

## **GUJARAT TRIBAL DEVELOPMENT CORPORATION ACT, 1972**

**5 of 1972**

**[May 1, 1972]**

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## **GUJARAT TRIBAL DEVELOPMENT CORPORATION ACT, 1972**

**5 of 1972**

**[May 1, 1972]**

An Act to provide for the establishment of a Tribal Development Corporation in the State of Gujarat It is hereby enacted in the Twenty-third Year of the Republic of India as follows:

### CHAPTER 1 PRELIMINARY

#### **1. Short title, extent and commencement :-**

- (1) This Act may be called the Gujarat Tribal Development Corporation Act, 1972.
- (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,

- (a) "agriculture" includes dairy farming, poultry farming, breeding of livestock, pisciculture, sericulture and forestry; and the term "agricultural" shall be construed accordingly;
- (b) "Board" means the Board of directors of the Corporation;
- (c) "Chairman" means the Chairman of the Board;
- (d) "Corporation" means the Gujarat Tribal Development Corporation established under section 3;
- (e) "director" means a member of the Board and includes the Chairman;
- (f) "Executive Director" means the Executive Director appointed under section 13;
- (g) "Marketing" means all activities relating to the transport, grading, pooling, marketing and sale of agricultural or industrial

produce, whether in the primary form or in semi- processed or processed form;

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

(i) "processing" means all activities relating to the processing of agricultural produce so as to make it marketable or fit for consumption and includes purchase and storage of raw material, purchase of equipment, and purchase, installation and running of machinery, required for processing and storage of finished produce;

(j) "regulation" means a regulation made under section 25;

(k) "Schedule Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Schedule Tribes in relation to the State of Gujarat under article 342 of the Constitution of India;

(l) "Society" means a society registered under the Societies Registration Act, 1860 (XXI of 1860) or a co-operative society registered under the Gujarat Co-operative Societies Act, 1961; (Guj. X of 1962)

(m) "Scheduled Tribes Organisation" means a firm registered under the Indian Partnership Act, 1932 (IX of 1932) or a society, all or majority of the partners, or as the case may be, member whereof belong to Scheduled Tribes;

Explanation. Where a society (hereinafter referred to as the "principal society") has as its member another society (hereinafter referred to as the "member society") or an association, all or a majority of members of which belong to Schedule Tribes, such member society or association shall be deemed to be a member of the principal society belonging to Schedule Tribes;

(n) "small-scale industry" means cottage and small scale industry including industry engaged in fabrication, repairs and maintenance of agricultural machinery and equipment in which capital investment does not exceed five lacs of rupees; and

(o) "supply and storage" means supply and storage of agricultural inputs and establishments, maintenance and running of storages, cold storages and warehouses.

## CHAPTER 2

### INCORPORATION OF GUJARAT TRIBAL DEVELOPMENT CORPORATION AND ITS CAPITAL

### **3. Establishment of Gujarat Tribal Development Corporation**

**:-**

(1) With effect from such date as the State Government may, by notification in the Official Gazette specify in this behalf, the State Government may establish for the purpose of this Act a Corporation to be known as the Gujarat Tribal Development Corporation.

(2) The Corporation shall be a body corporate having perpetual succession and a common seal, with powers subject to the provisions of this Act, to acquire, hold or dispose of property, whether movable or immovable, and to contract and to do all things necessary for the purposes of this Act, and may, by the name aforesaid, sue or be sued.

### **4. Head office of Corporation :-**

The head office of the Corporation shall be at Ahmedabad or at such other place as the State Government may, by notification in the Official Gazette, specify.

### **5. Capital of Corporation :-**

(1) The State Government may provide to the Corporation such sum not exceeding <sup>1</sup> (fifteen) crores of rupees as the State Government may think fit as capital that may be required by the Corporation for the purpose of carrying out its functions or for purposes connected therewith: Provided that where the capital initially provided is less than (fifteen) crores of rupees the State Government may, from time to time increase the capital to such sum not exceeding (fifteen) crores of rupees as it may think fit.

(2) Such capital may be provided subject to such terms and conditions as may be determined by the State Government.

1. Subs, for "five" by Guj. 1 of 1989 [15-10-1988].

### **CHAPTER 3**

### **MANAGEMENT OF THE CORPORATION**

### **6. Management :-**

(1) The general superintendence, direction and management of the affairs and business of the Corporation shall vest in a Board of directors which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under this Act.

(2) The Board in discharging its functions shall act, having regard to public interest, welfare of the Scheduled Tribes and solvency of the Corporation and shall be guided by such instructions on question of policy as the State Government may give to it from time to time.

(3) If any doubt arises as to whether a question is or is not a question of policy the decision of the State Government thereon shall be final.

## **7. Board of directors :-**

(1) The Board shall consist of nine directors who shall be nominated by the State Government:

Provided that not less than three directors shall be officials and the remaining directors shall be non-officials who shall be nominated from amongst persons who, in the opinion of the State Government, have special knowledge or practical experience in matters relating to agriculture; agro-industries, water development projects, finance, or co-operation :

Provided further that not less than three directors shall belong to the Scheduled Tribes.

(2) The State Government shall appoint one of the directors as Chairman.

(3) On the occurrence of any vacancy in the office of a director due to death, resignation or otherwise, the same shall be filled up by the State Government in the manner provided in sub-section (1) and a director nominated to fill such vacancy shall hold office for the unexpired portion of the term of his predecessor.

<sup>1</sup>[(4) (a) (i) There shall be paid to the Chairman such honorarium not exceeding <sup>2</sup>(Rs. 2500) per month as may be prescribed.

(ii) The Chairman shall be entitled to the use of such unfurnished residential accommodation, without payment of rent, as the State Government may, by general or special order, direct so long as he is the Chairman and for a period of fifteen days immediately after he ceases to be such Chairman or in lieu of such residential accommodation, to a house allowance at the rate of Rs. 500 per month subject to actual rent paid and no charge shall fall on the Chairman personally in respect of the maintenance of any residential accommodation provided to him.

(iii) The Corporation may, for the use of the Chairman, provide a motor car on such conditions as regards its maintenance and repairs and the charges to be recovered from the Chairman for its private use, as may be prescribed.

(iv) Where the Corporation has provided for the use of the Chairman a motor car, it shall also provide to him free of charge the services of a driver for such motor car.

(v) The Chairman shall be entitled to travelling and daily allowances while touring on the business of the Corporation at such rates and upon such conditions as may be prescribed.

(vi) The Corporation shall cause a telephone installed at the place where the Chairman ordinarily resides, on such conditions as to the payment of the rental and other charges in respect thereof by the Chairman as may be prescribed. (b) Subject to the provision of this Act, the terms and conditions of service of the directors and the fees and allowances payable to them shall be such as may be prescribed.

**3** [(vii) There shall be paid to the Vice-Chairman such honorarium not exceeding Rs. 1,500 per month as may be prescribed.

(viii) The provisions of sub-clauses (ii) to (vi) shall mutatis mutandis apply in relation to the Vice-Chairman as they apply in relation to the Chairman.]

1. Sub-section (4) was substituted for the Original by Guj. 24 of 1978, s. 2.

2. Subs, for "Rs. 1000/-" by Guj. 1 of 1989 [15-10-1988].

3. Cls. (vii) and (viii), inserted by Guj. 1 of 1989 [15-10-1988].

## **8. Term of Office :-**

(1) Every director shall hold office during the pleasure of the State Government.

(2) Subject to the provisions of sub-section (1), a director, other than the Executive Director, shall hold office for a term of three years:

Provided that an out-going director shall, notwithstanding the expiration of his term, continue to hold office until the nomination of his successor:

Provided further that an out-going director shall be eligible for

renomination.

**9. Disqualifications for office of director :-**

A person shall be disqualified for being nominated as, and for being a director, if he

(a) is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is or has been convicted of any offence which, in the opinion of the State Government, involves moral turpitude; or

(d) is or has been removed or dismissed for the service of any State Government or the Central Government or a Corporation owned or controlled by any State Government or the Central Government.

**10. Director not to participate in certain case :-**

A director who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board shall, as soon as possible, after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and the disclosure shall be recorded in the minutes of the Board and the director shall not take any part in any deliberation or decision of the Board with respect to that matter.

**11. Removal and resignation of director :-**

(1) Notwithstanding anything contained in section 8, the State Government may at any time after consulting the Board, remove any director from office, if, in, its opinion such a director

(a) is or has become subject to any disqualification mentioned in section 9;

(b) is absent without leave of the Board from more than three consecutive meetings thereof without cause sufficient, in the opinion of the Board, to exonerate his absence;

(c) has acted in contravention of the provisions of section 10; or

(d) has been guilty of misconduct in the discharge of his duties:

Provided that no order of removal shall be passed without giving

the director a reasonable opportunity of showing cause against the proposed order.

(2) A director may resign his office by giving notice thereof in writing to the State Government and on such resignation being accepted he shall be deemed to have vacated his office.

## **12. Meetings of Board :-**

(1) The Board shall meet at such times and places-, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason he is unable to attend any meeting any other director elected by the directors present at the meeting, shall preside at the meeting of the Board.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of directors present and voting and in the event of an equality of votes the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

## **13. Executive Director :-**

(1) The State Government shall appoint one of the official directors as Executive Director.

(2) The Executive Director who shall be a whole time officer of the Corporation shall

(a) be its Chief Executive Officer.

(b) be responsible for the operational management of the Corporation and implementation of the general policies approved by the Board.

(c) perform such duties as the Board may, by regulations or otherwise, assign to him;

(d) receive such salary and allowances and be governed by such terms and conditions of service as may be determined by the Board and approved by the State Government.

(3) If the Executive Director is by infirmity or otherwise rendered incapable of carrying out his duties or is absent or leave or otherwise in circumstances not involving the variation of his



appointment, the State Government may appoint another person to act in his place during his absence.

**14. Defect in appointment not to invalidate act or proceedings :-**

(1) No act or proceeding of the Board shall be questioned or be invalid on the ground merely of the existence of any vacancy in, or any defect in, the constitution of the Board.

(2) No act done by any person acting in good faith as a director shall be deemed to be invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his nomination.

**15. Officers and other employees of Corporation :-**

(1) The Board may appointed such officers and other employees as it considers necessary for the efficient performance of the functions of the Corporation and determine by regulations their conditions of appointment and service and the remuneration payable to them.

(2) The Board may, by general or special order, delegate to the Executive Director or to any other officer or employee of the Corporation, subject to such conditions and limitations, if any, as may be specified, such of its powers and duties under this Act, except the power to make regulations, as it may deem necessary.

**CHAPTER 4**

**FUNCTIONS OF THE CORPORATION**

**16. Functions of Corporation :-**

(1) Subject to the provisions of this Act, it shall be the primary duty of the corporation to undertake the task of social and economic uplift of the members of the Scheduled Tribes in the State of Gujarat, and the Corporation shall be competent to do all things and to exercise all the powers necessary for the performance of such duties.

(2) Without prejudice to the generality of the foregoing provisions, the corporation may take such steps as it may think fit

(i) to plan and promote, on its own or in collaboration with or through such Scheduled Tribes Organisations or other agencies as may be approved by the Board, any programme of agricultural developement, marketing, processing, supply and storage of

agricultural produce, small scale industry, building construction, transport and such other activity as may be approved in this behalf by the State Government;

<sup>1</sup> [(ii) to undertake, on its own or in collaboration with or through such Scheduled Tribes Organisations or other bodies or institutions as may be approved by the Board, or in collaboration with Government or local authorities, any activities, schemes or works capable of furthering the purposes for which the Corporation is established, and all matters connected therewith, as it may consider necessary;]

(iii) to give on hire agricultural or industrial machinery or equipment to the members of Scheduled Tribes or Scheduled Tribes Organisations;

(iv) to give grants and subsidies to and to guarantee loans taken by the members of Scheduled Tribes or Scheduled Tribes Organisations;

(v) to borrow money subject to such conditions as the State Government may specify;

(vi) to issue bonds and debentures;

(vii) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, hundis, bills, warrants, debentures and other negotiable instruments;

(viii) to invest or deposit surplus funds of the Corporation in Government securities or in such other manner as the State Government may, by general or special order, direct;

(ix) to enter into contract; and

(x) to discharge such other functions as may be prescribed or as are supplemental, incidental or consequential to any of the functions conferred on it by or under this Act.

1. This clause was substituted by Guj. 24 of 1978, s. 3.

#### CHAPTER 5

#### FINANCE, ACCOUNTS AND AUDIT

### **17. Fund of Corporation :-**

(1) The Corporation shall have its own fund.

(2) The Corporation may accept grants, subventions, donations and

gifts from the Central or State Government or a local authority or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.

(3) All sums which may from time to time be paid to it by the State Government and all other receipts of the corporation shall be carried to the fund of the Corporation and all payments by the Corporation shall be made therefrom.

(4) The Corporation may spend such sums as it thinks fit for the performance of its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Corporation.

(5) All moneys belonging to the fund of the Corporation shall be deposited in such bank or invested in Government securities or in such other manner, as the State Government may, by general or special order, direct.

#### **18. Accounts :-**

(1) The balance-sheet and accounts of the Corporation shall be prepared and maintained in such form and manner as may be prescribed.

(2) The Board shall cause the books and accounts of the Corporation to be balanced and closed on the thirty-first day of March each year.

#### **19. Audit :-**

(1) The accounts of the Corporation shall be audited once in every financial year, by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956 (I of 1956), who shall be appointed by the Board and shall receive such remuneration from the Corporation as the Board may fix.

(2) The auditors shall be supplied with a copy of the annual balance-sheet and <sup>1</sup>[the income and expenditure account] of the Corporation and it shall be the duty of the auditors to examine them together with the accounts and vouchers relating thereto, and they shall have a list delivered to them of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may require from any director or officer of the Corporation such information as they may think necessary for the performance of their duties as auditors.

(3) The auditors shall make a report to the Corporation upon the annual balance-sheet and accounts examined by them and in every such report they shall state whether, in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars properly drawn up so as to exhibit a true and fair view of the state of affairs of the Corporation.

<sup>2</sup>(4)[ \* \* \* \* ]

<sup>3</sup> [(5) The Corporation shall furnish to the State Government a copy of its balance-sheet and accounts together with a copy of the report made by the auditors under sub-section(3) and a report on working of the Corporation during the relevant period, within four months from the date on which its accounts are closed and balanced.]

(6) Copies of the report referred to in sub-section (5) shall be laid by the State Government, as soon as may be, before the State Legislature.

1. These words were substituted for the words "the profit and loss account" by Guj. 24 of 1978, 8.4(1).

2. Sub-section (4) was deleted, *ibid.*, a. 4(2).

3. Sub-section (5) was substituted for the Original, by Guj. 24 of 1978, s. 4(3).

#### CHAPTER 6

#### MISCELLANEOUS

### **20. Recovery of money due to Corporation :-**

(1) Where any amount is due to the Corporation from any person in respect of advances or other financial accommodation granted by it, such amount shall, on a certificate being granted by the Executive Director in the prescribed form, be recoverable as arrears of land revenue by the Collector of the district, in which the person from whom the amount is due resides or carries on business or owns any property.

(2) Before issuing the certificate referred to in sub-section(1), the Executive Director shall make an application to such officer, as may be empowered by the State Government in this behalf and that officer shall, after giving an opportunity of being heard to the person concerned and after such further enquiry as he may consider necessary, by an order determine the amount due to the Corporation and communicate the same to the Executive Director.

(3) An appeal against an order passed by the officer empowered by the State Government under sub-section (2) shall lie within such period and to such authority as may be prescribed.

(4) The officer empowered under sub-section (2) and the appellate authority shall follow such procedure as may be prescribed.

(5) The certificate issued by the Executive Director under sub-section (1) shall be final and conclusive and shall not be called in question before any authority or court.

(6) For the purpose of recovering any amount due to the Corporation in respect of a loan it shall not be necessary to proceed against the principal before proceeding against his surety.

## **21. Dissolution of Board :-**

(1) No provision of law other than this Act, relating to the winding up, dissolution or liquidation of the companies or corporations shall apply to the corporation.

(2) The State Government may, if the Corporation exceeds its powers, or upon receipt of a report under section 19, call upon the Board to show cause why it should not be dissolved, and if no explanation is offered within the specified period, or if the State Government is not satisfied with the explanation, the State Government may dissolve the Board from such date as may be specified.

## **22. Consequences of dissolution of Board :-**

(1) When the Board is dissolved under section 21,

(i) all directors shall, from the date of dissolution, vacate their offices;

(ii) all powers and duties of the Board shall, during the period of dissolution, be exercised and performed by such person or persons as the State Government may appoint in this behalf;

(iii) all funds and other property vested in the Corporation shall, during the period of dissolution, vest in the State Government.

(2) The State Government may reconstitute the Board after such period as it may think fit.

## **23. Protection of action taken in good faith :-**

No suit or other legal proceeding shall lie against the Corporation or

any director including the Executive Director, or any officer or other employee or any other person authorised by the Corporation to discharge any functions under this Act, for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done by him in pursuance of this Act.

#### **24. Indemnity of directors :-**

(1) Every director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A director shall not be responsible for the acts of any other director, or for the acts of any officer or other employee of the Corporation or for any loss or expenses resulting to the Corporation by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation in good faith, or by the insolvency or wrongful act of any debtor or any person under obligation to the Corporation or anything done in good faith, in the execution of the duties of his office or in relation thereto.

#### **25. Power of Board to make regulations :-**

(1) The Board may make regulations not inconsistent with the provisions of this Act and rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matter, namely :

(a) the times and places of meeting of the Board and the procedure to be followed in relation to such meeting including the quorum necessary for the transaction of business;

(b) duties which the Executive Director shall perform;

(c) the duties, conduct, salaries, allowances and conditions of service of officers and other employees of the Corporation;

(d) the delegation of powers and functions to the officers and other employees of the Corporation;

(e) the establishment and maintenance of provident and other benefit funds for the officers and employees of the Corporation.

(f) any other matter which is, or may be, necessary for the efficient conduct of the affairs of the Corporation.

**26. Power of State Government to make rules :-**

(1) The State Government may, by notification published in the Official Gazette, make the rules to carry out or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rule may provide for all or any of the following matters, namely :

(a) the terms and conditions of service of the directors and the fees and allowances payable to them;

(b) the functions, in addition to those specified in sub-section (2) of section 16, to be discharged by the Corporation and the conditions and restrictions subject to which those functions shall be discharged;

(c) the form and manner in which accounts shall be maintained, and the balance-sheet and <sup>1</sup> [income and expenditure account] shall be prepared;

(d) the form in which certificate shall be issued by the Executive Director, the period within which and the authority before whom an appeal shall be filed, and the procedure to be followed by the appellate authority under section 20;

(e) any other matter which is required to be or may be prescribed.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

1. These words were substituted for the words "profit and loss account" by Guj. 24 of 1978, S.5.