

## **Madhya Pradesh Lok Parisar (Bedakhali) Adhiniyam, 1974**

**46 of 1974**

**[10 November 1974]**

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## **Madhya Pradesh Lok Parisar (Bedakhali) Adhiniyam, 1974**

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Be it enacted by the Madhya Pradesh Legislature in the Twenty-fifth Year of the Republic of India as follows:-

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

- (1) This Act, may be called the Madhya Pradesh Lok Parisar (Bedakhali) Adhiniyam, 1974.
- (2) It extends to the whole of the Madhya Pradesh.

(3) It shall be deemed to have come into force--

(i) in the Mahakoshal Region on the 12th September, 1952, and

(ii) in other regions of the State on the 1st January, 1959, except sections 11, 19 and 20, which shall come into force at once.

## **2. Definitions :-**

In this Act, unless the context otherwise requires,--

(a) "competent authority" means an authority appointed as such as the State Government under section 3;

(b) "corporate authority" means any company or corporation referred to in clause (e) of this section;

(c) "premises" means any land or any building or part of a building and includes--

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building, and

(ii) any fittings affixed to such building for the more beneficial enjoyment thereof;

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

(e) "public premises" means any premises belonging to or taken on lease or requisitioned by or on behalf of the State Government and includes any premises belonging to, or taken on lease by, or on behalf of--

(i) any company as defined in section 3, of the Companies Act, 1956 (No. 1 of 1956), in which not less than fifty-one per cent. of the paid-up share capital is held by the State Government, and

(ii) any Corporation (not being a company as defined in section 3, of the Companies Act, 1956 (No. 1 of 1956), or a local authority;

(f) "rent" in relation to any public premises, means the consideration payable periodically for the authorised occupation of the premises, and includes;--

(i) any charge for electricity, water or any other services in connection with the occupation of the premises,

(ii) any tax (by whatever name called) payable in respect of the premises, where such charge or tax is payable by the State Government or Corporate Authority;

(g) "unauthorised occupation" in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has

been determined for any reason whatsoever.

### **3. Appointment Of Competent Authority :-**

The State Government, may, by notification in the Official Gazette,-  
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- (a) appoint such person being an officer, not below the rank of Assistant Collector or Deputy Collector as competent authority for the purposes of this Act; and
- (b) define the local limits within which, or the categories of public premises in respect of which, the competent authority shall exercise the powers conferred and perform the duties imposed, on competent authority by or under this Act.

### **4. Issue Of Notice To Show Cause Against Order Of Eviction :-**

( 1 ) If the competent authority is of the opinion that in unauthorised occupation of any public premises and that they should be evicted, the competent authority shall issue a notice in writing calling upon all persons concerned to show cause on the specified date why an order of eviction should not be made.

(2) The notice issued under sub-section (2) shall,--

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in the public premises,--

(i) to show cause, if any, against the proposed order on or before such date as is specified in the notice being a date not earlier than ten days from the date of issue thereof, and

(ii) to produce on the date specified all evidence in support of the cause to be shown.

(3) The competent authority shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises, and it shall also be published in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly served on all persons concerned.

(4) Where the competent authority knows or has reasons to believe that any persons are in occupation of the public premises then, without prejudice to the provision of sub-section (3), it shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner

as may be prescribed.

## **5. Eviction Of Unauthorised Occupants :-**

(1) On the date specified in the notice issued under sub-section (1) of section 4, the competent authority shall take all such evidence as may be produced in support of the cause to be shown. If, after considering the cause, if any, shown and any evidence that may be produced and after giving the person concerned a reasonable opportunity of being heard, regarding the alleged unauthorised occupation of the public premises, the competent authority is satisfied that the public premises are in unauthorised occupation, the competent authority may make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.

(2) The competent authority, may, on an application by the person against whom an Order is passed under sub-section (1), grant such time for vacating the premises as it deems fit subject to such conditions as it may deem fit to impose.

(3) If any person refuses or fails to comply with the order of eviction,--

(i) before the date specified in sub-section (1); or

(ii) where time is granted under sub-section (2) within the time as granted, the competent authority or any other officer duly authorised by the competent authority In this behalf may evict that person from, and take possession of the public premises and may, for that purpose, use such force as may be necessary.

## **6. Disposal Of Property Left On Public Premises By Unauthorised Occupants :-**

(1) Where any persons have been evicted from any public premises under section 5, the competent authority, may, after giving fourteen days notice to the persons from whom possession of the public premises has been taken and after publishing the notice at least In one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

(2) Where any property is sold under sub-section (1), the sale proceeds thereof shall, after deducting the expenses of the sale and

the amount, if any, due to the State Government or the corporate authority on account of arrears of rent or damages or costs be paid to such person or persons as may appear to the competent authority to be entitled to the same:

Provided that where the competent authority is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such dispute to the civil court of competent jurisdiction and the decision of the Court thereon shall be final.

## **7. Power To Require Payment Of Rent Or Damages In Respect Of Public Premises :-**

(1) Where any person is in arrears of rent payable of any public premises, the competent authority, may, by order, require that person to pay the same within such time and in such instalments as may be specified in the order.

(2) Where any person is, or has at any time been in unauthorised occupation of any public premises, the competent authority, may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and, may, by order, require that person to pay the damages within such time and in such instalments as may be specified in the order.

(3) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice by such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the competent authority.

## **8. Power To Competent Authority :-**

A competent authority shall, for the purpose of holding any enquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (No. V of 1908), when 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 document;
- (c) any other matter which may be prescribed.

## **9. Appeals :-**

(1) The State Government, may, by notification, appoint such person being an officer not below the rank of Collector as appellate authority for the purpose of this Act in respect of such arrears as may be specified in the notification.

(2) An appeal shall lie from every order of the competent authority made in respect of any public premises under section 5 or section 7 to the appellate authority appointed under sub-section (1).

(3) An appeal under sub-section (2) shall lie,--

(a) in case of an appeal from an order under section 5, within fifteen days from the date of publication of the order sub-section (1) of that section; and

(b) in the case of an appeal from an order under section 7, within fifteen days from the date on which the order is communicated to the appellant:

Provided that the Appellant Authority may entertain the appeal after the expiry of the said period of fifteen days, if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

#### **10. Finality Of Orders :-**

Save as otherwise expressly provided in this Act, every order made by a competent authority or appellate authority under this Act, shall be final and shall not be called in question in an original suit, application or executing proceeding and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

#### **11. Offences And Penalty :-**

(1) If any person who has been evicted from any public premises under this Act, again occupies the premises without authority for such occupation, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(2) Any Magistrate convicting a person under sub-section (1) may make an order for evicting that person summarily, and such person shall be liable to such eviction without prejudice to any other action that may be taken against him under this Act.

#### **12. Power To Obtain Information :-**

If the competent authority has reason to believe that in unauthorised occupation of any public premises the competent authority or any other person to furnish information relating to the names and other particulars of the persons in occupation of the public premises and every person so required shall be bound to furnish the information in his possession.

### **13. Liability Of Heirs, And Legal Representatives :-**

(1) Where any person against whom any proceeding for the determination of arrears of rent or for the assessment of damages to be or has been taken dies before the proceeding is taken or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representative of that person.

(2) Any amount due to the State Government or the corporate authority from any person whether by way of arrears of rent or damages or costs shall, after the death of the person, be payable by his heirs or legal representatives but their liability shall be limited to the extent of the assets of the deceased in their hands.

### **14. Recovery Of Rent, Etc., As An Arrear Of Land Revenue :-**

If any person refuses or fails to pay the arrears of rent payable under sub-section (1) of section 7 or the damages payable under sub-section (2) of that section or the costs awarded to the State Government or the corporate authority under sub-section (5) of section 9, or any portion of such rent, damages or costs, within the time, if any specified therefor in the order relating thereto, the competent authority may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.

### **15. Bar Of Jurisdiction :-**

No Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any public premises or the recovery of the arrears of rent payable under sub-section (1) of section 7, or the damages payable under sub-section (2) of that section or the costs awarded to the State Government or the corporate authority under sub-section (5) of section 9, or any portion of such rent, damages or

costs.

#### **16. Protection Of Action Taken In Good Faith :-**

No suit, prosecution or other legal proceeding shall lie against the State Government or the corporate authority or the appellate authority or the competent authority or any officer authorised by the competent authority under this Act, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

#### **17. Delegation Of Powers :-**

The State Government, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, subject to such conditions if any, as may be specified in the notification, be exercisable also by an officer of the State Government.

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

(1) The State Government, may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

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

(a) the form of any notice required or authorised to be given under this Act and the manner in which it may be served;

(b) the holding of inquiries under this Act;

(c) the distribution and allocation of work to competent authorities, transfer of any proceeding pending before a competent authority to another competent authority;

(d) the procedure to be followed in taking possession of public premises;

(e) the manner in which damages for unauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages;

(f) the manner in which appeals may be preferred and the procedure to be allowed in appeals by the appellate authority;

(g) any other matter which has to be or may be prescribed.

(3) All rules made under this Act shall be laid down on the table of the Legislative Assembly.

#### **19. Repeal :-**



The Madhya Pradesh Public Premises (Eviction) Act, 1952 (16 of 1952), is hereby repealed.

**20. Validation :-**

Notwithstanding any judgment, decree or order of any court, anything done or any action taken (including rules or orders made, notices issued, evictions ordered or effected, damages assessed, rents or damages or costs recovered and proceedings initiated) or purported to have been done or taken under the Madhya Pradesh Government Premises (Eviction) Act, 1952 (16 of 1952) (hereinafter referred to as the 1952 Act) shall be deemed to be as valid and effective as if such thing or action was done or taken under the corresponding provisions of this Act, which under sub-section (3) of section 1 deemed to have come into force in the Mahakoshal Region on the 12th September, 1952 and the other regions on the 1st January, 1959, and accordingly,--

(a) no suit or other legal proceeding shall be maintained or continued in any Court for the refund of any rent or damages or costs recovered under the 1952 Act, where such refund has been claimed merely on the ground that the said Act has been declared to be unconstitutional and void;

(b) no court shall enforce a decree or order directing the refund of any rent or damages or costs recovered under 1952 Act, merely on the ground that the said Act has been declared to be unconstitutional and void.