

West Bengal Relief Of Rural Indebtedness Act, 1975

46 of 1975

[05 January 1976]

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PREAMBLE

An Act to provide for relief of rural indebtedness in West Bengal.

Whereas it is expedient to provide for relief of rural indebtedness in West Bengal;

It is hereby enacted in the Twenty-sixth Year of the Republic of India, by the Legislature of West Bengal, as follows:-

1. For Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, Part IV, of the 24th November, 1975, page 2518;

for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 27th November, 1975.

1. Short title, extent and commencement :-

(1) This Act may be called the West Bengal Relief of Rural Indebtedness Act, 1975.

(2) It extends to the whole of West Bengal.

(3) It shall come into ¹force in such areas and on such dates as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas.

1. This Act came into force on the 17th January, 1977, vide notification No. 164-Credit, dated the 17th January, 1977, published in the Calcutta Gazette, Extraordinary, Part I.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

(a) "agriculture" includes horticulture and dairy farming, pisciculture, forestry, sericulture, bee-keeping, piggery, poultry farming and growing of fruits, vegetables and the like;

(b) "agricultural labourer" means a person who follows any one or more of the following agricultural occupations in the capacity of a labourer on hire or exchange, whether paid in cash or in kind or partly in cash and partly in kind, namely:-

(i) farming including cultivation and tillage of soil,

(ii) dairy farming,

(iii) production, cultivation, growing and harvesting of any horticultural commodity,

(iv) raising of livestock, bees or poultry, and

(v) any practice performed on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations) and preparation for market and delivery to storage or to market or to carriage for transportation of farm products;

(c) "Appellate Officer" means an officer appointed under sub-section (1) of section 12;

(d) "artisan" means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary thereto, and also a person who

normally earns his livelihood by practising craft either by his own labour or by the labour of the members of his family in the rural area;

(e) "authority" means an officer appointed under section 3;

(f) "bank" means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949(10 of 1949.) and includes the State Bank of India constituted under the State Bank of India Act, 1955(23 of 1955.), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959(38 of 1959.), a corresponding new bank as defined in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970(5 of 1970.), a banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 and also includes any other financial institution which may be notified in this behalf by the State Government;

(g) "Collector" includes any officer not below the rank of Deputy Collector appointed by the State Government to exercise all or any of the powers of a Collector under this Act;

(h) "debt" includes all liabilities in cash or in kind incurred by a debtor on or before the first day of July, 1975, either voluntarily or by or under a decree or order of any court and which may be secured or unsecured and payable presently or in future, but does not include the following, namely:-

(i) any rent due in respect of a property let out to a debtor,

(ii) any liability arising out of a breach of trust,

(iii) any liability for damages against a wrong-doer for any act of tort committed by him,

(iv) any claim for wages or by way of remuneration for service rendered,

(v) any liability for maintenance arising under an order of a court or otherwise,

1 XXX XXX XXX.

(vii) any share of the produce of land payable on account of land cultivated under the system known as adhi, barga or bhag,

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(ix) any sum recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913(Ben. Act III of 1913.),

(x) any sum due to the Central or any State Government or a bank or a co-operative society or a local or statutory authority or the Life Insurance Corporation of India;

Explanation I.-Any liability incurred by a debtor on or after the first day of July, 1975, which is in fact a substitution of a liability

previously incurred by him shall be deemed to be a debt within the meaning of this Act;

Explanation II.-For the purposes of this Act, debt includes all kinds of mortgage and a mortgage includes an out and out sale with an agreement, written, or oral, for reconveyance of the property transferred, to the transferor;

(i) "debtor" means a person who is resident outside an area included in a Corporation, municipality, notified area or Cantonment and who belongs to any of the following categories, namely:-

(i) marginal farmer,

(ii) small farmer,

(iii) agricultural labourer, and

(iv) artisan;

(j) "farmer" means a person who is engaged in agriculture;

(k) "marginal farmer" means a farmer who possesses not more than two hectares if he is a member of any of the Scheduled Tribes, and one hectare in other cases, of land, either as an owner or as a raiyat or as a share-cropper;

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

(m) "small farmer" means a farmer who possesses more than two hectares but less than four hectares if he is a member of any of the Scheduled Tribes, and more than one hectare but less than two hectares in other cases, of land, either as an owner or as a raiyat or as a share-cropper.

1. Sub-clauses (vi) and (viii) were omitted by section 2 of the West Bengal Relief of Rural Indebtedness (Amendment) Act, 1976 (West Ben. Act XXXVI of 1976).

2. See foot-note 1 on page 300 ante.

3. Appointment of authority :-

The State Government may, by notification, appoint one or more persons as authorities, for carrying out the purposes of this Act, in respect of local areas to be specified in such notification.

4. Application for determination of debt :-

(1) A debtor may, within such time and in such manner as may be prescribed, make an application to an authority for the local area within which such debtor ordinarily resides, for determination of his debt.

(2) Unless the debtor has already made an application under sub-

section (1) any of his creditors may also make an application to the same authority to which, and in the same manner in which, the debtor might have applied under that sub-section for determination of the debt in question.

(3) If applications are made to more than one authority in respect of the same debt, such applications shall, subject to such rules as may be made in this behalf, be transferred to and dealt with by one authority.

(4) An application under sub-section (1) or under sub-section (2) shall be in writing in the prescribed form and shall be accompanied by such fee as may be prescribed.

5. Determination of amount :-

(1) On receipt of an application under section 4 the authority, after giving an opportunity to the parties concerned to appear and be heard, shall determine in respect of the debt in question the amount of the principal and the amount of interest due thereon, up to the date of such determination.

(2) When the authority has determined under sub-section (1) the amount of the debt together with interest the decision of the authority to be embodied in an order, shall, subject to the provisions of section 12 relating to appeal, be final and shall not be called in question in any civil court.

(3) The procedure to be followed by an authority in any proceeding before it shall, subject to the provisions of this Act, be in accordance with such rules as may be prescribed.

6. Order :-

An order made under sub-section (2) of section 5 shall be in the prescribed form and shall include such particulars as may be prescribed.

7. Relief to debtors in certain cases :-

(1) Notwithstanding anything contained elsewhere in this Act,-

(i) in every case in which a debtor is-

(a) an agricultural labourer whose total annual income from all sources does not exceed rupees twenty-four hundred, or

(b) a marginal farmer whose land is non-irrigated, or

(c) an artisan whose total annual income from all sources does not exceed rupees twenty-four hundred,

the authority shall pass an order discharging the debt completely and grant him a certificate of discharge in the prescribed form which shall release the debtor from all debts which were or might have been included in the application under section 4,

(ii) in every case in which the debtor is a small farmer, or a marginal farmer whose land is irrigated, the authority shall, subject to such rules as may be made in this behalf, by an order, reduce the debt to such amount as does not exceed twenty per cent. of the estimated gross value of the agricultural produce earned by such debtor in the year preceding the year in which the determination takes place, multiplied by a figure not exceeding seven and shall make a further order that the amount of the debt be repaid in such monthly or annual installments covering a period not exceeding seven years, either with or without interest, as the authority may determine.

(2) Subject to the provisions contained in sub-section (1), in every other case in which an order is made under section 5, the debtor shall repay the debt, with interest, if any, in such number of installments covering a period not exceeding seven years as may be mentioned in the order.

8. Prohibition regarding rate and amount of interest :-

Notwithstanding anything contained in any law for the time being in force, or in any agreement, no debtor shall be liable to pay after the commencement of this Act-

(a) any sum in respect of principal and interest which together exceeds twice the principal,

(b) on account of interest outstanding on the date up to which such liability is computed, a sum greater than the principal outstanding on such date,

(c) any interest other than simple interest at a rate of six per centum per annum or the rate stipulated between the parties, whichever is less.

9. Bar to suits and proceedings and execution of decrees in civil or revenue courts :-

(1) No civil or revenue court shall entertain a suit, application or proceeding against a debtor in respect of any debt to which the provisions of this Act apply and any suit, application or proceeding pending before such court after the coming into force of this Act shall abate.

(2) Notwithstanding anything contained in any law for the time being in force, no decree of a civil court or certificate under the Bengal Public Demands Recovery Act, 1913(Ben. Act HI of 1913.), in relation to a debt to which the provisions of this Act apply, shall be executed.

10. Decision as to status of a debtor or nature of liability :-

If any question arises in connection with a proceeding under this Act before an authority as to whether a person is a debtor or not or whether a liability is a debt or not, the authority shall decide the question.

11. Transfer of application from one authority to another :-

(1) The State Government may authorise the Collector to transfer from one authority to another, for disposal, an application made under section 4.

(2) An authority to which an application is transferred under sub-section (1) may continue the proceeding in connection with the application from the stage which has been reached when the application is transferred.

12. Appeals :-

(1) An appeal may be made in the prescribed manner to an Appellate Officer to be appointed by the State Government, against any decision or order of an authority, made under this Act.

(2) An appeal under sub-section (1) shall be made within thirty days from the date of the decision or order referred to in that sub-section.

(3) The State Government may make rules regarding the procedure to be followed by an Appellate Officer and the fees to be paid by an appellant for preferring the appeal.

(4) The Appellate Officer may, after giving the appellant an opportunity of being heard, either confirm or modify the decision or order made by the authority or direct the authority to take such action as the Appellate Officer thinks fit.

(5) An order passed by an Appellate Officer under this section shall be final.

13. Certain Acts not to apply :-

The provisions of the Indian Evidence Act, 1872(1 of 1872) and the

Code of Civil Procedure, 1908(5 of 1908), shall not apply to any proceeding before an authority or an Appellate Officer.

14. Representation to a party before a court :-

Subject to any rules made in this behalf, no legal practitioner or any other agent shall represent any party in any proceeding before an authority or an Appellate Officer, without the permission of the authority or Appellate Officer, as the case may be.

15. Indemnity :-

No suit, prosecution or legal proceeding shall lie against an authority or an Appellate Officer or any other person in respect of anything in good faith done or intended to be done under this Act.

16. Penalty :-

(1) Whoever -

(a) intentionally makes any false statement before an authority or an Appellate Officer in any proceeding under this Act,

(b) intentionally produces before an authority or an Appellate Officer any false document, or

(c) abets any such act,

shall, on conviction, be liable to imprisonment for a term which may extend to one year or to a fine which may extend to one thousand rupees or to both.

(2) No prosecution for any offence under this section shall lie except with the permission of the Collector.

17. Power to make rules :-

(1) The State Government may make rules for carrying out 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 matters which may be or has to be prescribed.

18. Act to override other laws :-

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law, in any contract, express or implied, or in any instrument and notwithstanding any custom or usage to the contrary.

19. Saving under article 31 C of the Constitution :-

It is hereby declared that the provisions of this Act are for giving effect to the policy of the State towards securing the principles specified in clause (b) and clause (c) of article 39 of the Constitution.

20. Repeal and savings :-

(1) The West Bengal Relief of Rural Indebtedness Ordinance, 1975(West Ben. Ord. XIX of 1975), is hereby repealed.

(2) Anything done or any action taken under the West Bengal Relief of Rural Indebtedness Ordinance, 1975, shall be deemed to have been validly done or taken under this Act as if this Act were in force on the day on which such thing was done or such action was taken..