



The Mizoram Gazette

EXTRA ORDINARY

Published by Authority

REGN. NO. NE—313 (MZ)

Vol. XXX Aizawl, Wednesday 28. 3. 2001, Chaitra 7, S.E. 1923, Issue No. 62

NOTIFICATION

No.H.12018/96/2000-LJD/6, the 21st March, 2001. The following Act of the Mizoram Legislative Assembly which received the assent of the Governor of Mizoram is hereby published for general information.

The Mizoram Ancient Monuments and Archaeological sites and Remains Act, 2001

(Act No. 2 of 2001)

(Received the assent of the Governor of Mizoram on 12.3.2001).

AN ACT

To provide for the preservation and protection of ancient and historical monuments and archaeological sites and remains in Mizoram other than those declared by or under law made by Parliament to be of national importance and other matters connected therewith.

Be it enacted by the Mizoram Legislative Assembly in the Fiftieth Year of the Republic of India as follows:—

CHAPTER - I

PRELIMINARY

1. Short title, extent and commencement—

(1) This Act may be called the Mizoram Ancient Monuments and Archaeological Sites and Remains Act, 2001.

- (2) It shall extend to the whole of Mizoram.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions. In this Act, unless the context other-wise requires—

- (a) "ancient monument" means any structure, erection or monument, or any tumulus or place of internment, or any cave, rock sculpture, inscription or monolith, which is of historical, archaeological or artistic interest and which has been in existence for not less than seventy five years, and includes—
 - (i) the remains of an ancient monument.
 - (ii) the site of an ancient monument.
 - (iii) such portion of land adjoining the site of an ancient monument as may require for fencing or covering in or otherwise preserving such monument; and
 - (iv) the means of access to, and convenient inspection of, an ancient monument;
- (b) "Antiquity" includes—
 - (i) any coin, sculpture, manuscript, epigraph, or other work of art or craftsmanship,
 - (ii) any article, object or thing detached from a building or cave,
 - (iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages,
 - (iv) any article, object or thing of historical interest, and
 - (v) any article, object or thing declared by the State Government, by notification in the Official Gazette, to be an antiquity for the purposes of this Act, which has been in existence for not less than seventy five years;
- (c) "archaeological officer" means an officer of the Department of Art and Culture of the Government of Mizoram, not lower in rank than an Assistant Director;
- (d) "archaeological site and remains" means any area which contains or is reasonably believed to contain ruins or relics of historical or archaeological importance which have been in existence for not less than seventy five years, and includes—

- (i) such portion of land adjoining the area as may be required for fencing or covering in or otherwise preserving it, and
- (ii) the means of access to, and convenient inspection of, the area;
- (c) "Director" means Director of Art and Culture, Government of Mizoram;
- (f) "maintain", with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of preserving a protected monument or securing convenient access there to;
- (g) "Owner" includes—
 - (i) a joint owner invested with powers of management on behalf of himself and other joint owners and the successor-in-title of any such owner; and
 - (ii) any manager or trustee exercising powers of management and the successor-in-office of any such manager or trustee;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "protected area" means any archaeological site and remains which is declared to be of national importance by or under this act;
- (j) "protected monument" means an ancient monuments which is declared to be of national importance by or under this Act;
- (k) "State Government" means the State Government of Mizoram.

CHAPTER-II

PROTECTED MONUMENTS

3. PROTECTED MONUMENTS

- 1) The State Government may, by notification in the Official Gazette, provisionally declare an ancient monument to be a protected monument within the meaning of this Act.
- 2) A copy of every such notification as published under sub-section (1) shall be displayed in a conspicuous place on or near the monument, together with an intimation that any objection to the issue of the notification may be received by the State Government within one month from the date of its issue once for consideration.

(Amendment Bill to amend the Mizoram Monuments Act, 1961)

- 3) On the expiry of the said period of one month, the State Government, after considering such objection(s), if any, received by it shall confirm or withdraw the notification.
- 4) A notification published under this Act shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument or archaeological site and remain to which it relates is an ancient monument for the purposes of this Act.

4. ACQUISITION OF RIGHTS IN A PROTECTED MONUMENT

- 1) The Director may, with the previous sanction of the State Government, purchase, or take a lease of, or accept a gift or bequest of, any protected monument.
- 2) Where a protected monument is without an owner, the Director may, by notification in the Official Gazette assume the guardianship of the monument.
- 3) The owner of any protected monument may, by written instrument, constitute the Director the guardian of the monument, and the Director may, with sanction of the State Government accept such guardianship.
- 4) When the Director has accepted the guardianship of a monument under sub-section (2), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Director had not been constituted a guardian thereof.
- 5) When the Director has accepted the guardianship of a monument under sub-section (2), the provisions of this Act relating to agreements executed under section 5 shall apply to the written instrument executed under the said sub-section.

5. PRESERVATION OF PROTECTED MONUMENT BY AGREEMENT

- 1) The Director, When so directed by the State Government, shall propose to the owner of a protected monument to enter into an agreement with the State Government within a specified period for the maintenance of the monument in the State.
- 2) An agreement under this section may provide for all or any of the following matters, namely-
 - (a) the maintenance of the monument;
 - (b) the custody of the monument and the duties of any person who may be employed to watch it;
 - (c) the restriction of the owner's right-
 - (i) to use the monument for any purpose;
 - (ii) to charge any fee for entry into, or inspection of the monument;

- (iii) to destroy, remove, alter or deface the monument, or
 - (iv) to build on or near the site of the monument;
 - (d) the facilities of access to be permitted to the public or any section thereof and to persons deputed by the owner or the Director to inspect or maintain the monument;
 - (e) the notice to be given to the State Government in case the land on which the monument is situated or any adjoining land is offered for sale by the owner; and the right to be reserved to the State Government to purchase such land, or any specified portion of such land, at its market value;
 - (f) the payment of any expenses incurred by the owner or by the State Government in connection with the maintenance of the monument;
 - (g) the proprietary or other rights which are to vest in the State Government in respect of the monument when any expenses are incurred by the State Government in connection with the maintenance of the monument;
 - (h) the appointment of an authority to decide any dispute arising out of the agreement; and
 - (i) and matter connected with the preservation or maintenance of the monument which is a proper subject of agreement between the owner and the State Government.
- (3) The State Government or the owner may, at any time after the expiration of three years from the date of execution of an agreement under this section, terminate it on giving six months notice in writing to the other party.

Provided that where the agreement is terminated by the owner, he shall pay to the State Government the expenses, if any, incurred by it on the maintenance of the monument during the five years immediately preceding the termination of the agreement or, if the agreement has been in force for a shorter period, during the period the agreement was in force.

- (4) An agreement under this section shall be binding on any person claiming to be the owner of the monument to which it relates from through or under a party by whom or on whose behalf the agreement was executed.

6. OWNERS UNDER DISABILITY OR NOT IN POSSESSION

- (1) If the owner of a protected monument is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 5.

- (2) In the case of village property, the Village Council exercising power of management over such property may exercise the powers conferred upon an owner by section 5.
- (3) Nothing in this section shall be deemed to empower any person not being of the same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observance of that religion.

7. APPLICATION OF ENDOWMENT TO REPAIR A PROTECTED MONUMENT

- (1) If any owner or other person competent to enter into an agreement under section 5 for the maintenance of a protected monument refuses or fails to enter into such an agreement, and if any endowment has been created for the purpose of keeping such monument in repair or for that purpose among others, the State Government may institute a suit in the Court of the Deputy Commissioner or, if the estimated cost repairing the monument does not exceed one thousand rupees, may make an application to the Deputy Commissioner, for the proper application of such endowment or part thereof.
- (2) On the hearing of an application under sub-section (1), the Deputy Commissioner may summon and examine the owner and any person whose evidence appears to him necessary and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were a decree of a civil court.

8. FAILURE OR REFUSAL TO ENTER INTO AN AGREEMENT

- (1) If any owner or other person competent to enter into an agreement under section 5 for maintenance of a protected monument refuses or fails to enter into such an agreement, the State Government may make an order providing for all or any of the matters specified in sub-section (2) of the section 5 and such order shall be binding on the owner or such other person and on every person claiming title to the monument from, through or under, the owner or such other person.
- (2) Where an order made under sub-section (1) provides that the monument shall be maintained by the owner or other person competent to enter into an agreement, all reasonable expenses for the maintenance of the monument shall be payable by the State Government.
- (3) No order under sub-section (1) shall be made unless the owner or other person has been given an opportunity of making a representation in writing against the proposed order.

9. POWER TO MAKE ORDER PROHIBITING CONTRAVENTION OF AGREEMENT UNDER SECTION 5.

- (1) If the Director apprehends that the owner or the occupier of a protected monument intends to destroy, remove, alter, deface, imperil or misuse the monument or to build on or near the site thereof in contravention of the terms of an agreement under section 5, the Director may after giving the owner or occupier an opportunity of making a representation in writing make an order prohibiting any such contravention of the agreement;

Provided that no such opportunity may be given any case where the Director, for reasons to be recorded, is satisfied that it is not expedient or practicable to do so.

- (2) Any person aggrieved by an order under this section may appeal to the State Government within such time and in such manner as may be prescribed and the decision of the State Government shall be final.

10. ENFORCEMENT OF AGREEMENT.

- (1) If any owner or other person who is bound by an agreement for the maintenance of a monument under section 5 refuses or fails within such reasonable time as the Director may fix, to do any act which in the opinion of the Director is necessary for the maintenance of the monument, the Director may authorise any person to do any such act, and the owner or other person shall be liable to pay the expenses of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement.
- (2) If any dispute arises regarding the amount of expenses payable by the owner or other person under sub-section (1), it shall be referred to the State Government whose decision shall be final.

11. ACQUISITION OF PROTECTED MONUMENTS.

If the State Government apprehends that a protected monument is in danger of being destroyed, injured, misused, or allowed to fall into decay it may acquire the protected monument under the provisions of the Land Acquisition Act, 1894 (1 of 1894) as if the maintenance of the protected monument were a public purpose within the meaning of that Act.

12. MAINTENANCE OF CERTAIN PROTECTED MONUMENTS

- (1) The State Government shall maintain every monument which has been acquired under section II, or in respect of which any of the rights mentioned in section 4 have been acquired.
- (2) When the Director has assumed the guardianship of a monument under section 4; he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his

agents, subordinates and workmen, for the purpose of inspecting the monument and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

13. VOLUNTARY CONTRIBUTIONS

The Director may receive voluntary contributions subject to the conditions prescribed under the relevant laws in the case of foreign contributions, if any towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him:

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

14. PROTECTION OF PLACE OF WORSHIP FROM MISUSE, POLLUTION OR DESECRATION

- (1) A protected monument maintained by the State Government under this Act, which is a place of worship or shrine shall not be used for any purpose inconsistent with its character.
- (2) Where the State Government has acquired a protected monument under section 11, or where the Director has purchased, or taken a lease or accepted a gift or bequest or assumed guardianship of a protected monument under section 4, and such monument or any part thereof is used for religious worship or observances by any community, the Deputy Commissioner shall make due provision for the protection of such monument or part thereof, from pollution or desecration-
 - (a) by prohibiting the entry therein, except in accordance with the conditions prescribed with the concurrence of the persons, if any, in religious charge of the said monument or part thereof, if any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or
 - (b) by taking such other action as he may think necessary in this behalf.

15. RELINQUISHMENT OF GOVERNMENT RIGHTS IN A MONUMENT

With the sanction of the State Government, the Director may-

- (a) Where rights have been acquired by the Director in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish, by notification in the Official Gazette, the rights so acquired to the person who would for the time being be the owner of the monument if such rights had not been acquired ; or
- (b) relinquish any guardianship of a monument which he has assumed under this Act.

16. RIGHT OF ACCESS TO PROTECTED MONUMENT

Subject to any rules made under this Act, the public shall have a right of access to any protected monument.

17. PURCHASES AT CERTAIN SALES AND PERSONS CLAIMING THROUGH OWNER BOUND BY INSTRUMENT EXECUTED BY OWNER-

Every person who purchases, at a sale for arrears of land-revenue or any other public demand, any land on which is situated a monument in respect of which any instrument has been executed by the owner for the time being under section 4, or section 5, and every person claiming any title to a monument from through or under an owner who executed any such instrument, shall be bound by such instrument.

CHAPTER-111

18. RESTRICTION ON ENJOYMENT OF PROPERTY RIGHT IN PROTECTED AREAS

- (1) No person, including the owner or occupier of a protected area, shall construct any building within the protected area or carry on any mining, quarrying, excavation, blasting or any operation of a like nature in such area, or utilise such area or any part thereof in any other manner without the permission of the State Government ;

Provided that nothing in this sub-section shall be deemed to prohibit the use of any such area or part thereof for purposes of cultivation if such cultivation does not involve the digging of not more than one foot of soil from the surface.

- (2) The State Government may, by order direct that any building constructed by any person within a protected area in contravention of the provisions of sub section (1) shall be removed within specified period and, if the person refuses or fails to comply with the order the District Magistrate may cause the building to be removed and the person shall be liable to pay the cost of such removal.

19. POWER TO ACQUIRE A PROTECTED AREA

If the State Government is of opinion that any protected area contains an ancient monument or antiquities or national interest and value, it may acquire such area under the provisions of the Land Acquisition Act. 1894 (1 of 1894) as if the acquisition were for a public purpose within the meaning of that Act.

CHAPTER—IV

ARCHAEOLOGICAL EXCAVATIONS

20. EXCAVATIONS IN PROTECTED AREAS

An Archaeological Officer or an officer authorised by him in this behalf under this Act may, in consultation with the Environment and Forest Department and Industries Department and after giving notice in writing to the Deputy Commissioner of the district concerned and the owner, enter upon and make excavations in any protected area.

21. EXCAVATIONS IN AREAS OTHER THAN PROTECTED AREAS

Where an Archaeological Officer has reason to believe that any area not being protected area contains ruins or relics of historical or archaeological importance, he or an officer authorised by him in this behalf may, after giving notice in writing to the Deputy Commissioner of the district concerned and the owner, enter upon and make excavations in the area.

22. COMPULSORY PURCHASE OF ANTIQUITIES ETC., DISCOVERED DURING EXCAVATION OPERATIONS

- (1) Whereas a result of any excavations made in any area under section 20, or section 21, any antiquities are discovered the Archaeological Officer shall—
 - (a) as soon as practicable, examine such antiquities and submit a report to the State Government in such manner and containing such particulars as may be prescribed;
 - (b) at the conclusion of the excavation operations give notice in writing to the owner of the land from which such antiquities have been discovered, of the nature of such antiquities.
- (2) Until an order for the compulsory acquisition of any such antiquities is made under sub-section (3) the archaeological officer shall keep them in such safe custody as he may deem fit.
- (3) On receipt of a report under sub-section (1) the State Government may make an order for the compulsory acquisition of any such antiquities.
- (4) When an order for the compulsory acquisition of any antiquities is made under sub-section (3), such antiquities shall rest in the State Government with effect from the date of the order.

CHAPTER - V

PRINCIPLES OF COMPENSATION

23. COMPENSATION FOR LOSS OR DAMAGE

Any owner or occupier of land who has sustained any loss or damage from the land by reason of any entry on, or excavations in, such land or the exercise of any other power conferred by this Act shall be paid compensation by the State Government for such loss or damage.

24. ASSESSMENT OF MARKET VALUE OF COMPENSATION

The market value of any property which the State Government is empowered to purchase at such value under this act or the compensation to be paid by the State Government in respect of anything done under this Act, shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in sections 3,5,8-34, 45-47, 51 and 52 of the Land Acquisition Act, 1894 (Act 1 of 1894) so far as the provision thereof can be made applicable:

Provided that, when making an enquiry under the said Land Acquisition Act, the Collector under the Act shall be assisted by two assessors, one of whom shall be competent person nominated by the State Government and another person nominated by the owner, or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in his behalf, by the Collector,

25. PENALTIES

Whosoever-

- (a) destroys, removes, injures, alters, defaces, imperils or misuses a protected monument, or
- (b) being the owner or occupier of a protected monument, contravenes an order made under sub-section (1) of section 8 or under sub-section (1) of section 9, or
- (c) does any act in contravention of sub-section (1) of section 18, shall be punishable with imprisonment which may extend to three months or with fine which may extend to five thousand rupees, or with both
- (d) without prejudice to the generality of the foregoing power, such rules may provide for all in contravention of sub-section (1) of section 18 or any of the like nature near a protected monument or the construction of buildings on land adjoining such monument and the removal of unauthorised buildings shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

- (e) breach clause (a) of sub-section (2) under section 31 shall be punishable with fine which may extend to five thousand rupees.

26. JURISDICTION TO TRY OFFENCES

No court inferior to that of a magistrate of the first class shall try any offence under this Act.

27. CERTAIN OFFENCES TO BE COGNIZABLE

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act No.2 of 1974), an offence under clause (a) clause (c) of section 25, shall be deemed to be a cognizable offence within the meaning of that Code.

28. RECOVERY OF AMOUNTS DUE TO THE GOVERNMENT

Any amount due to the Government from any person under this Act may, on a certificate issued by the Director or an archaeological officer authorised by him in this behalf be recovered in the same manner as an arrear of land revenue.

29. POWER TO CORRECT MISTAKES ETC.

Any clerical mistake, patent error or error arising from accidental slip or omission in the description of any ancient monument declared to be protected monument under this Act may, at any time, be corrected by the State Government by notification in the Official Gazette.

30. PROTECTION OF ACTION TAKEN UNDER THE ACT

No suit for compensation and no criminal proceeding shall lie against any public servant in respect of an act done or intended to be done in good faith in the exercise of any power conferred by this Act.

31. POWER TO MAKE RULES

- (1) The State Government may, by notification in Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-
 - (a) the grant of licences and permissions to make excavations for archaeological purposes in protected areas, the authorities by whom, and the restrictions and conditions subject to which, such licences may be granted, the taking of securities from licenes and the fees that may be charged for such licences;

- (b) the right of access of the public to a protected monument and the fee, if any, to be charged therefore;
 - (c) the form and contents of the report of an Archaeological Officer under clause (a) of sub-section (1) of section 22;
 - (d) the form in which applications for permission under section 18 or section 22 may be made and the particulars which they should contain;
 - (e) the form and manner of preferring appeals under this Act and the time within which they may be preferred;
 - (f) the manner of service of any order or notice under this Act;
 - (g) the manner in which excavations and other like operations for archaeological purposes may be carried on;
 - (h) any other matter which is to be or may be prescribed.
- (3) Every rule made under this section shall be laid as soon as may be after it is made before the Legislative Assembly of Mizoram while it is in session for a total period of seven days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid, the Legislative Assembly agree in making any modification in the rule or the Legislative Assembly agree 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.

P. Chakraborty,
Secretary,
Law & Judicial Deptt.
Govt. of Mizoram.