

Bihar Contingency Fund Act, 1950**19 of 1950****[31 March 1950]**

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Bihar Contingency Fund Act, 1950**19 of 1950****[31 March 1950]**

An Act to provide for the establishment and maintenance of a Contingency Fund in the State of Bihar. * Whereas it is expedient to provide for the establishment and maintenance in the State of Bihar of a Contingency Fund to be placed at the disposal of the Governor of Bihar so as to enable him to make advances out of the Fund for the purposes of meeting unforeseen expenditure of the State pending authorisation of such expenditure by the Legislature of the State under appropriations made by law; And whereas the Legislature of the State, by clause (2) of Article 267 of the Constitution of India, has been empowered by law to establish such Fund; It is hereby enacted as follows:- * For the Statement of Objects and Reasons, see the Bihar Gazette [Extraordinary,] of the 2nd March, 1950; for proceedings in the Legislative Assembly. See the Bihar Legislative Assembly Debates, 1950, Vol. I, No. 13 pp. 105, No. 25, pp. 45-50 and for proceedings in the Legislative Council, see the Bihar Legislative Council Debates, 1950, Vol. I No. 17, pp. 30-31, No. 18, pp. 23-28.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bihar Contingency Fund Act, 1950.

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force on the 1st day of April, 1950.

2. Interpretation :-

In this Act, "the Fund" means the Bihar Contingency Fund established under Section 3.

3. Establishment Of The Bihar Contingency Fund :-

On the commencement of this Act, the State Government shall establish in and for the State of Bihar a fund called the Bihar Contingency Fund.

4. Withdrawal Of A Sum Of Four Crores Of Rupees Out Of The Consolidated Fund Of The State And Credit Thereof To The Bihar Contingency Fund :-

The State Government shall, on the commencement of this Act, withdraw 1[a sum of four crores of rupees] out of the Consolidated Fund of the State and place it to the credit of Fund:

2[Provided that during the financial year ending on the 31st March, 1960, the State Government may withdraw a sum not exceeding six crores of rupees out of the Consolidated Fund of the State and place it to the credit of the Fund.]

Comments & Case Law

Section 4 read with Rule 6(1) of the Bihar Contingency Fund Rules, 1993- Allegation of fraudulent excess expenditure or withdrawals in Animal Husbandry Department. The Constitution permits excess drawals, but only if the amount authorised by the Appropriation Bills is found to be insufficient for the purpose or when a need arises during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual Financial Statement for that year or if the money already spent on any service during the Financial Year exceeds the amount granted for that service and for that year. The Constitution contemplated and permitted only bona fide excess expenditure so as to meet bonafide exigencies of situation. The Bihar Contingency Fund Act, 1950 enacted under Article 267 of the Constitution, gives some idea as regards the amount which can be spent in exigency of situation. Article 267 of the Constitution, as noticed above, provides for establishment of a Contingency Fund to be kept at the disposal

of the Governor of the State comprising of such sums "as may be determined by the law to be framed under that Article". Section 4 of the Act has determined such amount to be Rs. 50 crores. [The amount was raised to Rs. 250 crores by Bihar Act, 10 of 1985 for a particular period during Financial Year 1984-85 as an one time measure] Rule 6(1) of the Bihar Contingency Fund Rules, 1993, framed under the said Act, provides that the supplementary demands for all expenditure so financed shall be presented to the State Legislature at the first session meeting immediately after the advance is sanctioned. If the law made under Article 267 contemplates spending from the Contingency Fund to meet unforeseen situation up to Rs. 50 crore only [raised to Rs. 250 crores only once as a one time measure]. It is difficult to visualize how excess expenditure/ drawals of huge sums of money far in excess of the said amount of Rs. 50 crores for one department alone could go unnoticed. *Sushil Kumar Modi vs. State of Bihar*, 1996(1) BLJ 700 : 1996(1) PLJR 561.

1. Substituted by Act No. 5 of 1960 "for a sum of three crores of rupees".
2. Inserted by *ibid*.

5. Purposes For Which The Bihar Contingency Fund May Be Utilized :-

The Fund shall be placed at the disposal of the Governor of Bihar who shall not expend it except for the purposes of making advances from time to time for meeting unforeseen expenditure of the State pending authorisation of such expenditure by the Legislature of the State under appropriations made by law and immediately after the coming into operation of such law, an amount equal to the amount or amounts advanced by the Governor for the purposes aforesaid shall be deemed to have been placed to the credit of the Fund and the amount so transferred shall for all purposes be deemed to be a part of the Fund.

6. Power To Make Rules :-

The State Government may, by notification make rules to carry out all or any of the purposes of the Act.