

GUJARAT PATEL WATANS ABOLITION ACT, 1961

48 of 1961

[December 6, 1961]

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GUJARAT PATEL WATANS ABOLITION ACT, 1961

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An Act to abolish Patel Watans prevailing in the State of Gujarat and to provide for matters consequential and incidental thereto. It is hereby enacted in the Twelfth Year of the Republic of India as follows:-

1. Short title, extent and commencement :-

(1) This Act may be called the Gujarat Patel Watans Abolition Act,

1961.

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

(3) It shall come into force on such date as the State Government may by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(1) "appointed day" means the date on which this Act comes into force;

(2) "authorised holder" means a person in whom the ownership of a watan land, validly alienated permanently by the watandar, whether by sale, gift or otherwise under the existing watan law, vests;

(3) "Code" means,

(i) in the Bombay and Saurashtra areas of the State of Gujarat, the Bombay Land Revenue Code, 1879 (Bom. V of 1879), and

(ii) in the Kutch area of the State of Gujarat the Bombay Land Revenue Code, 18"/9 (Bom. V of 1879), as extended to that area.

(4) "Collector" includes an officer appointed by the State Government to perform the functions and exercise the power of the Collector under this Act;

(5) "commutation settlement" means a settlement, made or confirmed under the law applicable to a patel watan, relieving the holder, his heirs and successors of the liability to perform the services appertaining to the patel watan:

(6) "existing watan law" includes any enactment, ordinance, rule bye-law, regulation, order, notification or any other instrument, having the force of law relating to a patel watan and in force immediately before the appointed day;

(7) "hereditary patelship" means every village office of a revenue or police patel held hereditarily under the existing watan law for the performance of duties connected with the administration or collection of the public revenue of a village or with the village police or with the settlement of boundaries or other matters of civil administration of a village and includes such office even where the services originally appertaining to it have ceased to be demanded:

(8) "mata" means the aggregate of the rights, privileges and responsibilities vesting in a matadar family as such under the existing watan law;

(9) "matadar" means a member of matadar family whose name is entered as a matadar or representative matadar in the register kept under the existing watan law;

(10) "matadar family" means a family to which the office of village patel or some share in the discharge of duties or in the exercise of powers appertaining to that office belongs hereditarily;

(11) "Patel watan" means a watan held under the existing watan law for the performance of duties appertaining to the hereditary patelship, whether any communication settlement in respect of such patel watan has not been affected;

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

(13) '-tenancy law' means-

(a) in the Bombay area of the State of Gujarat, the Bombay Tenancy and Agricultural Lands Act, 1948 (Bom LXVII of 1948), and

(b) in the Kutch area of Gujarat, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 (Bom XCIX of 1958).

(14) "unauthorised holder" means a person in possession of a watan land without any right or under a lease, mortgage, sale, gift or any other kind of transfer thereof, which is null and void under the existing watan law;

(15) "watan" means watan property, if any, together with the hereditary office and the rights and privileges attached to it;

(16) "watandar" means a person having hereditary interest in a patel watan under the existing watan law and includes a matadar and a representative watandar:

Provided that whether any patel watan has been entered in a register or record kept under the existing watan law as held by the whole body of watandars, the whole of such body shall be deemed to be a watandar;

(17) "watan land" means land forming part of the watan property;

(18) "watan property" means the movable or immovable property held, acquired or assigned under the existing watan law for providing remuneration for the performance of the duty appertaining to a hereditary patelship and includes a right under the existing watan law to levy customary fees or perquisites in money or kind, whether at fixed times or otherwise and also includes cash payments in addition to the original watan property made voluntarily by the State Government and subject periodically to modification or withdrawal.

(19) words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

3. Powers of Collector to decide certain questions and appeal :-

(1) If any question arises.-

(a) whether any land is watan land,

(b) whether any person is a watandar, maladar or representative watandar,

(c) whether any person is an unauthorised holder or authorised holder,

(d) whether any grant is a patel watan and if so whether it is a grant of soil or grant of exemption from payment of land revenue or a grant of land revenue only, the Collector shall, after giving the party affected an opportunity to be heard and after holding an inquiry, decide the question.

(2) Any person by such decision may tile an appeal to the State Government within ninety days of such decision.

(3) The decision of the Collector, subject to an appeal under sub-section and the decision of the State Government in appeal under sub- section (2) shall be final.

4. Abolition of Patel watans together with incidents thereof :-

Notwithstanding any usage or custom or anything contained in any settlement, grant agreement, sanad, or any decree or order of a court or the existing watan law, with effect on and from the appointed day.-

(i) all patel watans shall be and are hereby abolished;

(ii) all incidents (including the right to hold office and watan property, the right to levy customary fees or perquisites in money or in kind, and the liability to render service) appertaining to the said watans shall be and are hereby extinguished;

(iii) no office of patel shall be hereditary; and

(iv) subject to the provisions of sections 6, 7 and 10 all watan land shall be and is hereby resumed and shall be subject to the payment of land revenue under the provisions of the Code and the rules made thereunder as if it were an unalienated land;

Provided that such resumption shall not affect the validity of any alienation of such watan land made in accordance with the provisions of the existing watan law or of the rights of an alienee thereof or any person claiming under or through him.

5. Resumption of certain land by levy of assessment :-

(1) In the case of watan land which is not a grant of soil and is held subject to a total or partial exemption from payment of land revenue thereof.

(i) the resumption under clause (iv) of section 4 shall be by levy of full assessment on the said land in accordance with the Code and the rules made there under, and

(ii) the holder shall be deemed to be an occupant of the land be primarily liable to pay land revenue to the State Government in respect thereof in accordance with the provisions of the Code and the rules made thereunder; and all the provisions of the Code and the said rules, relating to unalienated land shall apply to the said land.

(2) In this section, "holder" means the watandar or as the case may be, the authorised holder, holding the said land.

6. Regrant of watan land to holders of watan :-

(1) Watan land to which the provisions of section 5 do not apply shall, in cases not falling under section 7 or section 10 be regranted to the watandar of the watan to which it appertained on payment by or on behalf of the watandar to the State Government of the occupancy price equal to six times the amount of the full assessment of such land within the prescribed period and in the any prescribed manner and the watandar shall be deemed to be

occupant within the meaning of the Code in respect of such land shall primarily be liable to pay laid revenue to (he State Government in accordance with the provisions of the Code and the rules made thereunder; and all the provisions of the Code and the said rules relating to unalienated land shall subject to the provisions of this Act, apply to the said land:

Provided that in respect of watan land which was not assigned under the existing watan law for remuneration of hereditary patelship an occupancy price equal to three times the amount of the full assessment of such land shall be paid by or on behalf of the watandar for the regrant of such land.

(2) On failure to pay the occupancy price under sub-section (1) within the prescribed period and in the prescribed manner, the watandar shall be deemed to be unauthorisedly occupying the land and shall be liable to be summarily evicted therefrom by the Collector in accordance with the provisions of the Code.

(3) The occupancy of the land regranted under sub-section (1) shall not be transferable or partible by metes and bounds without the previous sanction of the Collector and except on payment of such amount as the State Government may by general or special order determine.

7. Regrant of watan land to authorised holders :-

Any watan land other than land to which the provisions of section 5 apply held by an authorised holder shall be regranted to him on payment by him or on his behalf to the State Government of the occupancy price mentioned in section 6 and subject to the like conditions and consequences; and all the provisions of section 6 shall apply mutatis mutandis in relation to the regrant of the land under this section to the authorised holder as if he were the watandar.

8. Special rule of succession to be void :-

Any provision of law, usage or practice relating to the succession to any patel watan whereby contrary to the personal law governing the parties the rule primogeniture was followed and the female heirs were postponed in favour of male heirs, shall, on and from the appointed day, be void and cease to be in force.

9. Application of tenancy law :-

If any watan land has been lawfully leased and such lease is subsisting on the appointed day the provisions of the tenancy law

shall apply to the said lease and the rights and liabilities of the holder of such land, and his tenant or tenants shall, subject to the provisions of this Act, be governed by the provisions of the said law.

Explanation.-For the purpose of this section the expression "land" shall have the same meaning as assigned to it in tenancy law.

10. Eviction of unauthorised holder and regrant or disposal of land :-

(1) Where any watan land is in the possession of an unauthorised holder, he shall be summarily evicted there from by the Collector in accordance with the provisions of the Code :

Provided that if the State Government is of opinion that in view of the investment made by such holder in the development of the land or in the non agricultural use of the land or otherwise, his eviction will cause undue hardship to him, it may direct the Collector to regrant to land to such holder on payment of such amount and subject to such term and conditions as the State Government may determine and the Collector shall regrant the land accordingly.

(2) Watan land unless regranted under sub-section (1) shall be disposed of in accordance with the provisions of the Code and rules made thereunder applicable to the disposal of unoccupied unalienated land.

11. Compensation to watandar :-

A watandar shall, for the abolition of all his rights in the watan, be entitled to compensation equal to the aggregate of the amounts calculated in the manner provided in the following clauses (a),(b), (c) and (d) namely :-

(a) where the assessment or a portion of the assessment of the watan land was assigned under the existing watan law towards the emoluments of the watandar, seven times the amounts of the assessment or portion thereof, so assigned:

(b) seven times the amount of the annual cash allowance or other annual payment of money (not being the rent of land under any existing watan law) made by the State Government to the watandar under the existing watan law;

(c) where the watan property consists of a grant of the whole or

part of land revenue of any land, seven times the amount of the land revenue paid or payable to the watandar in the year immediately preceding the appointed day;

(d) three times the cash value determined in the prescribed manner of the average of the customary fees or perquisites in money or in kind levied or leviable by the watandar under the existing watan law during the three years immediately preceding the appointed day.

12. Method of awarding compensation :-

(1)

(i) Any watandar entitled to compensation under section II, and

(ii) any person aggrieved by the abolition extinguishment or modification by or under the provisions of this Act of his of his rights to or interest in any property, if compensation in respect thereof be not provided in this Act, may within the prescribed period make an application for compensation in the prescribed form to the Collector.

(2) The Collector shall, after holding a formal inquiry in the manner provided by the Code, subject to the provisions of section 11 where applicable make an award determining the compensation in the manner and according to the method provided for in sub-section (1) of section 23 and section 34 of the Land Acquisition Act, 1894 (I of 1894).

(3)

(i) Where the officer making an award under sub-section (2) is not a Collector appointed under the Code and the amount of such award exceeds five thousand rupees the award shall not be made without the previous approval of the Collector appointed under the Code.

(ii) Every award under sub-section (2) shall be in the form prescribed in section 26 of the Land Acquisition Act, 1894 (I of 1894).

(4) Nothing in the section shall entitle a person to compensation on the ground that any watan land which was wholly or partially exempt from the payment of land revenue has been under the provisions of the Act made subject to the payment of full

assessment in accordance with the provisions of the Code.

13. Appeal against Collectors award :-

An appeal shall lie against an award of the Collector to the Gujarat Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1957 (Bom. XXXI of 1958) notwithstanding anything contained to the said Act.

14. Procedure before Revenue Tribunal :-

(1) The Gujarat Revenue Tribunal shall after giving notice to both the parties decide the appeal and record its decision.

(2) In deciding an appeal under this Act the Gujarat Revenue Tribunal shall exercise all the powers which a Court has and shall follow the same procedure which a Court follows in deciding appeals from a decree or order of an original Court under the Code of Civil Procedure, 1908 (V of 1908).

15. Limitation :-

Every appeal made under this Act to the Gujarat Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sec. 4, 5, 12 and 14 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to the filing of such appeal.

16. Court fees :-

Notwithstanding anything contained in the Bombay Court fees Act, 1959 (Bom. XXXVI of 1959), every appeal made under this Act to the Gujarat Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed.

17. Penalty of award and decision of Revenue Tribunal :-

The award made by the Collector subject to an appeal to the Gujarat Revenue Tribunal, and the decision of the Gujarat Revenue Tribunal on an appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any Court.

18. Inquiries and proceedings to be judicial proceedings :-

All inquiries and proceedings before the Collector and the Gujarat Revenue Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (XLV of 1860).

19. Mode of payment of amount of compensation :-

The amount of compensation payable under this Act shall.

(1) if such amount does not exceed Rs. 1,000 be payable in cash, and

(2) if such amount exceeds Rs. 1,000 a sum of Rs. 1,000 shall be payable in cash and the remaining amount shall be payable in transferable bonds which shall carry interest at the rate of three per cent per annum from the date of issue and be repayable in twenty years from the said date by equated annual instalments of principal and interest. The bonds shall be of such denomination and in such form as may be prescribed.

20. Delegation of powers :-

The State Government may, subject to such restrictions and conditions as it may impose, by notification in the Official Gazette, delegate to any of its officers not below the rank of a Collector under the Code, all or any of the powers conferred on it by this Act.

21. Rules :-

The State Government may, subject to the condition of previous publication, make rules for the purposes of carrying out the provisions of this Act. Such rules shall, when finally made, be published in the Official Gazette.

22. Savings :-

Nothing contained in this Act shall affect:-

(i) any obligations or liability already incurred under an incident of a patel watan before the appointed day, or

(ii) any proceedings or remedy in respect of such obligation or liability, and any such proceeding may be continued or any such remedy may be enforced as if this Act had not been passed.