

The Punjab Gazette

PUBLISHED BY AUTHORITY

LAHORE, MONDAY, MARCH 2, 1955

LEGISLATIVE DEPARTMENT

NOTIFICATION

The 2nd March 1955

No. 829-Leg.—The following Ordinance by His Excellency the Governor of the Punjab under section 88 of the Government of India Act, 1935, is hereby published for general information:—

THE GRAVEYARDS (PRESERVATION AND MAINTENANCE) ORDINANCE, 1955
PUNJAB ORDINANCE No. II OF 1955

AN

ORDINANCE

to provide for the Preservation and Maintenance of Graveyards in the Punjab.

Whereas the Legislature of the Punjab is not in session and the Governor of the Punjab is satisfied that circumstances exist which render it necessary for him to take immediate action for the preservation and maintenance of the Graveyards in the Punjab; Preamble.

Now, therefore, in exercise of the powers conferred on him by section 88 of the Government of India Act, 1935, the Governor of the Punjab is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Graveyards (Preservation and Maintenance) Ordinance, 1955. Short title, extent and commencement.
- (2) It shall extend to the graveyard known as the Miani Sahib Graveyard, Lahore, and Government may, by notification, extend all or any of the provisions of this Ordinance to any graveyard in the Punjab.
- (3) It shall come into force at once.

(163)

Definitions

2. In this Ordinance unless there is anything repugnant in the subject or context:—

- (1) "building" includes building as defined in the City of Lahore Corporation Act, 1941, and in the Punjab Municipal Act, 1911;
- (2) "Committee" means a Committee constituted under section 3 of this Ordinance;
- (3) "Government" means the Government of the Punjab;
- (4) "graveyard" means a graveyard to which all or any of the provisions of this Ordinance have been extended;
- (5) "land" includes land as defined in the Land Acquisition Act, 1894;
- (6) "prescribed" means prescribed by rules made by Government under this Ordinance; and
- (7) "Tribunal" means a Tribunal constituted under section 7 of this Ordinance.

Constitution of Committee.

3. (1) As soon as may be after the enforcement of this Ordinance or the extension of all or any of the provisions of this Ordinance to any graveyard Government shall appoint a Committee for one or more such graveyards which shall consist of a Chairman, and such number of other official and non-official members as may from time to time be specified by Government.

(2) Each such Committee shall be a body corporate, and shall have perpetual succession and a common seal, with power to acquire and hold property, and to contract and do all things necessary for the purposes of its constitution; and may sue and be sued in its corporate name.

Committee to investigate and report.

4. Within such period as may be fixed by Government in this behalf, the Committee shall investigate and report regarding:—

- (1) the area of the graveyard, according to the various settlement records;
- (2) the area of the encroachments;
- (3) the nature and extent of the encroachment made by each person; and the probable time of the commencement of the encroachment.

- (4) the rights possessed by the encroachers with regard to the land encroached upon by them;
- (5) the amount of compensation likely to be paid for the removal of the encroachments;
- (6) the area which shall be declared to be the area of the graveyard; and
- (7) any other matter which Government may specify.

5. When a report has been received under section 4, Government shall issue a preliminary notification defining the limits of the area proposed to be declared as the area of the graveyard specifying the encroachments and requiring within a time to be specified the removal of all encroachments from the area. Preliminary notification

6. Any person who claims to have acquired any title to any land or property included within the limits defined in the notification issued under section 5, may within three months of the date of such notification apply to Government for the exclusion of such land or property from the area of the graveyard. Application for exclusion of land from the area of graveyard

7. Government shall appoint a Tribunal consisting of a person who is, or has been or is qualified to be appointed a District Judge to dispose of the applications presented under section 6 in accordance with the provisions of sections 8 and 9. Appointment of a Tribunal

8. (1) If the Tribunal is satisfied that the title of any person applying under section 6 to any land or property included within the limits defined in the notification issued under section 5 has been established, it shall pass an order excluding such land or property from the area of the graveyard. Nature of orders on establishment of title

(2) Government shall, however, have the option to acquire for the purpose of the graveyard the land or property excluded from the area of the graveyard under subsection (1) on payment of such compensation within one year from the date of the order of the Tribunal as shall be fixed by the Tribunal in every case.

9. If the Tribunal is satisfied that the title of any person applying under section 6 to any land or property included in the area defined in the notification issued under section 5 has not been established, it shall pass an order rejecting the application and directing the person Nature of order when title not established

concerned to hand over possession of the land or property in question to the Committee within such period as may be specified in the order;

Provided that if the property includes a building, the Tribunal shall fix a period not exceeding nine months within which the person concerned shall remove the building material.

Steps taken on non-compliance of order under section 9.

10. If an order made under section 9 is not complied with, within the period specified in the order, the Tribunal may require the District Magistrate of the district to take such steps as may be necessary to put the Committee in possession of the land or property, including the forcible removal from such land or property of all the occupiers thereof and the District Magistrate shall act accordingly. Any expenses incurred on such forcible removal shall be recoverable from the person concerned as arrears of land revenue.

Appeal.

11. Any person aggrieved by a final order passed by the Tribunal under sections 8, 9 or 10 may appeal to the High Court within one month of the date of the order, and any order passed by the High Court in appeal shall be final.

Final notification defining limits of graveyard.

12. When all applications presented under section 6 have been disposed of by the Tribunal, Government shall issue a final notification defining the limits of the area of the graveyard.

Corporation to hold graveyard as a trustee.

13. The possession of the entire land and property comprising the graveyard as defined in the notification issued under section 12 shall vest in the Committee and shall be held in trust for use as a graveyard and such other ancillary purposes as may in the opinion of Government be necessary for the proper maintenance of the graveyard.

Functions of the Committee.

14. The Committee shall, subject to the control and superintendence of Government—

- (1) protect the graveyard from encroachments;
- (2) maintain the graveyard in a fit and proper condition, and take steps to improve it;
- (3) employ and pay such staff as may be necessary, and
- (4) do all such acts and things as may be necessary for the preservation and proper maintenance of the graveyard.

15. (1) The Committee shall draw up for the graveyard a scheme which may, among other things, provide for the following matters, namely:—

Committee to prepare scheme for graveyard.

- (a) the specification of areas to be used as burial grounds;
- (b) the laying out of streets and open spaces, and the provision of other amenities;
- (c) the regulation of the design and structure of graves;
- (d) the use to which the land not immediately required for the purpose of a burial ground may be put; and
- (e) any other matter which may be necessary for the preservation and proper maintenance of the graveyard.

(2) Government may reject the scheme drawn up by the Committee; may return it for further consideration; or may sanction it with such modifications or additions, as it may think fit.

(3) Nothing in this section shall preclude Government from cancelling or modifying any scheme sanctioned under subsection (2) or the Committee from drawing up a fresh or modified scheme.

16. (1) In relation to proceedings under this Ordinance, the Committee and the Tribunal shall have the same powers which are vested in a court under the Code of Civil Procedure, 1908 for the following matters:—

Committee and the Tribunal to exercise powers under the Civil Procedure Code, 1908.

- (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 and receiving other evidence,
 - (e) granting adjournments,
 - (f) reception of evidence taken on affidavit, and
 - (g) issuing Commissions for the examination of witnesses,
- and may summon and examine of its own accord any person whose evidence appears to be material in any proceedings; and shall be deemed to be a civil court within

the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

(2) The provisions of the Evidence Act, 1872 shall be deemed to apply, so far as may be to proceedings before the Committee and the Tribunal.

Government
to provide
funds for
compensa-
tion.

17. Government shall place at the disposal of the Committee such funds as may be necessary for the payment of compensation under section 8, and for the proper management of the graveyard.

Contribution
by local
bodies.

18. Government may require any local body to pay such annual contributions to the Committee as may be fixed from time to time for the maintenance of the graveyard.

Rules.

19. (1) Government may make rules for the purpose of carrying into effect the provisions of this Ordinance.

(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 regulation of the procedure and conduct of business by the Committee and the Tribunal;
- (b) the regulation of the procedure for appeal against the orders of the Tribunal;
- (c) the constitution of the Committee; its powers and functions, the term of office of members; the resignation and removal of members and the appointment of the Chairman and Vice-Chairman of the Committee;
- (d) the employment of staff by the Committee, and their conditions of service;
- (e) the manner in which the funds required by the Committee shall be raised and spent;
- (f) the maintenance of accounts by the Committee, and the audit thereof;
- (g) the manner in which schemes under section 15 shall be framed; and
- (h) the manner in which Government shall control and supervise the activities of the Committee.

20. Any person who, after the commencement of Penalties. this Ordinance or the extension of all or any of the provisions of this Ordinance to a graveyard—

- (a) makes an encroachment or erects any building in an unauthorised manner in any part of the area of the graveyard;
- (b) puts any land or property within the limits of the graveyard to any use not in conformity with this Ordinance or any rules or a scheme framed thereunder;
- (c) damages any land or property included in the area of the graveyard; or
- (d) commits a breach of any of the provisions of this Ordinance or the rules or a scheme framed thereunder

shall on conviction by a Magistrate be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

21. No court shall take cognizance of an offence of offence under the Ordinance under this Ordinance except on the complaint of a person authorised by Government in this behalf.

22. Government may at any time dissolve the Dissolution of Committee. Committee, and transfer its assets, liabilities, and entrust its functions, and powers to a local body.

M. A. GURMANI
Governor of the Punjab

MASUD AHMAD
Secretary to Government, Punjab
Legislative Department