

**THE ARUNACHAL PRADESH ANCIENT MONUMENTS, ARCHAEOLOGICAL
SITES AND REMAINS PRESERVATION
ACT, 1990.**

[The Bill was passed by the Arunachal Pradesh Provisional Legislative Assembly on 24th June, 1987 and became an act (No. 4. 1990) with the assent by the President of India on 5th May, 1990. The Act was notified in the Arunachal Pradesh Gazette, Vol. IV, No. 269, Dated 25th May, 1990]

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GOVERNMENT OF ARUNACHAL PRADESH
LAW AND JUDICIAL DEPARTMENT
NOTIFICATION
The 22nd May, 1990

No. LAW/LEGN – 7/76- The following Act of the Arunachal Pradesh Legislative Assembly which received the assent of the President is hereby published for general information.

(Received the assent of the President of India on 5th May, 1990)

**THE ARUNACHAL PRADESH ANCIENT MONUMENTS,
ARCHAEOLOGICAL SITES AND REMAINS PRESERVATION
ACT 1987
(Act. No. 4 of 1990)**

to provide for preservation of certain ancient and historical monuments and archaeological sites and remains and for the regulation of excavation of archaeological sites in Arunachal Pradesh, other than of those declared by parliament by law to be of national importance.

Be it enacted by the Legislative Assembly of Arunachal Pradesh in the Thirty – eight Year of the Republic of India as follows:-

**CHAPTER 1
PRELIMINARY**

Short title, extent and commencement

- I. (1) This act may be called the Arunachal Pradesh Ancient Monuments, Archaeological Sites and Remains Preservation Act, 1987.
- (2) It shall extend to the whole of Arunachal Pradesh.
- (3) It shall come into force at once.
- (4) Nothing in this act shall apply to protected monuments or protected areas as defined in clause (i) and (j) respectively of section 2 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and as declared under section 3 of the Ancient Monuments Preservation Act, 1904.

Definitions

2. In this Act, unless the context otherwise 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 one hundred years, and includes -

- (i) the remains of an ancient monument,
- (ii) the site of an ancient monuments,
- (iii) such portion of land adjoining the site of an ancient monument 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 Government, by notification in the Official Gazette, to be an antiquity for the purposes of this Act which has been existence for not less than one hundred years;

(c) “Archaeological Officer” means an officer of the Historical Archaeological section of the Department of Research, Government of Arunachal Pradesh and includes any officer authorised by the Government to perform the duties of the Archaeological Officer under this Act;

(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 one hundred years, and includes

- (i) such portion of land adjoining the area as may be required for fencing, covering in, or otherwise preserving it, and
- (ii) the means of access to, and convenient inspection of, the area;

(e) “Government” means the government of Arunachal Pradesh

(f) “maintain” with its grammatical variations and cognate expressions, includes the fencing covering in, repairing, restoring and cleaning of a protected monument and the doing of any act which may be necessary for the purpose of a protected monument or of securing convenient access thereto;

(g) “Owner” includes –

- (ii) a joint owner invested with power of management on behalf of himself and other owners and the successor-in-title of any such owner; and

(iii) 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 so by the Government under section 3 of this Act;

(j) “protected monument” means an ancient monument which is declared to be a protected monument under section 3 of this Act.

CHAPTER II

PROTECTED MONUMENTS AND PROTECTED AREAS

Power to declare protected monuments or protected areas

3. (1) The Government may, by notification in the Official Gazette, declare any ancient monument to be protected to be protected monument or any archaeological sites and remains to be protected areas for the purpose of this Act and a copy of every such notification shall be affixed in conspicuous place of such monument or archaeological site and remains as the case may be.

(2) Any person interested in such monument or archaeological sites and remains may, within sixty days from the date of issue of the notification, submit objections, if any, to such declaration to the Government.

(3) On the expiry of the said period of sixty days, the Government may, after considering the objections, if any, shall confirm or modify or withdraw the notification.

(4) A notification issued under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument or the archaeological site and remains to which it relates is a protected monument or a protected area, as the case may be.

Acquisition of rights in or guardianship protected monument

4. (1) The Government may purchase or take a lease of, or accept a gift or bequest of, any protected monument

(2) Where a protected monument is without any owner the government 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 Archaeological Officer the guardian of the monument, and the Archaeological Officer may, with the sanction of the Government, accept such guardianship.

(4) When the Archaeological Officer 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 Archaeological Officer had not been constituted guardianship thereof.

(5) When the Archaeological Officer has accepted the guardianship of a monument under sub-section (3) the provisions of this Act relating to agreements entered into under section 5 shall apply to the written agreements referred to in the said sub-section.

Preservation of protected monument by agreement

5. (1) The Archaeological Officer may, with the previous sanction of the Government purpose 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 duties of any person who may 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 or to Archaeological Officer to inspect or maintain the monument;
- (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 with 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 other matter connected with the maintenance of the monument,

(3) The 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 by 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 agreements 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.

Owners under disability or not in possession

6. (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 headman or other village-officer exercising powers 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 observances of that religion.

Application on endowment to repair protected monument

7. (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, 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 monuments 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 of any part thereof and any such order may be executed as if it were a decree of Civil Court.

Failure or refusal to enter into agreement

8. (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, the Government may make an order providing for all or any of the matters specified in sub-section (2) of 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 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.

Power to make order prohibiting contravention of agreement

9. (1) If the Archaeological Officer apprehends that the owner or occupier of a protected monument is likely 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, he 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 in any case where the Archaeological Officer for reasons to be recorded is satisfied that it is not expedient or practicable to do so.

(2) Any person aggrieved by another 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.

Enforcement of agreement

10. (1) If an owner or order 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 Government may fix, to do any such act which, in the

opinion of the Government is necessary for the maintenance of the monument, the Government 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 shall be final.

Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner

11. 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.

Compulsory acquisition of protected monuments

12. 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 provisions of the Land Acquisition Act, 1894, as if the maintenance of the protected monument were a public purpose within the meaning of that Act.

Maintenance of certain protected monuments

13. (1) The Government shall maintain every monument which has been acquired under section 12 or in respect of which any of the rights mentioned in section 5 have been acquired.

(2) When the Government has assumed the guardianship of a monument under section 4, it shall, for the purpose of maintaining such monument have access to the monument at all reasonable times by itself and by its agent, subordinates and workmen, for the purpose of inspecting the monument and for the purpose of bringing such materials and doing such acts as the Government may consider necessary or desirable for the maintenance thereof.

Voluntary contributions

14. The government may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by it:

Provided that on such contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed, without consent, in writing, of the donor.

Protection of place worship from misuse, pollution of desecration

15. (1) The 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 12, or 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 Government 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 person, if any in religious charge of the said monument or part thereof, any person not entitled to enter by the religious usages of the community by which monument or part thereof is used, or

(b) by taking such action as it may think necessary in this behalf.

Relinquishment of rights in monuments by Government

16. Where rights have been acquired by the Government in respect of any monument under this Act by virtue of any sale, lease, gift or will, the Government may by notification in the Official Gazette, relinquish 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.

Right of access to protected monuments

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

Right of access to certain protected monuments, restrictions on enjoyment of rights in protected area

18. (1) No person, including the owner or occupier of a protected monument or area shall construct any building within the protected area or carry on any mining, quarrying, excavating, blasting or any operation of alike nature in such area, or utilise 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 Deputy Commissioner may cause the building to be demolished and the person concerned shall be liable to pay the cost of such removal.

Power to acquire protected area

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

CHAPTER III

ARCHAEOLOGICAL EXCAVATIONS

Excavations in protected areas

20. An Archaeological Officer or an officer authorised by him in this behalf may, after giving notice, in writing, to the Deputy Commissioner and the owner, enter upon and make excavations in any protected area.

Excavations in area other than protected areas

21. 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 authorised by him in this behalf may, after giving notice in writing to the Deputy Commissioner and the owner, and subject to the provision of section 24 of the Ancient Monuments and archaeological Sites and Remains Act, 1958, enter upon and make excavations in the area.

Compulsory purchase of antiquities, etc; discovered during excavation

22. (1) Where, as 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 may be 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 of 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 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.

CHAPTER IV PROTECTION OF ANTIQUITIES

Power of Government to control moving of antiquities

23. (1) If the Government considers that any antiquities or class of antiquities ought not be removed from the place where they are without the sanction of the Government, the Government may, by notification in the Official Gazette, direct that any such antiquities or any class of such antiquities shall not be moved except with the written permission of the Government.

(2) Every application for permission under sub-section (1) shall be in such form and contain such particulars as may be prescribed.

(3) Person aggrieved by an order refusing permission may appeal to the Government whose decision shall be final.

Purchase of antiquities by the Government

24. (1) If the Government apprehends that any antiquity mentioned in a notification issued under sub-section (1) of section 23 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, the Government may make an order for the compulsory purchase of such antiquity at its market value and the Archaeological Officer 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 worship or observances.

CHAPTER V

PRINCIPLES OF COMPENSATION

Compensation for loss or damage

25. 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 on or excavation in, such land or the exercise of any other power conferred by this Act shall be paid compensation by the Government for such loss, damage or diminution of profits.

Assessment of market value or compensation

26. (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 section 52 of the Land Acquisition Act, 1894 so far as they can be made applicable:

Provided that, when making an enquiry under the said Land Acquisition Act, the Deputy commissioner shall be assisted by the two assessors one of whom shall be nominated by the owner and in case the owner fails to nominate as assessors within such reasonable time as may be fixed by the Deputy Commissioner in this behalf the Deputy Commissioner shall make enquiry by himself.

Delegation of powers

27. The Government may, by notification in the Official Gazette, 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.

Penalties

28. (1) Whoever-

- (i) destroys, removes, injures, alters, defaces, imperils or misuses a protected monuments; or
 - (ii) being the owner or occupier of a protected monument contravenes an order made
sub-section (1) of section 8 or under sub-section (1) of section 9;
 - (iii) removes from a protected monument, any sculpture, carving, images, bas-relief inscription or other like objects; or
 - (iv) does any act in contravention of sub-section (1) of section 18,
- shall be punishable with imprisonment which may extend to one year or with fine which may extend to ten thousand rupees or both.

(2) Any person who moves any antiquity in contravention of a notification issued under sub-section (1) of section 23 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 where it was removed.

Jurisdiction to try offences

29. No court inferior to that of a Magistrate of the first class shall try any offence under this act.

Certain offences to be cognizable

30. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, offences under clause (i) or clause (iii) of sub-section (1) of section 28 shall be deemed to be a cognizable offence within the meaning of that code.

Special provision regarding fine

31. Notwithstanding anything contained in section 29 of the Criminal Procedure Code 1973, it shall be lawful for any Magistrate of 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.

Recovery of amounts due to the Government

32. Any amount due to the Government from any person under this Act shall, on a certificate issued by the Archaeological Officer, be recoverable in the same manner as an arrear of public demand.

Protected monument which ceased to be such monument or area

33. If the Government is of the opinion that it is no longer necessary to preserve or protect any protected monument or protected area, it may, by notification in

the Official Gazette, declare that such monument or area shall cease to be protected monument or protected area for the purpose of this Act.

Power to make rules

34. (1) The Government may, by notification in the 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 right to access of the public to a protected monument or area and the fee, if any, to be charged thereof;
- (b) the form and contents of the report of an Archaeological Officer under clause (a) of sub-section (1) of section 22;
- (c) the form which application for permission under section 18 or 24 may be made and particulars which excavation and other like operations for archaeological purposes may be carried on;
- (d) the manner in which excavation and other like operations for archaeological purposes may be carried on;
- (e) any other matter which is to be or may be prescribed

(3) Any rule made under this section may also provide that a breach thereof shall be punishable;-

- (i) 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 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 thousand rupees.

K.A. Prabhakar Rao
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Itanagar