

Manipur Agricultural Credit Operations And Miscellaneous Provision (Banks) Act, 1976

[10 September 1976]

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SCHEDULE 1 :- FIRST SCHEDULE

Manipur Agricultural Credit Operations And Miscellaneous Provision (Banks) Act, 1976

[10 September 1976]

An Act to make provisions to facilities adequate flow of credit for Agricultural Production and development through banks and other institutional credit agencies and for matters connected therewith and/ or incident thereto. BE it enacted by the Legislative of Manipur in Twenty seventh Years of Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title And Commencement :-

(1) This Act may be called the Manipur Agricultural Credit Operations and Miscellaneous Provisions (Bank) Act 1976.

(2) It shall extended to the whole of the State of Manipur.

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

2. Definitions :-

In this Act, unless the context otherwise requires -

(a) "Agriculture" and "agricultural purpose" shall include making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, raising and harvesting of crops, horticulture, forestry, planting and farming, seed farming, pisciculture, apiculture, sericulture, piggery, poultry farming and such other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders, poultry farmer and other categories of persons engaged in similar activities including marketing of agricultural products their storage and transport and the acquisition of implements and machinery in connection with any such activities and such other purposes as the State Government may, by notification in the official gazette, specify.

(b) "Agriculturist" means a person who is engaged in agriculture or who desires to be engaged himself in agriculture.

(c) " Agro-Industries Corporation" means a company or other body corporate one of the principal objects of which is to undertake activities connected with or intended for the development of agriculture and not less than fifty one per cent of the paid up share capital of which is held by the Central Government or by any State Government or Governments or Partly by the Central Government and partly by one or more State Governments.

(d) "Bank" means;-

(i) a banking company as defined in the Banking Regulation Act, 1949 :

(ii) The State Bank of India constituted under the State Bank of India Act, 1955 :

(iii) a subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act 1959;

(iv) a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.

(v) a Regional Rural Bank established under sub-section (1) of Section (3) of the Regional Rural Banks Ordinance, 1975 (13 of 1975) ;

(vi) any banking institution notified by the Central Government under Section 51 of the Banking Regulation Act, 1949,

(vii) the Agricultural Refinance Corporation constituted under the Agricultural Refinance Corporation Act, 1963, (viii) the Agro-Industries Corporation as defined in Sub-Section (c);

(i x) Agricultural Finance Corporation Limited a company

incorporated under the Companies Act, 1956 ; and

(x) any other financial institution notified by the State Government in the Official Gazette as a Bank for the purpose of this Act.

(e) "Co-operative Society" means a co-operative society registered under the Co-operative Societies Act in force in Manipur from time to time, the object of which is to provide financial assistance as defined in clause (f) of this Section to its members and/or avail of financial assistance as defined in clause (f) of this Section for itself and includes a Co-operative Land Mortgaged/ Development Bank.

(f) "Financial Assistance" for the purpose of this Act mean assistance granted, whether before or after the commencement of this Act, by way of loans, advances, guarantee or otherwise for agricultural purpose.

(g) "Land" (i) includes the crop or other produce standing there on or otherwise and also includes any future crop or other produce;

(ii) in case of a tenant cultivator or cultivator not being in owner but having interest in share of crop or other produce thereon means his share of crop or other produce on such land;

(iii) includes buildings, structure, erections, sheds out-houses, fixtures and fittings thereon and therein and appurtenances thereto both present and future.

(iv) and includes water area along with its embankments, if any and stock of fish and other aquatic products therein both present and future.

CHAPTER 2

RIGHTS OF AGRICULTURISTS TO ALIENATE LAND/INTEREST IN LAND IN FAVOUR OF BANKS

3. Removal Of Restriction On Alienation :-

Notwithstanding anything contained in any law for the time being in force or any custom or tradition, it shall be lawful for an agriculturist, whose rights of alienation of land or of any interest therein are restricted, to alienate the land or his interest therein, including by creation of a charge or mortgage on such land or interest in favour of a bank for the purpose of obtaining financial assistance from that bank.

4. State Govt. May By Notification, Vest, Agriculturists Not Having Alienable Rights With Such Rights :-

Notwithstanding anything contained in any law for the time being in force, the State Government may, by notification in the Official

Gazette, vest any class or classes of agriculturists not having rights of alienation in land or of any interest therein, with rights of alienation including the right to create a charge or mortgage on such land or interest in favour of a bank for the purpose of obtaining financial assistance from that bank without any restrictions, or subject to such restrictions as may be specified in the notification.

5. Charge On Crops And Other Movable Property In Favour Of A Bank :-

(1) It shall be lawful for an agriculturist to create a charge on the movable property owned by him or on the crops raised by him, standing or otherwise or other produce from land cultivated by him, to the extent of his interest therein, in favour of a bank, to secure financial assistance from that Bank, notwithstanding that he may not be the owner of the land on and from which the crop or other produce is raised.

(2) Notwithstanding anything in the contrary in the Co-operative Societies Act in force in Manipur from time to time or any other law for time being in force, no charge in respect of financial assistance extended by a co-operative society to an agriculturist shall have priority over a charge on the crops by him, standing or otherwise or other produce or any other movable property in respect of any financial assistance given to him by a bank, provided the financial assistance made by the bank is prior in point of time to that of the financial assistance extended by the Co-operative Society.

6. Creation Of Charge On Land In Favour Of A Bank By A Declaration :-

(1) Where an agriculturist creates a charge on land, or any other immovable property which he owns or in which he has an interest in respect of any financial assistance given to him by a bank, he may make a declaration on the lines of the form set out in the Schedule hereto or as near thereto as circumstances permit, declaring that thereby he creates, in favour of the Bank, a charge on such land or his interest therein, or other immovable property as the case may be, to secure the financial assistance given to him by the bank or that may be given to him by the Bank or all future financial assistance, if any, which the Bank may give to him.

(2) A declaration made under sub- section (1) may be varied from time to time by the agriculturist with the consent of the Bank in

whose favour the declaration has been made. Such variation shall take effect from such date on which the variation, if it had been an original declaration, would have effect under section 96A. Where any declaration under section 6 has been made and the amount of financial assistance secured thereby has been paid to the bank or the debt has been otherwise discharged, the Bank may issue a certificate to that effect in such form or as near thereto as the circumstances permit and in such manner as may be prescribed.

CHAPTER 3

CHARGES AND MORTGAGES IN FAVOUR OF BANK AND THEIR PRIORITIES

7. Removal Of Disability In Creation Of Charges, Mortgages

:-

Notwithstanding anything to the contrary contained in the Co-operative Societies Act in force in Manipur from time to time or any other law for the time being in force and notwithstanding that any land or interest therein stands already charged or mortgaged to a co-operative society, it shall be lawful for an agriculturist to create a charge or mortgage on such land or interest therein in favour of a bank as security for any financial assistance given to the agriculturist by that bank or that may be given to him by the Bank or all future financial assistance if any, which the Bank may give to him.

8. Priority Of Charges And Mortgages In Favour Of Government A Bank And A Co-Operative Society :-

(1) Notwithstanding anything to the contrary in any law for the time being in force-

(a) No charge or mortgage created on any land or interest therein, after the commencement of this Act, in favour of Government or a Co-operative Society shall have priority over a charge or mortgage on such land or interest created by an agriculturist in favour of a bank as security for financial assistance given to the agriculturist by the bank after the commencement of this Act and prior to the charge or mortgage in favour of Government or the Co-operative Society; and

(b) Any charge or mortgage created on any land or interest therein in favour of a bank in respect of financial assistance given to an agriculturist by the bank shall have priority over any other charge or mortgage that may have been created over such land, or interest in favour of any person other than Government a Co-

operative Society or any other Bank, prior to the date on which the charge or mortgage was created in favour of the bank.

(2) Where different charge or mortgage over the same land or interest therein have been created by an agriculturist in favour of Government, a co-operative society or a bank or more than one bank, any such charge or mortgage created as security for financial assistance given by Government, co-operative society or the bank or banks by way of term loan for development purposes shall have priority over the other charges or mortgages created in favour of Government, co-operative society or any of the banks provided prior notice of any such financial assistance by way of term loan for development purpose had been given to such Government, Co-operative Society or bank and such Government, co-operative society or bank has concurred in such financial assistance, and where more than one such charge or mortgage is as security for financial assistance given by way of term loan, the charges or mortgages by way of security for term loans for development purposes will rank for priority in accordance with the dates of their creation.

Explanation:- For the purpose of this section, "term loan for development purpose" shall mean financial assistance which would generally lead to improvement of agriculture and/ or building up of assets in agriculture but shall not include financial assistance for meeting working capital expense/seasonal agricultural operation and marketing of crops.

(3) Nothing in the section shall apply to borrowings only from one or more co-operative societies including land mortgage banks.

9. Registration Of Charge And Mortgage In Favour Of Banks

:-

(1) Notwithstanding anything contained in the Registration Act, 1908, a charge in respect of which a declaration has been made under sub-section (1) of Section 6, or in respect of which a variation has been made under sub-section (2) of that section, or a mortgage executed by an agriculturist in favour of a bank in respect of financial assistance given by that bank, shall be deemed to have been duly registered in accordance with the provisions of that Act with effect from the date of such charge, variation or mortgage as the case may be provided that the Bank sends to the Sub- Registrar within the local limits of whose jurisdiction the whole or any part of the property charged or mortgaged is situate, within

the times stipulated by the State Government for this purpose by registered post acknowledgement due, a copy of the document creating such charge, variation or mortgage duly certified to be a true copy by an employee of the bank authorised to sign on its behalf.

(2) The Sub-Registrar receiving the declaration in respect of a charge or variation or a mortgage referred to in sub-section (1) shall as immediately as practicable on receipt thereof, record, in a register to be maintained in this behalf, the fact of the receipt of such declaration, variation or mortgage for registration.

9.A. Notwithstanding any contained in the Registration Act, 1908 the certificate issued by the Bank under Section 6A shall be deemed to have been duly registered in accordance with the provisions of that Act with effect from the date of signing of such certificates, provided that the bank sends to the Sub- Registrar to whom the documents referred to in Section 6(1) or 6(2) in respect of the land or immovables charged, were earlier sent, in such manner as may be prescribed, a copy of such certificate. The Sub-Registrar on receiving the certificate referred to above, as immediately as practicable on receipt thereof recorded in a register, prescribed in this behalf, the fact of receipt of such certificate.

9.B. For the removal of doubts it is hereby declared that no duty under the Indian Stamp Act, 1899 or fee under the Registration Act, 1908 shall be payable on a declaration referred to in Section 6 and certificate referred to in Section 6A.

10. Nothing Of Charge Or Mortgage Created In Favour Of A Bank In The Record Of Rights :-

Whenever a charge or a mortgage on land or interest therein is created in favour of a bank by an agriculturist, the bank may give intimation to the S.D.C./S.D.O. or such Revenue Official as may be designated in this behalf by the State Government, of the particulars of the charge or mortgage in its favour. The S.D.C./S.D.O. or the other, Revenue Official shall make a note of the particulars of charge or mortgage in the Records of Rights relating to the land over which the charge or mortgage has been created.

11. Restrictions On Creation Of Tenancy By An Agriculturist Borrower :-

(1) Notwithstanding anything contained in any for the time being in

force, an agriculturist who has availed himself of financial assistance from a bank by creating a charge or mortgage on land or interest therein, shall not, so long as the financial assistance continues to be outstanding, lease or create any tenancy rights on such land or interest therein without prior permission in writing of the bank if he has not already leased or created tenancy rights thereon at the time of availing of the financial assistance from the bank.

(2) Any lease granted or tenancy rights created in contravention of this section shall be void.

CHAPTER 4

ARRANGEMENTS FOR RECOVERY OF DUES BY BANKS

12. Removal Of Bar To Attachment And Sale By Process Of Court :-

Nothing in any law shall prevent in any manner a bank from causing any land or any interest therein charged or mortgaged to it by an agriculturist to secure any financial assistance to be attached and sold through a civil court and applying the proceeds of such sale towards all moneys due to it from that agriculturist including the costs and expenses as may be awarded by the court.

13. Recovery Of Dues Of A Bank Through A Prescribed Authority :-

(1) A bank may distrain and sell through an official of the State Government designated in this behalf by the State Government, the Crop or other produce or other movables charged to that Bank to the extent of the agriculturists interest therein and appropriate the proceeds of such sale towards all moneys due to the Bank along with the cost and expenses incurred by the Bank; from the agriculturist.

(2) An official of the State Government notified by the State Government as the prescribed authority for the purpose of this section may, on the application of a bank, make an order on any agriculturist or his heir or legal representative, directing the payment of any sum due to the Bank along with the cost and expense incurred by the Bank on account of financial assistance availed of by the agriculturist, by the sale of any land or any interest therein upon which the payment of such money is charged or mortgaged.

The prescribed authority, may on the application of a bank, make

an order on the surety, who has entered into a contract of guarantee directing the payment of any sum due to the Bank on account of financial assistance availed by the agriculturist, but not repaid by the latter along with cost and expense incurred by the Bank.

Provided that no order shall be made by the prescribed authority under this section for the sale of any land or any interest therein or any other immovable property upon which the payment of money is charged or mortgaged unless the agriculturist or the heir or legal representative of the agriculturist, as the case may be, has been served with a notice by the prescribed authority calling upon him to pay the amount due.

(3) The provisions of this section shall mutandis apply for recovery and satisfaction of dues of the Bank along with the costs and expense incurred by the Bank out of other assets of the borrower not charged or mortgaged to the Bank as security for the financial assistance.

(4) Every order passed by the prescribed authority in terms of subsection (2) shall be deemed to be decree of a civil court and shall be executed in the same manner as a decree of such court.

(5). Nothing in this Section shall debar a bank from seeking to enforce its rights in any other manner open to it under any law for the time being in force.

14. Right Of A Bank To Acquire And Dispose Of Immovable Property :-

(1) Notwithstanding anything contained in any law for the time being in force, a bank shall have power to itself to acquire agricultural land or interest therein or any other immovable property which has been charged or mortgaged to it by an agriculturist in respect of any financial assistance availed of by him, provided the said land or interest therein or any other immovable property has been sought to be sold by public auction and no person has offered to purchase it for a price which is sufficient to pay to the bank the moneys due to it.

(2) A bank which acquires land or interest therein or any other immovable property in exercise of the power vested in it under subsection (1) shall dispose it by sale, within a period to be specified by the State Government in this behalf.

(3) If the bank has to lease out any land acquired by it under subsection(1), pending sale thereof as indicated in sub-section(2), the

period of lease shall not exceed one year at a time and the lease shall not acquire any interest in that property notwithstanding any provisions to the contrary in any other law for the time being in force.

(4) A sale by a bank of land or interest therein under the terms of this Section shall be subject to any provisions of any law in force which may place restrictions on purchase of land by non-agriculturists or ceiling for acquisition of land or by a person not belonging to a particular tribe or scheduled caste or fragmentation of land.

15. Exemption To Banks From Restriction On Acquisition Of Land In Excess Of Ceiling :-

Nothing in any law for the time being in force placing a ceiling limit on the holding of land shall apply to a bank acquiring land in terms of section 14 and holding such land till such time the bank is in position to sell the land in the manner provided in Section 14 or otherwise, at a price which is adequate to cover its dues.

CHAPTER 5

FINANCING OF CO-OPERATIVE SOCIETIES BY BANKS

16. Bank Eligible To Become Member Of A Co-Operative Society :-

Notwithstanding anything contained in the Co-operative Societies Act as in force in Manipur from time to time or any law for the time being in force, it shall be lawful for a bank to become a member of a Co-operative Society.

17. Power Of Cooperative Societies To Borrow From Bank :-

Notwithstanding anything contained in the Co-operative Societies Act in force in Manipur from time to time it shall be lawful for any Co-operative Society to borrow from a bank.

18. Inspection Of Book Of Co-Op. Society By A Bank :-

(1) A bank shall have the right to inspect the books of any co-operative society which has either applied to the Bank for financial assistance or is indebted to the bank on account of financial assistance granted earlier.

(2) The inspection may be carried out by an Officer or any other member of the paid staff of the bank with the previous sanction in

writing of the Registrar of Co-operative Societies.

(3) The Officer or any other member of the paid staff of the Bank, undertaking such, inspection, shall at all reasonable times, have access to the books of accounts, documents, securities, cash and properties belonging to or in the custody of the co-op. society inspected by him, and shall also be supplied by such society, such information, statements, and returns as may be required by him to assess the financial assistance to be made to the society or already made to it.

19. Disputes Between A Bank And A Co-Operative Society :-

(1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management or the business of a co-operative society, between a bank financing a co-operative society and the co-operative society so financed, other than disputes, regarding the disciplinary action taken by the society or its committee against a paid employee of the society, shall be referred by either of the parties to the dispute to the Registrar of Co-operative Societies for decision.

(2) Where any question arises whether, for purposes of the foregoing sub-section, a matter referred to for decision, is dispute or not, the question shall be decided by the Registrar of Co-operative Societies whose decision shall be final.

20. Settlement Of Disputes :-

(1) If the Registrar is satisfied that any other matter referred to him or brought to his notice is a dispute within the meaning of Section 19, the Registrar shall decide the dispute himself or refer it for disposal to a nominee or a Board of nominees appointed by him.

(2) Where any dispute is referred under the foregoing Sub-Section for decision to the Registrars nominee or Board of nominees, the Registrar may at any time, for reasons to be recorded in writing, withdraw such dispute from his nominee or Board of nominees appointed by him.

(3) Notwithstanding anything contained in Section 19, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute if the question at issue between a co-operative society and a bank is one involving complicated question of law and act, until the question has been tried by a regular suit instituted by one of the parties to the dispute. If any such suit is not instituted within two months from the Registrars order suspending proceedings, the

Registrar shall take action as is provided in sub-section (1).

21. Procedure For Hearing Of Disputes :-

The Registrar or his nominee or Board of Nominees hearing a dispute under the last preceding section shall hear the dispute in the manner that may be prescribed by the Registrar in this behalf.

22. Decision Of Registrar Or His Nominee Or Board Of Nominees :-

When the dispute is referred for decision, the Registrar or his nominee or the Board of Nominees may, after giving a reasonable opportunity to the parties to the dispute, to be heard, make an award on the dispute, and as to the expenses incurred by the parties to the dispute, in connection with the proceedings and fees, expenses payable to the Registrar or his nominee or, to the Board of nominees as the case may be. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar and shall subject to appeal or review or revision by the Co-operative Tribunal of the State, be binding on the parties to the dispute.

23. Recovery Of Money Awarded :-

Every award given by the Registrar or the Registrars nominee or the Board of Nominees under Section 22 shall, if not carried out, on a certificate signed by the Registrar, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court.

24. Power Of A Bank To Proceed Against Defaulting Members Of A Co-Operative Society :-

(1) If a co-operative society is unable to pay its debts to a Bank from which it has borrowed, by reason of its members defaulting in the payment of the moneys due by them, the bank may direct the committee of such society to proceed against such members by taking action under the co-operative society Act in force in Manipur from time to time.

(2) If the committee of the Co-operative Society fails to proceed against its defaulting members within a period of ninety days from the date of receipt of such direction from the bank, the bank itself may proceed against such defaulting members in which event, the

provisions of the Co-operative Societies Act in force in Manipur from time to time, the rules and the bye-laws made there under shall apply as if all reference to the society or its committee in the said provisions, rules and bye-law were references to the bank.

(3) Where a bank has obtained a decree, or award against a co-operative society indebted to it, the bank may proceed to recover such moneys firstly from the assets of the co-operative society and secondly from the members of the Co-operative Society to the extent of their debts due to the society.

25. Audit, Inspection & Inquiry Reports Of Societies To Be Available To Banks :-

The Registrar of Co-operative Societies, shall draw the attention of the bank financing a co-operative society to the defects noticed in every audit or inquiry or inspection of such society conducted as per provisions of the Co-operative Societies Act in force in Manipur from time to time, and shall also supply a copy each of such audit, inquiry or inspection report if demanded, in writing, by the bank.

CHAPTER 6

MISCELLANEOUS

26. Exemption From Legislations Relating To Money-Lending & Agriculturists Debt Relief :-

Nothing in any law for the time being in force dealing money lending or agriculturists debt relief shall apply to financial assistance availed of by an agriculturist from a bank.

27. Mortgages Executed By Managers Of Joint Hindu Families :-

(1) Notwithstanding anything contained in any law for the time being in force, mortgages executed after the commencement of this Act by the Manager of a joint Hindu family in favour of a bank for securing financial assistance for an agricultural purpose shall be binding on every member of such joint Hindu family.

(2) Where a mortgage executed in favour of a bank is called in question on the ground that it was executed by the Manager of a Joint Hindu Family for purpose of binding on the members (whether such members have attained majority or not) thereof, the burden of providing the same shall lie on the party alleging it.

28. Modified Application Of Section & Of Act, Xxxii Of 1956

:-

Section 8 of the Hindu Minority and Guardianship Act, 1956 shall apply to charge on mortgages in favour of a bank.

29. Power Of State Government To Make Rules :-

The State Government may make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act and all such rules shall be published in the Official Gazette.

30. Repealed And Savings :-

(1) The Manipur Agricultural Credit Operations and Miscellaneous Provisions (Banks) Ordinance, 1976 (No. 4 of 1976) shall stand repealed on the day this Act comes into force.

(2) On and from the date on which the provisions of this Act are brought into force in the State of Manipur, anything done and any step taken, (including order, scheme, rule, form or notice) and any action taken under the repealed Ordinance shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force unless and until it is superseded by anything done or any action taken in accordance with law.

SCHEDULE 1

FIRST SCHEDULE

DECLARATION UNDER SECTION 76 (1)

I,..... (agedyears) residing at being desirous of availing myself of financial assistance from the Bank make this declaration as required by Section 6 (1) of the Manipur Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1976, that I own / have interest as a tenant in the land specified below, and I hereby create a charge on the said land/interest in land in favour of the bank for securing the financial assistance which the bank may make and for securing assistance, if any, which the bank may make to me together with interest and costs and expenses thereon.

Name of Village	Name of Taluka	Name of District	Survey No. City Survey No.			Boundaries		Ares
			Plot No.	Plot Hissa		South East.	North West.	Acres Gunthas.
1	2	3	4	5	6	7	8	9

As Assessment		Approximate	Encumbrances if any		Remarks
Rupees.	Paise.	Value.	Nature.	Amount.	if any.

In witness whereof, I, Shri hereunder my hand
 this..... day of in the year one

Witnesses

Signed and delivered by the above named in the presence of:

1.

2.

Signature of declarant.

Attested by

Forwarded with compliments to the Village Officer with a request to include the
 particulars of the charge created
 under declaration in the Record of Rights and to return to the bank for its record.

Manager / Agent

..... Bank

Place

Returned with compliments to the Manager /Agent... .. Bank, the
 charge created under the declaration is duly included in record of Rights on the ...
 ... day of 19.

Village Officer.

Rewardred with compliments to the Sub-Registrar with a request to record the
 particular of the chargecreated under the declaration in his
 office.

Manager / Agent Bank.

Place

Returned with compliments to the Manager / Agent.....Bank.

The charge created under the declaration is duty recorded.

Sub- Registrar.