

ANDHRA PRADESH STATE AID TO INDUSTRIES ACT, 1976

53 of 1976

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Received the assent of the Governor on the 18th August, 1976 and the said assent is first published on the 20th August, 1976 in the Andhra Pradesh Gazette. An Act to consolidate and amend the law relating to State Aid to Cottage, Small-Scale and Village Industries. Be it enacted by the Legislature of the State of Andhra Pradesh in the Twenty-Seventh Year of the Republic of India as follows

CHAPTER 1

Preliminary

1. Short title, extent, commencement and application :-

- (1) This Act may be called the Andhra Pradesh State Aid to Industries Act, 1976.
- (2) It extends to the whole of the State of Andhra Pradesh.
- (3) It shall come into force on such date as the Government may, by notification, appoint.
- (4) It applies to Cottage, Small-Scale and Village Industries.

2. Definitions :-

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

- (a) "Board" means the Board to Industries established under Section 3;
- (b) "Cottage industry" means an industrial business or enterprise carried on in any premises to which the Factories Act, 1948, does not apply;
- (c) "Director" means the Director of Industries, Andhra Pradesh and includes such other officer as may be authorised by the Government to exercise the powers and perform the functions of the Director under this Act;
- (d) "Government" means the State Government;
- (e) "industry" means any business or enterprise relating to cottage, small-scale or village industry conducted or undertaken, by any individual, company or association or body of individuals, whether incorporated or not, or by Panchayat Samithi or Zilla Parishad, and

includes an industry ancillary thereto;

(f) "notification" means a notification published in the Andhra Pradesh Gazette and the word "notified" shall be construed accordingly;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "small-scale industry" means an industry with a capital investment of an amount not exceeding rupees ten lakhs, irrespective of the number of persons employed; and includes such other industrial business or enterprise with a capital investment exceeding rupees ten lakhs but not exceeding rupees fifteen lakhs as the Government may, by notification, for reasons to be recorded therein, specify.

Explanation :- For the purpose of this clause the expression "capital investment" means the investment on plant and machinery only, calculated at the price paid by the owner, irrespective of whether the plant and machinery are new or second hand;

(i) "village industry" means an industrial business or enterprise which forms the normal occupation, whether wholtime or part-time, of the rural population of the State.

CHAPTER 2

Board of Industries

3. Establishment and constitution of Board of Industries and the term of office of its members, etc. :-

(1) There shall be established by the Government by notification, a Board of Industries for the State consisting of not less than seven and not more than nine members to advise the Government in regard to the grant of aid under this Act.

(2) The Board shall consist of the following members, namely :--

(i) two officers of the Government, not below the rank of a Deputy Secretary, to be nominated by the Government, out of whom one shall be from the Finance and Planning (Finance Wing) Department and the other from the Industries and Commerce Department.

(ii) the Director of Industries or the Additional Director of Industries.

(iii) the remaining to be nominated by the Government from among persons who are not holding any office under the Central or the

State Government and who have practical experience or special knowledge in matters connected with a cottage, small scale or village industry.

(3) One of the non-official members shall be appointed by the Government, by notification, as the Chairman of the Board.

(4) The term of office of the non-official members shall be such as may be specified by the Government, from time to time.

(5) The procedure to be followed at the meetings of the Board, the manner of filling of casual vacancies among its members and the manner of removing a member for misconduct or for failure to attend the meetings of the Board or for other reasons shall be such as may be prescribed.

CHAPTER 3

General Provisions regarding the Grant of Aid

4. Industries to which aid may be given :-

(1) An industry to which aid may be given by the Government under this Act shall have an important bearing on the economic development of the country and shall be--

(a) a new or nascent industry:

(b) an industry to be introduced in any area where such industry is undeveloped, or

(c) an old or established industry--

Provided that the Government may, by notification and for reasons recorded therein, declare that aid shall not be given under this Act to any industry specified in such notification.

(2) No aid shall be given by the Government to any Company as defined in Section 3 of the Companies Act, 1956 unless the same is registered in India.

(3) The decision of the Government on any question as to the industry to which aid may be given by the Government under this Act shall be final and shall not be called in question in any Court of law.

5. Grant of aid by the Government :-

(1) Subject to the provisions of this Act and in accordance with the rules made thereunder, the Government may grant aid to any

industry by way of a loan for all or any of the following purposes :--

- (i) purchase of land and erection of buildings;
- (ii) purchase of plant and machinery;
- (iii) purchase of raw materials;
- (iv) working capital or other incidentals necessary for the purpose of carrying on the industry;
- (v) paying the cost of employment of technical specialists or experts and of training of personnel;
- (vi) paying the cost of employment of managerial staff by industrial co-operatives;
- (vii) repayment of debts contracted for the purpose of acquiring fixed assets;
- (viii) recoupment and reimbursement of capital invested within one year prior to the date of application for the acquisition of fixed assets;
- (ix) discharge of mortgaged debts secured, on fixed assets, not more than one year prior to the date of application;
- (x) payment towards the share capital of an industrial co- operative subject to a maximum of seventy-five per cent of the share value or rupees one hundred and fifty per artisan, whichever is less.

(2) The loan that may be granted by the Government under this section shall not exceed--

(a) rupees twenty-five thousand in the case of an applicant who is an individual; and

(b) rupees two lakhs in the case of an applicant which is an industry, not being an individual.

6. Powers of the Director to grant aid :-

(1) The Director may on an application made to him and subject to such conditions, restrictions and limitations as may be laid down by the Government, grant aid to any industry for all or any of the purposes specified in Section 5 in accordance with such rules as may be made in this behalf:

Provided that the loan that may be granted by the Director to an

industry shall not exceed rupees ten thousand;

Provided further that the Government shall have power to control and revise any act or proceeding of the Director.

(2) The decision of the Government or the Director to grant or not to grant aid in any case under sub-section (1) shall not be called in question in any Court of law.

(3) Nothing in Sections 3, 11 and 14 shall apply to any application for the grant of aid under sub-section (1) or to any case where aid is granted under that sub-section.

7. Application for aid and procedure to be followed in certain cases :-

(1) Every application for aid of an amount exceeding ten thousand rupees shall be made to the Director in the prescribed form.

(2) As soon as may be after an application is made to him under sub-section (1), the Director shall make such enquiry as may be prescribed in regard to such application and shall place the application together with his report of inquiry before the Board. The Board shall consider the same and make such recommendations to the Government as it considers necessary and the Government may, after consideration of the report of the Director and the recommendation of the Board, grant aid to any industry.

8. Security to be obtained for loan :-

(1) No loan shall be granted under this Act, where the amount of the loan exceeds rupees two hundred, without obtaining :--

(a) security of immovable property owned by the applicant or two sureties thereof or of the plant and machinery of the industry or of the immovable property as well as the plant and machinery as aforesaid to the extent of the aid granted, seventy five per cent of the market value of the immovable property or the plant and machinery or the immovable property as well as the plant and machinery, as the case may be, being taken as the value thereof for the said purpose; or

(b) security by way of mortgage or floating charge upon the whole of the assets of the industry subject to any encumbrance existing at the time when the loan is granted and by such collateral security, if any, as may be required by the Government:

Provided that where it is not possible to give security of the immoveable property as aforesaid the loan may be granted on the personal security of two sureties on production of their solvency certificate.

(2) The Government may, if considered necessary, bind the applicant to invest such portion of the loan as determined by them on permanent improvement to the industry.

(3) Notwithstanding anything in sub-section (1) the Government may, in the case of industrial Co-operative Society, grant loan which may extend to an amount equivalent to ten times the paidup share capital of such Industrial Co-operative Society subject to such condition as may be prescribed.

9. Prohibition of transfer of property without permission of the sanctioning authority :-

(1) Where, before or after the commencement of this Act, any property has been taken as security towards any aid granted under this Act, then, notwithstanding anything to the contrary in any other law for the time being in force, in the deed of transfer or other document relating to the property, such property shall not be transferred without the written permission of the Government or Director as the case may be, (hereafter in this section and Section 10 referred to as the "sanctioning authority".)

(2) The sanctioning authority may, in its discretion, by order, permit the transfer of any such property, after satisfying itself that the property remaining, after such transfer, as security for the aid, is sufficient to secure the proper repayment of the outstanding loan due to the Government under this Act together with interest chargeable thereon and the costs, if any, incurred and that the transfer is in furtherance of the purposes for which the aid was granted and the assets resulting from the transfer are to be wholly utilised in furtherance of the said purposes.

Explanation :- When granting permission under this sub-section, the sanctioning authority may impose such conditions as it may deem fit to ensure that the assets resulting from the transfer are wholly utilised in furtherance of the purpose for which the aid was granted, but a contravention of any such condition imposed on the transfer shall not invalidate the transfer.

(3) Where any such property is transferred without such permission

the transfer shall be null and void.

10. Courts not to attach, sell, etc., without permission of the sanctioning authority :-

(1) No property referred to in Section 9 shall be liable to be attached, sold or made subject to a charge by any court, whether in execution of a decree or order or otherwise, unless the person seeking such relief from the Court has obtained the written permission of the sanctioning authority to do so and filed such permission in Court.

(2) When granting the permission the sanctioning authority may impose such conditions as it may deem fit to secure the proper repayment of the loan together with any interest chargeable thereon and costs, if any, incurred.

(3) Where any such property is attached or sold or a charge is created thereon by any Court without the permission of the sanctioning authority having been obtained and filed as aforesaid or where any condition imposed by the sanctioning authority when granting such permission is contravened, the attachment, sale or charge, as the case may be, shall be null and void.

11. Inspection and returns :-

Where a loan has been applied for under this Act, the applicant, at any time during the currency of a loan that has been granted under it, the grantee, shall be bound--

(a) to comply with any general or special order of the Government, relating to the inspection of the premises, building or plant or stock on hand of the industry;

(b) to submit the accounts of the industry to such audit as may be prescribed.

12. Director to exercise powers of Government under Sections 8 and 11 in certain cases :-

The power exercisable by the Government under sub-section (2) of Section 8 and under Section 11, may also be exercised by the Director in cases where aid is granted by him under Section 6.

13. Control of business by Government in certain cases :-

Where in any case, the amount of the loan given under this Act amounts to or exceeds one lakh of rupees, the Government shall, and in any other case may, by the appointment of Directors on

their behalf or otherwise, take steps, to ensure such control and supervision over the conduct of the industry as shall suffice in their opinion to safeguard their interests, and to satisfy themselves that the loan is utilised for the purpose and the object for which it was granted.

14. Repayment of loans :-

Every loan granted under this Act shall bear interest from such date and at such rate as the Government may, in each case or class of cases, determine and shall be payable in instalments within such period from the date of the actual advance of the loan, or where the loan is advanced in instalments, from the date of payment of the last instalment, as may be fixed by the order granting the loan:

Provided that the period so fixed shall not exceed ten years unless the Government, by general or special order, extend the said period.

15. Training of apprentices by recipient of aid :-

Every recipient of aid under this Act shall make such provision for the training of apprentices as the Government may, from time to time, prescribe.

16. Disposal of profits when condition of aid is not fulfilled :-

No recipient of aid to any industry, other than a cottage industry, shall pay any dividend or distribute or take any profits in excess of such rate of percentage upon the amount of the capital of the industry as the Government may, from time to time, fix until the conditions on which the aid has been granted are fulfilled. The balance of the profits, after proper amounts have been set aside for depreciation or obsolescence of plant, machinery or buildings and for payment of interest on debentures or loans, shall be carried to a reserve fund to be utilised in such manner as the Government may approve.

17. Power of Government to terminate aid on account of default :-

(1) The Government may, by order and for reasons to be recorded therein, terminate aid in respect of an industry on all or any of the following grounds :-

(i) that any portion of the aid granted has been misapplied;

(ii) that there has been a breach by the recipient of aid of the provisions of this Act, or of any rules made thereunder or of any condition of the grant of aid;

(iii) that the application on which the aid has been granted contained, or was accompanied by any material statement by the applicant which he knew to be false or any intentional concealment by him of any material fact, which in the opinion of the Government, it was his duty to disclose or that any such false statement or concealment was intentionally made in any inquiry under this Act, by or with connivance of the applicant or in any return under the Act, or in reply to any requisition for information under this Act.

(iv) that the industry is being managed in such a manner as to endanger the repayment of the amount of the aid granted thereto repayable under this Act, or make it impossible to return the money value of the aid under this Act:

Provided that no such order shall be passed unless the recipient is given an opportunity of making his representation.

(2) Notwithstanding anything in this Act, the Government may, on the termination of aid under sub-section (1) proceed to recover from the grantee,--

(a) the whole of amount of any loan outstanding together with such interest as may be due thereon;

(b) the cost of recovery, if any, and where the Government so directs, the cost of any inquiry in connection therewith.

(3) any order passed by the Government under sub-section (1) or sub-section (2) shall be final.

18. Fees :-

The Government may, in respect of an application, inquiry, inspection or audit made under this Act, charge such fees as may be prescribed.

19. Power of Government as regards starting or conducting industries and giving aid of certain kinds :-

Nothing in this Act shall preclude the Government from--

(a) assisting an industry by agreement to purchase on business terms the whole or portion of its products;

- (b) starting or conducting an industry for experimental purposes or with a view to stimulate industrial development;
- (c) assisting an industry by giving gratis/or in favourable terms the services of Government officials, experts, or others, either in the capacity of advisers or otherwise for such periods, as the Government may deem necessary for starting or conducting such industry;
- (d) assisting an industry in connection with industrial education or the training of apprentices;
- (e) assisting an industry in any manner which may be determined by the Government;
- (f) establishing a company for the purpose of giving financial or other assistance to an industry or subscribing for shares in such company, on such terms and conditions as the Government may, by general order, lay down;
- (g) subscribing for shares in, or in any manner aiding any industry on such terms and conditions as the Government may, by general or special order, lay down;
- (h) assisting an industry in the purchase of implements or machinery;
- (i) assisting in the marketing of products in the possession of any industry.

CHAPTER 4

Miscellaneous

20. Method of recovery of moneys due :-

- (1) All moneys payable under this Act, including any interest chargeable thereon and the costs, if any, incurred if not paid when they are due, may be recovered from the recipient of the aid and his sureties, if any, as if they were arrears of land revenue.
- (2) When any sum due as aforesaid is paid by the surety or is recovered from him or out of his property under sub-section (1), the Collector may, on the application of the surety, so far as possible recover the same from the recipient of the aid as if it were an arrear of land revenue and pay the amounts so recovered to the surety.

21. Protection of acts done in good faith :-

No suit, prosecution or other legal proceeding shall be instituted against any person for any thing which is in good faith done or intended to be done under this Act.

22. Power to make rules :-

(1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :-

(i) the quorum at the Board's meetings, the method of arriving at its decisions, the appointment of the staff, the remuneration of its members and all other matters relating to the members of the Board and the conduct of its business;

(ii) the form of application for aid, the manner of making the applications and the information to be given in such applications, provided that no such rule shall require any applicant or recipient of aid to divulge any information relating to the technical detail of any process or any patent owned by him;

(iii) the manner of conducting inquiries and the matters to be specially inquired into in dealing with applications for aid and the powers to be exercised by the Director for conducting such inquiries;

(iv) the mode of ascertaining the value of the assets of an industry, or of any property offered as collateral security for a loan;

(v) the nature of the security to be taken for the due application of loans and the rates of interest at which and the condition under which loans may be given, and the creation of a mortgage, floating charge or collateral security under Section 8;

(vi) the inspection of the premises, buildings, plant and stock on hand and the accounts of any industry for which aid has been granted;

(vii) the mode of keeping and auditing the accounts and of furnishing returns of any industry in respect of which aid has been granted;

(viii) the appointment and functions of directors appointed on behalf of the Government or the specifying of methods of control of

industry in respect of which aid has been granted;

(ix) the mode of application of profits in cases in which the condition under which loans have been made have not been fulfilled;

(x) the fixing of the period for the repayment of loans; and

(xi) the recovery of any moneys due under this Act and the penal interest payable therefor.

(3) Every rule made under this Act shall, immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified, have effect in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. Repeal and Savings Act, 5 of 1922 :-

(1) The Andhra Pradesh (Andhra Area) State Aid to Industries Act, 1922 and the Andhra Pradesh (Telangana Area) State Aid to (Small Scale and Cottage) Industries Act, 1956 are hereby repealed and upon such repeal, the provisions of Sections 8 and 18 of the Andhra Pradesh General Clauses Act, 1891 shall apply.

(2) Notwithstanding such repeal, anything done or any action taken under the repealed Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act was in force on the date on which such thing was done or action was taken.