

THE HIMACHAL PRADESH FREEDOM OF RELIGION ACT, 2019

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THE HIMACHAL PRADESH FREEDOM OF RELIGION ACT, 2019

(Act No. 13 of 2019)¹

(Received the assent of the Governor on the 29th October 2019 and was published in Rajpatra, Himachal Pradesh, dated 6th November 2019, pp.7635-7644)

An Act to re-enact the law to provide freedom of religion by prohibition of conversion from one religion to another by misrepresentation, force, undue influence, coercion, inducement or by any

1. For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh, dated 31st August, 2019 pp. 5399, 5400 and 5405.

fraudulent means or by marriage and for matters connected therewith and incidental thereto.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Seventieth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Himachal Pradesh Freedom of Religion Act, 2019.

(2) It shall come into force on such date¹ as the State Government may, by notification in the Rajpatra (e-Gazette), Himachal Pradesh, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “coercion” means compelling an individual to act against his will by use of psychological pressure or physical force causing bodily injury or threat thereof;
- (b) “conversion” means renouncing one religion and adopting another;
- (c) “fraudulent” means to do a thing with intent to defraud;
- (d) “force” includes a show of force or a threat of injury of any kind to the person converted or sought to be converted or to any other person or property including a threat of divine displeasure or social ex-communication;
- (e) “Government or State Government” means the Government of Himachal Pradesh;
- (f) “inducement” means and includes offer of any temptation in the form of any gift or gratification or material benefit, either in cash or kind or employment, free education in reputed school run by any religious body, easy money, better lifestyle, divine pleasure or otherwise;
- (g) “minor” means a person under eighteen years of age;
- (h) “prescribed” means prescribed by rules made under this Act;
- (i) “religion” means any organized system of faith, belief, worship or lifestyle, as prevailing in India or any part of it, and defined under any law or custom for the time being in force;

1. Act came into force from 18th December, 2020 vide Notification No. Home C(A) 1-5/2012. dated, 18th December, 2020 published in the Rajpatra, Himachal Pradesh, dated 18th December, 2020 p 6008.

- (j) “religious priest” means priest of any religion who performs purification Sanskar or conversion ceremony of any religion and by whatever name he is called such as pujari, pandit, mulla, maulvi, father etc.; and
- (k) “undue influence” means the unconscientious use by one person of his power or influence over another in order to persuade the other to act in accordance with the will of the person exercising such influence.

3. Prohibition of conversion from one religion to another by misrepresentation, force, fraud, undue influence, coercion, inducement or marriage.—No person shall convert or attempt to convert, either directly or otherwise, any other person from one religion to another by use of misrepresentation, force, undue influence, coercion, inducement or by any fraudulent means or by marriage; nor shall any person abet or conspire such conversion:

Provided that, if any person re-converts to his parent religion, it shall not be deemed to be a conversion under this Act.

4. Punishment for contravention of provisions of section 3.—Whoever contravenes the provisions of section 3 shall, without prejudice to any civil liability, be punished with imprisonment for a term, which shall not be less than one year but which may extend to five years and shall also be liable to pay fine:

Provided that whoever contravenes the provisions of section 3 in respect of a minor, a woman or a person belonging to the Scheduled Caste or Scheduled Tribe shall be punished with imprisonment for a term which shall not be less than two years but which may extend to seven years and shall also be liable to pay fine :

5. Marriages done for sole purpose of conversion to be declared null and void.—Any marriage which was done for the sole purpose of conversion by a person of one religion with a person of another religion either by converting himself before or after marriage or by converting the other person before or after marriage may be declared null and void by the Family Court on a petition presented by either party thereto.

6. Court to which petition shall be presented.—Every petition under section 5 shall be presented to the Family Court or where Family Court is not established, the Court within the local limits of whose ordinary original civil jurisdiction,—

- (i) the marriage was solemnized; or
- (ii) the respondent, at the time of the presentation of the petition, resides; or
- (iii) the parties to the marriage last resided together; or

- (iv) in case the wife is the petitioner, where she is residing on the date of presentation of the petition.

7. Declaration before conversion of religion and pre-report about purification Sanskar.—(1) One who desires to be converted to other religion, shall give a declaration at least one month in advance, on the proforma as may be prescribed, to the District Magistrate or the Executive Magistrate specially authorized by the District Magistrate, of his intention, to convert his religion on his own volition or free consent and without any force, coercion, undue influence, inducement or fraudulent means:

Provided that no notice shall be required if a person re-converts to his parent religion.

(2) The religious priest, who performs purification Sanskar or conversion ceremony for converting any person of one religion to another religion, shall give one month's advance notice of such Sanskar or conversion ceremony, on the proforma as may be prescribed, to the District Magistrate or any other officer appointed for that purpose by the District Magistrate of the district where such ceremony is proposed to be performed.

(3) The District Magistrate, after receiving the information under sub-section (1) and (2), shall conduct an inquiry through police or such agency as he deems fit, with regard to intention, purpose and cause of proposed conversion.

(4) Contravention of sub-section (1) or sub-section (2) shall have the effect of rendering the said conversion, illegal and void.

(5) Whoever contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which shall not be less than three months, but may extend to one year and shall also be liable to pay fine.

(6) Whoever contravenes the provisions of sub-section (2) shall be punished with imprisonment for a term which shall not be less than six months, but may extend to two years and shall also be liable to pay fine.

8. Prosecution to be launched with the prior sanction.—No prosecution for an offence under section 7 shall be instituted by any person except by or with the previous sanction of the District Magistrate or such other authority not below the rank of a Sub-Divisional Magistrate, as may be authorized by the District Magistrate in this behalf.

9. Punishment for violation of provisions of the Act by an institution or organization.— If any institution or organization violates the provisions of this Act, the person or persons in charge of the affairs of the organization or institution, as the case may be, shall be subject to the punishment as provided under section 4 and the registration of such organization or institution under any

law for the time being in force may be cancelled after giving a reasonable opportunity of being heard.

10. Prohibition on accepting donation or contribution.—Notwithstanding anything contained in any other law for the time being in force, no person or organization violating the provisions of this Act shall be allowed to accept any donation or contribution of any kind from within or outside the country.

11. Parties to offence.—When an offence is committed under this Act, —

- (i) every person who actually does the act which constitutes the offence;
- (ii) every person who does or omits to do any act enabling or aiding another person to commit the offence;
- (iii) every person who aids or abets another person in commission of the offence; and
- (iv) every person who counsels or causes any other person to commit the offence.

shall be deemed to have taken part in the commission of such offence and be guilty thereof and shall be charged as if he had himself committed the offence.

12. Burden of proof.—The burden of proof as to whether a religious conversion was not effected through misrepresentation, force, undue influence, coercion, inducement or by any fraudulent means or by marriage lies on the person so converted and, where such conversion has been facilitated by any person, on such other person.

13. Offences to be cognizable and non-bailable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) every offence committed under this Act shall be cognizable and non-bailable.

14. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Rajpatra (e-Gazette), Himachal Pradesh, make provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the purpose of removing such difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislative Assembly.

15. Power to make rules.— (1) The State Government may, by notification in the Rajpatra (e-Gazette), Himachal Pradesh, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act, shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than ten days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

16. Repeal and savings.—(1) The Himachal Pradesh Freedom of Religion Act, 2006 is hereby repealed.

(2) Notwithstanding such repeal, any action taken or anything done under the Act so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.
