

3[41A. Power of Commissioner to issue directions 1[for proper administration of the trust].-(1) Subject to the provisions of this Act, the Charity Commissioner may from time to time issue directions to any trustee of a public trust or any person connected therewith, to ensure that the trust is properly administered, and the income thereof is properly accounted for or duly appropriated and applied to the objects and for the purposes of the trust; and the Charity Commissioner may also give directions to the trustees or such person if he finds that any property of the trust is in danger of being wasted, damaged, alienated or wrongfully sold, removed or disposed of.

(2) It shall be the duty of every trustee or of such person to comply with the directions issued under sub-section (1).

### Notes

While sections 39 to 41 are for the purpose of dealing with matters of losses already caused to the public trusts, Section 41A is for the purpose of ensuring that the trust is properly administered, and the income thereof is properly accounted for or duly appropriated and applied to the objects and for the purposes of the trust. Further, the purpose of section 41A is also to prevent waste, damage, alienation or wrongful sale, removal or disposal of the property of the trust.

Sub-section (2) of Section 41A provides that it shall be the duty of every trustee or of any person connected with the public trust to comply with the directions issued by the Charity Commissioner. Failure without reasonable cause to comply with directions issued under this section would be an offence punishable with fine which may extend to Rs. 1,000/-. See Section 67.

The provisions of Section 41A are intended for securing regulation and control of the administration and management of public trusts and the section was inserted by Mah. Act No. 20 of 1971.

✓ 2[41AA. Power of Charity Commissioner and State Government to issue directions in respect of hospitals, etc. to earmark certain beds etc. for poorer patients to be treated free of charge or at concessional rates.-(1) Notwithstanding anything contained in any law for the time being in force or in any instrument of trust or in any contract or in any judgment, decree or order of any Court, Tribunal, Charity Commissioner or other Competent authority, in the case of any State-aided public trust, whose annual expenditure exceeds five lakhs of rupees, or such other limit as the State Government may, from time to time, by notification in the Official Gazette specify, with a view to making essential medical facilities available to the poorer classes of the people, either free of charge or at concessional

1. This words were Ins. in the Marginal Note by 8 of 1985, w.e.f 1-8-86.

2. Section 41AA Ins. ibid. 3. Secs. 41A to 41E Ins. by Mah. 20 of 1971.



S. 41AA]Power of Cha. Comm. to issue directions to Hospitals [63

rates, it shall be lawful for the Charity Commissioner, subject to such general or special order as the State Government may, from time to time, issue on this behalf, to issue all or any of the following directions to the trustees of, or persons connected with, any such trust, which maintains a hospital (including any nursing home or maternity home), dispensary or any other centre for medical relief (hereinafter in this section referred to as "the medical centre") namely:--

- (a) having regard to the accommodation and facilities available to keep admission to the medical centre open to any person without any discrimination on the ground of religion, race, caste, sex, place of birth, language or any of them :

Provided that, where medical centre is exclusively for females, treatment for any males at such centre shall not be insisted upon;

- (b) to reserve and earmark ten per cent of the total number of operational beds and ten per cent. of the total capacity of patients treated at such medical centre, for medical examination and treatment in each department of the medical centre, in such manner as may be specified in the directions, of the indigent patients seeking admission or treatment, who shall be medically examined and treated and admitted, as the case may be, free of charge ;
- (c) to reserve and earmark ten per cent. of the total number of operational beds and ten per cent. of the total capacity of patients treated at such medical centre, for medical examination and treatment in each department of the medical centre in such manner as may be specified in the directions, for the weaker sections of the people seeking admission for medical examination and treatment, who shall be charged according to such rates as the State Government may, by general or special order, determine from time to time, having regard to the rates charged by the State Government in the corresponding medical centres maintained by it ;
- (d) to comply with such other incidental or supplemental requirements as may be specified in the directions or in any general or special orders issued thereunder : /

Provided that while issuing any directions as aforesaid the Charity Commissioner shall take into consideration such facilities as are already made available by any such medical centre and having regard to the availability of such facilities may give appropriate directions if any, consistent with and subject to the percentage specified in clauses (b) and (c). /

- (2) (a) It shall be lawful for the officer duly authorised by



the State Government in this behalf, or for the Charity Commissioner by himself or through his representative duly authorised by him in this behalf, to verify the implementation of the directions given under sub-section (1) to any medical centre, and, for that purpose, visit, inspect and call for information and returns periodically or otherwise.

(b) It shall be the duty of every trustee of, or person connected with, such medical centre to comply with the directions issued under sub-section (1) and to afford all reasonable facilities and assistance required by the said officer or the Charity Commissioner or his representative for verification of the implementation of such directions under clause (a) and to comply with the requirements thereunder.

(c) In case there arises any dispute relating to the interpretation, implementation or any matter whatsoever in respect of any direction issued under sub-section (1), it shall be referred to the State Government, through the Charity Commissioner, for appropriate directions.

(3) Nothing in sub-sections (1) and (2) shall prejudicially affect any medical facilities of whatever nature which any such State-aided public trust has provided by virtue of any condition subject to which any grant, exemption, concession, etc. referred to in clause (a) of sub-section (4) has been granted or received by it or otherwise and such medical facilities which are in operation on the date of commencement of the Bombay Public Trusts (Amendment) Act, 1984, (Mah. VIII of 1985), shall continue as before if they exceed the percentage of reserved and earmarked category.

(4) For the purposes of this section,--

(a) "State-aided public trust" means a public trust exclusively for medical relief or for medical relief and other charitable purposes; which maintains a hospital (including any nursing home or maternity home), dispensary or any other centre for medical relief, and which--

- (i) has received any grant of land or building, either on ownership basis or on lease or leave and licence, at a nominal or concessional rate, from the State Government or the Central Government or any local authority ; or
- (ii) has been given by the State Government any exemption or permission to continue to hold any vacant land under section 20 or 21 of the Urban Land (Ceiling and Regulation) Act, 1976 (XXXIII of 1976) ; or
- (iii) has been given any concession or exemption or relaxation of a substantial nature from the Development Control Rules by any competent authority for the purpose of the trust ; or



- (iv) has received any loan or guarantee or any non-recurring grant-in-aid or other financial assistance or is receiving any recurring grant-in-aid or other financial assistance from the State Government, the Central Government or any local authority.
- (b) "indigent person" means a person whose total annual income does not exceed three thousand and six hundred rupees or such other limits as the State Government may, from time to time, by notification in the Official Gazette, specify;
- (c) "person belonging to the weaker sections of the people" means a person who is not a indigent person, but whose income does not exceed fifteen thousand rupees per annum or such other limit as the State Government may, from time to time, by notification in the Official Gazette, specify ;
- (d) it shall be the duty of the governing body (by whatever name called) of every medical centre to get the category of a patient duly verified and recorded in a register kept for the purpose in the prescribed form because he is admitted or treated as a patient within the reserved and earmarked percentage under sub-section (1). If there is any dispute as to the category of a patient, it shall be referred to the State Government, through the Charity Commissioner, for the appropriate direction.

(5) Notwithstanding anything contained in the foregoing provisions of this section, any person, who desires to undergo an operation for sterilization or an intra ocular operation or who desires to undergo any operation or medical treatment specified by the State Government in this behalf, shall not be entitled, and shall not be allowed, to seek admission in any hospital or other medical centre in the reserved or earmarked quota provided under this section].

**41B. Power to institute inquiries.**-(1) On receipt of a complaint in writing from any person having interest in respect of any public trust or *suo motu* the Charity Commissioner or Deputy or Assistant Charity Commissioner may institute an inquiry with regard to charities, or a particular charity or class or charities either generally, or for particular purposes.

(2) The officers aforesaid may either hold the inquiry themselves, or entrust such inquiry to the officer authorised under sub-section (1) of section 37.

(3) For the purpose of any such inquiry, the officer holding the inquiry may, by notice, require any person to attend at a specified time and place and give evidence or produce documents in his custody or control which relate to any matter in question