

Bihar State Aid To Industries Act, 1956

24 of 1956

[10 October 1956]

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24 of 1956

[10 October 1956]

An Act to regulate the giving of State Aid to Industries. Be it enacted by the Legislature of the State Bihar in the Seventh Year of the Republic of India as follows : 1. [Governor's assent published in the Bihar Gazette Extra-ordinary of the 10th October, 1956]. For Statement of Objects and Reasons, see the Bihar Gazette, Extra-ordinary, of the 3rd September, 1956.

CHAPTER 1 PRELIMINARY

1. Short Title And Extent :-

- (1) This Act may be called the Bihar State Aid to Industries Act, 1956.
- (2) It extends to the whole of the State of Bihar.

2. Definitions :-

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

- (1) "Board means the Board of Industries constituted under Section

5.

1[(1a) "Cottage industry" means an industry that is carried on with a capital outlay of one lakh of rupees or less by a Co-operative Society or an individual himself or with the help of the members of his family and labourers and includes sericulture, pisciculture, horticulture, dairy farming, poultry farming, bee-keeping and lac making];

(2) "Director" means the Director of Industries and includes any officer appointed by the State Government either by name or by virtue of his office to perform any of the functions of the Director under this Act;

(4) "machinery" includes plant, apparatus, tools and other appliances required for the purpose of carrying on any industrial operation or process;

(5) "owner of an industry" includes the manager, the managing director or any other person by whatever designation known who has the ultimate control over the management of the industry;

(6) "power" means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

(7) "prescribed" means prescribed by rules made under this Act; and
1. Inserted by Bihar Act 14 of 1964.

CHAPTER 2 GENERAL PROVISIONS REGARDING THE GIVING OF STATE AID

3. Forms Of State Aid :-

State aid may be given to any of the following forms:

(a) the grant of a loan;

(c) the taking of shares or debentures;

(d) the guarantee of a minimum return on whole or part of the capital of a joint stock Company;

(e) the grant on favourable terms of land, raw materials or other property vested in the State;

(f) the payment of a subsidy for-

(i) in the case of a small scale industry, any purpose connected with the establishment or running or expansion or development of such industry; and

(ii) in the case of any other industry, the conduct of research or the purchase of machinery;

(g) the supply of machinery on the hire-purchase system; and

(h) the supply of electrical energy at concessional rates from a

source which is the property of the State Government or grant of rebate on the rate payable by any industry for supply of electricity to it.

4. Delegation Of Power To Give Certain Forms Of State Aid :-

Subject to such conditions or restrictions as it may deem fit to impose, the State Government may delegate to such other authorities as may be prescribed its power to give State aid in the forms specified in Section 3 of an amount or value not exceeding fifty thousand rupees in respect of any one industry.

5. Constitution Of Board Of Industries :-

(1) The State Government shall, by notification, constitute a Board of Industries consisting of the following members :

- (a) six members to be elected in the prescribed manner by the Bihar Legislative Assembly from amongst its members;
- (b) two members to be elected in the prescribed manner by the Bihar Legislative Council from amongst its members;
- (c) five members to be elected in the prescribed manner, one by each of five such associations or other bodies as the State Government may select as best representing any particular classes of industries or interest;
- (d) five members to be appointed by the State Government; and
- (e) the Director of Industries, the Registrar of Co-operative Societies and the Director of Agriculture, ex officio.

(2) The Chairman of the Board shall be appointed by the State Government from among the members of the Board.

(3) The names of the members who have been elected and appointed shall be published in the Official Gazette.

(4) The Board shall have power to co-opt, for the discussion of any particular question before it, experts specially qualified to advise on the matter in question or having special knowledge of local conditions in any area where the industry in question is situated :
Provided that any member so co-opted shall have no right to vote.

(5) No member of the Board shall vote or take part in the discussion of any question coming up for consideration at a meeting of the Board if the question is one in which he or his partner has any direct or indirect pecuniary interest, or in which he is interested professionally on behalf of a client or as agent for any person other than the State Government, a local authority or a railway company.

(6) No act of the Board shall be deemed to be invalid only by reason of the existence of any vacancy in the Board.

6. Application For State Aid :-

(1) Applications for State aid shall be made to the Director in such form and shall contain such information as may be prescribed.

(2) No State aid shall be given of an amount or value exceeding such sum as may be prescribed, unless the application therefor has been published in the prescribed manner together with a notice calling upon persons objecting to the giving of such aid to submit their objections in such manner as may be prescribed.

(3) The State Government or the authority to whom the State Government has delegated its power to give State aid, as the case may be, shall consider every such objection and after making such inquiry, if any, as it may deem necessary, shall make an order either admitting or disallowing it.

(4) Every application for State aid of an amount or value exceeding twenty thousand rupees in respect of any one industry, other than an application for the disposal of which power may be delegated under Section 4, shall be placed before the Board at a meeting for its advice, and no such application shall be allowed if two-thirds of the members of the Board present at the meeting advise its rejection.

(5) If an application for State aid is rejected, in whole or in part, by an authority to whom power has been delegated under Section 4, the State Government may, of its own motion or on an application made in this behalf, revise the order and give such aid, in such form and of such amount as it may deem fit:

Provided that where the application relates to any cottage industry, the State Government shall consult the Board before passing any order.

CHAPTER 3 PROVISION OF REGULATING THE GIVING OF STATE AID OTHERWISE THAN BY THE SUPPLY OF MACHINERY ~~ONE~~ HIRE-PURCHASE SYSTEM

7. Section 7 :-

8. Loan, How Secured :-

Every loan granted to an industry shall, subject to the provisions of Section 7, be secured by a mortgage or floating charge upon the fixed assets of the industry or other immovable property subject to

any incumbrances existing at the time when the loan is granted, and by such collateral security, if any, as the State Government may require.

9. Inspection And Returns :-

In any case in which an application for a loan has been made under this Chapter, the appellant, and at any time during the currency of a loan that has been granted, the grantee, shall be bound-

- (a) to comply with any general or special order, of the State Government relative to the inspection of the premises, buildings, machinery and stock-in-hand of the industry;
- (b) permit the inspection of all accounts relative to the industry;
- (c) to furnish full returns of all products manufactured or sold both as regards description and quantity;
- (d) to maintain such special accounts and to furnish such statements as the State Government may, from time to time, require; and
- (e) to submit the accounts of the industry to such audit as the State Government may prescribe.

10. Power Of State Government To Adjust Security During Currency Of Loan :-

If at any time the outstanding balance of the loan is found to exceed the percentage fixed under Section 7, the State Government may either recover so much of such balance as is in excess of such percentage or accept such additional or collateral security, as it may deem sufficient.

11. Section 11 :-

12. Termination Of State Aid :-

(1) The State Government may order the termination of State aid to an industry after considering the explanation, if any, offered by the owner of the industry on any of the following grounds, namely :

- (i) that any portion of the State aid given has been mis-applied;
- (ii) that there has been breach by the owner of the industry of the provisions of this Act, or of any Rule made thereunder or of any condition of the grant;
- (iii) that the application on which the State aid has been granted, contained, or was accompanied by any material statement by, the owner which he knew to be false, or any intentional concealment by

him of any material fact, which in the opinion of the State Government, it was his duty to disclose, or that any such false statement or concealment was intentionally made in any inquiry made under this Act or in any return under this Act, or in reply to any requisition for information under this Act by or with the connivance of the owner or the person incharge of the management of the industry;

(iv) that the grantee has failed to comply with any order under clause (a) of Section 9, or does not permit, or objects, to the inspection of the accounts of the industry or makes default in respect of any of the particulars specified in clauses (c), (d) and (e) of the said section; or

(v) that the industry is being managed in such a manner as to endanger the repayment of the value of State aid granted thereto repayable under this Act.

(2) Subject to such conditions or restrictions as may be prescribed, the State Government may delegate to such authorities as may be prescribed its power under sub-section (1) to terminate State aid of an amount or value not exceeding fifty thousand rupees in respect of any one industry.

(3) Any person aggrieved by an order terminating State aid passed by an authority to whom power to terminate State aid has been delegated under sub section (2) may appeal within such time and to such authority as may be prescribed and such appeal shall be disposed of in the prescribed manner.

(4) The State Government may, either on its own motion, or an application made in this behalf, call for and examine the record of any appeal disposed of under sub-section (3) and pass such order as it may deem fit:

Provided that the State Government shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of making his representation.

13. Section 13 :-

14. Subscription For Shares Or Debentures Or Guarantee Of A Minimum Return On Capital :-

The conditions of the taking of shares or debentures by the State Government, or the guarantee of a minimum return on the whole or part of the capital of any industry, shall be-

(a) that the industry shall be subject to the conditions of Section 9 in respect of inspection and returns; and

(b) that for all shares and debentures taken by the State Government there shall be taken by other persons shares or debentures of the amount which shall be at least fifty per centum of the amount paid by the State Government.

15. Subsidies :-

(1) Except in the case of societies registered under the Bihar and Orissa Co-operative Societies Act, 1935 (B. and O. Act VI of 1935), and persons trained in particular trades at Government cost, no subsidy shall exceed fifty per centum of the cost of establishment or running or expansion or development, as the case may be, in the case of small scale industries, or of the cost of research or purchase of machinery, as the case may be, in the case of any other industry.

(2) The condition of a grant of subsidy to industries other than small scale industries for the conduct of research or the purchase of machinery or of any payment under guarantee of a minimum return on the paid up capital of the grant on favourable terms of land, raw materials, firewood, water or other property of the State Government, or of the supply of electrical energy at concessional rates from a source which is the property of the State Government, shall ordinarily be-

(a) that an amount equal to the sum paid or to the money value of the grant or concession as fixed at the time when it was made shall be repaid to the State Government at the close of such term of years as may be fixed by the State Government in this behalf, if within that term the industry be shown to the satisfaction of the State Government to be paying interest or dividend upon the capital invested in such an industry in excess of such rate as the State Government may determine; and

(b) that such State aid shall be discontinued if the industry be shown to the satisfaction of the State Government to be earning profit in excess of such rates as the State Government may prescribe.

16. Disposal Of Profits When Conditions On Which State Aid Is Given Are Not Fulfilled :-

No recipient of State aid shall pay any dividend, or distribute or take any profits, in excess of such percentage rate upon the amount of the capital of the industry as the Government may, from time to time fix, until the conditions on which the State aid has

been granted are fulfilled. The balance on the profits, after necessary amounts have been set aside for obsolescence or depreciation of machinery and buildings and for the payment of interest on debentures of loans, shall be carried to a reserve fund to be utilized in such manner as the State Government may approve.

17. Government Control Of Aided Industry :-

Notwithstanding anything to the contrary contained in this Chapter, if in any case the amount or value of the State aid given thereunder amounts to or exceeds two lakhs of rupees, the State Government may, by the appointment of Government Directors or otherwise, take power to ensure such control over the conduct of the industry as shall suffice in its opinion to safeguard its interest.

18. Recovery Of Moneys Due Under This Chapter :-

(1) All moneys recoverable under this Chapter, including any interest chargeable thereon and costs, if any, incurred, if not paid when they are due, may be recovered by the person aided and his surety, if any, as if they were public demands.

(2) When any sum of due as aforesaid is paid to the Director by the surety or is recovered from him or out of his property by the Director, the Director shall on the application of the surety, so far as possible, recover the sum from the person aided and pay it to the surety.

19. Levy Of Fees :-

The State Government may charge in respect of applications, inquiries, inspections and audit by whomsoever made under the provisions of this Act, such fees, if any, as may be prescribed.

CHAPTER 4 SUPPLY OF MACHINERY ON THE HIRE-PURCHASE SYSTEM

20. Percentage Of Cost To Be Deposited By Hirer :-

No machinery shall be supplied on the hire-purchase system unless the applicant therefor deposits with the Director such percentage of the cost thereof as may be prescribed.

21. Particulars To Be Specified In Order When Application Is Allowed :-

When an application is allowed, the Director shall, subject to, and in accordance with, any rules that may be made under this Act, make an order specifying the following particulars, namely:

- (a) the amount of each instalment of rent to be paid for hire of the machinery and the number of such instalments to be paid before the machinery shall become property of the hirer;
- (b) the amount of interest, if any, to be paid with each instalment of rent on the remaining unpaid instalments;
- (c) the dates on which and the manner in which the aforesaid payments shall be made; and
- (d) such other particulars as may be prescribed.

22. Conditions Of Supply Of Machinery On Hire-Purchase System :-

Until the hiring is terminated in the manner hereinafter provided, the following provisions shall apply, namely:

- (a) the hirer shall pay punctually without demand the instalments of rent and amount of interest specified in the order referred to in Section 21;
- (b) the hirer shall retain the machinery in his own possession in good and serviceable order and condition and shall not, without the previous written consent of the Director make any addition thereto or alteration therein nor shall remove the machinery from the premises specified in the application for the supply thereof;
- (c) the machinery shall remain the sole and absolute property of the State Government and any transfer thereof, or assignment of any right, title or interest therein, or the creation of any mortgage, incumbrance or any other charge thereon, by the hirer shall be void as against Government unless it has been made with the previous written consent of the Director;
- (d) the machinery shall not be liable to distraint, attachment or sale by any process under law for the time being in force;
- (e) the machinery shall bear a metal plate in the prescribed form and any person who wilfully removes or defaces such plate shall be liable to a fine not exceeding five hundred rupees and it shall be presumed, until the contrary is proved that the machinery bearing such metal plate is the property of the State Government hired out under this Chapter;
- (f) the hirer shall permit the Director, or any person authorised by the Director in this behalf, to inspect the machinery at reasonable

times and the Director or such other person shall have all such powers of entry as may be necessary for the purpose of making an inspection; and

(g) in addition to the foregoing conditions the hirer shall be bound by such other conditions consistent therewith as may be prescribed, or may be imposed by the Director in any particular case.

23. Consequences Of Default By Hirer :-

If the hirer makes default in paying the rent of the machinery, or any sum payable as interest or any other charges due from him under this Chapter, or fails to comply with any of the conditions contained in, or that may be imposed under Section 22, the Director may, after considering the explanation, if any, offered by the hirer, terminate the hiring and he or any other officer authorised by him in this behalf may thereupon enter the premises in which the machinery is for the time being kept, whether such premises belong to the hirer or not seize and take away the same.

24. Option Of Hirer To Purchase Machinery Seized In Default :-

If the machinery is seized and taken away under Section 23, the hirer shall have the option to be exercised within one month after such seizure, or such longer period as may be allowed by the Director in this behalf, of purchasing the same by payment to the Director of the unpaid balance of the cost thereof, such proportion of the interest on such cost as may be prescribed, and the cost, of and expenses incidental to, such seizure and removal.

25. Termination Of Hiring By Hirer :-

The hirer may at any time terminate the hiring by returning the machinery to the State Government in the prescribed manner.

26. Liability Of Hirer On Termination Of Hiring Under Sections 23 And 25 :-

If the Director terminates the hiring does not purchase the machinery under Section 24, or if the hirer returns the machinery to the State Government under Section 25, the hirer shall not be entitled to the refund of the sum deposited by him under Section 20, or unless the State Government otherwise directs, to the refund or remission of any payment made by or any amount due from him

during the hiring, and he shall be liable to pay such amount, if any, as the Director may determine in respect of any loss or damage, other than by reasonable wear and tear, that may have been caused to the machinery during the hiring.

27. Termination Of Hiring On Payment Of Cost Of Machinery :-

When after credit has been given for the amount deposited under Section 23, the hirer has paid in full all the instalments of rent mentioned in clause (a) of Section 21 and the amount of interest, cost and other charges payable by him under this Chapter, he shall become the owner of the machinery and shall thereupon remove from the same the metal plate mentioned in clause (e) of Section 22 :

Provided that if, at any time during the hiring, the hirer pays in advance the remaining instalments of rent the interest payable in respect thereof shall be remitted.

28. Penalty For Omission To Remove Metal Plate When Machinery Becomes Property Of Hirer :-

If the hirer wilfully omits, after receiving due notice, to remove the metal plate from any machinery which has become his property under Section 27, and to return the same to the Director, he shall be liable to a fine not exceeding fifty rupees.

29. Recovery Of Sums Due Under This Chapter :-

All sums payable under this Chapter shall be recoverable as if they were public demands.

CHAPTER 5 SUPPLEMENTAL

30. Finality Of Decision Of State Government And Bar Of Suits And Proceedings In Civil And Criminal Courts :-

(1) The decision of the State Government as to whether the conditions laid down in or under any of the provisions of this Act have been satisfied shall be final, and no suit be brought in any Civil Courts to set aside or modify any such decision or any order made under this Act.

(2) No prosecution, suit or other proceeding shall lie against any Government officer or other authority vested with powers under

this Act for anything in good faith done or intended to be done thereunder.

31. Exemption Of Certain Classes Of Persons :-

(1) Nothing in clauses (c), (d) and (e) of Section 20 or any other section which the State Government may, by notification in the Official Gazette, specify shall apply to the grant of a loan or the supply of machinery on the hire-purchase system involving the advance or expenditure of an amount, not exceeding five hundred rupees, to a member of the Scheduled Castes, Scheduled Tribes and Backward Classes for the growth and development of small scale industries.

Explanation.-

(1) "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as are specified in Part II of the Schedule to the Constitution (Scheduled Castes) Order, 1950.

(2) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are specified in Part II of the Schedule to the Constitution (Scheduled Tribes) Order, 1950.

(3) "Backward Classes" means such classes of citizens as may be declared by the State Government by notification in the Official Gazette, to be socially and educationally backward.

32. Remission Of Interest :-

If the power of an industry or any other person to whom State aid has been given in any of the forms mentioned in Section 3, pays the money recoverable from him under the provisions of Chapter III, or as the case may be, instalments of rent payable by him under the provisions of Chapter IV, in accordance with the terms and conditions laid down in this Act and the rules made thereunder, the State Government may remit any interest due thereon to such extent and in such manner as may be prescribed.

33. Separate Provision Of Funds For Small Scale Industries :-

The State Government shall make separate provision of funds for State aid to small scale industries.

34. Power To Make Rules :-

(1) The State Government may, after previous publication, make rules consistent with this Act for carrying out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules regulating or determining all or any of the following matters, namely :

(a) the delegation of the power to give State aid under Section 4;

(b) the conduct of proceedings of the Board including the manner in which notice of a meeting shall be given, the fixing of a quorum and the due record of proceedings;

(c) the manner of making applications for State aid under sub-section (1) of Section 6 and all matters relative to the publication of such applications, and the submission and disposal of objections under sub-sections (2) and (3) of the said section;

(d) the manner of ascertaining the net value of the security offered and the percentage of such value which may be granted as a loan under Section 7;

(e) the nature of the security to be taken and the conditions under which State aid may be given under Sections 7 and 8;

(f) the inspection under Section 9 of the premises, buildings, machinery and stock-in-hand and the mode of keeping and auditing the accounts and of furnishing returns of any industry in respect of which State aid has been given;

(h) the conditions and dates of the repayment of subsidies and grants and the rate of profit under Section 15;

(i) the application under Section 16 of profits in the cases in which the conditions on which State aid has been given have not been fulfilled;

(j) the appointment and functions of Government Directors under Section 17 and the prescribing of other methods of control of industries to which State aid has been given;

(k) the fees that may be charged under Section 19;

(l) the percentage of the cost of machinery to be deposited under Section 20;

(m) additional particulars to be specified in the order referred to in Section 21 and the conditions on which machinery may be supplied on the hire-purchase system;

(n) the form of the metal plate referred to in clause (e) of Section 22;

(o) the proportion of the interest on the cost of the machinery payable under Section 24; and

(p) any other matter which is required by this Act to be prescribed.
(3) All rules made under this Act shall, as soon as may be after they are made, be laid for not less than fourteen days before both Houses of the State Legislature and shall be subject to such modification as the State Legislature may make during the session in which they are so laid.

35. Repeal And Saving :-

(1) The Bihar State Aid to Industries Act, 1923 (B. and O. Act VI of 1923), and the Bihar State Aid to Industries Ordinance, 1956 (Bihar Ordinance No. III of 1956), are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken (including any rules, notifications or orders made or issued) in the exercise of any power conferred by or under the said Act or Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.