



A study on Ancient Monument with the support of The Ancient Monuments and Archaeological Sites and Remains Act, 1958- Glance

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The monument means a world of memories, a world of deeds, a world of tears, and a world of glories. By the subtle chemistry that no man knows, all the blood that was shed by our brethren, all the lives that were devoted, all the grief that was felt, at last crystallized itself into granite, rendering immortal the great truth for which they died, and it stands there today.

–James Abram Garfield.

Abstract

India has diverse cultural and ancient monuments spread across the length and breadth of the country. These have a very special importance and the wealth and power our country. The tourism industry is flourishing due to these monuments. Their preservation and protection from damage and destruction of any kind is the prime objective. The Archaeological Survey of India¹ (ASI) describes ancient monument as². Therefore, several piece of legislation have been enacted. India is a signatory to the World heritage Convention of UNESCO where Article 4 provides, Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage i. e those sites which can be considered for inscription on the World Heritage List. The Ancient Monuments Preservation Act, 1904 was enacted during the British raj under the tenure of Lord Curzon. It was enacted to prevent extensive excavation at certain place. It also provides for protection of the monuments and acquisition of the antiquities and monuments of historical importance.

Introduction

India is an ancient country rich in monumental heritage. The famous monuments always merit a visit, because they are the speaking stones of India's authentic architectural and historical details. These magnificent buildings were built by different rulers. Each ruler had left his indelible mark on the monuments that were built during his time. It is not very difficult to distinguish a monument built by the Mughals from that built by the British. Almost all regions in India can boast of some historical monument or fort. A variety of architectural forms that have remained unchanged through the ages can be seen throughout India. Top 10 Historical Monuments from the Ancient World Temple of Poseidon, Sounion, Greece Delphi, Mount Parnassus, Greece Phaistos, central Crete Temple of Apollo Epicurius at Bassae Arch of Constantine, Rome,

¹The Archaeological Survey of India (ASI) is an Indian government agency that is responsible for Archaeological research and the conservation and preservation of cultural historical monuments in the country. It was founded in 1861 by Alexander Cunningham who also became its first Director-General.

²Ancient Monument means any structure, erection or monument, or any tumulus or place of interment, 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 100 years.

Italy Palace of Diocletian, Split, Croatia Library of Celsus, Ephesus, Turkey Temple of Baalbeck, Lebanon. The historical monuments in India are not only a peek in the cultural history of India but are also an important tourist attraction. Have a look at the list of monuments in India one is Taj Mahal, Agra³. The historical significance of the temple and the impressive remains, though, still qualify it as one of the most impressive ancient monuments. The triumphal Arch of Constantine is both imperative to see and impossible to miss.

Legislations relating to Ancient Monument in India:

The Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act came into force on 29th March 2010 ("The Act") of its Principal Act which was enacted in the year 1958. This Ancient Monuments and Archaeological Sites and Remains Act, 1958 ("Principal Act, 1958") was enacted for the preservation of Ancient Monuments and archaeological sites of National importance⁴. This Principal Act, 1958 provides regulation of archaeological excavations and protection of sculptures, carvings and other like objects⁵. The Act was to make provisions for validation of certain actions taken by the Central Government under the said Act with the help of National Monument Authority as per Section 20F. This Act includes amendments and insertions in Section 2,4A and 20A of the Parent Act, 1958. As per Section 20I, this National Monument Authority makes recommendation to Central Government for categorization and classifications of protective monuments and protective area as per Section 3 and 4. This National Monument Authority also supervises the working of Competent Authority, who is not less than Commissioner appointed by Department of Archaeology Central and State Governments, etc.,.

Background

The Ancient Monuments and Archaeological Sites and Remains Act (or AMASR Act) is an act of parliament of the government of India that provides for the preservation of ancient and historical monuments and archaeological sites and remains of national importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects. It was passed in 1958. The Archaeological Survey of India functions under the provisions of this act the Parliament has approved of the following amendments in Ancient Monuments and Archaeological Sites Remains (Amendment) Bill, 2017. The Act amended Section 2 with an intention to simplify the Definition Clause of the Principal Act, 1958. The Act made an insertion of Section 4A to deal with clear categorization and classification of Ancient Monuments or Archaeological Sites and to remain declared it as of National importance under Section 3 and 4. This clear classification will be helpful for prioritization and protection of Ancient Monuments and Archaeological Sites. These categories shall regard to the historical, archaeological and architectural value and other factors that are relevant to this provisions⁶. In Parent Act, 1958, these Ancient Monuments or Archaeological sites, has to be notified in the Official Gazette by Central Government with two months notice and a notification copy has to be affixed in a conspicuous place near the monuments or sites⁷. This Act gave a crispy solution by preventing unnecessary procedures.

³T.Douglas Price, Kelly J. Knudson, Principles of Archaeology, by National Ancient Monuments Yea Book, The Wykeham Press, London.

⁴T.Douglas Price, Kelly J. Knudson, Principles of Archaeology, by National Ancient Monuments Yea Book, The Wykeham Press, London.

⁵Brown, G. (2011), In *The Care of Ancient Monuments: An Account of Legislative and Other Measures Adopted in European Countries for Protecting Ancient Monuments, Objects and Scenes of Natural Beauty, and for Preserving the Aspect of Historical Cities* (Cambridge Library Collection - Archaeology, pp. Xiii-Xiv). Cambridge: Cambridge University Press. doi:10.1017/CBO9780511710940.002

⁶Swami Chidatman Jee Maharaj, Historical Monuments of India, 2009, Anmol Publications Pvt Ltd, New Delhi.

⁷G.Baldwin Brown, The Care of Ancient Monuments, 2011, by Cambridge University Press, New Delhi.

Insertion of Section 20A of the Act

The Act made an insertion of Section 20A after the insertion of Section 20 in the Principal Act, 1958, on 16th June 1992. This insertion of Section 20 provides Declaration of prohibited area and carrying public work or other works in prohibited area. Under Principal Act, 1958, the Central Government could acquire any ancient monuments through the provisions under Land Acquisition Act, 1894 for public purpose without clarity. Insertion of Section 20A clears that whether protected area or protected monuments, distance of one hundred meters in all directions shall be a protective area or protected monuments. In case the protected area or protected monuments are more than one hundred meters, the Central Government should notify in Official Gazette to consider the notified extant as protected area or protected monuments⁸.

Penalty under Section 30 of the Act

Once declared as protected area under Section 20A, no permission shall be given for any public works after or any project essential to the public or other constructions in the prohibited/protected area. In case of any violation beyond permission, penalty under Section 30A,B and C comes in to action. These Sections specifies “Three months to Two years of imprisonment and/or fine may extend to the minimum of Five thousand to One Lakh” may be the penalty. Any offences by Government Officials shall be punished either three years of imprisonment with or without fine.

Retrospective effect

The Act contains repeal and saving clause, i.e., Section 39. It clearly says that any action taken under Principal Act should be taken under corresponding provisions of Act amended. Hon’ble Supreme Court in the case of Archaeological Survey of India versus Narender Anand and others⁹ clearly says that the notification in Official Gazette issued prior to the Act will remain alive and same was saved under Section 39 of Principal Act, 1958. It made the Appellant to count the distance of 100 meters rather observation on physical structure. This amendments and insertions in this Act really sharpen the procedural aspects of the Parent Act, 1958 and also helps in preventing illegal public disturbances and acquisition by Government by the Principal Act, 1958. Not only that, it also helped to achieve the clear intention of the Law makers in protecting and regulating Ancient Monuments and Archaeological Sites, Sculptures, Carvings, etc¹⁰.

Conclusion

The Antiquities and Art Treasures Act, 1972 is enacted to regulate the export trade in antiquities and art treasures, to prevent smuggling of and fraudulent dealings in antiquities. Indian Treasure Trove Act, 1878 deals with treasures found in India. Prevention of Damage of Public Property Act, 1984 also protects these monuments. India is known worldwide for its rich heritage inherited by our ancestors. Every heritage speaks of a different beautiful story of the past and thus makes the nation unique. The industries, vandalism, terrorism, pollution, land acquisition, agricultural activities, lack of civic sense, construction or sewages in and around the heritage is posing threat. It is our duty to protect them and pass on the legacy to the future generation with pride. As Teddy Roosevelt has rightly called conservation “a great moral issue, for it involves the patriotic duty of ensuring the safety and continuance of the nation”. The dilemma here is how the neglected monuments can be protected from further deterioration and what are the conservational plans that can be implemented by the government and respective state authorities because of the need to preserve and

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⁸Brown, G., In *The Care of Ancient Monuments: An Account of Legislative and Other Measures Adopted in European Countries for Protecting Ancient Monuments, Objects and Scenes of Natural Beauty, and for Preserving the Aspect of Historical Cities* (Cambridge Library Collection - Archaeology, pp. Xiii-Xiv)., 2011, Cambridge University Press, Cambridge.

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⁹C.A.2430 of 2006.

¹⁰T.Douglas Price, Kelly J. Knudson, Principles of Archaeology, by National Ancient Monuments Yea Book, The Wykeham Press, London.

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