

Justice V.C.Misra
Chairman

U.P. State Law Commission
Lucknow

R. Vi.Aa-601/Shodh-8/2009
Dated: Feb 4, 2010

Dear Chief Minister/Law Minister,

I have great pleasure in forwarding herewith **Fifth Report, 2010** of the State Law Commission proposing an enactment by the Legislature of the State on “**The Uttar Pradesh Prevention of Defacement of Property Act, 2010.**”

Defacement of property is a growing menace in the towns and cities of the State of Uttar Pradesh and the sight of banners, posters and other kinds of defacement on public and private property is not uncommon. The agencies carry out action against the defacement in their areas from time to time under different provisions of Indian Penal Code and the relevant Municipal Acts.

However, to maintain the aesthetic beauty of the different towns and cities of the State of Uttar Pradesh particularly those places where several tourists, pilgrims and travellers visit daily, it was felt by the Commission that the said provisions were largely ineffective.

Hence, to take appropriate stringent actions in this regard, the Commission decided to take up the matter *suo-motu* on the subject and prepared a report with a Model Draft Bill titled “**The Uttar Pradesh Prevention of Defacement of Property Act, 2010.**” The report contains the recommendations on proposed legislation. The Model Draft of the proposed Act is annexed as Annexure-I to the report.

Yours Sincerely

(Justice V.C.Misra)

Sushri Mayawati,
Chief Minister/Law Minister
Uttar Pradesh

Encl: A Report with Draft of Proposed Legislation

UTTAR PRADESH STATE LAW COMMISSION

FIFTH REPORT OF HON'BLE MR. JUSTICE V.C.MISRA

FIFTH-REPORT, 2010

ON

PROPOSED

BILL

OF

THE UTTAR PRADESH PREVENTION OF

DEFACEMENT OF PROPERTY

ACT, 2010

UTTAR PRADESH STATE LAW COMMISSION

FIFTH-REPORT, 2010

PROPOSED LEGISLATION

ON

THE UTTAR PRADESH PREVENTION OF DEFACEMENT

OF PROPERTY ACT, 2010

CONTENTS

CHAPTER	PAGE
1. Introduction	1-6
2. Legal Scenario	7-17
3. Defacement of Properties Law in India	18-24
4. Conclusion	27-27
5. Recommendations	28-30
Annexure-I	Proposed Model Draft Bill

UTTAR PRADESH STATE LAW COMMISSION
FIFTH-REPORT, 2010
ON
THE UTTAR PRADESH PREVENTION OF DEFACEMENT OF
PROPERTY ACT, 2010

CHAPTER-1

INTRODUCTION

1.1 A common complaint often heard from the public and also from the tourists and pilgrims is about the defacement of heritage sites and signage all over the Uttar Pradesh. The defacement of heritage sites, structures, signage, compound walls, public places all over Uttar Pradesh is destroying the natural beauty, cleanliness and environment of the State. From tourism point of view this creates a very bad impression about the place. Signage often covered with posters and publicity material results in inconvenience to tourists, pilgrims and travelers. Therefore, it is necessary to take stringent measures to put an end to the practice of defacing places open to public view by pasting pamphlets, posters, banners or writing or marking with inks, chalk, paint etc.

1.2 Defacement of property is a growing menace in Uttar Pradesh and the sight of banners, posters and other kinds of defacement on property is not uncommon. The agencies carry out action against the defacement in their areas from time to time under different provisions of Indian Penal Code and the relevant Municipal Acts. However, to maintain the aesthetic beauty of the different towns and cities of the State of Uttar Pradesh particularly those places where several tourists, pilgrims and travelers visit daily, it was felt by the Commission that the said provisions were largely ineffective. Hence, to take appropriate stringent actions in this regard, the Commission decided to take up the matter *suo-motu* and to submit a report with a Model Draft Bill to the State Government to enact a suitable legislation by the State Legislature to achieve the above objects.

1.3 The Article 49 of the Constitution of India provides:

“49. Protection of monuments and places and objects of national importance- It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.”

1.4 Sub clause (iii) of Clause (c) of Sub section (2) of Section 6 of the Ancient Monuments And Archaeological Sites And Remains Act, 1958 (No. 24 of 1958) restrict the owner’s right- to destroy, remove, alter or deface the monument.

1.5 In Rajeev Mankotia vs. The Secretary to the President of India and others, AIR 1997 SCC 2766, Hon’ble Supreme Court observed:

“We avail this opportunity to direct the government of India to maintain all national monuments under the respective Acts referred to above and to ensure that all of them are properly maintained so that the cultural and historical heritage of India and the beauty and grandeur of the monuments, sculptures secured through breathless and passionate labour workmanship, craftsmanship and the skills of the Indian architects, artists and masons is continued to be preserved. They are pride of Indians and places of public visit.”

1.6 Long back in the year of 1994 Election Commission of India in its letter No. 3/7/94/J.S.II, dated 5th January, 1994 has suggested the enactment of special laws by the State Governments if the existing provisions of the law do not make adequate provisions for dealing with the menace effectively. Some of the State Government have, in fact, enacted such special legislations. But the Commission is not aware of any such action whatsoever having been taken by any State Government against any of the offenders indulging in such undesirable activities.

1.7 The Election Commission of India has issued the

Model Code of Conduct, for the guidance of the political parties and candidates. Under General Conduct it also provides in Item (6) as follows:

“6. No political party or candidate shall permit its or his followers to make use of any individual’s land, building, compound wall etc., without his permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc.”

1.8 Election Commission of India in its letter No. 3/7/2008/JS-II, dated 7th October, 2008 addressed to the Secretary to the Government of India, Ministry of Home Affairs, New Delhi, the Chief Secretaries and the Chief Electoral Officers of all States and Union Territories issued a comprehensive set of guidelines regarding prevention of defacement of property like defacement of public places, defacement of private places, defacement of halls/auditoriums and other public property and defacement of vehicles. **In this letter also Commission has emphasized for the enactment of special laws by the State Government for dealing with defacement of properties effectively.**

1.9 It has been rightly said by a political scientist known as Colin Leys that ‘**public is being differentiated into a hierarchy of individuals**’ because no matter how much the society develops, how much it gets civilized, the people in power will always be able to exploit the non-privileged masses in one way or the other.

1.10 It is an accepted fact that the most privileged class in the society is one with whom the leadership resides i.e. The decision makers or in more contemporary terms we call them political leaders. They constitute the powerful portion of the society. Many times, at the time of elections the political leaders and their workers do cause inconvenience to the public at large in number of ways, the most common being the noisy loudspeakers, road blocks, posters, flags, ink marks etc., visible all round, and the poor public is left with no other option but to bear with these problems, because there are various examples in the past where the people in power did wrongful acts to achieve their goals, but evidently nothing substantial could be

done against them. So the general perception that prevails in the society is that, the laws and rules are meant for the poor and not for the privileged classes. The most recent and widespread menace which has gained momentum in the past few years is the continuous defacement of public & private properties during & before the elections by the workers of the political parties, associations and organizations.

1.11 Painting the walls or marking with ink, chalk etc., is a common practice amongst the supporters and the sympathizers of the political parties especially at the time of elections and on the occasion of different celebrations. Banners, political, religious and social messages and films and commercial posters deface and damage walls, structures, government installations, public and private properties, but stops and roads, footpath and gardens. This is what broadly constitutes defacement. In its literal since it is symbolic of disfiguring or impairing.

1.12 Defacement is responsible for deterioration of aesthetic beauty of the environment around us because pasted hand bills, pamphlets, posters, wall writings etc. are visible all around. The owner of the defaced properties are left with only one option either to get their property cleansed by theirself or to appoint someone to remove the material that caused such defacement at their own expenses. This is unreasonable interference and sort of nuisance on the part of people responsible for such defacement as they intrude into the right of the owner of the property to enjoy his property. It is a settled fact that any person who willfully or maliciously injures, defaces, removes or destroys any tomb, monument, gravestone or other material of the dead, or any fence or any enclosure about any tomb, monument, gravestone or memorial, or who willfully and wrongfully destroys, removes cuts, breaks or injures any tree, shrub, plant, flower, decoration, or other real or personal property within any cemetery or graveyard may be found guilty of criminal defacement.

1.13 As there is no law on the Defacement of Property, in the State of Uttar Pradesh, Commission is of the view that

ancient monuments and remains and public and private properties be protected from any defacement or disfigurement. It is felt by the Commission that there should be a special legislation in this regard. Hence, discussed on the issue on various dates at length and entrusted the task to Sri Ishwar Dayal, Full-time Member of the Commission to research upon the matter in the light of discussions at various meeting held at Commission's Headquarter and its Camp Office at Allahabad with all possible assistance of Sri V.K.Mathur, Ex-Officio, Member and Prof. Balraj Chauhan, Part-time Member of the Commission and to draft a report and a Model Draft Bill.

1.14 On the basis of various discussions at various level a Draft Report with a Model Draft Bill prepared by Sri Ishwar Dayal, Member, was finally circulated to all the Members of the Commission and their views were invited thereon. The view on the Draft Report and Bill was discussed at a meeting of the Commission held on 15 January, 2010. The report of the Commission proposing enactment by the Legislature of the State titled "The Uttar Pradesh Prevention of Defacement of Property Act, 2010," to be submitted to the State Government, has been finally settled, approved and signed by the Chairman and the Members of the Commission at its meeting held on 4 February, 2010.

1.15 The proposed Bill, which has fourteen Sections, apart from the other provisions, defines "**defacement**" as impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any other way whatsoever, **place open to public view** includes any private place or building, public offices, hut, monument, statue, water pipe line, structure, wall including compound wall, retaining wall, tree, fence post, pole or any other erection, **public place** means any place including a road, street or way whether a thoroughfare or not and a landing place to which the public are granted access or have a right to resort or over which they have a right to pass, **Writing** includes decoration, lettering, ornamentations, drawing caricature and other modes for representing or reproducing words or figures in a visible form. The offence punishable under the Act shall be cognizable and compoundable. A cognizable offence is one where the Police

Officer can arrest a person without warrant. Any person can lodge a F.I.R. regarding defacement of property with the Police Station concerned the matter will be tried by the court of competent jurisdiction. The offence is compoundable by such officers and authorities mentioned in Section 3. The provisions of this Act shall not be applicable to those advertisements which are mentioned in the proviso of Sub-section (1) of Section 4. Section 4(1) of the Act provides that whoever by himself or through any other person defaces any place open to public view by defacing or pasting pamphlets, posters, banners or writing or marking with ink, chalk, paint or any other material or method shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both. The Act further provides punishment for attempt to commit offence and for abettors and where any offence committed is for the benefit of some other person or entity then such other person or office bearers/owners/manager/officers/agents of the entity shall also be liable to be punished for the offence.

1.16 We wish to express our appreciation for valuable services and assistance received from Shri Santosh Kumar Pandey, Secretary, Law Commission, in preparation of the report and assisting the Commission.

1.17 Finally, we also acknowledge the valuable services and assistance rendered by the other officers and officials of the Commission in the preparation of the report.

CHAPTER-2

Legal Scenario

2.1 The State is under the duty to protect every monument or place or object of artistic or historic interest, declared by or under a law of Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export. In this regard the **Article 49 of the Constitution of India provides:**

“49. Protection of monuments and places and objects of national importance- It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.”

2.2 Sub clause (iii) of Clause (c) of Sub section (2) of Section 6 of The Ancient Monuments And Archaeological Sites and Remains Act, 1958 (No. 24 of 1958) restrict the owner’s right-

“(iii) to destroy, remove, alter or deface the monument.”

2.3 In Rajeev Mankotia vs. The Secretary to the President of India and others, AIR 1997 SCC 2766, Hon’ble Supreme Court observed:

“We avail this opportunity to direct the government of India to maintain all national monuments under the respective Acts referred to above and to ensure that all of them are properly maintained so that the cultural and historical heritage of India and the beauty and grandeur of the monuments, sculptures secure through breathless and passionate labour workmanship, craftsmanship and the skills of the Indian architects, artists and masons is continued to be preserved. They are pride of Indians and places of public visit.”

2.4 In the light of above provisions of the Constitution of India and the Ancient Monuments and Archaeological Sites And Remains Act, 1958 (No. 24 of 1958) and the

directions of the Hon'ble Supreme Court, Commission is of the opinion that such ancient monuments and remains be protected from any defacement or disfigurement. Commission is also of the opinion that all public and private properties be protected from any defacement or disfigurement.

2.5 It is the duty of every citizen of India to safeguard public property and to abjure violence. In this regard **Article 51-A of the Constitution of India** provides fundamental duties of every citizen of India. Clause (i) of Article 51-A of the Constitution of India runs as follows:

“(i) to safeguard public property and to abjure violence;”

2.6 A duty is also imposed on members of public, who are required to assist a Magistrate or police officer, in the prevention of injury to railway, canal, telegraph or public property. Penalty for omission to do so is provided in **section 187 of Indian Penal Code**. In this respect **section 37** provides that, “every person is bound to assist a Magistrate or police officer reasonably demanding his aid;

(c) in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.”

2.7 The demand made on the public should be “reasonable”. Obviously the law does not intent that police officer should have a general power of calling upon members of the public to join them in doing the work for which they are paid, such as tracing out the whereabouts of an absconding criminal or collecting evidence to warrant his conviction (**Joti Prasad, (1920) 42 ALL 314**).

2.8 Offence of Public nuisance has been defined under section 268 of the Indian Penal Code, 1860 thus:

“**268. Public nuisance-** A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.”

2.9 In Anand Mohan vs. Union of India & others (2007 (1) AWC 24) Division Bench of Allahabad High Court, on a Public Interest Litigation on problem of public nuisance caused by students (their leaders and supporters) during election of students’ union in University/Colleges issued four directions, under para 28 of the judgment of which one and four are more relevant for this report, which are reproduced below:

“1. A student candidate in any election of College/University in future, shall be deemed disqualified; if he or his supporters-directly or indirectly, indulge/s, in ‘wall-wring’ pasting posters, fixing banners inside or outside educational institution in question or in this respect acts in breach of “Election Code of Conduct’ if any.”

“4. any student, including ‘election candidate’ who create ‘public nuisance’ in any manner-particularly by writing on walls, fence, signboards, or cause damage to public/private buildings, vehicles etc. shall earn an entry ‘to this effect’ in his transfer/Migration Certificate or Character Certificate.”

In the above case an order dated 23.11.2005 was also passed by the Hon’ble Court, a relevant extract of which is reproduced-

“

Election Code (in Hindi) purported to have been issued by G.K.Rai, President, Nyasi Mandal, Allahabad University Union Election 2005-06 has been placed before us. From perusing aforesaid Election Code, it is clear that apart from other things, it strictly prohibits placing/fixing or installation and/or walls/buildings spoiling or damaging hoardings (signboards). Said Election Code, on other words, places absolute restriction upon defacement/damaging private/public building and/or any other property/premises of any nature which amounts to public nuisance.

Vide judgment and order dated 1.7.2005 given in Writ Petition No. 3799 (M/B) of 2005, **Sanjay Gupta v. District Magistrate, Lucknow and other**, Division Bench of this Court (Lucknow Bench) passed order to the effect:

“We further direct that anyone, who defaces building or

boundary wall or for whose benefit it is done-shall be prosecuted and in case of a student, he/she/be deemed disqualified in any election of the institution and liable to pay a fine of Rs. 25,000/- to the institution for causing public nuisance.”

.....”

2.10 Student leaders and their supporters, involved directly or indirectly (for their self/limited vested interests) do tend to justify their illegal their illegal acts including Public Nuisance in the name of Union Elections of the students as part of their Fundamental Right. It is a wholly misconceived notion harboured out of their ignorance as it is evident on reading paras 3 and 4 of the Apex Court’s judgment in the case of **University of Delhi and another vs. Anand Vardhan Chandal, (2000) 10 SCC 648**, which read:

(3) So far as the student participation in the election and other union activities is concerned, the Division Bench has held the same to be a part of the fundamental right to education on the following reasoning;

“Once the University admits a student, it becomes its duty to educate him or give him an equal opportunity with other to educate himself. Since the participation in the union activities is a part of the total education given by the University equal opportunity has to be given to all students to participate in the union activities. It is necessary to ensure, therefore, that the students after being admitted will have a reasonable time to join the students’ union including election to it.....The action of the university authorities firstly in fixing the date of the commencement of the year and secondly in rejecting the petitioner’s nomination paper resulted, therefore, in the denial of the exercise of the fundamental right to education by the petitioner.”

“(4) We are of the view that the High Court fell into patent error in holding that once the University admits a student, the right to contest the students union elections a part of the right to education and as such is a fundamental right. This Court in **N. P. Ponnuswamy**

v. Returning Officer, Namakkal Constituency (AIR 1952 SC 64) has authoritatively held that right to participate in elections to the State Assemblies and Parliament is not a fundamental right. It is only a statutory right. Participation in the students' union activities including elections cannot be placed on a higher pedestal."

2.11 Election to students' union in the Universities and Colleges throughout India are conducted differently. In some states election to students' union is banned owing to unpleasant incidences that has taken place during the election process. The **Supreme Court of India** may have considered it appropriate to streamline the process of elections by prescribing guidelines. Thus, it ordered setting up a committee of experts to suggest guidelines. Consequently Ministry of Human Resource Development, Government of India constituted a committee headed by Sri J.M.Lyngdoh, former Chief Election Commissioner of India. Under para 6 of its Report committee has made certain recommendations as guideline for students' elections. Para 6.7 provides Code of Conduct for Candidates and Election Administrators. Para 6.7.8 clearly prohibit defacement during Students' Union Election in colleges/universities. Paras 6.7.5, 6.7.8 and 6.7.14 of the report are relevant for this report, which are being reproduced below:-

6.7.5 No candidate shall be permitted to make use of printed posters, printed pamphlets, or any other printed material for the purpose of canvassing. Candidates may only utilize hand-made posters for the purpose of canvassing, provided that such hand-hand- made posters are procured within the expenditure limit set out herein above.

6.7.6 Candidates may only utilize hand-made posters at certain places in the campus, which shall be notified in advance by the election commission/university authority.

6.7.8 No candidate shall, nor shall his/her supporters, deface or cause any destruction to any property of the university/collage campus, for any purpose whatsoever, without the prior written permission of the college/University authorities. All candidates shall be held jointly and severally

liable for any destruction/defacing of any university/college property.

6.7.14 all candidates shall be jointly responsible for ensuring the cleaning up of the polling area within 48 hours of the conclusion of polling.

2.12 In P. Narayana Bhatt vs. State of Tamil Nadu & others, (2001) 4 SCC 554, Validity of Section 326 (J) of the City Municipal Corporation Act of the State of Tamil Nadu Act No. 51 of 1998 and Amended Act 2 of 2000 was challenged before the Madras High Court on the following grounds:-

- (a) Advertisement by hoardings was a fundamental right of the appellants under Article 19(1) (a) of the Constitution.
- (b) Power given to the Commissioner under the impugned Act to remove any hoarding which he felt was hazardous was arbitrary, unreasonable, hence, was violative of Article 14 of the Constitution.
- (c) The limitation imposed under the Act for applying for licences could not be enforced in the absence of any Rules and Forms providing for application for existing hoarding owners.

The High Court rejected the said contentions of the appellants holding:

- (i) that the writ petitions are not maintainable on behalf of the Association of Hoarding owners since such associations had no fundamental right which could be enforced in a court of law;
- (ii) that the petitioners before it were only the owners of the hoardings and not advertisers, therefore, they could not claim any fundamental right under Article 19(1)(a);
- (iii) that no guidelines were necessary in the exercise of the power to remove the hoardings under Section 326(j) in view of the interpretation given by it to the said Section;

- (iv) the applications for licences had to be filed within one month period given by the Commissioner by means of an advertisement and such period could not be extended.

The High Court also came to the conclusion that the authorities were duty bound to remove all the hoardings simply because they are visible to traffic and the authorities had no option but to remove all such the hoardings which are visible to the traffic.

The appellants having been unsuccessful in their challenge before the High Court of Judicature at Madras, have preferred the appeals before the Apex Court.

Hon'ble Supreme Court observed that though the High Court rightly held that the principles of natural justice is fundamental in Administrative Law and these principles of natural justice even if not found on the face of the Statute, could be deduced from the object of the Act and the Rules, erred in coming to the conclusion that the authorities were duty bound to remove all the hoardings simply because they are visible to traffic and the authorities had no option but to remove all such the hoardings which are visible to the traffic. By this finding, the High Court came to the conclusion that mere visibility of the hoarding to the traffic was sufficient for either removing the hoarding or will be a sufficient ground to refuse to grant/renewal of a licence. This conclusion, in our opinion, is contrary to the very wording of Section 326 (J) of the Act which reads thus:-

Where any hoarding (other than traffic sign and road sign) visible to the traffic on the road is hazardous and disturbance to the safe traffic movement, so as to adversely affect free and safe flow of traffic.....

A plain reading of this Section shows that the authorities concerned are empowered either to refuse to grant licence/renewal or to remove the existing hoardings only if the same is hazardous and is a disturbance to safe traffic movement which, in turn, should adversely affect free and safe flow of traffic, unless these impediments are present in the hoardings,

merely because the said hoardings are visible to the traffic, cannot be a ground for either refusing the grant/renewal of licence.

Hon'ble Supreme Court modified the conclusions and directions issued by the High Court in para 93 of its Judgment as follows:-

- (1) We hold that the provisions of Act 51 /98 and Act 2/2000 are valid and intra vires of the Constitution. The persons desirous of obtaining a hoarding licence under the Act be given 30 days time from today to make the necessary application in the prescribed form and on payment of prescribed fee and on such applications being filed, the licensing authority shall consider the same in accordance with Section 326(J) of the Act, as interpreted by us.
- (2) If no application for grant of licence is received within 30 days as stipulated by us hereinabove by any owner of the existing hoarding, the same shall be removed without further notice and also if the application for grant of licence is rejected in accordance with law, the necessary consequences contemplated under the Act will follow.

2.13 It is thus quite clear that the authorities concerned are empowered to grant licence/renewal of hoarding if it comes under the four corners of the relevant provisions of the relevant Act. Contrary to it will be sufficient ground to refuse to grant licence/renewal or to remove the existing hoardings.

2.14 A matter of advertisement hoarding was before the Hon'ble Kerala High Court in the case of **Kamla Devi vs. Gopal Krishnan and others, (07 KLC 2113)**. In this case the original petition was filed by the president of the Parent Teacher's Association of Government Girls High School, Kollam, the first respondent herein, complaining about the advertisement hoarding erected by the second respondent in the original petition inside school compound of the said school. The petitioner therein sought questioning of permission granting by the corporation of Kollam to the second respondent

to erect a hoarding for the purpose of displaying advertisement inside the said school compound. The learned single Judge, came to the conclusion that the erection of hoarding inside school compounds violates Section 5B of the Kerala Education Act, 1958. Thereafter the learned Single Judge entered a finding that erection of hoarding for display of advertisements inside the premises of an aided school comes within the ambit of Section 6 of the Act. On a general finding that permission to put up such hoarding inside school compound other than for educational purposes would injure the wellbeing of the children studying in the schools. The learned Single Judge issued direction to the Secretaries of the local bodies, Secretary to the Government, General Education Department and the Chief Secretary to the Government to take appropriate action, to issue appropriate instructions and to make appropriate steps respectively in the light of the Judgments.

Aggrieved by such general direction the appellant preferred an appeal before the **Division Bench** on the grounds that the orders issued by the education authorities directing the appellant to remove the hoardings and advertisement boards from the school premises violate her rights to use the property owned by her to her best advantage. The erection of hoarding inside the school compound does not in any way affect the functioning of the school or the education of the children studying in the school and as such, the prohibition imposed by Judgment of the learned Single Judge and the consequent orders of the educational authorities are violative of her property rights.

Division Bench of Kerala High Court in para 11 of its Judgment observed:-

“11. We have absolutely no doubt in our mind that such display of advertisements inside the compound are likely to adversely affect the mental well-being of the children. It is the duty of this court as also of the whole society, which includes the appellant also, to see that young impressionable children are not affected by such activities which can be prevented under law by virtue of section 6 of the Kerala Education Act. As such, we do not find anything wrong or violative of any of the rights of the appellant in the impugned judgment or the directions

issued by the educational authorities pursuant thereto. The appellant who is also involved in the noble avocation of imparting education to the young should also be more concerned about the well being of the children than about a few thousands of rupees which she may earn by permitting putting up such hoardings. In other words, apart from the statutory prohibition, it is also the moral duty and obligation of the appellant as a citizen or parent to see that such activities are prevented inside the school premises. The appellant is bound by the Kerala Education Act and the Rules made thereunder and duty bound to conduct the school in accordance with the provisions thereof under Rule 9 of Chapter III of the Kerala Education Rules. All her rights proprietary or otherwise can only be subject to the provisions of the Kerala Education Act and Rules. Insofar as the Kerala Education Act specifically puts restrictions on the right of the appellant in respect of the use of the school properties, the appellant cannot complain of deprivation of any of her rights by the directions in the impugned judgment.”

In para 12 of its judgment Hon’ble Kerala High Court further observed:-

“12.....The Education Officer can grant such permission only if such permission will not adversely affect the working of the school. When the question arises as to whether putting up of hoardings inside school compounds would adversely affect the working of the school, this Court has a duty to decide that question, which alone has been done by the learned Single Judge. Even if such decision would ultimately lead to the result complained of by the appellant, this Court cannot shirk from its duty, and the result is only a natural consequence of such decision, which result cannot vitiate the decision in any manner.”

2.15 In view of the above decision, Commission is of the opinion that erection of such advertisement hoardings inside the school compounds should not be permitted in any manner as it would affect the mental makeup of the children studying in the school. From our day to day experience, going by the various advertisements displayed on sides of the roads, it is clear that there is no room for doubt about the adverse affects such

advertisement would have on the impressionable minds of the young children.

2.16 In reference to said Code of Conduct, the Election Commission of India issued a letter No. 3/7/94/J.S.II, dated 5th January, 1994, regarding Prevention of Defacement of Property. In this letter Commission has observed that it has received numerous complaints from the public to the effect that at the time of electioneering campaigns, workers or political parties and candidates indulge in defacement of walls of public and private buildings by pasting of election posters, writing of slogans, painting of election symbols, etc. All this is done without the permission of the owner of the buildings much to their annoyance, which gives an ugly look not only to the buildings but also to the whole city. The helpless owners of the buildings are compelled either to tolerate this or to have the walls/buildings white washed/repainted at their own cost.

DEFACEMENT OF PROPERTIES LAW IN INDIA

3.1 Some States have enacted special legislations to govern and regulate defacement of property, which extent to the entire state while the other state have legislation that only cover specified notified area like municipal corporation or some other part of the particular state as shown in Table-A below. Table B below shows that there are such states also including Uttar Pradesh which do not have any specific legislation or law regarding defacement of property. However, most of the states recognize the importance of anti defacement legislation and many of them enacted the laws also. Recently on 1st March, 2009 Delhi Government has enforced the Delhi Prevention of Defacement of Property Act, 2007 (Delhi Act 1 of 2009) Prior to it, the West Bengal Prevention of Defacement of Property Act 1976 was made applicable in Delhi. New Act extends to the whole of Delhi. New Act is enforced to tackle the menace of defacement of properties to public view and to maintain the aesthetic beauty of the city ahead of Common Wealth Games schedule to be held in Delhi in the coming days of this year.

Table-A

Defacement of Properties Laws in different States

Sl. No.	Name of State/UT	Name of Act/Rule	Extent of Applicability
1	Andhra Pradesh	The Andhra Pradesh Prevention of Disfigurement of Open Places and Prohibition of Obscene and Objectionable Posters and Advertisements Act, 1997	It extends to the entire State.

- | | | | |
|----|--------------------|---|--|
| 2. | Arunanchal Pradesh | The Arunanchal Pradesh Prevention of Defacement of Property Act, 1997 | It extends to the entire State. |
| 3. | Bihar | The Bihar Prevention of Defacement of Property Act, 1985 | It extends to the entire State. |
| 4. | Chattisgarh | No separate law/Act framed by the State. But the Madhya Pradesh Sampatti Virupan Nivaran Adhinyam, 1994 is applicable in the state. | It extends to the entire State. |
| 5. | Goa | The Goa Prevention of Defacement of Property Act, 1988 as amended vide Act of 1992 and 2001. | It extends to the entire State. |
| 6. | Haryana | The Haryana Prevention of Defacement of Property Act, 1989 as amended vide Act of 1996. | It extends to the entire State. |
| 7. | Himachal Pradesh | The Himachal Pradesh Open Places (Prevention of Disfigurement) Act, 1985 | It extends to the entire State and come into force in the areas comprised in the Municipal Corporation of Shimla at once and shall come into force in the remaining part of the State on such date as the Sate Govt. may by notification, appoint. |
| 8. | Jharkhand | No separate law/Act but the Bihar Prevention of Defacement of Property Act, 1985 is applicable in the state. | It extends to the entire State. |

- | | | | |
|----|-----------------|---|--|
| 9. | Jammu & Kashmir | The Jammu & Kashmir Prevention of Defacement of Property Act No. XIX of 1985 | It extends to the entire State. |
| 10 | Karnataka | The Karnataka Open Places (Prevention of Disfigurement) Act, 1981 as amended vide Act of 1983 | It extends to Bangalore, Mysore, Hubli, Dharwar, Mangalore and Belgaun constituted or continued under the Karnataka Municipal Corporation Act-1976, or under any other law on 5.5.81 and come into force in the Municipalities, notified areas, sanitary Boards, constituted or continued under the Karnataka Municipalities Act-1964, or under any other law, or in any other local area, on such date, as the State Govt. may by notification appoint. |
| 11 | Madhya Pradesh | The Madhya Pradesh Sampatti Virupan Nivaran Adhiniyam, 1994 | It extends to the entire State. |

12	Maharashtra	Maharashtra Act No. VIII of 1995-regarding Prevention of Defacement of Property.	Nothing is specifically mentioned about the extent of applicability.
13	Mizoram	The Mizoram Prevention of Defacement of Property Act, 1995.	It extends to the entire State.
14	Nagaland	The Nagaland Prevention of Defacement of Property Act, 1985	It extends to the notified areas constituted under the Assam Tribal Areas (Administration to Tow Committee) regulation 1950, or in any other local area or areas, on such date, as the State Govt. may by notification may appoint.
15.	Punjab	The Punjab Prevention of Defacement of Property Act, 1998	It extends to the entire State.
16	Sikkim	The Sikkim Prevention of Defacement of Property Act, 1988	It extends to the entire State.
17	Tamil Nadu	The Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, as amended vide Act of 1992	It extends to the entire State.
18	Tripura	The Tripura Prevention of Defacement of Property Act, 1976 in conjunction	It extends to the entire State and shall apply in the

		with Tripura (Prevention of Defacement of Property) Amendment Bill, 1998 now in force in the State.	first instance to municipal limits of Agartala Town, but the State Govt. may from time to time by notification in the official Gazette, apply to such other local areas or areas as may be specified in the notification.
19	Uttrakhand	The Uttranchal Prevention of Defacement of Public Property Act, 2003	It extends to the entire State.
20	Andaman & Nicobar	The Andaman & Nicobar Islands Prevention of Defacement of Property Regulation, 1987	It extends to the entire Union Territory of the Andaman and Nicobar Islands.
21	Chandigarh UT	The West Bengal Prevention of Defacement of Property Act, 1976 has been made applicable in Chandigarh UT.	It extends to the entire State.
22	Delhi	The Delhi Prevention of Defacement of Property Act, 2007, (Delhi Act 1 of 2009) w.e.f. 1, March 2009)	It extends to the entire State.
23	Pondichery	The Pondichery Open Places (Prevention of Disfigurement) Act, 2000.	It extends to whole of the Union Territory of the Pondichery.

Table-B**States in which there is no specific Law on the subject of Prevention of Defacement of Property**

Sl. No.	<u>Name of State/UT</u>	
1	Assam	No law/Act
2	Gujarat	No law/Act
3	Kerala	No law/Act
4	Manipur	No law/Act
5	Meghalaya	No law/Act
6	Orissa	No law/Act
7	Rajasthan	No specific law on the subject but there is a provision in Section 198 of Rajasthan Municipalities Act, 1959 that without the consent of the owner or occupier and on case of Municipal property, without the permission in writing of the board, affixing any poster, bill placard or other paper or means of advertisement is punishable with

		fine which may extend to twenty rupees.
8	Uttar Pradesh	No law/Act
9	West Bengal	The earlier West Bengal Prevention of Defacement of Property Act, 1976 (West Bengal Act XXI of 1976). This Act has since been repealed.
10	Dadra & N. Haveli	No law/Act
11	Daman and Diu	No law/Act
12	Lakshdweep	No law/Act

3.2 Above Tables show that maximum States have their own Act regarding Prevention of Defacement of Property. Even the States of Uttrakhand, Chhattisgarh and Jharkhan, which are few years old, Uttrakhand has its own Act while in the State of Chhattisgarh and Madhya Pradesh Sampatti Virupan Nivaran Adhiniyam, 1994, is applicable and in the State of Jharkhand, the Bihar Prevention of Defacement of Property Act, 1985 is applicable. Some of Union Territories have also their own Act on the subject. As far as State of Uttar Pradesh is concerned, which is so vast State, has no such law/Act. Under these circumstances, Commission is of the considered opinion that the State Legislature should enact such law on the subject to tackle with the menace of Defacement of Property in public view and to maintain the aesthetic beauty of the different Cities and Towns of the State.

4.1 Commission is deeply concerned about the continuing defacement of public and private spaces and facilities. Display of banners, hoardings and boards at various public places and on electric poles continues unchecked. Advertisements are being painted on the walls of buildings, flyovers, on the dividers of roads and on the road crossing. Boards attributing the start or execution of public projects to effected representatives are seen at various points.

4.2 Defacement of property is a growing menace in the different cities and towns of the State of Uttar Pradesh and the sight of banners, posters and other kinds of defacement on property is not uncommon. The agencies carry out action against the defacement in their areas from time to time under different provisions of Indian Penal Code and the relevant Municipal Act. However, to maintain the aesthetic beauty of the different towns and cities of the State of Uttar Pradesh particularly those places where several tourists, pilgrims and travelers, visit daily, it was felt by the Commission that the said provisions were largely ineffective.

4.3 Private and public places are disfigured during the election time by way of pasting election advertisements and writings on the wall in violation of the Model Code of Conduct.

4.4 Needless to say that this spoils the beauty of the towns and cities and causes loss to the private house owners who keep their houses and walls painted. In order to prevent such disfigurement, Commission is of the firm view that this unhealthy practice of disfigurement/defacement of public and private property during the election campaign and celebration should be curbed with a heavy hand by enacting a special legislation by the Legislature of the State titled, "The Uttar Pradesh Prevention of Defacement of Property Act, 2010."

4.5 The Government to curb such undesirable act of the political parties, candidates, their workers, supports and sympathizers may take penal action against the parties/persons

indulging in such undesirable activities.

4.6 The Commission is of the considered opinion that no political party/association/body or candidate or their workers, supporters or sympathizers has/have any right to deface or spoil any private or public building by pasting of their posters, writing of slogans, painting of their symbols, etc.

4.7 All political parties/associations/bodies/candidates who have indulged in the defacement of public or private property by pasting/writing of their posters/slogans/symbols etc. during the elections shall face criminal liabilities under the Act and should also be required to remove their posters/slogans/symbols and get the defaced walls/buildings white washed forthwith so as to restore them to the original position. This should be done by the parties associations/bodies/candidates concerned at their expenses. Those who fail to do the needful shall also be liable to pay the fine as the court thinks fit for every recurring day till the removal of such defacement.

4.8 Though the defacement of public and private properties have never been an uncommon phenomenon in the towns and cities with cops turning to blind eye to the menace, the problems worsen with the announcement of elections, rallies and celebrations by the political parties, organizations or the associations.

4.9 Commission is of the opinion that to maintain the aesthetic beauty of the different cities and towns of the State and to check the deterioration of aesthetic beauty of the environment around us, the proposed legislation is most necessary.

4.10 Proposed Legislation:

4.10.1 The proposed Bill, has fourteen Sections. Apart from the other provisions, defines “**defacement**” as impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any other way whatsoever, **place open to public view** includes any private place or building, public offices, hut, monument, statue, water pipe line, structure, wall including compound wall, retaining

wall, tree, fence post, pole or any other erection, **public place** means any place including a road, street or way whether a thoroughfare or not and a landing place to which the public are granted access or have a right to restore or over which they have a right to pass, **Writing** includes decoration, lettering, ornamentations, drawing caricature and other modes for representing or reproducing words or figures in a visible form.

4.10.2 We have provided that the offence punishable under the Act shall be cognizable and compoundable. A cognizable offence is one where the Police Officer can arrest a person without warrant.

4.10.3 Any person can lodge a F.I.R. regarding defacement of property with the Police Station concerned and the matter will be tried by the court of competent jurisdiction.

4.10.4 The offence is compoundable by such officers and authorities mentioned in Section 3.

4.10.5 The provisions of this Act shall not be applicable to those advertisements which are mentioned in the proviso of Sub-section (1) of Section 4.

4.10.6 Section 4(1) of the Act provides that whoever by himself or through any other person defaces any place open to public view by defacing or pasting pamphlets, posters, banners or writing or marking with ink, chalk, paint or any other material or method shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both.

4.10.7 The Act further provides punishment for attempt to commit offence and for abettors and where any offence committed is for the benefit of some other person or entity then such other person or office bearers/ owners/manager/officers/agents of the entity shall also be liable to be punished for the offence.

4.10.8 Accordingly, this report is being submitted by the Commission to the State Government to enact a State Legislation to curb the defacement and to maintain the aesthetic beauty of the towns and cities and to check the deterioration of aesthetic beauty of the environment around us.

CHAPTER-5

RECOMMENDATIONS

5.1 In the light of discussions in the foregoing chapters we proposed to give our recommendations keeping in view the discussions at various meetings held by the Commission, keeping in mind the provisions under the Constitution of India in Article 49 and Clause (i) of Article 51-A and Sub clause (iii) of Clause (c) of Sub section (2) of Section 6 of the Ancient Monuments And Archaeological Sites and Remains Act, 1958 (No. 24 of 1958) and the observations of the Hon'ble Supreme Court in **Rajeev Mankotia vs. Th Secretary to the President of India and others, AIR, 1997 SCC 2766, University of Delhi and another vs. Anand Vardhan Chandal, (2000) 10 SCC 648, N.P. Ponnuswamy v. Returning Officer, Namakkal Constituency (AIR 1952 AC 64), P. Narayana Bhat vs. State of Tamil Nadu & others, (2001) 4 SCC 554 and observations of Hon'ble High Courts in Anand Mohan vs. Union of India, 2007 (1) AWC 24, Sanjay Gupta vs. District Magistrate, Lucknow and others, Writ Petition No. 3799 (MB) of 2005, and Kamla Devi vs. Gopal Krishnan and others, 07 KLC 2113 and various letters of the Election Commission of India on the subject and Model Code of Conduct and Lyngdoh Committee Report and other available material on the subject, we have drafted a Model Law to enact a State Legislation titled, "The Uttar Pradesh Prevention of Defacement of Property Act, 2010."**

5.2 We recommend that the proposed legislation should have the following provisions:

Clause 1- Short title, extent and commencement

Clause 2- Definitions of the words used in various clauses.

Clause 3- Places earmarked for display of advertisement or writing. All advertisements and writings shall be made only at places earmarked in Rural and Urban areas by the authorities concerned as mentioned in the Clause.

Clause 4- Penalty for Defacement of Property:

(1) Whoever by himself or through any other person defaces any place open to public view by defacing or pasting pamphlets, posters, banners or writing or marking with inks, chalk, paint or any other material or method shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to fifty thousand rupees or with both.

This provision shall not be applicable to such advertisements as provided in the proviso of sub-section (1).

(2) Where any offence committed under sub-section (1) is for the benefit of some other person or a company or other body corporate or an association of persons whether incorporated or not or a political party or its candidates, then such other person and every president, chairman, director, partner, manager, secretary, agent or any other officer or person concerned with the management thereof, as the case may be, shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Provided that the owners or manager of the organizations making defacement of the property for their business activities, shall be responsible for removing such defacement.

Clause 5- Punishment for attempt to commit offences.

Clause 6- Punishment of abettors.

Clause 7- Offences to be cognizable and compoundable.

Clause 8- Power of Government to remove defacement.

Clause 9- Power of Local Self Government Institutions and Collector.

Clause 10- Protection of action taken in good faith.

Clause 11- Act to override other laws.

Clause 12- Power to remove difficulties.

Clause 13- Power of Government to make rules.

Clause 14- Laying of Rules.

5.3 The Draft of the Bill is annexed with this report. We recommend accordingly.

(Justice V.C.Misra)
Chairman

(V.K.Mathur)
Member
(Ex-Officio)

(Prof. Balraj Chauhan)
Member
(Part-time)

(Ishwar Dayal)
Member
(Full-time)

ANNEXURE-1

UTTAR PRADESH STATE LAW COMMISSION

MODEL

DRAFT

BILL

OF

THE UTTAR PRADESH PREVENTION OF DEFACEMENT

OF

PROPERTY ACT, 2010

(With Fifth Report, 2010)

**MODEL LAW
ON**

**THE UTTAR PRADESH PREVENTION OF DEFACEMENT
OF PROPERETY ACT, 2010**

INDEX

SECTION	PAGE
1. Short title, extent and commencement	1
2. Definitions	2
3. Places earmarked display of advertisement or writing	3
4. Penalty for defacement of property	3
5. Punishment for attempt to commit offences	5
6. Punishment of abettors	5
7. Offences to be cognizable and compoundable	5
8. Power of Government to remove defacement	5
9. Power of Local Self Government Institutions and Collector	6
10. Protection of action taken in good faith	6
11. Act to override other laws	6
12. Power to remove difficulties	7
13. Power of Government to make rules	7
15. Laying of Rules	7

ON
THE UTTAR PRADESH PREVENTION OF DEFACEMENT
OF PROPERTY
BILL, 2010
A
BILL

to provide for the prevention of defacement of Property or place open to public view and for matters connected therewith or incidental thereto.

WHEREAS, the defacement of heritage sites, structures, signages, compound walls, public places all over Uttar Pradesh is destroying the natural beauty, cleanliness and environment of the State;

AND WHEREAS, defacement of signage often results in inconvenience to tourists and travellers;

NOW, THEREFORE, it is expedient in the public interest to provide for the prevention of defacement of such property;

It is hereby enacted in the Sixtieth Year of the Republic of India as follows:-

- Short title, extent and commencement** **1.** (1) This Act may be called the Uttar Pradesh Prevention of Defacement of Property Act, 2010.
- (2) It shall extend to the whole of Uttar Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification, in the Gazette, appoint.

Definitions:-2 In this Act, unless the context otherwise requires,-

- (a) **“advertisement”** means any printed, cyclostyled, Typed or written notice, document, paper or any other thing containing any letter, word, picture, sign or visible representation.
- (b) **“defacement”** includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any other way whatsoever and the word ‘deface’ shall be construed accordingly;
- (c) **“Government”** means the Government of Uttar Pradesh;
- (d) **“Local Self Government Institutions”** means, a Gaon Panchayat constituted under the Uttar Pradesh Panchayat Raj, 1947 (U.P. Act No. XXVI of 1947) or a Municipalities Act, 1916 (U.P. Act No. XI of 1916) or a Municipal Corporation constituted under the U.P. Municipal Corporation Act, 1959 (U.P. Act No. 2 of 1959);
- (e) **“place open to public view”** includes any private place or building, public offices, hut, monument, statue, water pipe line, structure, wall including compound wall, retaining wall, tree fence post, pole or any other erection or contrivance visible to a person being in, or passing along, any public place;
- (f) **“public place”** means, any place including a road, street or way whether a thoroughfare or not and a landing place to which the public are

granted access or have a right to resort or over which they have a right to pass;

- (g) **“Writing”** includes decoration, lettering, ornamentations, drawing caricature and other modes for representing or reproducing words or figures in a visible form.

Places earmarked for display of advertisement or writing 3. All advertisements and writings shall be made only at places earmarked by the Block Development and Panchayat Officer or Tehsildar in rural areas and Executive Officer or Secretary of the Municipality or Municipal Commissioner or any other agency notified by the Government for Municipal Corporation, as the case may be, in urban areas, on the payment of fee to be levied by the above authorities at such rate as may be prescribed.

Penalty for defacement of property. 4 (1) Whoever by himself or through any person defaces any place open to public view by defacing or pasting pamphlets, posters, banners or writing or marking with inks, chalk, paint or any other material or method shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to fifty thousand rupees or with both.

These penalties will be without prejudice to the provisions of section 425 and 434 of the Indian Penal Code 1860 (45 of 1860), and the relevant Panchayat Raj Act and Municipal Act.

Provided that nothing in this section shall apply to any advertisement which,-

- (i) is exhibited with the written permission of the Local Self Government Institution having jurisdiction over such area in this behalf;
- (ii) is exhibited within the premises of any building, if the advertisement relates to the

trade, profession or business carried on in that building; or

- (iii) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same; or

Provided that such advertisement does not in any way adversely affect the public.

- (iv) relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name and address of the owner or occupier of such property or land or building.
 - (v) relates to the business of Central Government and is exhibited upon any wall or other property of Central Government.
 - (vi) relates to the propagation of policies or achievements of the State Government and exhibited on public place.
- (2) Where any offence committed under sub-section (1) is for the benefit of some other person or a company or other body corporate or an association of persons whether incorporated or not or a political party or its candidates, then such other person and every president, chairman, director, partner, manager, secretary, agent or any other officer or person concerned with the management thereof, as the case may be, shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Provided that the owners or manager of the organizations making defacement of the property for their business activities, shall be responsible for removing such defacement.

- Punishment for attempt to commit offences.** 5. Whoever attempts to commit any offence punishable under this Act or to cause such offence to be committed and in such attempt does any act towards the commission of the offence, shall be punishable with the punishment provided for the offence.
- Punishment of abettors** 6. Any person who by supply of or solicitation for money, by providing or permitting, supply of materials, aids, abets or is necessary to the commission of any offence under this Act shall be punishable with the punishment provided for the offence.
- Offences to be cognizable and compoundable** 7. (1) Any offences punishable under this Act shall be cognizable and compoundable.
- (2) All offences under this Act shall be compoundable by such officers or authorities mentioned in section 3 on payment of such composition fee as the Government may, by notification in the Official Gazette, specify in this behalf.
- (3) On composition a person shall stand discharged or acquitted, as the case may be, and if he is in custody he shall be released forthwith.
- (4) Sums paid by way of composition under this section shall be credited to local authority fund.
- Power of Government to remove defacement** 8. (1) Without prejudice to the provisions of section 4, it shall be competent for the Government, Collector or the Local Self Government Institutions concerned to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any property and place open to public view. The Government shall have the

power to conduct or cause to conduct, through the District Magistrate concerned, spot inspections with regard to the defacement of property. If on such inspections it is found that specific permission of the owner or occupier of the property has not been obtained, action for removal of defacement shall be taken forthwith at the expense of the person or persons found guilty. The Government, before removing the defacement shall give a notice of two weeks to the owner or occupier of the property to erase or remove the defacement. The entire expenses for removing or erasing the defacement shall be borne by the owner or occupier found guilty. He shall also be liable to pay fine as the court thinks fit for every recurring day till the removal of such defacement.

- (2) Any amount due under this Act, on an application made in this behalf by the authorities mentioned in section 3, to the Collector, shall be recovered as arrears of land revenue.

Duty and Powers of Local Self Government Institutions and Collector

9. It shall be the duty of the Local Self Government Institution and the Collector to see that the provisions of this Act are strictly enforced within the area of their jurisdiction and in the exercise of its duties and performance of its powers under this Act, the Local Self Government Institution or the Collector, as the case may be, shall be guided by such general instructions, as may be, issued by the Government from time to time.

Protection of action taken in good faith.

10. No suit, prosecution or other legal proceedings shall lie against the Government or any local authority or any person for anything which is in good faith or in public interest done or intended to be done under this Act.

Act to override other ways.

11. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

**Power to
remove
difficulties-**

- 12.** (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removal of the 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 each House of the State Legislature.

**Power of
Government
to make
rules.**

- 13.** The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

**Laying of
Rules**

- 14.** Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature.