



Society

Administration

INTRODUCTION

- **Man cannot live alone** [Gen 2:18]
- **Human being is a social being and his life is community based**
- **Freedom of association emerges from creation and its evolution**
- **Art 19(1)(c) of Constitution of India**
“right of association – Statutory form – registered Organization.”
- **Art 19(u) restriction based on public order and morality**

The corporal works of mercy: A Christian Mandate

- **Be merciful as your Father is merciful** (Lk 6:36)
- **Love your neighbour as yourself** (Mk 12:31)
- **Biggest network of charitable organizations for the marginalized, the poor, the destitute, refugees, the differently abled, the women and children, etc.**
- **Non-profit – Community building activities**

The kingdom and the Religious Mandate

- **Evangelization – Go and preach the gospel all over the world.**
- **The object of evangelization breaks into different charisms according to our call, pastoral activities and signs of the times.**
- **Clergy and Religious.**
- **Koinonia or human fellowship.**
- **Love of God and love of the other.**

What is charity under law?

The term charity is defined by the Madras High Court as “an act of kindness and benevolence of whatever is given for the love of god or for the love of a neighbour, in the Catholic and the universal sense” and an active goodness to our fellow men fostering those institutions, that are established to relieve pain, to present suffering and to do good to mankind in general or to any class of mankind”.

- The above definition applies to all religions including Catholic Church (Ref. AIR 1960 Mad 467).**
- Sec 2(5) of the Income Tax Act 1961, defines the expression “charitable purpose” includes a) relief of the poor b) education c) yoga d) medical relief e) preservation of environment f) preservation of monuments or places of objects of artistic or historic interest and g) advancement of any other object of general public utility.**

Government Controlled Religious Charities

- **HR&CE – The Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959.**
- **Wakf Board – Wakf Act 1913.**
- **Referring the above, try to Constitute s Board to control our activities.**

The legal perpetuity of the Diocese and the Congregation

Our dioceses, parishes, vicariates, congregations, provinces are canonical entities but they do not have any legal perpetuity under civil law unless they gain legal perpetuity through a registered legal body (Ref. AIR 1950 All 480).

- As per canon 22, both civil law and canon law have to traverse together.**
- We are serious over the canonical compliances bur not the civil compliances.**
- Most of the time we outsource the duties of civil compliance to same auditors or accountants.**

Entity

- **Canonical Entity : (Ecclesiastical Body) – Permission, Name, Constitution**
- **Legal Entity :**
 - ✓ **Registered body as Trust under the Indian Trust Act, 1882**
 - ✓ **Company under the Companies Act**
 - ✓ **Society Under Tamil Nadu Society Registration Act, 1975.**
- **Canonical Structure and Legal Structure are parallel structures and complementing each other. We need to understand the interplay of both structures.**

Trust

- **Private Trust – having definite beneficiaries – No income Tax exemption**
- **Public Trust – having public at large as beneficiaries**
- **Minimum 3 members is required to register under Indian Trusts Act, 1882.**
- **Administration of Properties – more restrictions**
- **Permission from the Court for disposing properties**
- **Government will take over all assets if the public trust is defuncted.**

Society

- **Society is constituted when some people with similar ideals or values consciously come together to achieve the said ideals.**
- **Minimum 7 members are required to form society (Sec. 3).**
- **Society is registered under the Societies Registration Act 1860 or under the Tamil Nadu Societies Registration Act, 1975.**
- **As per Sec. 4(3) this Act is not applicable to the promotion of religion, athletics or sports.**
- **As per sec. 5, registration is optional for the promotion of religion.**
- **Society is a legal person under sec. 236 of Indian Succession Act.**

Memorandum of Association (Sec. 6)

- **It is a Substantial law to administer society**
- **Objects of the society are the fundamental Principles of the Society. The society cannot undertake any activity which is beyond the purview of the said society.**
- **MoA and Objects – reflect the soul and the spirit of the particular society.**
- **Constituting members – Name, address, and occupation**
- **One witness is required to witness in the MoA**
- **If our society is religious and charitable, comprised of religious and charitable objects.**
- **No commercial objects.**

Bye -laws (sec. 8)

- **Procedural Law**
- **Procedure of administration**
- **Day-to day activity**
- **Eligibility for membership : Governing Body and General Body**
- **Constitution of Governing body**
- **Sub-committees**
- **The rights and duties of the members**
- **The role and power of each of the office-bearers.**
- **Location of the registered office.**
- **Rules for conducting Governing Body Meetings**
- **Rules for Annual General Body Meeting.**
- **Rules for Extraordinary General Body Meeting.**
- **Role of different Committees.**



Registration Certificate (Sec. 10)

- ❖ **Serial Number with year**
- ❖ **Name of the society**
- ❖ **Signature of the registrar**

Name of the Society and Emblem

- ❖ **Specific Name – cannot be identical to another**
- ❖ **Emblem can be registered under copy Rights Act.**
- ❖ **Changing the name of the society can be done by a special Resolution with the approval of the registrar (sec. 11).**
- ❖ **Fresh certificate by the registrar**
- ❖ **New name has to be entered into the corresponding MoA and Bye-laws and have to be endorsed by the registrar.**
- ❖ **Name and emblem have to be reflected in the official seal of the society.**

Amendment to MoA and Bye-Laws (Sec. 12)

- ✓ **Special Amendment**
- ✓ **Resolution by the Governing Body**
- ✓ **Ratification by the General Body**
- ✓ **Special Resolution in the General Body with three fourth of majority of the voters present.**
- ✓ **It comes into effect from the date of passing of such resolution.**
- ✓ **Registering the amendment and the registrar shall issue a copy of the amendment certified by him to the registered society.**

Administration of Society

It includes:

- **Control of infrastructure**
- **Control of documents**
- **Control over the properties**
- **Control of finance**
- **Mode of investments**
- **Manner of Conducting, Governing Body Meeting, Annual General Body Meeting and Emergency General Bosity Meeting.**
- **Passing and Entry of Registration**
- **Conducting elections**
- **Conducting litigations**
- **Amalgamation and division of the society, etc.**
- **Other activities.**

Registered Office (Sec. 13)

- ❖ **Functioning in the permanent office in a specific address.**
- ❖ **Location of the office is mandatory for communication.**
- ❖ **Name of the society with registration member has to be displaced in a conspicuous manner in the registered office as per Form VI. The office hours have to be mentioned in the name board.**
- ❖ **If there is any change in the address of the society, it has to be filed with the registrar in Form No. V, within 3 months.**
- ❖ **New District – New number.**
- ❖ **The documents such as MoA, Bye-Laws, Register of Membership, Register of office Bearers, Minutes Book, Audited Statement have to be accessible for verification.**

Registered Members (Sec. 14)

- ❖ **Maintaining membership register with Name, Address and Occupation of each member.**
- ❖ **Governing Body has the power to accept and reject the membership.**
- ❖ **No one claim admission to a society as a matter of right on payment of prescribed subscription.**
- ❖ **The register of members has to be filed with the registrar in Form No. VI, within one month after the approval of the Governing Body.**
- ❖ **Annual Fee.**

The Governing Body or the Committee (Sec. 15)

- ❖ **Elected by the General Body for a maximum period of 3 years.**
- ❖ **No ex-officio member in the Governing Body.**
- ❖ **Not less than three members**
- ❖ **Re-appointment by election.**
- ❖ **Office-bearers like president, Vice President, Secretary, Treasurer are also elected by majority vote.**
- ❖ **Constitution of Sub-Committees by the Governing Body.**
- ❖ **Change in the Governing Body has to be filed in Form No. VII, within 3 months.**
- ❖ **Amendment introduced by DMK Government in 2000, that no office bearer can continue without break, for more than 2 periods and the same was repealed due to representation of the Bishops.**
- ❖ **Governing Body meetings are to be held at least twice in a year.**

Accounts and Audits (Sec. 16)

Records to be maintained under Rule 17AA of the Income Tax Act.

- **Cash Book**
- **Receipt Book**
- **Voucher Book**
- **Consolidating and separating accounts (Ledger)**
- **Monthly register of receipts and disbursement**
- **Auditing Statement before the General Body Meeting.**
- **Submission of Auditing statement along with minutes before the registrar.**
- **Keeping receipts, expenditure and balance sheet for verification.**
- **85% of total income for charitable purpose as provided by the MoA and Bye-Laws in every financial year,**
- **FCRA account has to be handled separately and prudently.**
- **No honorarium for members of Governing Body members.**



Investments and Funds (sec. 24)

- **No investment except in the Banks scheduled by the Government or in the Government securities or units or Bonds certified by the Government or Post office or Bank Accounts**
- **All investment should be made in accordance with provisions of sec. 11(5) of the Income Tax Act, 1961.**

Person to sue and to be sued (sec. 20)

- ❖ **Bye-laws have to clearly spell out who is the person to sue and to be sued on behalf of the society.**
- ❖ **There can be a clause in the bye-laws to authorize any member or office bearer to sue and to be sued in a particular field.**
- ❖ **The Governing Body has the 'Power of delegation' to defend the society in any civil or criminal proceedings.**
- ❖ **No personal liability but a member who inflicts injury or damages to the property of the society, can be prosecuted in the personal capacity as per the Bye-laws of the society.**

The Vesting of Properties (Sec. 18)

- **Movable and immovable properties are vested with the Governing Body/committee. Therefore, the properties of the society will not vest in the canonical office of the Bishop.**
- **The Bishops are only custodians of the said properties and have to administer the same as per the Bye-laws, to achieve the objects of the society.**
- **As per Sec. 19, any member of the society who steals, purloins or embezzles any money or other property... or forges any deed, etc.,... shall be subject to the prosecution...**
- **The property needs to be dealt with only by a resolution of majority of the Governing Body**

Annual General Body Meeting (Sec. 26)

- **It is the apex body for any registered society.**
- **The power of the Governing Body flows from the General Body.**
- **The Governing Body members and office bearers are elected only by General Body.**
- **At least one General Body meeting during every financial year.**
- **A notice to be circulated to all the members 21 days before the meeting. Notice will specify day, the hour and the place and it includes agenda.**
- **Appointment of auditors has to be done by the Governing Body and endorsed by the General Body every year.**
- **In case of any amendments either to MoA or Bye-Laws or Division or Amalgamation, draft copy of the same has to be enclosed.**
- **Observer can be deputed by the registrar.**
- **Annual Report of the society, the minutes of the previous meeting, the audited statement and the balance sheet have to be submitted to the registrar.**

Special Resolution (Sec. 27)

- **It requires approval from three fourth majority of voting members.**
- **It has to be filed before the registrar within three months from the passing of resolution**
- **It comes into effect only after the approval from the registrar, retrospectively from the date of resolution.**

Extraordinary General Body Meeting (Sec. 28)

- **Governing Body can call for Extraordinary General Body Meeting after a due notice on its own or at request in writing from such propotion of members as specified in the Bye-laws.**
- **Notice of one month is necessary.**
- **Rules of Notice and other formalities are applicable**

Minutes (Sec. 29)

- **Maintaining a separate book of minutes for the meetings of its Governing Body and General Body, separately**
- **It has to be entered serially in a book form and not in loose sheets.**
- **There should not be blank space, while writing the minutes, from the beginning till the end in reporting a single meeting. No page must be left blank in between the reporting of two meetings.**
- **It has to be signed by the chairman of the meeting on the same day or by the chairman of the next succeeding meeting.**
- **The Minutes Books and the Books of Accounts of the Registered Society have to be kept at the registered office.**

Amalgamations and Divisions (Sec. 30)

- **Two or more societies with similar objectives can be amalgamated by a special resolution, only with the prior approval of the registrar.**
- **A society can be divided into two or more societies by a special resolution, holding the same objectives with prior approval of the registrar.**
- **The list of assets, funds, institutions and territories are to be enclosed either in the division or amalgamation in the special resolution.**
- **Amalgamation or division will take effect only when the new society or societies are duly registered in accordance with law and not before.**

Cont...

- **Upon the registration of the new society or societies, the immovable properties are not automatically transferred to the new entity.**
- **The immovable properties have to be transferred only under the provisions of Transfer of Property Act. To avoid exorbitant expenditure for stamp duty the parent society can execute General Power of Attorney to the new society.**
- **The concession for stamp duty can be availed in settlement deeds if the acquiring society has 80G exemption.**
- **The registrar can reject the request of the society either for amalgamation or division of the societies.**

Supersession of the Governing Body/Appointment of Special Officer (Sec. 34A &

The Government may supersede the Governing Body for the following reasons:

- **Not functioning properly**
- **Mismanagement**
- **Violations through deviations from objects of the society or contravention of statutes and Bye-laws.**
- **Wilful disobedience to comply with lawful directions issued by the competent authorities.**
- **Special Officer will be appointed by the Government**
- **Remuneration to the Special Officer has to be paid from the funds of the society.**
- **The special officer will arrange to constitute the new committee as per the Bye-laws and the statute.**

Inspection and Winding up (Sec. 35, 36 & 40)

- **The Registrar has got enormous powers to inspect and enquire the management or the mismanagement of a registered society.**
- **The Registrar can look into its management and administration, its maintenance of records, activities, the handling of finance and properties and make a status report over the society.**
- **The said enquiry can commence either by his/her own motion or on the application of majority of the Governing body or on the application of the one third of the members of the society.**



Cont...

- **During the enquiry, the officer will have free access to all the Books, Accounts, and Documents and to examine any member or officer to record statements from them in respect of activities of the society.**
- **Any commission or omission by the society will be the subject of the enquiry.**
- **In case of continuous mismanagement, after the inspection, the Registrar can order the winding up of the society or can issue directions as he deems fit.**

Enquiry Report and Cancellation (Sec. 37 -39)

- **If the Registrar, finds any illegality, either in the society or in the institutions or premises under the control of the society, he/she can issue Show Cause Notice, as to why proceedings cannot be initiated for cancellation of registration of society.**
- **Once the registration is cancelled, the society can neither function nor conduct any business. However, it has to pass a special resolution on its own for dissolution of society.**
- **A special committee has to be constituted, from the members of the society, to complete the winding up proceedings of the society.**
- **Upon such resolution, the Liquidator will be appointed by the Registrar to commence the wind-up proceedings of the society.**
- **The society assets and liabilities including claims will be under his/her control and investigation.**
- **The Liquidator will decide the priority of claims and issue directions in this regard.**

Cont...

- **While dissolving the society, the properties and funds have to be disposed and settled as per the Bye-Laws. The members of the society have 'no lien' over the same.**
- **If the society or its units, had received any Grant/funds from the Government, for its institution or activities, the property and assets will be subject to pre-emptive lien of the Government.**
- **The documents pertaining to three consecutive financial years will be sufficient for the Registrar to decide the removal of the defunct society from the Register. Once the society is dissolved the name will be removed from the Register of Societies.**

Appeal Provision (Sec.45)

- **An appeal will lie in respect of refusal of registration, cancellation of registration, against order of inspection and enquiry of the Registrar or refusal for Amalgamation/Division, before the IG of Registration. Further Appeal will lie to the Government.**
- **Any order by the liquidator is appealable to the Civil Court. The order of the Government and that of the Civil Court is final.**
- **We can challenge the order of the Government or the Civil Court, before the High Court in the writ jurisdiction.**

Condonation of Delay, Lapses and Penal Provisions (Sec. 46- 50)

- **The delay in filing or lapses can be condoned by the Registrar up to 10 years. The delay upto 20 years can be condoned by the IG of Registration. Only the Government can condone any delay above 20 years.**
- **Any non-compliance has a penalty of fine of varying amounts.**
- **The Government has power to exempt any society from any provisions of the Act.**
- **The IG of Registration alone can grant sanction for criminal prosecution where the violations warrant criminal investigation**

Thank You

