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Bombay Tenancy and Agricultural Lands, Act, 1948
Exemption under Section 88-B in
respect of lands held by
Public Trusts.

Government of Bombay,
 Revenue Department,
 Government Resolution No. TNC 5158/200456-M
 Sachivalaya, Bombay 16th December 1958.

RESOLUTION OF GOVERNMENT

Letter from the Collector of Kolhapur No. RB/TNC/WS 1666,
 dated 25th June 1958.

" Under Section 88-B(b) of the Amended Bombay Tenancy and Agricultural Lands Act, 1948, provisions of Section 32 are not applicable to the lands which are the property of a trust, for an educational purpose, (a hospital, Panjarpole, Gaushala) or an institution for public religious worship provided that such a trust is or is deemed to be registered under the Bombay Public Trust Act, 1950 and the entire income of such lands is appropriated for the purpose of such trust. Under Sub-Section(2) of Section 88-B for the purposes of such exemption a certificate granted by the Collector, after holding an enquiry shall be conclusive evidence that such a trust is exempted from the provision of Section 32 to 32-R under sub-section (1). In the instructions issued by the Government in Chapter II, para 22 page 14 of the Agricultural Lands Tribunal Manual it has, however, been stated that such lands will be eligible for exemption from the provisions of Section 32 to 32R only if the trust holding the land produces the certificate under Section 88B (2) from the Collector. If the trust cannot produce the certificate, the claim to exemption cannot be entertained.

In my view, these instructions appear to be contrary to the provisions of Sub-Section 2 of Section 88-B which clearly provide that a certificate granted by the Collector shall be conclusive evidence that a trust is exempted from the provisions of Section 32 to 32R. It does not mean that it is obligatory for the trust to get such evidence if it is able to produce some other evidence and satisfy

(P.T.O.)

Necessary amendment be made in

(3)

the condition (i) and (ii) of the proviso to Clause B of Sub-Section (1). Under Rule 52 as introduced by Revenue Department Notification No. TNC-5857/138821-M dated 13th November 1957 and published in Bombay Government Gazette, Part IV dated 21st November 1957, it is clearly indicated that a trustee may make an application in writing to the Collector for such a certificate under section 88-B. Thus it appears that production of a certificate of the Collector under Sub-Section(2) of Section 88B cannot be made obligatory.

This matter was discussed with the Commissioner in the Collectors' Conference and it may kindly be referred to Government for clarification and for suitable amending instruction in para 22 of the Agricultural Lands Tribunal Manual."

Endorsement from the Commissioner, Poona Division No. TNC 9 dated 23rd July 1958.

" Submitted to Government in the Revenue Department, Bombay, in agreement with the Collector."

2. In the circumstances reported by the Collector, Government may please be modify suitably the instructions in paragraph 22 of the Agricultural Lands Tribunal Manual.

RESOLUTION: Government is pleased to direct that paragraph 22 of the Agricultural Lands Tribunal Manual should be substituted by the following paragraph:-

" 22. In the case of lands falling in category (3), the lands should be held to be eligible for exemption from the provisions of Sections 32 to 32-R if the trust holding the land produces a certificate under section 88-B (2) from the Collector. If the trust has not already obtained such certificate from the Collector it may either be advised to obtain such certificate by making an application as required under Rule 52 of the Bombay Tenancy and Agricultural Lands Rules, 1956 or the Mamlatdar may himself hold an enquiry for enquiry for finding out whether the lands held by such trust within his jurisdiction satisfy the conditions laid down in Column (b)

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of sub-section (1) of Section 88-B. If he is so satisfied, he may hold that the lands in question are exempted from the provisions of Sections 32- to 32-R and proceed accordingly."

By order and in the name of the
Governor of Bombay,

(K.G. BADLANI).
Under Secretary to the Government.

To:

The Commissioners of Divisions (except the Commissioner,
Nagpur Division.)

All Collectors in Bombay, Poona and Ahmedabad Divisions,

The Collector of Amreli,

The Collector of East-Khandesh,

The Land Reforms Implementation Officer,

All Prant Officers,)

All Mamlatdars,)

All Mahalkaris)

Under the above Collectors only

No. TNC. 5158-A-2112 of 1958.

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