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## **ANDHRA PRADESH (ANDHRA AREAS SCHEDULED TRIBES) DEBT RELIEF REGULATION, 1960**

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## **ANDHRA PRADESH (ANDHRA AREAS SCHEDULED TRIBES) DEBT RELIEF REGULATION, 1960**

In exercise of the powers conferred by Clause (c) of sub paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor of Andhra Pradesh, with the assent of the President, hereby makes the following Regulation in the Tenth Year of the Republic of India, namely

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

(1) This Regulation may be called The Andhra Pradesh Scheduled Tribes) Debt Relief Regulation, 1960.

(2) It extends to the whole of the Scheduled areas of the State of Andhra Pradesh.

(3) It shall come into force in the whole of the scheduled areas to

which it extends or any part thereof, on such date as the Government may, by notification in the Andhra Pradesh Gazette, specify; and the Government may cancel or modify any such notification.

## **2. Definitions :-**

In this Regulation, unless the context otherwise requires

(i) "Agent" Agency Divisional Officer or "Agency Munsif" means the person designated as such by the Government in respect of the Scheduled Areas or any part thereof;

Explanation:- The expression "Agency Munsif" includes an additional Agency Munsif:

(ii) "Creditor" includes his heirs, legal representatives and assigns;

(iii) "debt" means any liability in cash or kind, whether secured, due from a member of a Scheduled Tribe, whether payable under a decree or order of a Civil or Revenue Court or otherwise;

(iv) "debtor" includes his heirs, legal representatives and assigns;

(v) "Government" means the State Government;

(vi) "interest" means any amount or other thing paid or payable in excess of the principal sum borrowed or pecuniary obligation incurred, or where anything has been borrowed in kind, in excess of what has been so borrowed, by whatsoever name such amount or thing may be called, and whether the same is paid or payable entirely in cash or entirely in kind or partly in cash and partly in kind and whether the same is expressly mentioned or not in the document or contract, if any;

(vii) "mortgagee" includes his heirs, legal representatives and assigns;

(viii) "mortgagor" includes his heirs legal representatives and assigns;

(ix) "Scheduled Areas" means the areas which have been or may be declared to be Scheduled Areas by the President under sub paragraph (1) of paragraph 6 of the Fifth Schedule to the Constitution;

(x) "Scheduled Tribe" means any tribe or tribal community or part of or group within, any tribe or tribal community resident in the

Scheduled Areas and specified as such under Article 342 of the Constitution;

(xi) "Special Officer" means the Special Officer appointed under Section 10.

### **3. Certain debts and liabilities not to be affected :-**

Nothing in this Regulation shall affect debts and liabilities of a member of a Scheduled Tribe falling under the following heads:

(a) any revenue tax or cess payable to the Government or the Central Government or any other sum due to them, by way of loan or otherwise;

(b) any tax or cess payable to any local authority or any other sum due to it, by way of loan or otherwise;

(c) any liability in respect of any sum due to any co operative society, including a land mortgage bank, registered or deemed to be registered under any law relating to Co operative Societies for the time being in force in the State.

### **4. Scaling down of debts :-**

Notwithstanding any law, custom, contract, decree or order or Court to the contrary, all debts payable by a member of a Scheduled Tribe at the commencement of this Regulation whether such debts are incurred within or without the Scheduled areas shall scaled down in accordance with the provisions of this Regulation.

### **5. Manner of scaling down of debts :-**

(1) Debts incurred before the 1st January, 1951, shall be scaled down in the manner mentioned hereunder namely:

(a) All interest outstanding on the 1st January, 1957, in favour of any creditor of a member of a Scheduled Tribe whether the same be payable under any law, custom or contract or under a decree or order of a Court, shall be deemed to be discharged, and only the principal or such portion thereof as may be outstanding shall be deemed to the amount repayable by such member on that date.

(b) Where any member of a Scheduled Tribe has paid to any creditor twice the amount of the principal whether by way of principal or interest or both such debt including the principal, shall be deemed to be wholly discharged.

(c) Where the sums repaid by way of principal or interest or both

fall short of twice the amount of the principal such amount only as would make up that shortage, or the principal amount or such portion of the principal amount as is outstanding whichever is smaller; shall be repayable.

Explanation 1:- In determining the amount repayable by a debtor under this sub section every payment made by him shall be credited towards the principal unless he has expressly stated in writing that such payment shall be in reduction of interest.

Explanation II :- Where a debt has been renewed or included in a fresh document executed before or after the commencement of this Regulation, by the same debtor or by any other person acting on his behalf or in his interest, in favour of the same creditor or of any other person acting on his behalf or in his interest, the principal originally advanced together with such sums, if any, as have been subsequently advanced as principal shall alone be treated as the principal sum repayable under this sub section.

(2) Debts incurred on or after the 1st January, 1951, shall be scaled down in the following manner. Interest shall be calculated up to the commencement of this Regulation at five per cent per annum simple interest or at the rate applicable to the debt under the law, custom or contract or the decree or order of a Court under the law, custom or contract or the decree or order of a Court under which it arises, whichever is less. Credit shall be given for all sums paid towards interest and only such amount. If any as is found outstanding towards interest so calculated shall be payable together with the principal amount or such portion of it as is due.

Explanation:- Any part of the debt which is found to be a renewal of a prior debt by the same creditor or of any other person acting on his behalf or in his interest shall be deemed to be debt contracted on the date on which such prior debt was incurred. And if such debt had been contracted prior to the 1st January, 1951, it shall be dealt with under the provisions of sub section (1).

(3) For the purposes of this section,

(i) nothing in sub sections (1) and (2) shall be deemed to require the creditor to refund any sum which has been paid to him or to increase the liability of a debtor to pay any sum in excess of the amount which would have been payable by him if this Regulation had not been made;

(ii) Where the principal was borrowed in cash with an agreement to repay it in kind the debtor shall notwithstanding such agreement be entitled to repay the debt in cash after deducting the value of all payments made by him in kind at the rate if any, stipulated in such agreement or at the market rate prevailing at the time of each payment, whichever is higher;

(iii) Where a debt has been split up whether before or after the commencement of this Regulation among the heirs, legal representatives or assigns of debtor or a creditor and fresh documents have been executed in representatives or assigns of debtor of a creditor and fresh documents have been executed in respect of the different portions of such debt the provisions of this Regulation shall continue to apply in respect of each of such portions.

**6. Special provision in respect of mortgages with provision :-**

(1) This section shall apply to every mortgage which was executed by a member of a Scheduled Tribe at any time before the commencement of this Regulation and by virtue of which the mortgagagee is in possession of the whole or a portion of the property mortgaged to him.

(a) Where no rate of interest is stipulated; or

(b) Where a rate of interest is stipulated in respect of principal amount secured by the mortgage or any portion thereof, in addition to the usufruct from the property on in respect of any other sum payable to the mortgage by the mortgagor in his capacity as such.

Explanation:- A mortgagee shall be deemed to be in possession of the property mortgaged to him, notwithstanding that he has leased it to the mortgagor or any other person.

(2) The provisions of Section 9 A of the Madras Agriculturists Relief Act, 1938 (Madras Act IV of 1938), shall so far as may be, apply in relation to the mortgages referred to in sub section (1), as they apply in relation to the mortgages with possession governed by the said Act.

**7. Provision as at to costs, etc. in certain cases :-**

Where a debt payable by a member of a Scheduled Tribe includes any sum decreed as costs by a court or sums lawfully expended by

a mortgagee or other person in order to preserve the property mortgagee or other person in order to preserve the property mortgaged, such sum or sums shall be recoverable in addition to the sum recoverable under the provisions of Sections 5 and 6.

**8. Rate of interest payable on debts incurred after the commencement of this Regulation :-**

(1) In any proceeding for recovery of debt, the Court shall not allow interest on any debt incurred by a member of a Scheduled Tribe after the commencement of this Regulation at a rate exceeding

(a) nine per cent per annum, simple interest, if it is a secured debt;

(b) twelve per cent, per annum, simple interest, if it is an unsecured debt.

(2) Notwithstanding anything in sub section (1), the Government may, by notification in the Andhra Pradesh Gazette, alter, from time to time, the rate of interest specified in Clause (a) or Clause (b) of that sub section.

**9. Rate of interest payable on old debts as scaled down :-**

All debts which have been scaled down in accordance with the provisions of this Regulation shall carry from the date up to which they have been scaled down, interest on the principal amount, if any, due on that date at the rate previously applicable under any law, custom, contract or otherwise:

Provided that the rate of interest shall not in any case exceed five per cent per annum simple interest.

**10. Power of the Government to appoint Special Officer :-**

As soon as may be after the commencement of this Regulation, the Government or any authority officer, empowered by them in this behalf, may by order, appoint an officer not lower in rank than a Deputy Tahsildar to be a Special Officer for the purposes of this Regulation and may specify in such order the local limits of his jurisdiction.

**11. Application for declaration of debts :-**

Where any debt is payable by a member of a Scheduled Tribe on the date of commencement of this Regulation, the creditor, the debtor or the Special Officer on behalf of the debtor may apply to the Court of the Agent, the Agency Divisional Officer, or the Agency

Munsif having jurisdiction, for a declaration of the amount of the debt, as scaled down in accordance with the provisions of this Regulation, due by the debtor:-

Provided that in respect of a decree debt, such application shall be made to the Court in which a suit for the recovery for the said debt was instituted.

**12. Procedure on receipt of an application under Sec.11 :-**

(1) When an application for a debt under Section 11 is made, the Court shall, after giving the parties concerned a reasonable opportunity of being heard, pass an order declaring the amount of the debt, as scaled down in accordance with the provisions of this Regulation, due by the debtor or declaring that the debt has been discharged, as the case may be, in case the Court passes an order declaring the amount of the debt due, it shall also pass an order that the said amount shall be paid in such number of instalments as it may deem proper having regard to the circumstances of the debtor and the amount declared due.

(2) If any instalment of the debt so fixed is not paid within three months from the date on which it falls due, the creditor may apply to the Court for a decree in respect of the entire amount: remaining payable to him under the order irrespective of the instalments fixed and the Courts shall, on payment by the creditor of the Court fee payable on a suit for such amount, grant a decree to the creditor for such amount:

Provided that the creditor may, on his application, be granted a decree for a lesser amount on paying the appropriate Court fee.

Provided further that the court shall not grant a decree for the attachment and sale of the movable property cattle and dwelling house, of the debtor.

(3) The Court fee, if any, paid by the creditor under sub section (2) shall be recoverable by him from the debtor in addition to the amount decree.

(4) If the debtor or the Special Officer on his behalf deposits with the Court the amount declared to be due under sub section (1) before an application for a decree is filed by the creditor under sub section (2) or the amount of the decree granted under sub section (2) together with the costs including the Court fee, the Court shall

grant to the debtor a certificate that the debt has been discharged, and shall pay the amount to the creditor.

(5) The procedure laid down in the Code of Civil Procedure, 1908 (Central Act V of 1908) as applied to the Scheduled areas, for the trial of suits shall apply to the applications made under Section 11.

(6) No Court shall entertain or proceed with a suit or an execution proceeding by the creditor for the recovery of a debt,

(i) if an application has been made under Section 11 in respect of such debt and is pending disposal with the Court.

(ii) if the Court has made an order under sub section (1) in respect to such debt; or

(iii) if a certificate has been granted under sub section (4).

**13. Power of Special Officer to apply for loans :-**

The Special Officer shall have power to apply and obtain loans on behalf of a member of a Scheduled Tribe from any Co operative Society or any authority duly authorised by the Government in this behalf and deposit the same with the Court for the repayment of the debts declared under Section 12 by the said Court.

**14. Court fee not to be levied on certain applications :-**

No Court fee shall be levied on an application made under this Regulation by or on behalf of a member of a Scheduled Tribe in his capacity as a debtor.

**15. Exemption :-**

Nothing in this Regulation shall apply to any debt payable by a member of a Scheduled Tribe who has been adjudicated an insolvent.

**16. Appeal :-**

(1) Any person aggrieved by any original order made under this Regulation may prefer an appeal within two months from the date on which notice of such order is given,

(a) if made by the Court of the Agency Munsif to the Agency Divisional Officer having jurisdiction;

(b) if made by Agency Divisional Officer, to the Agent;

(c) if made by the Agent, to the High Court.



(2) Every order made in appeal under this section shall be final and no second appeal shall lie therefrom.

**17. Revision :-**

(1) The Agent may, suo motu at any time or on application by an aggrieved party, call for and examine the record of any order made or proceedings recorded by an Agency Divisional Officer under this Regulation, for the purpose of satisfying himself as to the legality of such proceeding and after examining such record, may pass such order in reference thereto, as the Agent may deem fit.

(2) Every application under sub section (1) shall be preferred within two months of making of the order or the recording of the proceeding.

**18. Power to make rules :-**

The Government may make rules by notification in the Andhra Pradesh Gazette for carrying out the purposes of this Regulation.

**19. Repeal :-**

The Madras Agriculturists Relief Act, 1938 (Madras Act IV of 1938), to the extent to which any of the provisions contained therein correspond, or are repugnant, to any of the provisions contained in this Regulation, shall cease to have effect in the Scheduled areas in which this Regulation is in force.