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**Madhya Pradesh Anusuchit Janjati Sahukar Viniyam, 1972**

**2 of 1972**

**[19 October 1972]**

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**[19 October 1972]**

In exercise of the powers conferred by sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution of India and after consultation with the Tribes Advisory Council, the Governor of Madhya Pradesh hereby makes the following Regulations, namely--

1. Received the assent of the President on the 19th October, 1972; Assent first published in Madhya Pradesh Gazette, Extraordinary, dated the 10th November, 1972, pp 2800-2809.

**1. Short Title, Extent And Commencement :-**

(1) These Regulations may be called The Madhya Pradesh Anusuchit Janjati Sahukar Viniyam, 1972.

(2) They shall extend to all the Scheduled Areas in Madhya Pradesh.

(3) They shall come into force on such date<sup>1</sup> as the State Government may, by notification appoint.

1. Came into force on 1st May, 1976 vide MP Gaz. Pt. I, dated 18-6-1976, P. 1030.

**2. Definitions :-**

In these Regulations, unless the context otherwise requires,--

(i) "Bank" means a banking company, as defined in Section 5 of the Banking Regulation Act, 1949 (X of 1949) and includes the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) and any other financial institution as the State Government may, by notification specify in this behalf;

(ii) "Co-operative Society" means a society registered or deemed to be registered under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961);

(iii) "Court" includes a Court acting in the exercise of insolvency jurisdiction;

(iv) "Debtor" means a member of Scheduled Tribes to whom a loan is advanced and includes a successor-in-interest or surety;

(v) "Interest" includes any amount, by whatever name called, paid or payable to a lender in consideration of or otherwise in respect of a loan in excess of the Principal, but does not include any sum lawfully charged by a lender in accordance with the provisions of these Regulations or any other law for the time being in force for or

on account of Legitimate costs, charges or expenses.

(vi) "Licence" means a money-lenders licence granted under these Regulations and "licensed" shall be construed accordingly;

(vii) "Loan" means an advance of money or articles, goods or materials for interest, and includes any transaction which the Court finds in substance to amount to such an advance, but does not include--

(a) a deposit of money or other property in a bank, Post Office Saving Bank or Co-operative Society;

(b) an advance made by the Government or by any person authorised by the Government to make advance in their behalf or by any local authority;

(c) an advance made by a Bank or a Co-operative Society.

(viii) "Member of Scheduled Tribes" means a member of any tribe, tribal community or part of or group within tribe or tribal community specified as such with respect to the State of Madhya Pradesh under Article 342 of the Constitution of India.

(ix) "Money-lender" means a person whose business is that of advancing and realising loans and shall include a trader and shall also include, subject to the provision of Section 3, the legal representatives and successors in interest whether by inheritance, assignment or otherwise of the person who advanced the loan but does not include a bank or a Co-operative Society and the expression "Money-lending" shall be construed accordingly;

Explanation.--

Where a money lender who is not a resident of the Scheduled Area carried on the business of money-lending through his agent who resides in such area, such agent shall be deemed to be the money-lender in respect of that business;

(x) "Pledge" means an article pledged;

(xi) "Pledger" means a person delivering an article for pledging it to a money-lender;

(xii) "Principal" means the actual advance made to a debtor whether in cash or kind;

(xiii) "Scheduled Area" means any area declared to be Scheduled Area within the State of Madhya Pradesh under paragraph 6 of the Fifth Schedule to the Constitution of India;

(xiv) "Trader" means a person who carried on the business of taking goods and chattels in security for a loan advanced by him;

Explanation.--

Every person who keeps a shop for the purchase or sale of goods or chattels, or for taking in goods or chattels by way of security for

money advanced thereon and who purchases, receives or takes in goods or chattels and pays, advances or lends thereon any sum of money with or without an agreement or understanding expressed or implied, that those goods or chattels may be afterwards redeemed or repurchased on any terms is a trader within the meaning of this clause;

(xv) "Year" means a year reckoned according to the British calendar or such other period as may be prescribed by rules.

### **3. Money-Lender To Obtain Licence Annually :-**

(1) No person shall, on or after the date on which these Regulations come into force, carry on business of money-lending at any place in the Scheduled Areas, without obtaining money-lenders licence under these Regulations.

(2) Where a person has more than one shop or place of business of money-lending, whether in the same place, town or village, he shall obtain a separate money-lenders licence in respect of each such shop or place of business.

(3) Where the business of money-lending is done by--

(a) a registered firm the licence shall be obtained in the name of the Manager described as such in the licence;

(b) an undivided Hindu family, the licence shall be obtained in the name of the manager described as such in the licence;

(c) any other association of individuals, not required to be registered under Section 11 of the Companies Act, 1956 (Central Act 1 of 1956), a separate licence shall be obtained by each such individual in his name describing himself as member of the association:

Provided that nothing contained in this sub-section shall affect the operation of Section 69 of the Indian Partnership Act, 1932 (Central Act IX of 1932).

### **4. Grant Or Refusal Of Licences :-**

(1) (a) Every application for a money-lenders licence shall be in writing and shall be made to such authority as may be prescribed.

(b) Every such application shall be accompanied by such fee, not exceeding twenty-five rupees as the State Government may, from time to time by notification, determine.

(c) The fee payable under clause (b) shall be paid in such manner as may be prescribed.

(d) Where the licence applied for is refused, the fee paid under

clause (b) shall be refunded in full and where the application for the licence is withdrawn by the applicant before the licence is actually granted, the fee paid less ten percent thereof shall be refunded.

(2) Every licence shall be granted in such form and subject to such conditions as may be prescribed.

(3) The licensing authority may, by order in writing, refuse to grant a licence if such authority is satisfied after making due enquiry,--

(a) that the applicant has not complied with the provisions of these Regulations or the rules made thereunder in respect of an application for the grant of a licence;

(b) that the applicant has knowingly acted in contravention of any requirement of these Regulations;

(c) that the applicant has--

(i) knowingly participated in, or connived, at, any fraud or dishonesty in the conduct of, or in connection with the business of money-lending; or

(ii) been found guilty of any offence under Chapter XVII or Chapter XVIII of the Indian Penal Code 1860 (Central Act XLV of 1860).

Explanation.--

For the purpose of this clause, the expression "due enquiry" shall include enquiry relating to previous background, rates of interest charged, manner of recoveries etc. by the applicant in the past:

Provided that before passing an order refusing to grant a licence on any of the grounds specified above other than the grounds specified in sub-clause (ii) of clause (c), the applicant shall be given a reasonable opportunity of being heard.

(4) The licensing authority shall, in the matter of granting or refusing to grant a licence be subject to control and direction of the State Government or such other authority as may be prescribed.

(5) Any person aggrieved by an order of the licensing authority under sub-section (3) may, within one month from the date of communication of such order to him, appeal to the prescribed authority.

(6) Every licence granted under this section shall, subject to the provisions of sub-section (7), expire on the last day of the year for which it was granted.

(7) A licence granted under sub-section (2), may be renewed from year to year and the provisions of sub-sections (1) to (4) shall apply in relation to the renewal of a licence, as they applied in relation to the grant of a licence.

## **5. Change Of Place Of Business By Money-Lender :-**

No Money-lender shall change his place of business without previous notice to the licensing authority.

## **6. Money-Lenders To Exhibit Their Names Over Shops :-**

(1) Every money-lender shall always keep exhibited in large characters over the outer door of his shop or place of business his name with the words "licensed money-lender" in the chief language of the locality.

(2) Every money-lender shall always keep exhibited over the outer door of his shop or place of business a board specifying the name of the debt collector, if any, employed under Section 15.

## **7. Interest And Charges, Allowed To Money-Lenders :-**

(1) No money lender shall charge interest on any loan advanced at a rate exceeding--

(a) six per cent per annum simple interest, where the loan is secured; and

(b) twelve per cent per annum simple interest, where the loan is not secured.

(2) A money-lender may demand or take from the debtor such charges as may be prescribed.

(3) A money-lender shall not demand or take from the debtor any interest in excess of that payable under sub-section (1) or any charge in excess of that prescribed under sub-section (2).

## **8. Duty Of Money-Lender To Keep Accounts And Furnish Copies :-**

(1) Every money-lender shall keep and maintain a cashbook and ledger in such form and in such manner as may be prescribed.

(2) Every money-lender shall deliver or cause to be delivered to the debtor within thirty days from the date on which a loan is made, a statement in the chief language of the locality showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged:

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass-book

which shall be in the prescribed form and shall contain an up-to-date account of the transactions with the debtor.

(3) Upon repayment of a loan in full, every money-lender shall mark indelibly every paper signed by the debtor with words indicating payment or cancellation and discharge every mortgage, restore every pledge, return every note and cancel or reassign every assignment given by the debtor as security for the loan.

(4) No money-lender shall accept by way of security for a loan, from a debtor his standing crop, whether existing or future, or his agricultural cattle.

(5) No money-lender shall receive any payment in cash or kind from a debtor on account of any loan unless he grants to such debtor a signed receipt for the payment, duly witnessed by such authority as may be prescribed.

(6) (a) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan unless he grants to such debtor a signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed.

(b) The documents executed by the debtor in favour of a money-lender shall be duly witnessed by the authority prescribed under sub-section (5).

(7) No money-lender shall get the loan advanced by him to a debtor renewed at any time during the currency of the loan by including in the amount originally advanced the interest accruing thereon or otherwise so as to defeat the provisions of these Regulations or any other law for the time being in force.

### **9. Mode Of Crediting Payments Made By The Debtor :-**

All payments made by the debtor shall be credited first in the account of interest and the residue, if any, of any payment more than sufficient to discharge the balance of interest due at the time, it is made, shall be credited to the debtor in the account of the principal or in the alternative such of the payments shall be credited first in the account of principal as the money-lender may determine and the remaining payments shall be credited in the account of interest calculated. When the balance of interest is fully discharged, the residue of the payment, if any, shall be further credited in the account of the principal.

### **10. Delivery Of Statement Of Accounts And Copies Thereof By Moneylender :-**

(1) Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtors accounts signed by the money-lender or his agent of any amount that may be outstanding against such debtor. The statement shall show--

(a) the amount of the principal and the amount of interest, separately, due to the money lender;

(b) the amount of every payment already received by the money-lender in respect of the loan during the year together with the date on which each payment was made;

(c) All payments whether credited in the account of the principal or in the account of interest;

(d) the amount of principal and interest remaining unpaid.

(2) The statement referred to in sub-section (1) shall be signed by the money-lender or his agent and it shall be in such and shall be supplied to the debtor on or before such date as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1) no statement referred to in the said sub-section shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass-book which shall be in the prescribed form and shall contain an up-to-date account of the transaction with the debtor.

(4) The money-lender shall on or before the date prescribed under sub-section (2) deliver or cause to be delivered a copy of the statement referred to in sub-section (1) to the prescribed authority.

(5) Every money-lender shall send a notice of having advanced any loan to a member of a Scheduled Tribes within thirty days of the date of advance of the loan to the Inspector appointed under Regulation 16. He shall also send a statement to the Inspector in respect of the loans advanced to such a member prior to the commencement of these Regulations within sixty days of such commencement.

(6) In respect of any particular loan whether advanced before or after the date on which these Regulations come into force, the money-lender shall on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee, supply to the debtor, or if the debtor so requires to any person specified in that behalf in the demand,--

(i) a statement signed by the money-lender or his agent and containing the particulars specified in sub-section (1); or



(ii) a copy of any document relating to the loan made by his or any surety therefore.

### **11. Debtor Not Bound To Admit Correctness Of Accounts Supplied :-**

A debtor to whom a statement of amounts or a passbook has been furnished under Section 10 shall not be bound to acknowledge or deny its correctness and his failure to do so shall not by itself be deemed to be an admission of the correctness of the accounts.

### **12. Procedure Of A Court In Suits Regarding Loans :-**

Notwithstanding anything contained in any law for the time being in force, in any suit to which these Regulations apply--

(a) A Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of Sections 8, 9 and 10.

(b) If the Court finds that the provisions of Sections 8, 9 and 10 has not been complied with by the money-lender, it may, if the plaintiffs claim is established in whole or in part, disallow the whole or any portion of the interest found due as may seem reasonable to it in the circumstances of the case and may disallow costs.

Explanation.--

For purpose of this section, a money-lender who has given the receipt or furnished a statement of accounts or a pass-book in the prescribed form and manner, shall be held to have complied with the provisions of Sections 8, 9 or 10, as the case may be, in spite of any errors and omissions, if the Court finds that such errors and omissions are not material or not made fraudulently.

### **13. Power To Direct Payment Of Decretal Amount By Instalments :-**

Notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908), the Court may, at any time, on application of a judgement-debtor after notice to the decree-holder direct that the amount of any decree passed against him whether before or after the date on which these Regulations came into force, in respect of a loan, shall be paid in such number of instalments, on such dates and subject to such conditions as having regard to the circumstances of the judgement-debtor and the amount of the decree it considers fit.

#### **14. Power Of Court To Limit Interest To The Extent Of Principal Of Loan :-**

Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall, in respect of any loan whether advanced before or after the date on which these Regulations come into force decree on account of arrears of interest, a sum greater than the principal of the loan due on the date of the decree.

(2) If the Court is of opinion that the amount of interest of principal has been recovered by the creditor in excess of those permissible under these Regulations, it may order to refund of excess amount of interest or principal as the case may be.

#### **15. Employment Of Debt Collectors :-**

(1) No person shall be employed by any money-lender for the purpose of demanding or recovering any loan due to him unless such person is in possession of a certificate authorising him to act as a debt collector granted under this section.

(2) The certificate to be granted under sub-section (1) shall be in such form and for such period, shall contain such particulars, and shall be granted by such authority as may be prescribed.

#### **16. Appointment Of Inspectors :-**

(1) The State Government or any officer empowered by it not below the rank of a Collector may, by notification, appoint one or more persons to be Inspectors for the purpose of these Regulations and may specify in such notification the local limits of their jurisdiction.

(2) Every Inspector shall be deemed to be a public servant with in the meaning of Section 21 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

#### **17. Power Of Inspectors :-**

(1) A Revenue Officer not below the rank of a Deputy Collector on receiving a report from an Inspector that he has reason to believe that a person is carrying on a licence the business of money lending at any place with in the jurisdiction of Revenue Officer may issue a warrant empowering the Inspector to enter such place with such assistance as such Revenue Officer considers necessary and to

inspect the books, accounts, records, files, documents, safe-vaults and pledges in such premises.

(2) On an inspection made under sub-section (1) the Inspector may take to his office for further investigation such books, accounts, records, files and documents as he considers necessary.

(3) If the Inspector removes from the premises any books, accounts, records, files and documents he shall give to the persons in charge of the place from whose custody they were removed, a receipt describing the books, accounts, records, files and documents as removed by him.

(4) The Inspector shall within twenty-four hours of the removal of the books, accounts, records, files and documents from the premises, either return them to the person from whose custody they were removed or produce them before the Revenue Officer who issued the warrant. Such Revenue Officer may return the books, accounts, records, files and documents, or any of them to the person from whose custody they were removed by the Inspector, after taking from such person such security as the Revenue Officer considers necessary for the production of the books, accounts, records, files and documents when required either by the Inspector or by the Court, or may pass such other orders as to their disposal as may appear just or necessary:

Provided that where the books, accounts, records, files and documents so removed are produced before the Revenue Officer under this clause, the time reasonably necessary for the journey from the place of seizure to the said Revenue Officer shall be excluded for the purpose of computing the period of twenty four hours.

(5) An Inspector shall have authority to require any person whose testimony he may require regarding any loan or any money-lending business, to appear before him or to produce or cause to be produced any document in his possession or control and to examine such person.

(6) An Inspector may apply for assistance to an officer in charge of a Police Station and take police aid in performing his duties under these Regulations.

### **18. Punishment For Advancing Smaller Amount Of Loan And Receiving Interest Higher Than Specified In The Accounts Or Other Documents :-**

(1) Any money-lender, whether licensed or not,--

(a) who actually advances an amount less than the amount shown in his accounts, registers, pawn-tickets or other documents relating to the loan; or

(b) who receives interest or other charges at a rate higher than the rate shown in the accounts, registers, pawn-tickets or other documents; or

(c) who renews loan in contravention of sub-section (7) of Section 8 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

(2) If a money-lender is convicted of an offence under sub-section (1) after having been previously convicted of such an offence, the Court convicting him on the subsequent occasion may cancel his licence as a money-lender:

Provided that such cancellation shall not affect the right of a money-lender to realise loans advanced by him in accordance with the provisions of these Regulations prior to the cancellation of his licence.

### **19. Cognizance Of Offence :-**

No Court shall take cognizance of an offence punishable under these Regulations or the rule made thereunder except on a complaint in writing made by the Inspector appointed under Section 16 or such other officer or authority as may be prescribed.

### **20. Penalty For Molestation Of Debtor :-**

Whoever molests or abets the molestation of any debtor for the recovery of any loan shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

Explanation.--

For the purpose of this Section a person, who with intend to cause another person to abstain from doing or to do any act which he has a right to do or to abstain from doing:--

(a) obstructs or uses violence to or intimidates, such other person; or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprive him of or hinders him in, the use thereof; or

(c) loiters or does any similar act or near a house or other place where such other person resides, or works or carries on business or

happens to be, shall be deemed to molest such other person:

Provided that a person who attends at or near such house or place for the purpose only of making a formal demand for payment of a loan due or of obtaining or communicating information shall not amount to molest such other person.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Central Act V of 1898)<sup>1</sup> an offence under this section shall be cognizable and bailable.

1. See now Code of Criminal Procedure, 1973 (2 of 1974).

## **21. Power To Suspend Or Cancel Licences :-**

(1) The licensing authority may at any time, during the term of any licence, by an order in writing, suspend it for such period as it may deem fit or cancel it--

(a) if the licensee carries on the business in contravention of the provisions of these Regulations or the rules made thereunder or of the conditions of the licence; or

(b) if any reason for which the licensing authority could have refused to grant the licence to the money-lender under sub-section (3) of Section 4 is brought to the notice of that authority after the grant of the licence; or

(c) if the licensee is convicted by a Criminal Court for an offence involving moral turpitude; or

(d) if the licensee maintains false accounts; or

(e) if the licensee obstructs or wilfully refuses facilities to an Inspector appointed under Section 16 or other authority appointed under these regulations in the performance of his or its duties under these regulations or the rules made thereunder.

(2) Before suspending or cancelling a licence under sub-section (1), the licensing authority shall give the licensee a notice in writing stating the grounds on which it is proposed to take action and requiring him to show cause against it within such time as may be specified in the notice.

(3) Any person aggrieved by an order of the licensing authority suspending or cancelling a licence may, within one month of the date of communication of such order to him, appeal to the prescribed authority.

## **22. Publication Of Order Of Suspension Or Cancellation :-**

Every order of suspension or cancellation of a licence under these regulations shall be notified in the Gazette and at the police station

having jurisdiction over the area to which the licence relates and also on the notice board of the office of the licensing authority.

**23. No Compensation For Suspension Or Cancellation Of Licence :-**

A person whose licence is suspended or cancelled under Section 21 shall not be entitled to any compensation in respect of such suspension or cancellation or to the refund of any fee paid in respect of such licence.

**24. Penalty For Carrying On Business Without Licence :-**

Whoever carries on the business of money-lending without a licence or otherwise than in conformity with the terms and conditions of a licence shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

**25. Other Penalties :-**

(1) Whoever contravenes any of the provisions of these Regulations or any rule made thereunder or of any terms or conditions of a licence granted thereunder or makes a claim or a statement or furnishes a declaration which is false or which he does not believe to be true shall, if no other penalty is elsewhere provided for in these Regulations for such contravention, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand and five hundred rupees or with both.

Explanation.--

The suspension or cancellation of a licence under Section 21 shall not be deemed to be a penalty for the purpose of this sub-section.

(2) Where a contravention of any of the provisions of these Regulations or of any rule made thereunder of which a person is convicted consists of a mere omission to do a thing, the Court may, while convicting the offender, direct him to do the thing before an appointed day and may on failure of the offender to do the thing before the said day, pass an order suspending or cancelling his licence.

**26. Jurisdiction To Try Offences :-**

No Court inferior to that of a Magistrate of the First Class shall try

any offence punishable under these Regulations.

## **27. Usufructuary Mortgage To Be Deemed To Be Simple Mortgage :-**

Notwithstanding anything contained in any contract or document or in any other law for the time being in force every mortgage of agricultural land with possession existing on the date of commencement of these Regulations and held from a debtor by a money-lender who is not a member of a Scheduled Tribe shall, to the extent of the amount secured on such land, be deemed to have been substituted by a simple mortgage and the mortgagee shall forthwith redeliver possession of the mortgaged land to the debtor.

## **28. Power To Make Rules :-**

(1) The State Government may, after previous publication, make rules to carry out the purposes of these Regulations.

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

(a) the form of, and the particulars to be contained in an application for a licence and the authority to whom such application shall be made under clause (a) of sub-section (1) of Section 4;

(b) the manner in which the licence fee payable under clause (b) of sub-section (1) of Section 4 shall be paid;

(c) the form of the licence, and the terms and conditions subject to which it may be granted under sub-section (2) of Section 4;

(d) the other authority required to be prescribed under sub-section (4) of Section 4;

(e) The authority of whom the appeal shall be under sub-section (3) of Section 4;

(f) the charges which may be demanded by a money-lender under sub-section (2) of Section 7;

(g) the form and the manner in which books, accounts and documents specified in these Regulations shall be maintained, kept or used;

(h) the form in which and the date before which the statement shall be supplied under sub-section (2) of Regulation 10;

(i) the authority to whom the statement shall be delivered under sub-section (4) of Section 10;

(j) the authority to whom an application shall be made for the grant of certificate under sub-section (2) of Section 15;

- (k) the form in which and the period for which the certificate referred to in sub-section (2) of Section 15 may be granted and particulars which such certificate shall contain;
- (l) the procedure which shall be followed and the powers which may be exercised, by the authorities exercising functions, holding enquiries and hearing appeals under these Regulations;
- (m) any other matter which is to be or may be prescribed, under these Regulations.

**29. Repeal :-**

The Madhya Pradesh Anusuchit Janjati Sahukar Viniyam, 1969, is hereby repealed.