

KARNATAKA SPECIAL TRIBUNAL ACT, 1994

41 of 1994

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STATEMENT OF OBJECTS AND REASONS ACT No. 30 of 1995
Karnataka Gazette, Extraordinary, dated 5-9-1995 It is considered necessary, to amend Section 12 of the Karnataka Special Tribunal Act, 1994 to provide that the Tribunal shall exercise all the jurisdiction, powers and authority exercisable immediately before that day by all Courts (except the Supreme Court). Hence the Bill.

CHAPTER 1

Preliminary

1. Short title and commencement :-

- (1) This Act may be called the Karnataka Special Tribunal Act, 1994.
- (2) It shall come into force on such date as the State Government may, by notification appoint.

2. Definitions :-

In this Act, unless the context otherwise requires.

- (a) "Administrative Member" means a member of a Special Tribunal who is not a judicial member;
- (b) "Appointed day" in relation to the Special Tribunal means the date with effect from which the Special Tribunal is established by notification under Section 3 ;
- (c) "Bench" means a Bench of the Special Tribunal;

- (d) "Chairman" means the Chairman of the Special Tribunal;
- (e) "Judicial Member" means a member of the Special Tribunal appointed as such under this Act and includes the Chairman who possesses any of the qualifications specified;
- (f) "Member" means a member (whether judicial or Administrative) of the Special Tribunal and includes the Chairman;
- (g) "Notification" means a notification published in the Official Gazette;
- (h) "Prescribed" means prescribed by rules made under this Act;
- (i) "Special" Tribunal means the Special Tribunal established under Section 3 of this Act.

CHAPTER 2

Establishment of the Special Tribunal and Benches

3. Establishment of the Special Tribunal :-

(1) The State Government shall, by notification, establish a Special Tribunal to be known as the Karnataka Special Tribunal to exercise the jurisdiction, powers and authority conferred on the Special Tribunal by or under this Act.

4. Composition of the Special Tribunal and Benches thereof :-

(1) The Special Tribunal shall consist of a Chairman and such Member of Judicial and Administrative Members, as the State Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers authority of the Special Tribunal may be exercised by Benches thereof.

(2) Subject to the other provisions of this Act, a Bench shall consist of one judicial member and one Administrative Member.

(3) Notwithstanding anything contained in sub-section (1), the Chairman.

(a) may, in addition to discharging the functions of the judicial member or the administrative member of the bench to which he is appointed, discharge the functions of the judicial member or as the case may be, the administrative member of any other bench;

(b) may authorise the judicial member or the administrative

member appointed to one bench to discharge also the functions of the judicial member or as the case may be, the administrative member of another bench; and

(c) may, for the purpose of securing that any case or cases Which having regard to the nature of the questions involved requires or require, in his opinion or under the rules made by the State Government in this behalf, to be decided by a bench composed of more than two members issue such general or special orders, as he may deem fit.

(4) Subject to the provisions of this Act, the benches of the Special Tribunal shall ordinarily sit at Bangalore (which shall be known as principal bench), Belgaum, Gulbarga and Mysore and at such other places as the State Government may, by notification, specify.

(5) Notwithstanding anything contained in the foregoing provisions of this section, it shall be competent for the Chairman or any other member authorised by the Chairman in this behalf to function as 'bench' consisting of a single member and exercise the jurisdiction, power and authority of the Special Tribunal in respect of such classes of cases or such matter pertaining to such classes or cases as the Chairman may by general or special order specify:

Provided that if at any stage of the hearing of any such case or matter it appears to the Chairman or such member that the case or matter is of such nature that it ought to be heard by a bench consisting of two members, the case or matter may be transferred by the Chairman or as the case may be, referred to him for transfer before such bench as the Chairman may deem fit.

5. Qualifications for appointment as Chairman or other member :-

(1) A person shall not be qualified for appointment as the Chairman unless he is or has been, a Judge of a High Court.

(2) A person shall not be qualified for appointment as a judicial member unless he is, or has been or is qualified to be a Judge of a High Court.

(3) A person shall not be qualified for appointment as an administrative Member unless he has held the post of a Secretary to Government of Karnataka or any other post under the State carrying a scale of pay which is not less than that of a Secretary to

Government of Karnataka.

(4) The Chairman and every member of the Special Tribunal shall be appointed by the Governor and shall hold office as such until he attains the age of in the case of the Chairman, sixty-five years, and in the case of others sixty-two years:

Provided that no judicial member who is a sitting Judge shall be appointed except in consultation with the Chief Justice of the High Court of Karnataka.

(5) The State Government may transfer any member of the Special Tribunal from one bench to another bench:

Provided that a judicial member who is a sitting Judge shall not be transferred except in consultation with the Chief Justice of the High Court of Karnataka.

6. Administrative Member of principal bench to act as Chairman or to discharge his functions in certain circumstances :-

(1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Administrative Member of the principal bench, shall act as the Chairman until the date on which a new Chairman appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Administrative Member of the principal bench, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

7. Resignation and Removal :-

(1) The Chairman or any member may, other than a sitting Judge may by notice in writing under his hand addressed to the Governor, resign his office:

Provided that the Chairman, or such other member shall, unless he is permitted by the Governor to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Chairman, or any other member shall not be removed from his office except by an order made by the Governor on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairman, other member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

8. Salaries and allowances and other terms and conditions of service of Chairman and other members :-

The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Chairman and other members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairman or other member shall be varied to his disadvantage after his appointment.

9. Financial and administrative powers of the Chairman :-

The Chairman shall exercise such financial and administrative powers over the Benches as may be vested in him under the rules made by the State Government:

Provided that the Chairman shall have authority to delegate such of his financial and administrative powers as he may think fit to any member or officer of the Special Tribunal subject to the condition that such member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairman.

10. Provision as to holding of offices by Chairman on ceasing to be such Chairman etc :-

On ceasing to hold office.

(i) the Chairman shall be ineligible for further employment either under the Government of India or under the Government of a State;

(ii) a member of the Special Tribunal (other than the Chairman) shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman but not for any other employment under the Government of India or under the Government of a State;

(iii) the Chairman, or other member shall not appear, act, or plead

before any Tribunal of which he was the Chairman or other member.

Explanation. For the purposes of the section employment under the Government of India or under the Government of a State includes employment under any local or other authority within the territory of India or under the control of the Government of India or the Government of Karnataka or under any Corporation or society owned or controlled by such Government.

11. Staff of the Special Tribunal :-

(1) The State Government shall determine the nature and categories of the officers and other employees required to assist the Special Tribunal in the discharge of its functions and provide the Special Tribunal with such officers and other employees as it may think fit.

(2) The officers and other employees of the Special Tribunal shall discharge their functions under the general superintendence of the Chairman.

(3) The salaries and allowances and conditions of service of the officers and other employees of the Special Tribunal shall be such as may be prescribed.

CHAPTER 3

Jurisdiction, Powers and Authority of the Special Tribunal

12. Jurisdiction Powers and Authority of the Special Tribunal :-

¹[x x x] Save as otherwise expressly provided in this Act, the Special Tribunal shall exercise, ² [on and from the appointed day all the jurisdiction, powers and authority exercisable immediately before that day by all Courts (except the Supreme Court) in relation to.]

(a) tenancy disputes pending under S.38 OF THE Karnataka Land Reforms Act, 1961, S.48A OF THE Karnataka Land Reforms Act, 1961 or S.66 of the Karnataka Land Reforms Act, 1961 and the tenancy cases under the various Inams Abolition Acts, as in force in the State or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;

(b) any matter incidental to the matter specified in clause (a)

above.

1. The brackets and figure "(1)" omitted by Act No. 30 of 1995, w.e.f. 13-10-1995
2. Substituted for the words "on and from the appointed day" by Act No. 30 of 1995 and shall be and shall be deemed always to have been substituted

13. Power to punish for contempt :-

The Special Tribunal shall have and exercise, the same jurisdiction, power and authority in respect of contempt of itself as a High Court has and may exercise and for this purpose, the provisions of the Contempt of Courts Act, 1971 (Central Act 10 of 1971), shall have effect subject to the modifications that.

(a) the references therein to a High Court shall be construed as including a reference to the Special Tribunal;

(b) the references to the Advocate-General in Section 15 of the Contempt of Courts Act, 1971 of the said Act, shall be construed, as a reference to the Advocate-General of the State of Karnataka.

14. Distribution of the business amongst Benches :-

(1) Where the benches of the Special Tribunal are constituted Chairman may, from time to time, by order make provisions as to the distribution of the business of the Special Tribunal amongst Benches and specify the matters which may be dealt with by each Bench.

(2) If any question arises as to whether any matter falls within the purview of the business allocated to a Bench of the Special Tribunal, the decision of the Chairman thereon shall be final.

Explanation. For the removal of doubts, it is hereby declared that the expression "matters" includes applications under Section 15 .

CHAPTER 4

Procedure

15. Applications to the Special Tribunal :-

(1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of the Special Tribunal may make an application to the Tribunal for the redressal of his grievance.

(2) Every application under sub-section (1) shall be in such form

and be accompanied by such documents or other evidence and by such fee (if any, not exceeding one hundred rupees) in respect of filing of such application and by such other fees for the service or execution of processes, as may be prescribed.

(3) On receipt of an application under sub-section (1), the Special Tribunal shall, if satisfied after such inquiry as it may deem necessary, that it is a fit case for adjudication or trial by it, admit such application; but where the Special Tribunal is not so satisfied it may summarily reject the application after recording its reasons.

16. Limitation :-

(1) The Special Tribunal shall not admit an application, in any a case where a final order has been made in connection with the grievance unless the application is made, within ninety days from the date on which such final order has been made.

(2) Notwithstanding anything contained in sub-section (1), an application may be admitted after the period of ninety days, specified in that sub-section if the applicant satisfies the Special Tribunal that he had sufficient causes for not making the application within such period.

17. Procedure and powers of the Special Tribunal :-

(1) The Special Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908), but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the State Government, the Special Tribunal shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private.

(2) The Special Tribunal shall decide every application made to it as expeditiously as possible and ordinarily every application shall be decided on a perusal of documents and written representations and after hearing of oral arguments, as may be advanced.

(3) The Special Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit, in respect of the following matters, namely.

(a) summoning and enforcing the attendance of any person and

examining him on oath;

(b) requiring the discovery and production of documents;

(c) subject to the provisions of Section 123 OF THE EVIDENCE ACT, 1872 and Section 124 of the Evidence Act, 1872 (Central Act 1 of 1872), requisitioning any public record or document or copy of such record or document from any office;

(d) reviewing its decisions;

(e) dismissing a representation for default or deciding it ex parte;

(f) setting aside any order of dismissal or any representation for default or any order passed by it ex parte; and

(g) any other matter which may be prescribed by the State Government.

18. Right of applicant to take assistance of legal practitioner and of Government etc., to appoint presenting Officers :-

(1) A person making an application to the Special Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Special Tribunal.

(2) The State Government or a local or other authority or corporation or a society controlled or owned by the State Government may authorise one or more legal practitioner or any of its officers to act as presenting officers and every person so authorised by it may present the case with respect to any application before the Special Tribunal.

19. Conditions as to making of interim orders :-

Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceedings relating to, an application unless.

(a) copies of such application and of all documents in support of the plea for such an interim order furnished to the party against whom such application is made or proposed to be made; and

(b) opportunity is given to such party to be heard in the matter:

Provided that the Special Tribunal may dispense with the requirements of clauses (a) and (b) and made an interim order as an exceptional measure it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant which cannot be adequately compensated in money but any such interim order shall, if it is not sooner vacated, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period and the Special Tribunal has continued the operation of the interim orders.

20. Power of Chairman to Transfer cases from one Bench to another :-

On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or in his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal to any other Bench.

21. Decision to be by majority :-

(1) If the Members of a Bench Other than principal Bench differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairman who shall hear the point or points himself and such point or points shall be decided according to the opinion of the Chairman.

(2) If members of the principal Bench differs in opinion on any point or points the Chairman shall refer the case for hearing on such point or points to the Special Bench consisting of one or more of the other members of the Special Tribunal, as the Chairman may constitute and such point or points shall be decided according to the opinion of the majority of the members of the Special Tribunal who have heard the case, including those who first heard it.

(3) Nothing contained in sub-section (1) or sub-section (2) shall be deemed to preclude the Chairman from referring the point or points of difference to be heard by a Special Bench constituted by him as in sub-section (2), in any case referred to him under sub-section (1).

22. Execution of orders of the Special Tribunal :-

Subject to the other provisions of this Act and the rules, the order of the Special Tribunal finally disposing of an application or an

appeal shall be final and shall not be called in question in any Court including the High Court and such order shall be executed in the same manner in which any final order in respect of the grievances to which the application relates would have been executed.

CHAPTER 5

Miscellaneous

23. Exclusion of jurisdiction of Courts except the Supreme Court under Article 146 of the Constitution :-

On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Special Tribunal in relation to the matters specified in Section 12 , no Court except the Supreme Court shall have or be entitled to exercise the jurisdiction, powers and authority in relation to such matters as is specified in Section 12 .

24. Transfer of pending cases :-

(1) Every writ appeal or matter pending against the order of a Land Reforms Tribunal, every appeal or matter filed against any order of the Land Reforms Appellate Authority and every writ appeal pending against an order of a Single Judge before the High Court or any other matter pending before any Court or other authority immediately before the date of establishment of the Special Tribunal under this Act, being a writ, appeal or other matter the cause of action whereon it is passed is such that it would have been, if it has arisen after such establishment, within the jurisdiction of the Special Tribunal, shall stand transferred on that date of the Special Tribunal.

(2) Where any writ, appeal or other matter stands so transferred from any Court or other authority to the Special Tribunal under sub-section (1)

(a) the Court or other authority shall, as soon as may be after such transfer, forward the records so such writ, appeal or other proceeding to the Special Tribunal;

(b) the Special Tribunal may, on receipt of such records, proceed to deal with such writ, appeal or other matter so far as may be, in the same manner as in the case of an application under Section 15 from the stage at which it was pending before such transfer or from any earlier stage or de novo as the Special Tribunal may deems fit;

(c) the parties to an appeal shall not be entitled to produce

additional evidence, whether oral or documentary in the Special Tribunal:

Provided where.

(i) the authority from whose order appeal preferred has refused to admit evidence which ought to have been admitted; or

(ii) the party seeking to produce additional evidence establishes that such evidence was not within his knowledge or could not in spite of exercise of due diligence be produced by him at the time when the order appealed against was passed; or

(iii) the Special Tribunal requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Special Tribunal for reasons to be recorded may allow such evidence or document to be produced or witnesses to be examined, and where such additional evidenced is allowed, the Special Tribunal may direct the authority from whose order the appeal is preferred, or any other authority subordinate to it to take such evidence and to send it woen taken to the Special Tribunal:

Provided further where additional evidence is directed or allowed to be taken, the Special Tribunal must specify the points to which the evidence is to be confined and record on its proceeding the point so specified.

(d) the Special Tribunal may at any stage of the proceeding before it inspects any property or thing concerning which any question may arise and where the Special Tribunal inspects any property or thing it shall, as soon as may be practicable to make a memorandum of any relevant facts observed at such inspection and such memorandum shall form part of the record of the proceeding.

25. Provision for filing of certain appeals :-

Where any decree or order has been made or passed by any Court (other than the High Court) in any suit or proceeding before the establishment of the Special Tribunal, being a suit or proceeding, the cause of action where on it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Special Tribunal and no appeal has been preferred against such decree or order before such establishment and the time for preferring such appeal under any law for the time being in force had not expired before such establishment, such

appeal shall lie to the Special Tribunal, within ninety days from its establishment or within ninety days from the date of receipt of the copy of such decree or order, whichever is later.

26. Proceedings before the Special Tribunal to be judicial proceedings :-

All proceedings before the Special Tribunal shall be a judicial proceeding within the meaning of Section 193 OF THE INDIAN PENAL CODE, 1860 , Section 219 OF THE INDIAN PENAL CODE, 1860 and Section 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

27. Members and Staff of the Special Tribunal to be public servants :-

The Chairman and other Members and the officers and other employees provided under Section 8 to the Special Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

28. Protection of action taken in good faith :-

No suit, prosecution or other proceeding shall lie against the State Government or against the Chairman or other Member of the Special Tribunal or any other person authorised by such Chairman, or other Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

29. Act to have overriding effect :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

30. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary for expedient for removing the difficulty.

(2) Every order made under this section shall as soon as may be after it is made be laid before the Karnataka Legislature.

31. Power of the State Government to make rules :-

(1) The State Government may by notification make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following namely.

(a) the case or cases which shall be decided by a Bench composed of more than two members under clause (d) of sub-section (3) of Section 4 ;

(b) the procedure under sub-section (2) of Section 7 for the investigation of misbehaviour or incapacity of the Chairman or other Member;

(c) the salaries and allowances payable to, and the other terms and conditions of the Chairman and other Members;

(d) the form in which an application may be made under Section 15 , the documents and other evidence by which such application shall be accompanied and the fees payable in respect of the filing of such application or for the service or execution of processes;

(e) the rules subject to which the Special Tribunal shall have power to regulate its own procedure under sub-section (1) of Section 17 and the additional matters in respect of which the Special Tribunal may exercise the powers of a Civil Court under clause (g) of sub-section (3) of that section;

(f) the financial and administrative powers which the Chairman of the Special Tribunal may exercise over the Benches of Special Tribunal under Section 9 ;

(g) the salaries and allowances and conditions of service of the officers and other employees of the Special Tribunal under sub-section (3) of Section 11 ;

(h) any other matter not being a matter specified in Section 31 in respect of which rules are required to be made by the State Government; and

(i) any other matter which may be prescribed or in respect of which rules are required to be made by the State Government.

32. Power to make rules retrospectively :-

The power to make rules shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act has come into force, but no such retrospective

effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.