



ATIQR RAHMAN

RESEARCH SCHOLAR

CHHATRAPATI SHAHUJI MAHARAJ UNIVERSITY, KANPUR

PROF. GOPAL SHARMA

ASTT. PROF, GOVT.

PG COLLEGE, NARNAUL

ABSTRACT:

India's development needs are vast; the resources to meet them are not. Most of them come from government and foreign donors. Promoting other sources of funds to supplement these two, and also to provide choice and independence of action is an urgent necessity. Private philanthropy, institutional and individual, offers an obvious alternative, especially as India has a long and distinguished tradition of philanthropy. However, in today's context, philanthropic attitudes and practices need a reorientation to keep abreast of new developments and to meet the needs of the time. The impact of private charitable resources (time, skills, money) could be improved with better appreciation and knowledge of the opportunities for making a difference, more professional practice and building of alliances or networks. Established in 1996, as a national level organization, by a group of distinguished individuals from various fields, Sampradaan-Indian Centre for Philanthropy (SICP) represents an effort to facilitate the practice of philanthropy and to increase its impact on society. SICP's Vision is of an India in which private resources of money, assets, time and skills are shared willingly, and used effectively, to create a developed and equitable society

KEYWORDS: *Religious, Charitable, Trusts***INTRODUCTION:**

With the liberalization of the Indian economy, the enhanced focus on development, and the increasing awareness of the importance of human resource development, there is a growing awareness amongst government and the general public about the potential role of non-profit organizations in development. To facilitate the non-profit sector in realising its potential it is necessary to create an environment, which is conducive. This includes creating a legal and fiscal framework which allows voluntary non-profit organizations to come into existence without restraint and in a manner that is easy and inexpensive; to operate free of undue interference; and to have direct and indirect access to funds through tax benefits.

History of Assam

The history of Assam is the history of a conversion of individuals from the east, west, south and the north; the intersection of the Austroasiatic, Tibeto-Burman (Sino-Tibetan), Tai and Indo-Aryan societies. Despite the fact that attacked throughout the long term, it was never a vassal or a state to an outside power until the third Burmese intrusion in 1821, and, in this way, the British entrance into Assam in 1824 during the First Anglo-Burmese War.

The Assamese history has been gotten from different sources. The Ahom realm of middle age Assam kept up with narratives, called Buranjis, written in the Ahom and the Assamese dialects. History of old Assam comes from a corpus of Kamarupa engravings on rock, copper plates, mud; illustrious awards, and so forth that the Kamarupa lords gave during their rule.

The history of Assam can be separated into four periods. The old period started in the fourth century with the notice of Kamarupa in Samudragupta's engravings on the Allahabad column and the foundation of the Kamarupa realm. The archaic period started with the assaults from the Bengal Sultanate, the first of which occurred in 1206 by Bakhtiyar Khilji as referenced in the Kanai-boroxiboa rock engraving, after the separation of the old realm and the growing of middle age realms and tribal leader ships in its place. The pilgrim time started with the foundation of British control after the Treaty of Yandaboo in 1826, and the post-provincial time started in 1947 after the Independence of India.

OBJECTIVES OF STUDY:

- 1) To Get Knowledge about Relegious Trusts and Laws
- 2) Effectively Investigate and Check Misuse

Power to apply to the Court in respect of trusts of a charitable or religious nature

Save as herein after provided in this Act, any person having interest in any express or constructive trust created or existing for public purpose of a charitable or religious nature may apply by petition to the court within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate to obtain an order embodying all or any of the following directions, namely:— (1) directing the trustee to furnish the petitioner through the Court with particulars as to the nature and objects of the trust, and of the value, condition, management and application of the subject-matter of the trust, and of the income belonging thereto, or as to any of these matters, and (2) directing that the accounts of the trust shall be examined and audited: Provided that no person shall apply for any such direction in respect of accounts relating to a period more than three years prior to the date of the petition.

Contents and verification of petition

The petition shall show in what way the petitioner claims to be interested in the trust, and shall specify, as far as may be, the particulars and the audit which he seeks to obtain. (2) The petition shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (5 of 1908), for signing and verifying plaints.

Procedure on petition

If the Court on receipt of a petition under section 3, after taking such evidence and making such inquiry, if any, as it may consider necessary, is of opinion that the trust to which the petition relates is a trust to which this Act applies, and that the petitioner has an interest therein, it shall fix a date for the hearing of the petition, and shall cause a copy thereof, together with notice of the date so fixed, to be served on the trustee and upon any other person to whom in its opinion notice of the petition should be given. (2) On the date fixed for the hearing of the petition, or on any subsequent date to which the hearing may be adjourned, the Court shall proceed to hear the petitioner and the trustee, if he appears, and any other person who has appeared in consequence of the notice, or who it considers ought to be heard, and shall make such further inquiries, if any, as it thinks fit. The trustee may and, if so required by the Court, shall at the time of the first hearing or within such time as the Court may permit present a written statement of his case. If he does present a written statement, the statement shall be signed and verified in the manner prescribed by the Code of Civil Procedure 1908 (5 of 1908), for signing and verifying pleadings. (3) If any person appears at the hearing of the petition and either denies the existence of the trust or denies that it is a trust to which this Act applies, and undertakes to institute within three months a suit for a declaration to that effect and for any other appropriate relief, the Court shall order a stay of the proceedings and, if such suit is so instituted, shall continue the stay until the suit is finally decided. (4) If no such undertaking is given, or if after the expiry of the three months no such suit has been instituted, the Court shall itself decide the question. (5) On completion of the inquiry provided for in sub-section (2), the Court shall either dismiss the petition or pass thereon such other order as it thinks fit: Provided that, where a suit has been instituted in accordance with the provisions of sub-section (3), no order shall be passed by the Court which conflicts with the final decision therein. (6) Save as provided in this section, the Court shall not try or determine any question of title between the petitioner and any person claiming title adversely to the trust.

Failure of trustee to comply with order under section

If a trustee without reasonable excuse fails to comply with an order made under sub-section (5) of section 5, such trustee shall, without prejudice to any other penalty or liability which he may incur under any law for the time being in force, be deemed to have committed a breach of trust affording ground for a suit under the provisions of section 92 of the Code of Civil Procedure, 1908 (5 of 1908); and any such suit may, so far as it is based on such failure, be instituted without the previous consent of the Advocate General.

Powers of trustee to apply for directions:

Save as hereinafter provided in this Act, any trustee of an express or constructive trust created or existing for public purpose of a charitable or religious nature may apply by petition to the Court, within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate, for the opinion, advice or direction of the Court on any question affecting the management or administration of the trust property, and the Court shall give its opinion, advice

or direction, as the case may be, thereon: Provided that the Court shall not be bound to give such opinion, advice or direction on any question which it considers to be a question not proper for summary disposal. (2) The Court on a petition under sub-section (1), may either give its opinion, advice or direction thereon forthwith, or fix a date for the hearing of the petition, and may direct a copy thereof, together with notice of the date so fixed, to be served on such of the person interested in the trust, or to be published for information in such manner, as it thinks fit. (3) On any date fixed under sub-section (2) or on any subsequent date to which the hearing may be adjourned, the Court, before giving any opinion, advice or direction, shall afford a reasonable opportunity of being heard to all persons appearing in connection with the petition. (4) A trustee stating in good faith the facts of any matter relating to the trust in a petition under sub-section (1), and acting upon the opinion, advice or direction of the Court given thereon, shall be deemed, as far as his own responsibility is concerned, to have discharged his duty as such trustee in the matter in respect of which the petition was made

Costs of petition under this Act

The costs, charges and expenses of and incidental to any petition, and all proceedings in connection therewith, under the foregoing provisions of this Act, shall be in the discretion of the Court, which may direct the whole or any part of any such costs, charges and expenses to be met from the property or income of the trust in respect of which the petition is made, or to be borne and paid in such manner and by such persons as it thinks fit: Provided that no such order shall be made against any person (other than the petitioner) who has not received notice of the petition and had a reasonable opportunity of being heard thereon.

A place of Social gathering:

The lace and embroidery industries served as places of social gathering .The workers often come together regularly from various centres and enjoyed the fruits of co- operation and unity. The Missionaries gave work without any distinction of caste or creed. The Indian Christian Missionaries nuns gave training and work to all caste women, Hindus as well as Christians. It helped the workers to mingle with different people coming from different places. They maintained good fellowship among themselves. Very often such occasions were used for prayer meetings. What Mrs. Hacker writes is an interesting account of their social gathering; On 30 December 1856 we had a happy women's day, Mrs. Thomson and mine, met in our mission premises. We had a helpful meeting with them and then distributed books, mostly Bibles and lyric books for which the women had given half- price and when the business part was over , they all met in a large room for refreshment and this was a happy closing to our years work together

At certain times the Missionary ladies, embroidery workers and zenana helpers joined together in a meeting. One such was held on 28 December 1898. Mrs. Hacker presided over the meeting. Mr. Williams gladly gave an address. It brought the women of different castes and customs together. According to A.T. Foster this type of gathering witnessed; the eagerness among the paraya women to learn needle-work and plain -sewing. Some of course have an eye on the embroidery "

Again it is said that in the New Year they came from all parts to the Missionary Bungalow and had a very happy meeting together. This is a clear indication that the industries acted as place of social gathering of different peoples. At the same time the system formed a sort of Christian Club around each station. But it was opened only to those who could try to live up to a higher social ideal.

Emancipation of Slaves

The Christian Missionaries were not satisfied with the work done for the enlargement and consolidation of the Christian Community. They pushed forward with their effort to remove the oppressive social conditions that had been perpetuated in the Indian Society. The arrival of the first Missionary ladies Mrs. Mead and Mrs Mault in India marked a turning point in the social history of India. They concentrated their attention on the slave classes. Several slave girls were admitted in to their Boarding Schools at Nagercoil started in 1819 .In fact from the commencement of their work, the Missionaries had been in trying various ways to emancipate the slaves. They also established separate schools for slaves with a view to giving education and some means of self -support. The Missionary ladies were able to bring a few slave girls in to their Boarding School with great difficulty. The slave masters, who offered to teach slave children. We paid in addition to their monthly pay on and half panam for ever>' slave girl. The result was that with in a year more than hundred slave children were admitted to the school in the Neyyoor District alone. They were taught lace making, alone with reading and writing. The girls were paid for their work and the Missionaries helped them to save that money and tried to buy their freedom. The desire of the Missionaries was to make the slave girl; free and to enable them to get their education in the schools To effect this the Missionaries reserved a portion of the earning of slave girls , which they made through making lace , for the purchase of the liberty. About this Mrs;Mault writes We have formed the resolution that each girl , by her own industry , shall purchase her freedom before she leaves the school. This measure of the Missionaries secured the freedom of several slave girls who studied in the school. Lace making helped them to make out a living. Several good homes were raised by them. They gradually advanced up the ladder of the culture. In this way several slave girls became self- reliant and free. In the Neyoor Mission District several families of slaves were redeemer from slavery and brought under Christianity. It is a known fact that slavery could not be abolished without proper legislation. But it could be made ineffective with the lace industry had direct involvement.

The word "charity" entered the English language through the Old French word "charité" which was derived from the Latin word "caritas". Originally in Latin the word caritas meant preciousness, dearness, high price. From this, in Christian theology, caritas became the standard Latin translation for the Greek word agape, meaning an unlimited loving-kindness to all others, such as the love of God. Agape was not primarily about good works and giving to the poor, although in English the word 'charity' has steadily acquired this as its primary meaning, wherein it was first used in Old French at least since the year 1200 A.D. Charity is defined as giving voluntarily to those in need. It covers the giving of both money and of the self through service to the needy. The term is also used to denote an institution or organisation-which helps those in

need. Charitable giving is the act of giving money, goods or time to the unfortunate, either directly or by means of a charitable trust or other worthy cause. Charitable giving as a religious act or duty is referred to as almsgiving or alms. The name stems from the most obvious expression of the virtue of charity; giving the recipients of it the means they need to survive. The impoverished, particularly those widowed or orphaned, and the ailing or injured, are generally regarded as the proper recipients of charity. Most forms of charity are concerned with providing basic necessities such as food, water, clothing, healthcare and shelter, but other actions may be performed as charity: visiting the imprisoned or the homebound, ransoming captives, educating orphans, even social movements. Donations to causes that benefit the unfortunate indirectly, such as donations to fund cancer research, are also charity

Issues of Charity Administration

This section deals with broad issues related to the regulatory framework.

A little over fifty percent of the respondent organisations are satisfied with the existing institutional arrangements and feel that the existing mechanisms of charity administration facilitate promotion of charity, check misuse and mismanagement of funds and inspire public confidence in charities. As opposed to this forty eight percent of the respondent organisations were of the view that the current arrangements are inadequate and discourage public confidence. The opinion of the respondents is both positive and negative, indicating that there is scope for improvement in the existing institutional arrangements to promote and strengthen charity. While a majority of the professionals (lawyers and CAs) were of the opinion that the present legal provisions for regulation are adequate their actual enforcement is poor. Many of the professionals told us that the regulatory provisions for NPOs registered as Societies and 91 Section 25 companies are clear and help the regulatory authorities in monitoring and evaluating the organisations. However, this is not the case for trusts, as after registration there is hardly any monitoring and regulation of their activities and accounts. Majority of the professionals were of the view that there is room for better and more effective monitoring. They felt that the misuse of the law and its provisions by big hospitals, schools and colleges for profit making needed stringent regulation to check and prevent such practices. Some NPO functionaries were of the view that the current regulatory framework vests too much power in the State to control the activities of NGOs. They also shared cases where the state and political power centres were using the current regulatory framework to quash the protests or opposition by NPO towards their policies / schemes

Credibility of NPOs

With the mushrooming of voluntary organizations in the country one of the questions that arises in the mind of the general public is about the credibility of these organizations. The respondents were asked what credibility voluntary organizations have according to their opinion. Approximately 40 percent of respondents from trusts and a approximately 50 percent of respondents from societies have mentioned that voluntary organizations have low credibility. This has implications for the future ability of such organizations to fulfill the needs and

aspirations of the community they intend to serve. It also indicates the need for some introspection by the organizations themselves to see how they can become more credible. To improve their own capabilities and to interface with the Government for smooth functioning it may be worthwhile to think in terms of a permanent forum of voluntary organizations. Almost 90 percent of the respondents feel that such a forum is necessary. This indicates that there is a desire for more interaction among the organizations themselves and between them and the government. The respondents were also asked their preference about the nature of this forum. A majority of the respondents want the forum to be a private-public partnership, while 25 percent want it to be a completely independent of the State. Fifteen Does the Regulatory Framework Instill Confidence in Charity · The present mechanisms for regulation is adequate, the problem lies with its enforcement that is poor. · Regulation provisions for NPOs registered, as Societies and Section 25 companies, are better defined and enforced, than those for trusts. · There is divergence in the views of NPOs and CAs as to whether the sector needs more effective monitoring or not. While CAs, in general, feel that there is room for better and more effective monitoring to check misuse and to act as a deterrent for others, NPOs do not want more monitoring. 92 percent of the respondents suggested that it could be a forum that is funded by voluntary organizations themselves, which perhaps will be more independent

An Alternate Framework

The respondents were provided a small outline of the role and functions of the British Charities Commission and asked whether they would prefer to have one such commission in India. The respondents overwhelmingly voted for such a commission. This, coupled with the earlier verdict on credibility, may indicate that the organizations themselves feel strongly that it is high time some form of systematic regulation is put in place to streamline the functioning of mushrooming voluntary organizations in the country. However, some of the respondents were skeptical about the commission. One respondent mentioned that it is not possible under the present political system in India. The respondent organisations / professionals also made some suggestions for improving the existing institutional arrangements, the major suggestions are enumerated here: ÿ Creation of a Forum for regular Interaction of NPOs and Charity Administration Authorities at central and state level. ÿ Developing mechanisms for ensuring public access to information so that all the necessary information on registration, reporting, compliance and grievance redressal is available at the office of the regulating authorities (registrar of societies, charity commissioners, registrar of companies and Income tax directorates). ÿ Maintaining a database on NPOs functioning in India. ÿ Training and capacity building of officials and staff at the registering authorities and income tax departments regarding the working of NPOS. ÿ Checking of red-tapism and delays

CONCLUSION:

In India the co-operative and NPO sector has been playing a distinct and significant role in socio-economic development. To develop and focus on these sectors, the Committee for Co-operatives and NPO sector had been constituted by the Institute of Chartered Accountants of India. To spread the knowledge on Co-operatives and Voluntary Organisations, Committee for Co-operatives and NPO sector has been taking various initiatives such as Conducting Certificate Course on Co-operatives and Not-for-Profit Organizations respectively, Seminars, Workshops, Conferences and other programmes across the country

The study sought the views of respondents on whether the procedures for registration, for compliance with reporting requirements under the law, and for appeals to remedy grievances were simple, adequate and cost effective; whether the facilities in the offices of charity administration authorities were adequate and user friendly; and whether the staff in the agencies were helpful and responsive. The study also sought their views on the reform measures and alternate institutional arrangements / frameworks which would facilitate effective monitoring and development of the NPO sector. Overall, three overwhelming conclusions emerge:

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