

## REPORT NO. 4

### **GOA PUBLIC CREMATORIA AND BURIAL PLACES, BILL 2009**

Last rites of the deceased person are usually performed with solemn ceremonies. Christians as a rule have burial places in the precincts of the Church. Muslims have their kabrasthan at specified places. Hindus too have smashanbhoomis. Some public smashanbhoomis and kabrasthan are also located in some of the major villages and town of Goa. It is however, observed that some smashanbhoomis are earmarked a per the caste system prevailing in the villages. In the recent past certain unsavoury happenings have underlined need to have public crematoria and public places. There have been incidents even though few in numbers wherein cremation was prevented because of differences over caste considerations or the deceased was a stranger to that village.

Large numbers of non Goans and foreigners visit Goa for various purposes. In the event of death of any such person the authorities find it difficult to cremate or bury such person. In remote such villages of Goa the Hindus residents usually cremate their dead in their own land for which usually a piece of land is earmarked. This leads to existence of multiple crematoria in a village. Some non- Hindus also desire that their dead bodies be cremated. In the absence of public crematoria it becomes difficult to fulfil such wishes. Some Hindus also resort to the practise of burial and find it difficult to find a suitable resting place for the dead. Landless persons in particular face unfold difficulties in finding a suitable place for cremation or burial of their close dead dear ones.

Whenever public crematoria and burial places exist it is also observed that on account of the increase in population the crematoria and burial places are too small or crowded. Large public crematoria and burial places exist in some places in India and abroad. Such places are maintained with great care with all facilities for mourners as well as performance of religious rites according to the religion of the deceased and erecting memorials to the

deceased. One of the best public crematoria and burial places in the world is the Ahrlington Cemetery in Washington. There are number of war memorials which are used as public crematoria and burial places in different parts of the world.

In modern times it is necessary to create such facilities in our State. It is therefore proposed to enact a law providing for establishment of public crematoria and burial places at the State level as well as in different towns and villages ad a mechanism for their upkeep and management. The Municipality and the Village Panchayat laws do provide for establishment of public crematoria and burial places. However, it is felt these provisions are insufficient and hence a new Act as per the proposed draft is enclosed for the consideration of the Government.

## **GOA PUBLIC CREMATORIA AND BURIAL PLACES BILL, 2009.**

### **BILL NO      OF 2009**

An Act to provide for establishment and management of public crematoria and burial places.

Be it enacted by the Legislative Assembly of Goa in the sixtieth year of Goa as follows:

#### **1) Short title, extent and commencement: -**

This Act may be called the Goa Public Crematoria and Burial Places Act 2009.

- a) It extends to the whole of the State of Goa.
- b) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

#### **2) Definitions: -**

- a) **Burial place:** - It means a place where dead human bodies are buried.

**b) Crematorium:** - It means a place where dead human bodies are cremated either with use of wood or electrical or other energy.

**c) Local Council:** - It means a Council for establishment and management of public crematoria and burial places within a village Panchayat or Municipal Council or a group of village, Panchayats or a group of Municipal council and Village Panchayats.

**d) State Council:** - It means a Body constituted under Section 4 for the establishment and management of public crematoria and burial places in the State of Goa.

**3) Establishment of public crematoria and burial places: -**

Subject to the provisions under any Act relating to health and environment, the State shall establish one or more public crematoria and or burial places at State level and may establish one or more crematoria and or burial places in each of the villages and towns or in a group of villages or group of villages and towns within the State of Goa for the performance of the last rites of the dead by cremation or burial of dead bodies according to the wishes of the deceased made known by such persons before death or wishes of such close relative/s of such dead person or according to the tenets of religion of such person or as per the directions of the court and the State shall take such steps as may be necessary for the upkeep and management of such crematoria and burial places.

**4) State Council:-**

The State shall constitute a State Council for establishment, upkeep and management of public crematoria and burial places at State level under the Chairmanship of the Chief Secretary and comprise of such official and non official person/s as may be prescribed.

**5) Local Council: -**

The State shall constitute a Local Council for establishment, upkeep and management of public crematoria and burial places under the Chairmanship of the Deputy Collector and comprise of such official and non official person/s as may be prescribed.

**6) Powers of the State Council And Local Council: -**

The State and Local Council shall have powers to-

- i) Establish and manage public crematoria and burial places.
- ii) Acquire land, buildings, incinerators and such other plant and machinery as may be required.
- iii) Construct buildings, compound walls, resting places, ghats, pyres, electrical and other energy based modern equipments for cremation and to provide for wood, oil, electrical power, etc.
- iv) Appoint necessary staff.
- v) Charge fees from the persons seeking permission for cremation or burial.
- vi) Provide for purchase and maintenance of hearses or carts for carrying dead bodies to the crematoria or burial places.
- vii) Make arrangements for cremation, burial, preservation of bodies, performing religious rites, offering prayers, obituaries, etc.

**7) Registration of crematoria and burial places: -**

All existing crematoria and burial places shall be registered with the State Council within the prescribed period.

**8) Permission and registration of new crematoria and burial places: -**

No new crematorium or burial place shall be established at any place in the State except under due authority and licence granted by the State Council.

**9) Ban on cremation and burial at places other than established or registered crematoria and burial places: -**

No dead person shall be cremated or buried at any place other than a crematorium or burial place duly established or registered under this Act.

**10) Right to cremation or burial: -**

The crematoria and burial places established under this Act shall be available for cremation and or burial as the case may be to the deceased persons of all religions, caste, creed, sex, domicile or nationality.

**11)** Notwithstanding anything contained in any other law in force, the State or Local Council will not be required to obtain any licence for establishment of any crematorium or burial place or for undertaking any construction within such crematoriums or burial place provided such a place for establishment of crematorium or burial place is approved by the Town and Country Planning Department or the Planning and Development Authority of the area.

**12) Punishment: -**

Any person cremating or burying a dead person in any place other than a public crematoria and burial place established under this Act or a registered crematorium or burial place shall be punished with imprisonment which may extend to six months and or with fine not exceeding Rupees ten thousand. The offence shall be cognizable and bailable.

**13) Power to make Rules: -**

The Government may, by notification in the Official Gazette, make rules to carry out the purposes of the Act.

**14) Power to remove difficulties:-**

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by Order, not inconsistent with the provisions of this Act, remove the difficulty:

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

### **Statement of Objects and Reasons**

It is customary that last rites of the deceased persons are usually performed with a solemn ceremonies. The Christians have burial places in the precincts of the church, Muslims have their Kabarasthans at specified places, and Hindus have Smashan bhoomis which are earmarked as per the caste system prevailing in the villages.

In remote areas of Goa the Hindu residents usually cremate their dead bodies in their own land. Some non Hindus desire their dead bodies be cremated, where as some Hindus resort to the practise of burial.

It is necessary to create such facilities in our State. It is therefore proposed to enact a law providing for establishment of public crematoria and burial places at the State level as well as in different towns and villages ad a mechanism for their upkeep, management and registration of existing burial places and crematoria . The Municipality and the Village Panchayat laws do provide for establishment of public crematoria and burial places, however, it is felt these provisions are inadequate and hence a new Act as per the proposed draft is enclosed for the consideration of the Government.

The Bill seeks to provide for establishment and management of public crematoria and burial places.

### **Financial Memorandum**

It is estimated that the expenditure for land acquisition and establishment of public crematoria and burial places will be around rupees five crores.

## **2 RECOMMENDATIONS**

**2.1 It is therefore suggested that the Goa Public Crematoria and Burial Places Bill 2009 incorporating propositions made in the Reports may be introduced in the forthcoming Assembly Session.**

**2.2 We recommend accordingly.**

**Sd/-**

**(Ramakant D. Khalap)**

**Chairman**

**Sd/-**

**(Cleofato Coutinho)**

**Member**

**Sd/-**

**(Mario Pinto Almeida)**

**Member**