

# THE PUNJAB ANCIENT AND HISTORICAL MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS ACT, 1964

## Punjab Act No. 20 of 1964

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An Act to provide for the preservation of ancient and historical monuments and archaeological sites and remains other than those of national importance, for the regulation of Archaeological excavations and for the protection of sculptures, carvings and other like objects.

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

### PRELIMINARY

#### 1. Short title, extent and commencement.

1. This Act may be called the Punjab Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1964.
2. It extends to the whole of the State of Punjab.
3. It shall come into force on such date as the State Government may be notification appoint.

#### 2. Definitions

In this Act, unless the context, otherwise requires,-

(a) 'ancient and historical monument' means any structure, erection or monument, or any tumulus or place of interment, 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 one hundred years and includes-

- (i) the remains of an ancient and historical monument,
- (ii) the site of an ancient and historical monument,
- (iii) such portion of land adjoining the site of an ancient and historical monument as may be required for fencing or covering in or otherwise preserving such monument, and
- (iv) the means of access to, and convenient inspection of, an ancient and historical monument;

but does not include any ancient or historical monument declared by or under law made by Parliament to be of national importance;

(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 by gone ages,

- (iv) any article, object or thing of historical interest, and
  - (v) any article, object or thing declared by the Government by notification to be an antiquity for the purposes of this Act, which has been in existence for not less than one hundred years ;
- (c) 'archaeological officer' means an officer of the Government appointed for the purpose of exercising the powers conferred on, and performing the functions assigned to, an archaeological officer under this Act, and includes any other officer authorized by the Government to exercise and perform all or any of such powers and functions;
- (d) 'archaeological site and remains' means any area which contains or is reasonably believed to contain ruins or relics or historical or archaeological importance which have been in existence for not less than one hundred 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;
- but does not include any archaeological site or remains declared by or under law made by Parliament to be of national importance;
- (e) 'Director' means the Director of Archaeological and includes any officer authorized by the Government to exercise the powers and perform the functions of the Director under this Act;
- (f) 'Government means the Government of Punjab;
- (g) '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 of securing convenient access thereto;
- (h) '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;
- (i) 'prescribed' means prescribed by rules made under this Act:
- (j) 'protected area' means any archaeological site and remains which is declared to be a protected area by or under this Act;
- (k) 'protected monument' means an ancient or historical monument which is declared to be a protected monument by or under this act.

## **PROTECTION OF ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS**

### **3. Certain ancient and historical monuments etc. deemed to be protected monuments or areas**

All ancient and historical monuments and all archaeological sites and remains which have been declared by the Ancient Monuments Preservation Act, 1904 (Central Act VII of 1904), to be protected monuments or protected areas respectively, but which have not been declared by or under the law made by Parliament to be of national importance, shall be deemed to be ancient and historical monuments or archaeological sites and remains declared to be protected monuments or areas for the purposes of this Act.

### **4. Power of Government to declare ancient monuments ect. To be protected monuments and areas**

1. Where the Government is of opinion that any ancient and historical monument or archaeological site and remains, which has not been declared by or under the law made by Parliament to be of national importance and which is not included in section 3 requires protection under this Act, it may by notification give two months' notice of its intention to declare such ancient and historical monument or archaeological site and remains to be a protected monument or a protected area as the case may be, and a copy of every such notification shall be affixed in a conspicuous place near the monument or the site and remains as the case may be.
2. Any person interested in any such ancient and historical monument or archaeological site and remains may, within two months after the issue of the notification under sub-section(1), object to the declaration of the monument, or the archaeological site and remains, to be a protected monument or a protected area.
3. On the expiry of the said period of two months the Government may; after considering the objections, if any, received by it, declare by notification the ancient and historical monument or the archaeological site and remains, as the case may be, to be a protected monument or a protected area.
4. A notification published under sub-section (3) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the ancient and historical monument or the archaeological site and remains to which it relates is a protected monument or a protected area for the purposes of this Act.

## **PROTECTED MONUMENTS**

### **5. Acquisition of rights in a protected monument**

- (1) The Director may, with the sanction of the 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 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 the sanction of the Government, accept such guardianship.
- (4) When the Director has accepted the guardianship of a monument under sub-section (3), 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; and the provisions of this Act relating to agreements executed under section 6 shall apply to the written instrument executed under sub-section (3).
- (5) Nothing in this section shall affect the use of any protected monument for customary religious observances.

### **6. Preservation of protected monument by agreement**

- (1) The Director, when so directed by the Government, shall propose to the owner of a protected monument to enter into an agreement with the Government within a specified period for the maintenance of the monument.
- (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
    - (iii) 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 or to archaeological officers or to persons deputed by the owner or any archaeological officer or other officer or authority authorized by the Government to inspect or maintain the monuments;

- (e) the notice to be given to the 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 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 Government in connection with the maintenance of the monument;
- (g) the proprietary or other rights which are to vest in the Government in respect of the monument when any expenses are incurred by the 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) any matter connected with the maintenance of the monument which is a proper subject of agreement between the owner and the Government.

(3) The Government or the owner may, at any time after the expiration of three years from the date of execution of any 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 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.

**7. Persons competent to exercise powers of owner under section 6 in respect of a protected monument , when owner is under disability or when it is a village property**

1. If the owner of a protected monument is unable, by reason of minority 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 6.
2. In the case of a protected monument which is a village property, the Panchayat for the village where such property vests in the Panchayat or, where such property does not vest in a Panchayat, any village officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 6.
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 observances of that religion.

#### **8. Application of endowment to repair a protected monument**

1. If any owner or other person competent to enter into an agreement under section 6 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 Government may institute a suit in the court of the District Judge or , if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge, for the proper application of such endowment or part thereof.
2. On the hearing of an application under sub-section (1), the District Judge 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 any part thereof, any such order may be executed as if it were a decree of a civil court.

#### **9. Failure or refusal to enter into an agreement**

1. If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such an agreement, the Government may make an order providing for all or any of the matters specified in sub-section(2) of section 6, 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 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.

#### **10. Power to make order prohibiting contravention of agreement under section 6**

1. If the Director apprehends that the owner or 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 executed under section 6, the Director may, after giving the owner or occupier an opportunity or making a representation in writing, make an order prohibiting any such contravention of the agreement:

Provided that no such opportunity may be given in 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 made under this section may appeal to the Government within such time and in such manner as may be prescribed and the decision of the Government shall be final.

#### **11. Enforcement of agreements**

1. If an owner or other person who is bound to maintain a monument by an agreement executed under section 6 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 authorize 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 Government whose decision on such reference shall be final.

#### **12. Purchasers at certain sales and persons claiming thought 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 5 or section 6, and every person claiming any title to a monument form, through, or under, an owner who executed any such instrument shall be bound by such instrument.

#### **13. Acquisition of protected monuments**

If the 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 (Central Act 1 of 1894), as if the maintenance of the protected monument were a public purpose within the meaning of that act.

#### **14. Maintenance of certain protected monuments**

1. The Government shall maintain every monument which has been acquired under section 13 or in respect of which any of the rights mentioned in section 5 have been acquired.
2. When the Director has assumed the guardianship of a monument under section 5 he shall for the purpose of maintaining such monument have access to the monument at all reasonable times, by himself and by his

agent, 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.

## **15. Voluntary contributions**

The Director may receive voluntary contributions towards the cost of maintaining a protected monument and may give such general or special directions as he considers necessary for the management and application of the contributions 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.

## **16. Protection of place of worship from misuse, pollution or desecration**

1. A protected monument maintained by the 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 Government has acquired a protected monument under section 13, or where the Director has purchased or taken a lease or accepted a gift or bequest or assumed guardianship, or a protected monument under section 5, and such monument or any part thereof is used for religious worship or observances by any community, the Director 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, of 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.

## **17. Relinquishment of Government rights in a monument.**

With the sanction of the Government, the Director may. –

- (a) where right 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 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.



## **18. Rights of access to protected monuments**

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

## **19. Restrictions on enjoyment of property rights 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, excavating, blasting, or any operation of a like nature in such area or utilize such area or any part thereof in any other manner without the permission of the 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 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 a specified period and, if the person refuses or fails to comply with the order, the Director may cause the building to be removed and the person shall be liable to pay the cost of such removal.

## **20. Power to acquire protected areas**

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

## **ARCHAEOLOGICAL EXCAVATIONS**

### **21. Excavations in protected areas.**

Subject to the provisions of section 24 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Central Act 24 of 1958) an archaeological officer or an officer authorized by him in this behalf or any person holding a licence granted in this behalf under the Act (hereinafter referred to as the licensee) may, after giving notice in writing to the Director and the owner, enter upon and make excavations in any protected area.

### **22. Excavations in areas other than protected areas**

Subject to the provisions of section 24 of the Ancient Monuments And Archaeological Sites and Remains Act, 1958 (Central Act 24 Of 1958) where an archaeological officer has reason to believe that any area, not being a protected area, contains ruins or relics of historical or archaeological importance he or an

officer authorized by him in this behalf may, after giving notice in writing to the Director and the owner, enter upon and make excavations in the area.

### **23. Compulsory purchase of antiquities, etc., discovered during excavation operations**

1. Where, as a result of any excavations made in any area under section 21 or section 22, any antiquities are discovered the archaeological officer or the licensee, as the case may be, shall,
  - (a) as soon as practicable examine such antiquities and submit a report to the 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, as to the nature of such antiquities.
2. Until an order for the compulsory purchase of any such antiquities is made under sub-section (3), the archaeological officer or the licensee, as the case may be shall keep them in such safe custody as he may deem fit.
3. On receipt of a report under sub-section (1), the Government may make an order for the compulsory purchase of any such antiquities at their market value.
4. When an order for the compulsory purchase of any antiquities is made under sub-section (3), such antiquities shall vest in the Government with effect from the date of the order.

### **24. Excavation, etc., for archaeological purposes**

Subject to the provisions of section 21 and same as provided in sections 22 and 23, no archaeological officer or other authority shall undertake, or authorise any person to undertake, any excavation or other like operation for archaeological purposes in any area which is not a protected area except with the previous approval of the Government and in accordance with such rules or directions, if any, as the Government may make or give in this behalf.

## **PROTECTION OF ANTIQUITIES**

### **25. Power of Government to control moving of antiquities**

1. If the Government considers that any antiquities or class of antiquities ought not to be moved from the place where they are without its sanction, the Government may by notification direct that any such antiquity or any class of such antiquities shall not be moved except with the written permission of the Director.
2. Every application for permission under sub-section (1) shall be in such form and contain such particulars as may be prescribed.
3. Any person aggrieved by an order refusing permission may appeal to the Government, whose decision shall be final.

## **26. Purchase of antiquities by Government**

1. If the Government apprehends that any antiquity mentioned in a notification issued under sub-section (1) of section 25, is in danger of being destroyed, removed, injured, misused or allowed to fall into decay or is of opinion that, by reason of its historical or archaeological importance, it is desirable to preserve such antiquity in a public place, the Government may make an order for the Compulsory purchase of such antiquity at its market value and the Director shall thereupon give notice to the owner of the antiquity to be purchased.
2. Where a notice of compulsory purchase is issued under sub-section (1) in respect of any antiquity, such antiquity shall vest in the Government with effect from the date of the notice.
3. The power of compulsory purchase given by this section shall not extend to any image or symbol actually used for bonafide religious observances.

## **PRINCIPLES OR COMPENSATION**

### **27. Compensation for loss or damage**

Any owner or occupier of land who has sustained any loss or damage or any diminution of profits from the land by reason of any entry by this Act, shall be paid compensation by the Government for such loss, damage or diminution of profits.

### **28. Assessment of market value or compensation**

1. The market value of any property which the Government is empowered to purchase at such value under this Act, or the compensation to be paid by the 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 section 3, 5,8 to 34, 45 to 47, 51 and 52 of the Land Acquisition Act, 1894 (Central Act I of 1894), so far as they can be made applicable:

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

2. Notwithstanding anything in sub-section (1) or in the Land Acquisition Act, 1894 (Central Act I of 1894), in determining the market value of any antiquity in respect of which an order for compulsory purchase is made under sub-section (3) of section 23 or under sub-section (1) of section 26, any increase in the value of the antiquity by reason of its being of historical or archaeological importance shall not be taken into consideration.

## MISCELLANEOUS

### 29. Delegation

The Government may by notification direct that any powers conferred on it by or under this Act shall, subject to such conditions as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government as may be specified in the Direction.

### 30. Penalties

(1) Whoever –

- (i) destroys, removes, injures, alters, defaces, imperils or misuses a protected monument, or
- (ii) being the owner or occupier of a protected monument, contravenes an order made under sub-section (1) of section 9 or under sub-section (1) of section 10, or
- (iii) removes from a protected monument any sculpture, carving, image, bas-relief, inscription or other like objects, or
- (iv) does any act in contravention of sub-section (1) of section 19,

shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

(2) Any person who moves any antiquity in contravention of a notification issued under sub-section (1) of section 25 shall be punishable with fine which may extend to five thousand rupees, and the court convicting a person of any such contravention may, by order, direct such person to restore the antiquity to the place from which it was moved.

### 31. Jurisdiction to try offences

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

### 32. Certain of fences to be cognizable

Notwithstanding anything in the Code of Criminal Procedure, 1898 (Central Act V of 1898), an offence under clause (i), or clause (iii), of sub-section (1) of section 30, shall be deemed to be a cognizable offence within the meaning of that Code.

### 33. Special provision regarding fine

Notwithstanding anything in section 32 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), it shall be lawful for any magistrate of the first class specially empowered by the Government in this behalf, to pass a sentence of fine exceeding two thousand rupees on any person convicted of an offence which under this Act is punishable with fine exceeding two thousand rupees.

### **34. 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 authorized by him in this behalf, be recovered in the same manner as an arrear of land revenue.

### **35. Ancient monuments, etc. no longer requiring protection.**

If the Government is of opinion that it is no longer necessary to protect any ancient and historical monument or archaeological site and remains under the provisions of this Act, it may by notification declare that the ancient and historical monument or archaeological site and remains, as the case may be, has ceased to be a protected monument or a protected area for the purposes of this Act.

### **36. Power to correct mistake, etc**

Any clerical mistake, patent error or error arising from accidental slip or omission in the description of any ancient and historical monument or archaeological site and remains declared to be a protected monument or a protected area, by under this Act, may, at any time, be corrected by the Government by notification.

### **37. Protection of action taken under the Act**

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

### **38. Power to make rules**

1. The Government may, by notification and subject to the condition of previous publication, make rules to carry 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 prohibition or regulation by licensing or otherwise of mining, quarrying, excavating, blasting or any operation of a like nature near a protected monument or the construction of buildings on land adjoining such monument and the removal of unauthorized buildings;
  - (b) 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 licensees and the fees that may be charged for such licences;

- (c) the right of access of the public to a protected monument and the fee, if any , to be charged therefore;
  - (d) the form and contents of the report of an archaeological officer or a licensee under clause (a) of sub-section(1) of section 23;
  - (e) the form in which applications for permission under section 19 or section 25 may be made and the particulars which they shall contain;
  - (f) the from and manner of preferring appeals under this Act, the fees to be paid therefore and the time within which they may be preferred;
  - (g) the manner of service of any order or notice under this Act;
  - (h) the manner in which excavations and other like operations for archaeological purposes may be carried on;
  - (i) any other matter which is to be or may be prescribed.
3. Any rule made under this section may provide that a breach thereof shall be punishable, -
- (j) in the case of a rule made with reference to clause (a) of sub-section (2), with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both;
  - (ii) in the case of a rule made with reference to clause (b) of sub-section (2), with fine which may extend to five thousand rupees;
  - (iii) in the case of a rule made with reference to clause (c) of sub-section (2), with fine which may extend to five hundred rupees;
4. Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of ten days which may be comprised 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 immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only on 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.

### **39. Repeal**

The Ancient Monuments Preservation Act, 1904 (Central Act VII of 1904), shall cease to have effect in relation to ancient and historical monuments and archaeological sites and remains declared or deemed to be declared by or under this Act to be protected monuments or protected areas, except as respects things done or omitted to be done before the commencement of this Act.