prescribed from time to time.

(2) There shall be paid out of the Endowment Fund and the State Government shall have power to direct the payment of, at such time as they may deem fit, such cost as the State Government may from time to time incur from out of the Consolidated Fund on account of pay, pension, leave and other allowances of the Commissioner, Assistant Commissioners, other subordinate officers and staff appointed under this Act.”

Amendment of section 7, Orissa Act II of 1952.

5. In section 7 of the said Act, sub-section (2) shall be omitted and sub-section (3) shall be renumbered as sub-section (2).

Amendment of section 8, Orissa Act II of 1952.

6. For section 8 of the said Act, the following section shall be substituted, namely :—

Powers and duties of Assistant Commissioners.

“8. The Assistant Commissioners shall exercise such powers and discharge such duties as are assigned to them by or under this Act, either generally or in respect of any particular area :

Provided that the Commissioner, may, subject to the other provisions of this Act, by order in writing, declare that the exercise of all or any of such powers and discharge of all or any of such duties shall be subject to such exceptions, limitations and conditions as may be specified in the order and he may himself exercise or discharge any power or duties so excepted."

Amendment of section 9, Orissa Act II of 1952. 7. In section 9 of the said Act the words "Deputy or" shall be omitted.

Repeal of sections 10 and 11, Orissa Act II 1952.

8. Sections 10 and 11 of the said Act shall be omitted.

Amendment of section 12, Orissa Act II of 1952.

9. In sub-section (I) of section 12 of the said Act—

- (i) the word "Deputy" shall be omitted ;
- (ii) after the words "other officers" the words "professing Hindu religion" shall be inserted ;
- (iii) after the words "to enter" the words "subject to the local practice, customs or usages" shall be inserted ;
- (iv) after the words "place of worship" the words "at any reasonable hour" shall be inserted ;
- (v) the existing proviso shall be omitted.

Amendment of section 13, Orissa Act II of 1952.

10. In section 13 of the said Act, for the words "the Deputy or" the word "an" shall be substituted.

Amendment of section 19, Orissa Act II of 1952.

11. For section 19 of the said Act the following section shall be substituted, namely :—

Alienation of immovable trust property.

"19. (1) Notwithstanding anything contained in any law for the time being in force no transfer by exchange, sale or mortgage and no lease for a term exceeding five years of any immovable property belonging to, or given or endowed for the purpose of, any religious institution, shall be made unless it is sanctioned by the Commissioner as being necessary or beneficial to the institution and no such transfer shall be valid or operative unless it is so sanctioned.

(2) In according such sanction, the Commissioner may declare it to be subject to such conditions and directions as he may deem necessary regarding the utilization of the amount raised by the transaction, the investment thereof and in the case of a mortgage, regarding the discharge of the same within a reasonable period.

(3) A copy of the order made by the Commissioner under this section shall be communicated to the State Government and to the trustee and shall be published in such manner as may be prescribed.

(4) The trustee within three months from the date of his receipt of a copy of the order and any person having interest may, within three months from the date of the publication of the order, appeal to the State Government to modify the order or set it aside.

(5) The order of the Commissioner made under this section shall, subject to the provisions of sub-section (4), be final."

Amendment  
of section  
20, Orissa  
Act II of  
1952.

12. In section 20 of the said Act, sub-section (2) shall be omitted.

Repeal of  
section 23,  
Orissa Act  
II of 1952.  
Repeal of  
section 26,  
Orissa Act  
II of 1952.

13. Section 23 of the said Act shall be omitted

14. Section 26 of the said Act shall be omitted

Amendment  
of section  
27, Orissa  
Act II of  
1952

15. In sub-section (3) of section 27 of the said Act, for the words "a period of one year" the words "the unexpired portion of his term of office" shall be substituted and the words "from such commencement unless the tenure of his office had already expired and been extended and an order under sub-section (1) is passed in his case" shall be omitted.

Amendment  
of section 28,  
Orissa Act  
II of 1952.

16. In section 28 of the said Act—

(i) the words "Deputy Commissioner" shall be omitted ;

(ii) in clause (c) of sub-section (1) for the words "the Act" the following words shall be substituted, namely :— "this Act or the Orissa Hindu Religious Endowments Act, 1939" ;

Orissa Act  
IV of 1939.

(iii) in sub-section (1) clause (f) shall be omitted ;

(iv) after sub-section (4) the following new sub-sections shall be inserted, namely :—

"(5) Any hereditary trustee aggrieved by an order passed by the Commissioner under sub-section (1) or under sub-section (4) may within thirty days from the date of receipt of the order appeal to the High Court and the Court may either summarily dismiss the appeal or after hearing the parties pass such orders as the Court may deem fit.

(6) A hereditary trustee so suspended, removed or dismissed may be allowed such maintenance as may be fixed by the Commissioner considering the financial condition of the institution and the rules made in this behalf."

17. In section 30 of the said Act—

Amendment  
of section 30,  
Orissa Act  
II of 1952.

(i) in sub-section (1) for the words "religious institution" the words "such religious institution" shall be substituted ;

(ii) in sub-section (3)—

(a) the word " Assistant ", wherever it occurs, shall be omitted ;

(b) the words " subject to the control of the Commissioner " shall be omitted ;

(c) in the Explanation the words " the Assistant Commissioner or " and the words " as the case may be " shall be omitted ;

(iii) for sub-section (4) the following sub-section shall be substituted, namely :—

" (4) Nothing in this section shall affect the right of any person aggrieved by an order of the Commissioner under sub-section (3) to establish the right to hold office of the hereditary trustee in a court of law :

Provided that such court shall have no power to stay the operation of the order of the Commissioner, pending the disposal of the suit or other proceedings arising in relation thereto. "

18. In section 32 of the said Act—

Amendment  
of section 32,  
Orissa Act  
II of 1952.

(i) for the words " State Government " the words " Endowment Fund " shall be substituted ;

(ii) for the words " five " and " fifty " the words " two " and " twenty " shall be respectively substituted.

Amendment  
of section 33  
Orissa Act  
II of 1952.

19. In section 33 of the said Act before the words " No office-holder or servant " the words " Without prejudice to the generality of the provisions of this Act " shall be inserted.

20. In section 35 of the said Act—

Amendment  
of section 35,  
Orissa Act  
II of 1952.

(i) in clause (d) of sub-section (1) the words " or is unfitted by vice or bad character " shall be omitted, in clause (f) for the word " Government " the words " Endowment Fund " shall be substituted and clauses (g), (h) and (i) shall be omitted ;

(ii) for sub-section (2) the following sub-section shall be substituted, namely :—

" (2) The Commissioner shall, after due enquiry in accordance with the provisions of the Act and so far as may be, of the Code of Civil Procedure, 1908, relating to trial of suits and with the prior approval of the State Government, declare by an order in writing whether a trustee is disqualified either temporarily or for the life-time under this section ".

(iii) in sub-section (3) for the words " Assistant Commissioner " the word " Commissioner " shall be substituted, for the words " thirty days " the words " sixty days " shall be substituted, for the word " Commissioner " as it occurs for the first time the words " the High Court " shall be substituted and the last sentence of the said sub-section shall be omitted ;

(iv) in sub-section (4) for the words "Assistant Commissioner" the word "Commissioner" shall be substituted ;

(v) in sub-section (5)—

(a) the words " or the Assistant Commissioner, as the case may be ", the words " Assistant Commissioner or ", the words " as the case may be " and the words " until such disability ceases " shall be omitted and for the words " another person " the words " one or more persons " shall be substituted ;

(b) to the said sub-section the following proviso shall be added, namely :—

" Provided that in case of disqualifications falling under clauses (a) and (b) of sub-section (1) the appointment shall be until such period when the disqualification ceases ".

Amendment  
of section  
36, Orissa  
Act II of  
1952.

21. In section 36 of the said Act—

(i) in sub-section (1) for the words " Assistant Commissioner " wherever they occur, the word " Commis- sioner " shall be substituted and the words " subject to the control of the Commissioner " shall be omitted ;

(ii) in sub-section (2) the words " or Assistant Commissioner, as the case may be " shall be omitted ;

(iii) after sub-section (2) the following sub-section shall be inserted, namely :—

" (3) Nothing in this section shall affect the right of any person aggrieved by the order of the Commissioner under sub-section (1) to establish his right of succession to the office of the trustee in a court of law :

Provided that such court shall have no power to stay the operation of the order of the Commissioner pending disposal of the suit or other proceedings arising in relation thereto ".

Amendment  
of section  
37, Orissa  
Act II of  
1952.

22. In section 37 of the said Act—

(i) for the words " Assistant Commissioner " where- ver they occur the word " Commissioner " shall be substituted ;

(ii) for the words " against such decision. to the Commissioner " the words " to the State Government and their decision shall be final " shall be substituted.

Repeal of  
sections 38  
and 40  
and amend-  
ment of  
section 39,  
Orissa Act  
II of 1952.

23. Sections 38 and 40 of the said Act shall be omitted and in section 39 of the said Act for the words "Any person affected by decision may within three months from the date of the decision prefer an appeal before the Tribunal consti- tuted under section 40 for the purpose but pending the result of such appeal the order of the Commissioner shall be final " the words " Any person aggrieved by the decision may within ninety days from the date of the decision institute a suit in a competent court of law to establish his right to the office of the hereditary trustee but pending the result of such suit, if any, the order of the Commissioner shall be final " shall be substituted.



Amendment  
of sec-  
tion 41,  
Orissa Act  
II of 1952.

24. In section 41 of the said Act—

(i) for the existing provisos under clause (g) of sub-section (1), the following proviso shall be substituted namely:—

“ Provided that the burden of proof in all disputes or matters covered by clauses (a) and (d) shall lie on the person claiming the institution to be private or the property or money to be other than that of a religious endowment or specific endowment as the case may be.”

(ii) sub-section (2) shall be omitted.

Amendment  
of sec-  
tion 42,  
Orissa Act  
II of 1952.

25. In section 42 of the said Act—

(i) for sub-section (1) the following sub-section shall be substituted, namely:—

“(1) Whenever there is reason to believe that in the interest of the proper administration of a religious institution a scheme may be settled for it, or when not less than five persons having interest make an application in writing stating that in the interests of the proper administration of a religious institution a scheme should be settled for it, the Assistant Commissioner or the Commissioner, as the case may be, shall proceed to frame a scheme in the manner hereinafter provided—

(a) in the case of a religious institution managed by a non-hereditary trustee the Assistant Commissioner shall consult in the prescribed manner the trustee and the persons having interest, and if after such consultation he is satisfied that it is necessary or desirable to do so, he shall after recording his reasons therefor by order frame a scheme for the administration of the institution ;

(b) in the case of a religious institution presided over or managed by a hereditary trustee, the Assistant Commissioner shall make such enquiry as he thinks fit and submit his report to the Commissioner who shall hold an enquiry in the manner prescribed and so far as may be, in accordance with the provisions of the Code of Civil Procedure, 1908 relating to the trial of suits and if he is satisfied that in the interests of the proper administration of such institution a scheme of administration should be settled, he shall consult in the prescribed manner the trustee and the persons having interest and by order settle a scheme of administration for the institution ”;

(ii) in sub-section (2)—

(a) after the words “ temple or ” the word “ its ” shall be inserted ;

(b) in clause (b) after the word “ non-hereditary ” the words “ anything in section 28 to the contrary notwithstanding ” shall be inserted ;

(c) in clause (e) the words “ appointing or directing ” shall be omitted ;

(iii) in sub-section (3)—

(a) in clause (a) the words "appointing or directing" shall be omitted ;

(b) in the second proviso for the words and figures "under section 44" the words "to the Commissioner" shall be substituted ;

(c) after clause (b) the following new clause shall be inserted, namely :—

"(c) associating one or more persons with the trustee or constituting a separate body for the purpose of participating or assisting in the whole or any part of the administration of the endowment of such math or of the specific endowment ; provided that such person or persons or the members of such body shall be chosen from persons having interest in such math or endowment " ;

(iv) in sub-section (4)—

(a) after the words " Assisant Commissioner" the words " or the Commisisoner as the case may be " shall be inserted ;

(b) the following provisos shall be inserted, namely:—

"Provided that the absence of such a Schedule shall not invali the scheme date :—

Provided further that such determination shall not affect the rights of persons who are in hostile possession of any of the said properties " ;

(v) for sub-section (5) the following sub-section shall be substituted, namely :—

" (5) The Commissioner or the Assistant Commissioner, as the case may be, may, pending the framing of a scheme for a temple or specific endowment appoint a fit person to discharge all or any of the functions of the trustee thereof and define his powers and duties. "

(vi) in sub-section (6) for the words " The Assistant Commissioner" the words " The authority framing a scheme " shall be substituted ;

(vii) in sub-section (7) after the words " Assistant Commissioner " the words " or the Commissioner " shall be inserted and the words " shall be published in the prescribed manner and on such publication " shall be omitted.

26. For section 44 of the said Act the following section shall be substituted, namely :—

" 44. (1) Any person aggrieved by any order passed by the Assistant Commissioner under section 41 or sub-sections (1) and (6) of section 42 or section 43 may, within thirty days from the date of receipt of the order under section 41 or section 43 or from the date of the publication of the order under section 42 as the case may be, appeal to the Commissioner.

(2) Any party aggrieved by the order of the Commissioner under sub-section (1) or (6) of section 42 may appeal to the High Court within thirty days from the date of the order or publication thereof as the case may be."

Repeal of Chapter VI, Orissa Act II of 1952.

27. Chapter VI of the said Act comprised of sections 45 to 51 shall be omitted.

Amendment of section 55, Orissa Act II of 1952.

28. In sub-section (d) of section 55 of the said Act, the word "Deputy" shall be omitted and for the word "he" the words "the Collector" shall be substituted.

Amendment of section 63, Orissa Act II of 1952.

29. For section 63 of the said Act the following section shall be substituted, namely :—

Constitution of the Endowment Fund.

" 63. (1) There shall be established a fund to be called the 'Orissa Hindu Religious Endowments Administration Fund'. The fund shall be vested in and be administered by the Commissioner of endowments who shall be a corporation sole with perpetual succession and common seal and may sue and be sued by this corporate name.

(2) The following sums shall be credited to the said fund, namely :—

(a) fees levied under section 77 ;

(b) contribution levied under sub-section (4) ;

(c) fines and penalties realised in pursuance of sections 32 and 70 ;

(d) any grant or contribution by the State Government, any Local authority or any individual whether corporate or not ;

(e) all sums to the credit of the fund constituted under section 50 of the Orissa Hindu Religious Endowments Act, 1939 ;

Orissa Act IV of 1939.

(f) any other sum which may be credited by or under any of the other provisions of this Act.

(3) All fees levied under section 71 shall be deemed to be a part of the Endowment Fund for all purposes of maintenance of its accounts under this Act.

(4) Every religious institution having an annual income exceeding two hundred and fifty rupees shall, from the income derived by it, pay to the fund annually such contribution not exceeding seven per centum of his income as may be prescribed.

(5) Every religious institution, the annual income of which for the financial year immediately preceding, as calculated for the purpose of levy of contribution under sub-section (4), is not less than two thousand rupees, shall pay to the fund annually for meeting the cost of auditing its accounts such further sum not exceeding one and half per centum of its income as the Commissioner may determine.

(6) The annual payments referred in sub-section (3) and (4) shall be made, notwithstanding anything to the contrary contained in any scheme settled or deemed to be settled under this Act for the religious institution concerned.

(7) The said fund shall be utilised for the payments provided for in section 6 and for the other expenses incidental to the purposes of this Act including the cost of auditing the accounts of religious institutions and the cost of any staff maintained for conducting the said audit".

Amendment  
of section 62  
Orissa Act  
II of 1952.

30. In section 67 of the said Act the words "a Deputy or" shall be omitted.

Amendment  
of section 68  
Orissa Act  
II of 1952.

31. In section 68 of the said Act —

(i) in sub-section (1) the words "as manager under section 38 or" and the words "and send a copy of the order for execution by the Subdivisional Magistrate having jurisdiction" shall be omitted;

(ii) for sub-section (2) the following sub-sections shall be substituted, namely :—

"(2) The Assistant Commissioner and any person authorised by him or acting under his written instructions in the prescribed form, may, for the purpose of delivery of possession under sub-section (1) take or cause to be taken such steps and use or cause to be used such force as may in his opinion be reasonably necessary and may also enter upon any land or other property whatsoever and in the event of any apprehension of breach of peace in the course of such delivery of possession, the Superintendent of Police shall, on a requisition from the Assistant Commissioner in the prescribed manner, provide such police aid as may be necessary for the purposes,

(3) (a) The Commissioner may also make a requisition to the Collector of the district in which the property of the math or temple or endowment is situated, in the prescribed form to deliver its possession to the trustee.

(b) On receipt of a requisition under clause (a) the Collector shall serve a notice on the person reported to be in occupation or his agent to vacate the said property within such time as the Collector may specify in the said notice. If such notice is not obeyed, the Collector shall remove him or depute a subordinate officer to remove such person or agent, In the case of any resistance or obstruction the Collector shall hold a summary enquiry in to the facts of the case and if satisfied that the resistance or obstruction was without any just cause and that such resistance or obstruction still continues, may issue a warrant for the arrest of the said person and on his appearance may send him with a warrant in such form as may be prescribed for imprisonment in the civil jail of the district for a period not exceeding thirty days as may be necessary to prevent the continuance of such resistance or obstruction.

(4) No suit, prosecution or other legal proceedings shall lie against the Assistant Commissioner or any person acting under his instruction or authorised by him for anything done in good faith under sub-sections (1) and (2).

(5) Every person authorised by the Commissioner of acting under his instructions in pursuance of this section shall be deemed to be a 'public servant' within the meaning of section 21 of the Indian Penal Code.

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Amendment  
of section 70,  
Orissa Act  
II of 1952.

32. In section 70 of the said Act—

(i) in sub-section (1) the words and figures<sup>s</sup> "including a manager appointed under section 38" shall be omitted ;

(ii) in sub-section (2) for the words "State Government" the word "Commissioner" shall be substituted ;

(iii) in sub-section (3) for the words "State Government" as it appears for the first time the word "Commissioner" shall be substituted and for the said words as it appears for the second time the words "Endowment Fund" shall be substituted.

Amendment  
of section 72  
Orissa Act  
II of 1 52

33. For section 72 of the said Act the following sections shall be substituted, namely :—

" 72. Nothing contained in this Act shall—

Saving of  
usages

(a) save as otherwise expressly provided in or under this Act, affect any honour, emolument or perquisite to which any person is entitled by custom or otherwise in any religious institution or its established usage in regard to any other matter ; or

(b) authorise any interference with the religious and spiritual functions of the head of a math including those relating to the imparting of religious instructions or the rendering of spiritual service.

Act not to  
affect rights  
under  
article 26,  
clauses (a)  
to (c) of the  
Constitution.

72-A. Nothing contained in this Act shall be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by clauses (a), (b) and (c) of article 26 of the Constitution".

Amendment  
of section  
74. Orissa  
Act II of  
1952.

34. For section 74 of the said Act the following section shall be substituted, namely :—

Procedure  
at enquiries  
and appeals  
and service  
of notice.

"74. (1) In relation to all proceedings before the Commissioner, the orders in pursuance of which are under the provisions of this Act appealable to the High Court, the Commissioner or the Assistant Commissioner as the case may be, shall have the powers vested in a court under the Code of Civil Procedure, 1902, when trying a suit in respect V of 1898 V of 1898 of the following matters :—

(a) discovery and inspection ;

(b) enforcing the attendance of witnesses, and requiring the deposit of their expenses ;

- (c) compelling the production of documents;
- (d) examining witnesses on oath;
- (e) granting adjournments;
- (f) reception of evidence taken on affidavit; and
- (g) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

V of 1908.

(2) The Commissioner and the Assistant Commissioner shall with respect to all such proceedings be deemed to be persons acting judicially within the meaning of the Judicial Officers Protection Act, 1850.

XVIII of 1850.

(3) The Court hearing an appeal from the order of the Commissioner may direct further enquiry or modify or set aside such order as the Court may deem fit; and unless the appeal is summarily dismissed the Commissioner shall be given an opportunity of being heard before the order passed by him is interfered with in any manner; provided that the operation of the order of the Commissioner shall not be stayed pending the disposal of the appeal.

(4) The service of all process and notices issued by the Assistant Commissioner or Commissioner by or under any of the provisions of this Act shall be on requisition from the Assistant Commissioner or Commissioner as the case may be, effected by the Subdivisional Magistrate, having jurisdiction."

Amendment  
of section  
76, Orissa  
Act II of  
1952.

35. In sub-section (2) of section 76 of the said Act—

(i) in clause (r) for the words " a notified " the word "any" shall be substituted;

(ii) after clause (r) the following new clauses shall be inserted, namely :—

"(s) the qualifications, method of recruitment, grant of leave, leave allowances and travelling allowances of subordinate officers and staff appointed for the purpose of this Act;

(t) the custody and investments of the Endowment Fund by the Commissioner;

(u) the manner in which the accounts of the Endowment Fund shall be maintained and audited and the audit report published;

(v) all matters which under the provisions of this Act are required to be or may be prescribed."

Amendment of section 78, Orissa Act II of 1952. 36. For section 78 of the said Act the following section shall be substituted, namely :—

Suits pending in courts.

“78. (1) Notwithstanding anything in any other law for the time being in force all suits instituted under the provisions of the Orissa Hindu Religious Endowments Act, 1939 and pending on the date of commencement of this Act shall stand transferred to the courts of the Subordinate Judges having jurisdiction and be heard by them : Orissa Act IV of 1939.

Provided that—

(a) while trying a suit any one or more suits relating to the same religious institution may be heard together;

(b) an appeal shall lie to the High Court against the decision of the Subordinate Judge irrespective of the value of such suits :

Provided further that the operation of the order of the Commissioner under sub-section (1) of section 64 of the Orissa Hindu Religious Endowments Act, 1939 shall not be stayed pending the disposal of such suit. Orissa Act IV of 1939

(2) All proceedings other than suits which have been stayed in pursuance of the Orissa Hindu Religious Endowments (Amendment) Act, 1947 and pending on the date of the commencement of this Act shall be proceeded within the courts where they are so pending.” Orissa Act XXXI of 1947.

Insertion of section 79-A, Orissa Act II of 1952.

37. After section 79 of the said Act the following new section shall be inserted, namely:—

Saving of schemes.

“79-A. Notwithstanding anything contained in any of the other provisions of this Act or in any judgement, decree or order of any court all schemes purporting to have been settled in pursuance of sections 38 and 39 of the Orissa Hindu Religious Endowments Act, 1939 after the commencement of the Orissa Hindu Religious Endowments (Amendment) Ordinance, 1953 and before the commencement of this Act shall be deemed to have been settled under the provisions of this Act and any person aggrieved by any such scheme may within sixty days from the date of commencement of this Act prefer an appeal to the High Court and such appeal shall be dealt with and disposed of in the same manner as appeals provided for under sub-section (2) of section 44.” Orissa Act IV of 1939. Orissa Ordinance II of 1953.

Amendment  
of Schedule  
Orissa Act  
II of 1932 .

38. For the existing Schedule of the said Act the following Schedule shall be substituted, namely—

“ SCHEDULE

(See section 71)

Court-fees payable for documents

Section	Description of document	Proper fee
1	2	3
		Rs.
9	Application to Commissioner for revision ..	10
19	Appeal to the State Government against order of Commissioner regarding alienation of properties	15
21(i)	Application to the Assistant Commissioner for payment for expenses.	2
(ii)	Appeal to the Commissioner ..	5
(iii)	Application to the Collector of the district for recovery of money.	2
25	Application to the Collector for resumption ..	2
28(i)	Appeal to Commissioner against the order of the Assistant Commissioner under sub-section (1)	25
(ii)	Appeal to the High Court against the order of the Commissioner under sub-section (5).	50
31	Appeal to the Assistant Commissioner against the order of the trustee under the sub-section (3).	2
32	Appeal to the Assistant Commissioner against the order of the trustee.	2
34(i)	Appeal to Commissioner against the order of the Assistant Commissioner regarding scale of expenditure.	20



Section	Description of document	Proper fee
1	2	3
		Rs.
34(ii)	Appeal to Commissioner against the order of the Assistant Commissioner regarding scale of expenditure	20
35	Appeal to High Court against order of the Commissioner under sub-section (2)	50
37	Appeal to State Government against order of Commissioner under sub-section (3)	15
41	Application for decision of dispute or matter under the section	15
42(i)	Application to Assistant Commissioner or Commissioner for settling a scheme	10
(ii)	Application to Assistant Commissioner for modification of scheme	10
43(i)	Application to Assistant Commissioner regarding application of funds	5
(ii)	Application to Assistant Commissioner for modification or cancellation of the order passed under sub-section (1)	5
44(i)	Appeal to the Commissioner against the order of the Assistant Commissioner under section 41	25
(iii)	Appeal to the Commissioner against the order of the Assistant Commissioner under section 42	25
(iii)	Appeal to the Commissioner against the order of the Assistant Commissioner under section 43	15
(iv)	Appeal to the High Court against the order of the Commissioner under section 44(1) relating to matters arising out of section 41	150
	For the rest of other matters	50

Section	Description of document	Proper fee
1	2	3
		Rs.
44(v)	Appeal to the High Court against the order of the Commissioner under section 42 (1) (b) and 42(6)	50
57	Appeal to Commissioner against the order of the Assistant Commissioner on the Budget Estimate	10
61	Appeal to the Commissioner against the order of the Assistant Commissioner under sub-section (3) regarding the defects disclosed by audit	20
65	Objection petition by the trustee regarding assessment of income	2
68	Application for putting trustee in possession of properties	2
	All adjournment and miscellaneous petitions to the Commissioner and Assistant Commissioners	1"