
ASSAM HANDICRAFT ARTISANS WELFARE FUND ACT, 1998

7 of 1999

[18th January, 1999]

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SCHEDULE 1 :-

ASSAM HANDICRAFT ARTISANS WELFARE FUND ACT, 1998

7 of 1999

[18th January, 1999]

Whereas it is expedient to provide for the constitution of Fund to grant relief to, to promote the welfare of, and to pay pension to Handicraft Artisans in the State of Assam and for Certain other matters connected thereto :- It is hereby enacted in the Forty-ninth Year of the Republic of India as follows :-

1. Short title, extent and commencement :-

(1) This Act may be called the Assam Handicraft Artisans Welfare Fund Act, 1998.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "Board" means the Assam Handicraft Artisans Welfare Fund Board constituted under Section 6 ;

(b) "Chief Executive Officer" means the Chief Executive Officer appointed under sub-section(1) of Section 9 ;

(c) "Handicraft products" means,-

(i) cane products,

(ii) bamboo artistic products,

(iii) wood carving/Decorative Furniture,

(iv) drift crafts (Craft made of tree rods and branches),

(v) brass metal,

(vi) gold smith/silver smith

(vii) terracotta/earthen ware,

(viii) pith craft,

(ix) decorative Textile (Loem loom/shuttle loom),

(x) doll and toy making,

(xi) jute crafts,

(xii) stone carving,

(xiii) sital pati,

(xiv) paper crafts,

(xv) bhawna dress (dress used for Theatre),

(xvi) bead crafts

(xvii) peper machine,

(xviii) embroidery

(xix) mask making

(xx) mirijum,

(xxi) carpet making,

(xxii) laisengphee,

(xxiii) grass/leaf work,

(xxiv) decorative item made of plaster of paris/cements,

(xxv) decorative item made of any other media;

(d) "Handicraft Artisans" means any person who has engaged himself for production of Handicraft items or any person who is employed for wages to produce the Handicraft products and includes any person employed by any non-Government organisation, co-operative society or through any other agent and depends mainly on Handicraft Industries for his livelihood and whom the Government may, by notification in the Official Gazette, from time to time declare to be Handicraft Artisan for the purposes of this Act.

Explanation:- If any question arises as to whether a person is or is not a Handicraft Artisans for the purposes of this Acts, the matter shall be referred to the Advisory Committee constituted by the Government.

(e) "Government" means Government of Assam;

(f) "Director of Industries" means Director of Industries for the

State of Assam;

(g) "Contribution" means the sum of money payable to the Fund under Section 4 ;

(h) "dealer" means any person who is engaged in the business of purchase, sale or storage for sale of any Handicraft products, but does not include a Handicraft Artisan who sells or stores for sale, the handicrafts by himself;

(i) "family" means the husband, wife and their children;

(j) "Fund" means the Handicraft Artisans Welfare Fund, established under Section 3 ;

(k) "Artisans" means a person who engaged himself to any of the Handicraft products;

(l) "member" means a member of the Fund;

(m) "person" includes a company, a firm, an association of individuals, Non-Governmental Organisations or a Cooperative Society, registered or deemed to be registered under the Assam Co-operative Societies Act, 1949;

(n) "employer" means any person who directly employees whether on behalf of himself or for any other person one or more Handicraft Artisans to produce any Handicraft product;

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

(p) "Producer of Handicraft Products" means a person who carries on the business of producing Handicraft products for export or for internal marketing;

(q) "Schedule" means the Schedule to this Act;

(r) "Scheme" means a scheme framed under this Act;

(s) "Year" means the financial year;

(t) "board" means the Handicraft Artisans Welfare Fund Board constituted under Section 6 .

3. Handicraft Artisans Welfare Fund Scheme :-

(1) The Government may, by notification in the Official Gazette, frame a scheme to be called the Assam Handicraft Artisans, Welfare Fund Scheme for the establishment of a Fund under this Act for the

welfare of the handicraft Artisans engaged in the Handicraft Industry and there shall be established as soon as may be after the framing of the Scheme a Fund in accordance with the provisions of this Act and the Scheme.

(2) There shall be credited to the Fund-

- (a) the contribution specified in Section 4 ;
- (b) the amount borrowed by the Board under Section 10 ;
- (c) damage realised under Section 19 ;
- (d) grants or loan or advances made by the Government of India or the State Government or any other institutions;
- (e) any donations from any other sources;
- (f) any amount raised by the Board from other sources to augment the resources of the Board;
- (g) fee levied under the scheme;
- (h) any other amount which, under the provisions of the Scheme shall be credited to the Fund.

(3) The Fund shall vest in, and be administered by the Board constituted under Section 6

(4) The fund may be utilised for all or any of the following purposes, namely :-

(a) For payment of pension-

- (i) to a member who is unable to work due to old age or infirmity or who has completed the age of sixty years;
- (ii) to a person who before the commencement of this Act was a Handicraft Artisan and completed the age of sixty years or who suffers from permanent disablement and is out of employment;

(b) for payment of family pension to the spouse of the deceased member;

(c) for payment of financial assistance to member who suffers from permanent or temporary disablement;

(d) for payment of loans or grants to a member to meet the day-to-day expenses during off seasons or to meet expenses for the marriage of children or for expenses in connection with disease or

death of dependents or for expenses in connection with the education of children or for expenses for construction or maintenance of houses;

(e) to provide maternity benefits to women Artisans engaged in Handicraft Industry who are not eligible for such benefits under any other law for the time being in force;

(f) to provide for distress relief to the family of any member affected by natural calamities and epidemics;

(g) to provide for the Handicraft Artisans and their family members -

(i) medical facilities;

(ii) nurseries and creches;

(iii) education, vocational training and facilities for part time employment;

(iv) or any other facilities specified in the Scheme.

(5) Subject to the provisions of this Act, the Scheme framed under sub-section (1) may provide for all or any of the matters specified in sub-section(4) and in the Schedule.

(6) The Scheme be laid as soon as may be after it is framed, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the Scheme the Scheme shall thereafter have effect only in such modified form so that any such modification shall be without prejudice to the validity of anything previously done under the scheme.

4. Contribution to the Fund :-

(1) Every Handicraft Artisan shall contribute to the Fund one rupee each per month.

(2) Every employer other than Handicraft Co-operative Society or Non-Governmental Organisation shall in respect of each Handicraft Artisan, contribute to the fund two I rupees per month.

(3) Every Handicraft Co-operative Society or Non-Governmental Organisation which employs Handicraft Artisans shall in respect of

each Handicraft Artisan contribute to the Fund one rupee per month.

Explanation :- For the purpose of subsections (2) and (3) Handicraft Co-Operative Society means a society registered or deemed to be registered under the Assam Co-operative Societies Act, 1949 and the Rules made thereunder and Non-Governmental Organisation means an organisation registered or deemed to be registered under the Societies Registration Act, 1860 (Central Act No. XXI of 1860) which is engaged to work to produce Handicraft products.

(4) The Government shall contribute to the Fund every year an amount equal to twice the amount contributed by the Handicraft Artisans, or a maximum of Rs. 10.00 lakhs (Rupees ten lakhs) by way of grant, whichever is less.

(5) Every producer of Handicraft product and every dealer shall contribute to the Fund an amount equal to one percent of their sale proceeds in a year.

(6) The contribution shall be paid to the Chief Executive Officer or to any officer of the Board authorised by the Board in this behalf.

(7) Where the amount of any contribution payable under this Act, involves a fraction of rupee, the Scheme may provide for the rounding off of such fraction to the next nearest rupee.

5. Modification of the Scheme :-

(1) The Government may, by notification in the Official Gazette add to, amend or vary the Scheme either prospectively or retrospectively.

(2) Every notification under sub-section (1) shall be laid as soon as may be, after it is issued before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the legislative Assembly agrees in making any modification in the notification or decides that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect 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 notification.

6. Constitution of the Board :-

(1) The Government may, by notification in the Official Gazette constitute with effect from such date as may be specified therein, a Board to be called the "Handicraft Artisans Welfare Fund Board" for the administration of the Fund and to supervise or carry out the activities financed from the Fund.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Board shall consist of such number of Directors not exceeding fifteen in number as may be appointed by the Government and they shall be chosen in such manner as may be prescribed:

Provided that seventy-five percent of the number of the Director shall be from amongst Handicraft Artisans. Handicraft Co-operative Societies and Non-Governmental Organisations dealing with Handicrafts and the remaining shall be represented by Government.

(4)

(a) Seven persons appointed by the government amongst the Handicraft Artisans.

(b) Four person representing Co-operative Society and Non-Governmental Organisation.

(c) Four official appointed by the Govenment shall be officer not below the rank of Joint Director or equivalent representing, Industries Department. Finance Department, Labour Department. Government Undertaking Corporation dealing with Handicrafts and Handloom, Department.

(5) One of the members of the Board shall be appointed by the Government to be its chairman.

(6) The Government shall publish in the Official Gazette the names of all the Directors of the Board.

(7) The Board shall administer the Fund vested in it in such manner as may be specified in the Scheme.

(8) The Board may, with the previous approval of the Government delegate to the Chairman or to any Director of the Board or to the Chief Executive Officer such of its powers and functions under this Act or the Scheme as it may consider necessary for the efficient administration of the Fund subject to such restrictions and conditions if any. as it may specify.

7. Terms of Office of the Directors :-

(1) A Director appointed under sub-section (3) of Section 6 shall hold office for a period of three years.

(2) Notwithstanding anything contained in Section 8, the Government may at any time, for reasons to be recorded in writing, remove from office any Director of the Board after giving him a reasonable opportunity of showing cause against the proposed removal. Provided that it shall not be necessary to record in writing the reason for the removal or to give an opportunity of showing cause against the proposed removal if the Government is of the opinion that it is not expedient in the public interest to record the reason in writing or giving such opportunity.

(3) Any Director may resign his membership by giving notice in writing to the Government but shall continue in office until his resignation is accepted by the Government.

8. Removal of non-official Directors :-

(1) The Government may, by notification in the Official Gazette remove any non-official Director of the Board from office-

(a) if he has, without the permission of the Board, been absent from the meeting of the Board for three consecutive meetings:

Provided, however, that such absence may be condoned by the Board before the publication of the notification in the Official Gazette;

(b) If he, in the opinion of the Government is unsuitable or has become incapable of acting as a Director or has so abused his position as a Director detrimental to the public interest:

Provided that before removing a Director under this sub-section, he shall be given an opportunity of being heard as to why he shall not be removed.

(2) A non-official Director of the Board removed under Clause (a)

of sub-section (1) shall be disqualified for reappointment as a Director of the Board for a period of three years from the date of his removal unless otherwise ordered by the Government.

(3) A non-official Director of the Board removed under clause (b) of the sub-section (1) shall not be eligible for reappointment until he is declared by an order of the Government to be no longer ineligible.

9. Appointment of officer and staff :-

(1) The Government may appoint a Chief Executive Officer and such number of other officers and staff as they considered necessary to assist the Board in the discharge of its functions and duties under the Act.

(2) Subject to the provision of sub-section(3), the method of appointment, salary and allowances, discipline and the other conditions of Service of the Chief Executive Officer and the other officers and staff appointed under sub-section(1) shall be such as may be prescribed.

(3) In the case of posts in the Service under the Board to which appointment is made by direct recruitment-

(a) fifty per cent shall be reserve for appointment from candidates belonging to the families of Handicraft Artisan and

(b) fifty per cent shall be filled in accordance with the procedure laid down in the rules as may be prescribed.

10. Power of the Board to borrow :-

The Board may, from time to time with the previous approval of the Government subject to such terms and conditions as may be specified by the Government, borrow money for the purpose of the Schemes.

11. Determination of the amount due :-

(1) The Chief Executive Officer or any other officer authorised by the Board in this behalf may, after making such enquiry as may be necessary and after giving every person liable to pay contribution under Section 4 an opportunity of being heard, by order, determine the amount due from every employer or dealer or producer of Handicraft products under the provisions of this Act or the Scheme.

(2) The officer conducting the enquiry under sub-section (1), shall

for the purpose of such enquiry, have the same powers as are vested in the Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses,

(3) Any enquiry under this section shall be deemed to be a judicial proceeding within the meaning of S.193 of the Indian Penal Code (Central Act 45 of 1860) and S.228 of the Indian Penal Code (Central Act 45 of 1860) and for the purpose of S.196 of the said Code.

(4) Any person aggrieved by an order under sub-section (1) may, within thirty days from the date of receipt of the order, prefer an appeal to the Director of Industries or an officer not below the rank of Joint Director authorised by him in this behalf and Director of Industries or the officer authorised by him may after making such enquiry pass such order thereon as he thinks fit.

(5) The Government may either suo-motu or on an application made by any aggrieved person, call for the records of any proceedings taken by the Director of Industries or the officer authorised by him under sub-section (4) and make such enquiry and pass such orders as they deem fit: Provided that an application for revision under this sub-section shall be made within thirty days from the date on which the order was communicated to the applicant:

Provided further that no order shall be passed under this sub-section without giving the person who may be affected thereby an opportunity of being heard.

12. Provisional assessment and collection of contribution :-

(1) Every employer or dealer or producer of Handicraft products liable to pay contribution under Section 4 shall, pending determination under Section 11 of the amount due from him, pay on or before the 5th day of every month an amount equivalent to one twelfth of the amount payable annually by him according to

the latest determination under the said section.

(2) The contribution for a month due from a handicraft Artisan shall become payable on or before the 5th day of the succeeding month.

(3) Where the contribution is not paid on or before the due date the Chief Executive Officer or any officer or the Board authorised by it in this behalf shall issue a notice to the defaulter showing the amount of arrears and if the amount is not paid within fifteen days of the receipt of such notice, it may be recovered in the same manner as an arrears of Land Revenue due on Land.

(4) The amount paid under sub-section(1) by an employer or dealer or producer of Handicraft products shall be for a year.

13. Mode of recovery of money :-

Any amount due from the Handicraft Artisansemployers, dealers and producers of Handicraft products in pursuance of the provisions of this Act, or the Scheme may if the amount is in arrears, be recovered in the same manner as an arrears of land Revenue due on land.

14. Priority of payment of contribution over other debts :-

Where any employer or dealer or producer of Handicraft products liable to pay contribution under Section 4 is adjudicated as insolvent or in case such employer or dealer or producer of handicraft products is a company, an order for winding up is made the amount due from such employer or dealer and producer of Handicraft products under this Act or the Scheme shall, where the liability, therefore, has accrued before the order of adjudication or winding up is made, be deemed to be included among the debts which under S.64 of the Insolvency Act 1955. (Central Act 2 of 1956) or under S.530 of the Companies Act, 1956, (Central Act 1 of 1956) are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

15. Employer not to reduce wages, etc. :-

No employer or dealer or producer of handicraft products shall by reasons only of his liability for the payment of any contribution to the Fund reduce whether directly or indirectly the wages of any Handicraft Artisan to whom the Scheme applies or the total quantum of benefits to which the Handicraft Artisans is entitled under the terms of his employment express or implied.

16. Director of the Board, etc., to be public servants :-

Every Director of the Board, the Chief Executive Officer and other officers and members of the staff of the Board appointed under sub-section (1) of Section 9 shall be deemed to be a public servant within the meaning of S.21 of the Indian Penal Code (Central Act 45 of 1860).

17. Penalty :-

(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act, or under the Scheme or of enabling any other person to avoid such payment knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or both.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or of the Scheme shall, if no other penalty is elsewhere provided by or under this Act such contravention or non-compliance, be punishable with imprisonment for a term which may extend to two month or with fine which may extend to four hundred rupees or both.

(3) No court, inferior to that of a judicial Magistrate of the first class, shall try any offence punishable under this Act.

(4) No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made with previous sanction of the Chief Executive Officer.

18. Offences by companies :-

(1) Where an offence under this Act has been committed by an company, every person, who at the time when the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this subsection shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) above

where any offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any officer of the company, such officer of the company shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation "-For the purpose of this section:

(a) "Company" means any body corporate and includes a firm, Co-operative Society or other Association of Individuals, non-Governmental Organisations.

(b) "Officer of the Company" means Managing Director, Director, Managing Agent, Secretary. Treasurer or Manager of the Company and includes the officer bearers of a firm or Co-operative Society or other association of individuals and Non-Governmental Organisation.

19. Power to recover damage :-

Where any person makes default in payment of any contribution to the Fund under this act, or the Scheme, the Board may, recover from him damages, not exceeding twenty-five per cent of the amount of arrears as they may think fit to impose.

20. Protection for acts done in good faith :-

No suit or other legal proceedings shall be filed against any Director of the Board or any other person in respect of anything, which is in good faith done or intended to be done under this Act, or under the Scheme.

21. Direction by the Government :-

(1) The Government may, after consultation with the Board, give to the Board general direction to be followed by the Board.

(2) In the exercise of the powers and performance of its duties under this Act, the Board shall not depart from any general direction issued under sub-section (1) except with the previous permission of the Government.

22. Power to order enquiry :-

(1) The Government may, at any time, appoint any person to inquire into the working of the Board and submit a report to the Government.

(2) The Board shall give the person so appointed all facilities for the proper conduct of the inquiry and furnish to him such documents, accounts and information in the possession of the Board as may be required.

23. Power to supersede the Board :-

(1) If on consideration of the report under Section 22 or otherwise, the Government are of opinion that the Board has persistently defaulted in the implementation of the programme or the performance of duties imposed by it by or under the provisions of this Act or the Scheme or has exceeded or abused its powers, the Government may by notification in the official Gazette, supersede the Board for such period not exceeding six months as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Government shall give a reasonable opportunity to the Board to show cause as to why Board should not be superseded and shall consider the explanation and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1).

(a) all the Directors of the Board shall, as from the date of such publication, vacate their offices as such Directors ;

(b) all powers and duties, which may be exercised or performed by the Board shall, during the period of supersession be exercised or performed by such officer or officers as may be specified in the notification.

(c) all funds and other properties vested in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section(1) the Government shall reconstitute the Board in the manner provided in Section 6 .

24. Audit of Accounts of the Board and remuneration of Auditors :-

(1) The Government shall appoint auditors to audit the accounts of the Board.

(2) The Board shall pay to the said auditors such remuneration, as the Government may direct.

(3) The accounts of the Board shall be examined and audited once

in every year by such auditors.

25. Annual Report, Audited statement of Accounts :-

(1) The Annual Report of the Board shall be prepared under the direction of the Board and after approval by the Board a copy of the report shall be submitted to the Government before the end of July every year.

(2) The Government shall, as soon as the annual report is received, cause the same together with the audited statement of the accounts to be laid on the floor of Assam Legislative Assembly.

26. Bar of Jurisdiction of Civil Court :-

No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act or the scheme required to be settled, decided or dealt with or to be determined by the Government or the Board or Director of Industries or any officer authorised by the Director of Industries or the Chief Executive officer or any officer authorised by the Board.

27. Special provision for transfer of accumulation from welfare funds established by any Acts or agreement :-

Notwithstanding anything contained in any other law for the time being in force, on the date of publication of this Act in the Official Gazette, the sums standing to the credit of a member in any welfare fund established either by any Law or agreement shall stand transferred to and credited to the Fund established under this Act and the liability of such member to pay contribution to such welfare fund shall cease from such date.

28. Removal of difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may as occasion may require, by order, do anything not inconsistent with this Act or the rules, which appears necessary for the purpose of removing the difficulty.

(2) Every order made under sub-section (1) shall be laid before the State Legislative Assembly.

29. Power to make rules :-

(1) The Government may by notification in the official Gazette, make rules either prospectively or retrospectively for the purpose of carrying into effect the provisions of this Act.

(2) All rules made by the State Government under this Act shall, as soon as may be, after they are made, be laid before the Assam Legislative Assembly, while it is in session, for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the official Gazette subject to such modifications or annulments as the Legislature may, during the said period agree to make, so however, I any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

SCHEDULE 1

[See Section 3(1)]

Matters for which provisions may be made in the scheme :

(1) Registration of Handicraft Artisans, employers, producers of Handicraft products as dealers;

(2) The time and manner in which contribution shall be made to the Fund by Handicraft Artisans, employers, producers of Handicraft products and dealers and by or on behalf of Handicraft Artisans, the contributions which a Handicraft Artisan may make under section 4 and the manner in which such contribution may be recovered:

(3) The manner in which the Handicraft Artisans, contributions may be recovered by the employers;

(4) The constitution of any committee for assisting the Board;

(5) The manner in which accounts shall be kept, the investment of money belonging to the Fund in accordance with any directions issued or conditions specified by the Government, the preparation of the budget, the audit of accounts and the submission of reports to the Government;

(6) The form in which a Handicraft Artisan shall furnish particulars about himself and his family whenever required;

(7) The nomination of a person to receive family pension of a member on his death and the cancellation or variation of such nomination;

(8) The registers required to be maintained with respect to Handicraft Artisans and the returns to be furnished by the employer;

(9) The forms or design of any identity card, taken or formulated for the purpose of identifying any member of the Fund and for issue, custody and replacement thereof;

(10) The fees to be levied for any of the purpose specified in the schedule;

(11) Further powers, if any, which may be exercised by the officers

appointed under the Act;

(12) The manner in which the sums transferred under section 27 to be brought and credited to the Fund;

(13) The purposes for which the Fund may be utilised for the welfare of Handicraft Artisans, or their dependants;

(14) The procedure for defraying the expenditure incurred in the administration of the Fund;

(15) The procedure for paying pension, family pension,

(16) Any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of

implementing the Scheme.