

Bihar Fish Jalkar Management Act, 2006

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Bihar Fish Jalkar Management Act, 2006

AN ACT to provide for provisions for settlement of Jalkars relating to the Department of Animal Husbandry and Fisheries, Bihar, Patna. Be it enacted by the legislature of the State of Bihar in the Fifty seventh year of the Republic of India as follows :-

1. Short Title, Extent And Commencement :-

(i) This Act may be called The Bihar Fish Jalkar Management Act, 2006. (ii) It shall extend to the whole of the State of Bihar. (iii) It shall come into force with immediate effect.

2. Definitions :-

In this Act, unless the context otherwise requires :- (i) "Disqualified Fishermen Co-operative Society" means a Society which is found disqualified by District Fisheries Officer. (ii) "Applicant Fishermen" means a fisherman who has submitted an application to the Society for the Settlement of Jalkars. (iii) "Jalkar" means Tank, Pokhar,

Ahar, River, water course channel, Chaur, Dhav, reservoir Lake, Ox-bow lake etc. under Department of Animal Husbandry and Fisheries, Bihar, in which Makhana, Singhara & fish is reared. (iv) "Water area" means total area of said Jalkar recorded in the Revenue Khatiyani record; (v) "District Fisheries Officer" means District Fisheries Officer-cum-Chief Executive Officer, Fish Farmers Development Agency notified by Government. (vi) "Family" means husband-wife, minor son and unmarried daughter. (vii) "Settlement Year" means a period from First July to 30th June but for Singhara, Makhana-cum-fish Jalkars, this period would be from 1st October to 30th September. (viii) "Fishermen" means the person who is a professional fisherman engaged in fishing and fish culture. (ix) "Fishermen Co-operative Society" means a Fishermen Co-operative Society at Block level registered under Bihar Co-operative Societies Act 1935 and Bihar Self Supporting Co-operative Societies Act 1996 in which the members are only Fisherman. (x) "Fishing Zone" means the water area in which fishing is possible. (xi) "Limited Bid" means bid in which only resident fishermen of a defined Block may participate. (xii) "Trained Fisherman" means fisherman trained by fisheries department. (xiii) "Self Help Group" means a group of Fisherman. (xiv) "Managing Committee" means the committee which is constituted, consisting of following members :- (a) Collector - Chairman (b) Deputy Development Commissioner - Vice-Chairman (c) Additional Collector - Member (d) Deputy Director Fisheries (Range) - Member (e) District Co-operative Officer - Member (f) Local District Lead Bank Officer - Member (g) A representative of a Fishermen - Member Co-operative Society nominated by Government (h) A representative of active Fishermen - Member Nominated by the Government (i) District Fisheries Officer - Member Secretary (xv) "Reserve Deposit Fixation Committee" means a Committee in which there shall be the following members :- (a) Deputy Director, Fisheries (Range) - Chairman (b) A representative of a Fishermen - Member Co-operative Society nominated By Government (c) A representative of active Fishermen - Member Nominated by the Government (d) District Fisheries Officer - Member Secretary

3. List Of Jalkars And Classification :-

(i) Block wise list of all Jalkars under Fisheries Directorate shall be compiled in the District Fisheries Officer in which Panchayatwise, village-wise, name of Jalkars, Khatiyani area, watershed area, production and reserve deposits are mentioned. (ii) On the basis of

water-shed area and production capacity of Jalkars, classification of Jalkars in three categories – Fine, medium and low-shall be made by District Fisheries Officer.

4. Reserve Deposit :-

(i) The reserve jama fixation committee shall assess annual production capacity of Jalkars after every five years evaluating the annual production data of all the Jalkars, placed by the District Fisheries Officer, which shall not be less than the production capacity of different type of Jalkars communicated every year, by Director Fisheries : Provided that the Director, Fisheries shall have the right to order for re-evaluation of the annual production capacity of any Jalkar before the period of five years. (ii) The Reserve Deposit Fixation Committee will fix the Government selling price of different types of aqua-product, after every five years evaluating the data of the market selling rate of different types of aqua-product placed by the District Fisheries Officer. (iii) Reserve deposit amount of all Jalkars will be fixed by Reserve Deposit Fixation Committee on the basis of fixed production capacity and selling price after five years: Provided that the annual reserve deposit amount of any Jalkar will not be more than 15% or less than 10% of the value of its annual production. (iv) The Reserve Deposit Fixation Committee shall have the right to fix any percentage, which is not more than five percent, for the annual enhancement of Reserve Deposit amount. As per percentage fixed by the committee, fixation of Reserve Deposit amount in next four years will be fixed by the District Fisheries Officer.

5. Settlement :-

(i) The short term settlement of Jalkars will be done for five settlement years after the approval of competent authority as mentioned in sub-section (ii) of Section 7 of this Act. (ii) The long term settlement of Jalkars will be done for ten settlement years after the approval of the Collector. (iii) Notwithstanding anything contrary contained in this Act, the Director Fisheries with the prior approval of Government, may settle such Jalkars which have been developed or are being developed or have been taken decision to be developed under any scheme of Government/Financial Institution/ Bank for a maximum period of ten settlement years, with Fishermen Co-operative Society.

6. Long Term Settlement :-

(i) A long term settlement of Jalkars of water area up to four

hectares shall be done only with trained fishermen/ or trained fishermen self help group selected by the Managing Committee. The long term settlement may be done of only those Jalkars which fulfill at least one of the following conditions :- (a) The Jalkar which has been declared Parta or is in the process of being declare Parta. (b) The Jalkar which has an average depth of less than four feet deep between 15th December to 15th January and there may be a possibility of perennial water retaining capacity by increasing its depth. (c) The jalkar I which there is a possibility of increasing its water retaining capacity by developing embankments. (d) The Jalkar in which there is a possibility of increasing its water retention capacity upto 50% by making improvement in the water approach system of the Jalkar. (e) The Jalkar pertaining to which letter of consent is received from any financial institution, Bank or Government for financial assistance for its proper development. (ii) The information of date and place for the Long Term settlement of selected Jalkars shall be sent to the following by the registered post :

- (a) All fishermen Co-operative Societies under whose area of operation the Jalkar is situated.
- (b) The Mukhia of the concerned Panchayat.
- (c) The State Level Fishermen Co-operative Federation
- and (d) The Block Development Officer, Circle Officer, Divisional Deputy Director (Fisheries), Deputy Development Commissioner and Collector with a request to display it on the notice board of their offices.

(iii) In the notice to be issued for settlement the name of Jalkar, full address, amount of Reserve deposit and period of settlement shall be mentioned. This notice shall be issue at least twenty one days before the date of settlement. (iv) The beneficiaries shall be selected by the Managing Committee at the rate of one acre per fishermen member. A group leader will be nominated by the Managing Committee in case more than one, beneficiaries are selected. (v) For long term settlement, the District Fisheries Officer shall receive applications only from those trained fishermen who are residents of the same Block in which the Jalkar is situated. If there are more than one trained applicant, the Jalkar shall be settled with fisherman or group of fishermen whose residence is nearest to the Jalkar. (vi) After settlement the Collector will create charge on the Jalkar for obtaining loan. (vii) The settlement with the beneficiaries shall be made with the following terms :-

- (a) It shall be compulsory to execute the registered agreement, within one month of the issue of the settlement order. Expenses incurred on registration shall be borne by the beneficiaries.
- (b) It shall be compulsory to deposit the total amount

of reserve deposit of one year within 15 days of the issue of sanction order of the settlement. During the period of settlement, the total amount of reserve deposit of every year shall be deposited prior to 15th July. (c) It will be compulsory for the beneficiary to develop the Jalkar within 2 years from the date of issue of the settlement order. (d) In case of violation of any of the terms of settlement by the beneficiaries, the Collector may cancel the settlement but the beneficiary shall be given an opportunity to be held before taking such a decision.

7. Short Term Settlement :-

(i) Excluding the Jalkars selected for Long Term Settlement, Short Term Settlement of all other Jalkars shall be made on the Reserve Deposit amount with the non-defaulter Fishermen Co-operative Societies operating within the geographical area of the Block or to the members of disqualified Fishermen Co-operative Societies. (ii) The competent authority for the approval of short term settlement of the Jalkar, shall be the following :- (a) The District Fisheries Officer for the Jalkars of Annual Reserve Deposit up to five thousand. (b) The Deputy Director of the range for all the Jalkars of Annual Reserve Deposit more than Rupees five thousand and up to twenty thousands. (c) The Director Fisheries for all the Jalkars of Annual Reserve Deposit more than twenty thousands and up to one lakh rupees. (d) Settlement of all the Jalkars of Annual reserve deposit more than one lakh rupees shall be approved by the state government : Provided that the State Government shall have the power to redetermine the above limit of prescribed amounts after an interval of every five years by notification published in the official Gazette. (iii) It will be compulsory for the Fishermen Co-operative Societies to enclose following documents with their application to the District Fisheries Officer for settlement of Jalkars. (a) A proof relating to the payment of current year audit fee and Audit report of the previous two years, issued by the co-operative department. (b) A certificate of last election and a proof regarding area of operation of the society. (c) A proceeding of Annual General Meeting of the preceding year in which there should be a clear description of settlement made with members by the society. (d) With the approval of the Managing Committee of the society, a village wise and Panchayat wise list of jalkars along with the names of the applicant fishermen member/members with whom the settlement is proposed. If the settlement of any Jalkar is proposed with more than one member, then the name of the group leader.

(iv) For ensuring the settlement, the District Fisheries Officer shall send a notice Block wise with information of date, place future settlement and proportion of Jalkars in their share to all concerned fishermen Co-operative societies by registered post before 31st March. The copy of this information shall be given to the Collector, Deputy Development Commissioner, Additional Collector, Concerned Sub-divisional Officers, Circle Officers, Block Development Officers, Pramukh of Panchayat Samiti with a request to display it on the Notice Board of their offices. For Singhara & Makhana-cum-fish Jalkars this notice shall be sent before 30th June. (v) It shall be compulsory for Fishermen Co-operative Societies to submit their applications in the office of District Fisheries Officer with all enclosures before 30th April for short term settlement. But in special circumstances, for reasons to be recorded in writing, the Collector may give a direction to District Fisheries Officer to receive application from the society by 31st May. The last date of submitting application for the settlement of Singhara & Makhana-cum-fish jalkar, shall be 31st July. In special circumstances, for reasons to be recorded in writing the collector may give direction to District Fisheries Officers to receive application from the society by 31st August. (vi) Applications with all relevant documents shall be examined by the District Fisheries Officer within 15 days from the date of receipt of these applications. If an application is found defective, an information through registered post shall be sent by the District Fisheries Officer giving 15 days time to concerned societies for correction of defects. If no information in respect of defects is given to the society by the end of four weeks the date of receipt of the application, it will be deemed that the society is competent to get settlement. (vii) If the original or corrected application submitted by the society for settlement is found free from defect, the order for settlement of Jalkars shall be issued to society by the District Fisheries Officers before 15th June. After 15th June, but such order, can be issued only with the prior approval of Collector Order for settlement for Singhara & Makhana-cum-fish Jalkar, may be issued by the District Fisheries Officer before 15th September but after 15th September, such order may be issued only with the prior approval of collector. (viii) If more than one Fishermen Co-operative Societies are eligible for settlement of Jalkars in an Block, then settlement of Jalkars shall be made among them in proportion of the number of all classes of Jalkars and the number of the members of them. (ix) The share of the Jalkars of disqualified

societies of a block shall be settled for five years by limited bid with the non-defaulter members of that society residing in the same block where the Jalkar is situated. But only one Jalkar shall be settled with one person. (x) Even if the jalkar is not settled after two attempts by a limited bid then it shall be settled by open bid according to provision laid down in section – 8. (xi) Reserved Deposit Jalkars of more than fifteen thousand rupees shall be done by limited/open bid for five years under the Chairmanship of the Deputy Director Fisheries of the Range. (xii) The settlement shall be made on the following conditions :- (a) If sum total of Reserve deposit of settled Jalkars is less than twenty thousand rupees, the total amount shall be deposited in one installment within twenty one days of settlement. (b) If sum total of Reserve deposit of settled Jalkars is more than twenty thousand rupees, 50% of the total Reserve deposit amount or twenty thousand rupees which ever is more shall be deposited within twenty one days of the settlement and second installment shall be deposited before 31st January but for Singhara & Makhana-cum-fish Jalkar, 2nd instalment shall be deposited before 31st March. Provided that facility of payment of total Reserve deposit amount in two installments shall be given only to those societies which have also given the facility of payment of total amount in two installments to their members. (c) If the amount is not deposited by the fixed date, the District Fisheries Officer shall immediately issue show cause notice to the society and after 15 days of the show cause shall cancel the settlement. If the settlement is cancelled these Jalkars shall be settled with the members of the society as per the provision of sub section (9) of section 7 of this Act. (d) The amount of Reserve deposit fixed for settlement of Jalkars with members by societies shall not be more than 15% of the amount of Government reserve deposit. (e) Within twenty one days f settlement, the society shall make available to the District Fisheries Officer, Parwana issued along with a village-wise and panchayatwise list of amount received for settlement from its fisherman / fishermen members. Issuance of a provisional parwana shall be prohibited. Provided that if the settlement is in contravention of the provisions of section 10 of the this Act, the Parwana shall be issued only after due correction of that settlement of that particular Jalkar as per provision of section 10. (f) It will be the responsibility of the District Fisheries Officer to enter into a registered agreement with the society within two weeks of issuing Parwana: Provided that after lapse of the said period, order for executing agreement may be

given by Collector after obtaining explanation. In a situation where agreement is not executed in the extended period, settlement may be cancelled by District Fisheries Officer after the approval of Collector and after asking show from the society. Expenses incurred on registration shall be borne by society. (g) The Reserve Deposit amount shall be deposited after incorporating the annual percentage increase in the Reserve Deposit Amount as recommended by the Reserve Deposit Fixation Committee. (h) On the demand of District Fisheries Officer and his senior Departmental officers, the Society will make available for inspection of records / Register / papers concerning with distribution of Jalkars. (i) In case of violation of the terms of settlement, the District Fisheries Officer may cancel the settlement with prior approval of the Collector. But, before obtaining the approval of the Collector the society shall be given an opportunity to defend its case and to take corrective steps. (j) If society refuses to take settlement of a particular Jalkar or all Jalkars before the expiry of the current settlement period and enclose a resolution of its managing committee with its application then settlement of this / these Jalkars shall be cancelled for the next financial year and settled by limited bid for the valid period of reserve jams as per procedure laid down in section 8.

8. Settlement Of Jalkars By Limited Bid :-

(i) The information of date and place of bid of Jalkars shall be sent to the following by registered post :- (a) Ineligible Fishermen Cooperative Society, where limited bid is proposed among its members. (b) Mukhiya of concerned panchayat. (c) Pramukh of Panchyat Samiti. (d) Ex-settlee or Group leader. (e) Block Development Officer, Circle Officer, Divisional Deputy Director (Fisheries), Deputy Development Commissioner and Collector with a request to display it on the notice board of their offices. (ii) The bid notice shall contain the name of the Jalkar, full address, rakba (area), amount of Reserve Deposit, period of settlement and the minimum number of members with whom settlement shall be made. This notice shall be issued at least twenty one days before the date of the bid. (iii) Only person/persons, who deposit the full amount of Reserve Deposit as security before the bid, shall take part in the bid. (iv) If the highest bidder fails to deposit the prescribed amount within two working days, the second highest bidder shall be given an opportunity to take settlement and the amount of security of the highest bidder shall be forfeited. (v) If the second highest bidder fails to deposit his bid amount within the

next two working days, then his amount of security shall also be forfeited and an opportunity will be given serially to the last highest bidder to take settlement as prescribed above. (vi) After deposit of prescribed bid amount, offer money shall not be considered under any circumstance. (vii) Parwana for fishing shall be issued to the bidder Bihar Fish Jalkar Management Act, 2006 (viii) Registered agreement shall be executed within one month of issue of Parwana. Expenses incurred on registration shall be borne by the settlee.

9. Settlement Of Jalkars At A Time :-

(i) The short term settlement of all Jalkars situated in a Block shall be done together in the same settlement year for five years. (ii) After completion of the earlier period of settlement, the Jalkars settled before the date of enactment of the Act, will be settled for the remaining period of first lot of Jalkars settled in the Block after the enactment of this Act. (iii) If the settlement of Jalkar / Jalkars is cancelled before the completion of the period of five years, then its settlement shall be done again within two months for the remaining period of five years.

10. Distribution Of Jalkars :-

(i) Before submitting an application for settlement of Jalkars, the society shall enlist all the applications of its members willing to take settlement of Jalkars. The name of Jalkars, members along with their villages and panchayats should be mentioned in the applications received. (ii) After consideration of the enlisted applications by the Managing Committee of the Society, a list of proposed distribution of Jalkars among its members shall be prepared considering the following points :- (a) Generally distribution of Jalkar will be proposed among members of the village in which the Jalkar is situated. If members in desired number are not available in that village then the distribution of Jalkar may be proposed with the members of nearest village or other villages of the Panchayat. Even after this, member in desired number are not available, then distribution of Jalkars may be proposed among members of the neighbouring Panchayats. (b) As far as possible, the distribution of Jalkars shall be made to a group of members. Chairman / Secretary of the society will select a group leader after calling a meeting of members of the group and information will be given to all members of their rights and share. (c) While preparing a proposal for distribution of Jalkar with a group the number of members shall be fixed keeping a mind the reserve deposit and water area of Jalkars.

11. Declaration Of Parta :-

Site inspection report will be placed before the Reserve Deposit Fixation Committee by District Fisheries Officer, if the Jalkar remains unsettled after two limited bids. After considering the facts mentioned in the report this committee shall refix their reserve deposit amount or shall declare them temporarily parta and may make recommendation to the Managing Committee for long term settlement.

12. Claims Of Reschedulement / Remission :-

(i) Claim for Reschedulement / Remission may be made only in the case of damage by natural calamity such as earthquake, flood, drought or fish epidemic. Claim of remission will not be admissible for damage caused by other reasons. (ii) Application for claim of remission / reschedulement by Society will be received in the office of the District Fisheries Officer within two months of occurrence of natural calamity. Along with the application, a copy of the proceeding of meeting of the managing committee of the society shall be enclosed, in which member wise amount of proposed reschedulement / remission is clearly mentioned. (iii) The managing committee may consider the claim of reschedulement / remission only after receipt of concerned certificate of natural calamity by Collector and / or fish epidemic certificate by Divisional Deputy Director (Fisheries). (iv) The amount of remission will not be more than the amount of the next installment and the period of reschedulement will not be more than the remaining period of settlement. Drawing of water from tanks, reservoirs and mauns for irrigation shall be prohibited. District Fisheries Officer may order for drawing of water for irrigation when the water level is minimum average five feets I these jalkars. (v) The society shall not be deemed to be a debtor till the final decision of the government on the claim of legal remission. (vi) Drawing of water from tanks, reservoirs and mauns for irrigation shall be prohibited. District Fisheries Officer may order for drawing of water for irrigation when the water level is minimum average five feets in these jalkars.

13. Fishing Prohibition :-

(i) Fishing in rivers shall be prohibited from 15th June to 15th August. (ii) Fishing net or Gill net with less than 4 cm. Mesh size shall be prohibited in rivers. (iii) Fishing of fingerlings of culturable fishes of any species shall be prohibited. (iv) Putting of fence or any obstruction restricting the movement of fish shall be prohibited in rivers and reservoir. (v) Use of dynamite or explosives, poison

and poisonous chemicals for fishing shall be prohibited.

14. Appeal And Revision :-

(i) An appeal against all decisions regarding short term settlement taken by District Fisheries Officer and Deputy Director may be filed before the Director Fisheries. (ii) An appeal against of all decisions taken by Collector and Director Fisheries may be filed in the Court of Departmental Commissioner. (iii) An appeal against all decisions regarding short term settlement taken by the government may be filed in the court of Member, Board of Revenue. (iv) Appeal may be filed within thirty days from the date of the original order. The appeal shall be disposed of within two months essentially after giving an opportunity of hearing to the parties concerned under the process fixed by the government. In the disposal of appeal, no interim order / stay order shall be passed. No investment shall be made in the disputed Jalkars by any party in the period of an appeal.

15. Power To Make Rules :-

The State Government may by notification, make Rules for implementation of all or any of the provisions of this Act.

16. Bar Of Jurisdiction Of Court :-

Save in so far as expressly provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of dispute concerning settlement of Jalkars.

17. Offences And Penalties :-

(i) It shall be an offence under this Act if- (a) Any officer or member of a Fishermen Co-operative Society, having obtained settlement of Jalkars, intentionally neglects or refuses to do any act required to be done or to furnish any information required to be furnished by this Act. (b) Any officer or member of any Fishermen Cooperative Society, having obtained settlement of Jalkars, willfully makes a false return or furnishes false information. (c) Any officer or member of any Fishermen co-operative society sublets Jalkars to nonfisherman or gives fishing rights to non-fisherman by unauthorized sale. (d) Intentional water pollution encroachment in Jalkars, disfiguration of structure of Jalkars and (e) In spite of direction given by any Gazetted officer of Directorate, if the Secretary or member of a fishermen co-operative society fails to hand over or refuses to hand over or escapes to hand over the required records/Register. (ii) Any person who shall commit offenses under sub-section (i) and (v) of Section 13 and sub-

section (i) of this section, shall be punishable with the imprisonment up to six months or a fine of Rs. 500 or with both. Such offence shall be cognizable.

18. Cognizance Of Offence :-

(i) No court inferior to that of a Magistrate of the Second Class shall try any offence under this Act. (ii) Any legal proceeding for prosecution for an offence committed under this Act may not be initiated without the previous sanction of the Director Fisheries, and he shall give the person a reasonable opportunity of being heard before giving sanction of prosecution.

19. Removal Of Difficulty :-

(i) If any practical difficulty arises in implementation of the provisions of this Act the State Government may, as occasion may require, by notification published in official Gazette, do anything which is not inconsistent with the provisions of this Act for the purpose of removing the difficulty. (ii) If any doubt arises in context of constitution or interpretation of the provisions of this Act then it may be referred to State Government for decision.

20. Repeal And Savings :-

(i) All departmental rules / orders / circulars concerned with settlement of Jalkars management and appeal which are contrary to provisions of this Act are hereby repealed. (ii) Notwithstanding anything contrary in any other law, Act, ordinance or any rules, regulation, circulars being in force for the time being; this act shall have overriding effect. Anything done or any action taken before the commencement of this Act, shall be deemed to be done or action taken under this Act as if it were in force for the time being.