

**Madhya Pradesh Slate Pencil Karmkar Kalyan Nidhi
Adhiniyam, 1982**

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Madhya Pradesh Slate Pencil Karmkar Kalyan Nidhi Adhiniyam, 1982

An Act to provide for the constitution of a Fund for the financing of activities to promote the Welfare of Workers in the Slate Pencil Industry in the State of Madhya Pradesh. Be it enacted by the Madhya Pradesh Legislature in the Thirty-third Year of the Republic of India as follows :- 1. Received the assent of the Governor on the 15th February, 1983; Assent first published in the Madhya Pradesh Gazette (Extra-ordinary), dated 23-2-1983.

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Madhya Pradesh Slate Pencil Karmkar Kalyan Nidhi Adhiniyam, 1982.
- (2) It extends to the whole of Madhya Pradesh.
- (3) It shall come into force on such date¹ or dates as the State Government may, by notification, appoint and different dates may be appointed for different provisions of the Act.
1. W.e.f. 1-8-1985, vide Notification No. 4 (E)-6-1020-XVI-B, dated 26-7-1985.

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) "Board" means the Madhya Pradesh Slate Pencil Workers Welfare Board constituted under Section 4;
- (b) "Contribution" means the sum of money payable to the Board in accordance with the provisions of Section 7;
- (c) "Slate Pencil Factory" means the factory manufacturing slate pencils from shale stone;
- (d) "Fund" means the Madhya Pradesh Slate Pencil Workers Welfare Fund constituted under Section 3;
- (e) "Independent member" means a member of the Board not connected with the management of the factory;
- (f) "Inspector" means an Inspector appointed under Section 13;
- (g) "Occupier" means any person who employs either directly or through another person either on behalf of himself or any other person, one or more employees in an establishment and includes :-
 - (i) in relation to a factory any person named under clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948 (No. 63 of

1948);

(ii) in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person, whether called a Manager, Managing Director or by any other name, such person.

(h) "wages" means wages as defined in clause (vi) of Section 2 of the Payment of Wages Act, 1936 (No. 4 of 1936);

(i) "worker" means any person who is employed for hire or reward to do any skilled, semi-skilled or unskilled, manual, clerical supervisory or technical work in a Slate Pencil Factory, but does not include a person,-

(a) who is employed in a managerial or administrative capacity; or

(b) who, being employed in a supervisory capacity draws wages exceeding one thousand and six hundred rupees per mensem of exercises, either by the nature of the duties attached to the office, or by reason of the powers vested in him, functions mainly of a managerial nature.

1[(j) "Group Insurance Scheme" means the Group Insurance Scheme specially evolved for the slate pencil workers by the Life Insurance Corporation of India;

(k) "Premium" means the sum of money payable in accordance with the provisions of Section 7-A.]

1 W.e.f. 1-8-1985, vide Notification No. 4 (E)-6-1020-XVI-B, dated 26-7-1985.

CHAPTER 2

CONSTITUTION OF A FUND AND THE BOARD

3. Fund :-

(1) The State Government shall constitute a fund which shall be called the Madhya Pradesh Slate Pencil Workers Welfare Fund.

(2) The Fund shall consist of,-

(a) contributions paid under Section 7;

(b) any voluntary donations;

(c) any sum paid to the Fund as grant-in-aid or subsidy by the State Government;

(d) any loan advanced by the State Government.

(3) The sum specified in sub-section (2) shall be paid to or collected by, such persons, at such intervals and in such manner as may be prescribed.

4. Constitution Of Board :-

(1) The State Government shall by notification, constitute the Madhya Pradesh Slate Pencil Workers Welfare Board for administering the Fund and to perform such other functions as may be assigned to the Board by or under this Act.

(2) The Board shall be a body corporate by the name specified in sub-section (1) having perpetual succession and a common seal, with power to acquire subject to the provisions of this Act, property both movable and immovable, and may, by the said name, sue or be sued.

(3) The Board shall consist of the following members, namely :-

(a) a Chairman to be nominated by the State Government;

(b) such number, as may be prescribed, of representatives of occupiers and workers to be nominated by the State Government :
Provided that both occupiers and workers shall have equal representation on the Board;

(c) Such number of independent members as may be prescribed to be nominated by the State Government;

(d) Secretary of the Board.

(4) The term of office of the Chairman and the members nominated under clauses (b) and (c) of sub-section (3) shall be three years from the date of its constitution under sub-section (1) or from the date of their nomination :

Provided that the State Government shall be competent to reconstitute the Board before the expiry of its term in public interest.

5. Disqualification And Removal :-

(1) No person shall be nominated as, or continue to be a Chairman or a member of the Board who,-

(a) is a salaried official of the Board; or

(b) is an undischarged insolvent; or

(c) is found to be a lunatic, or becomes of unsound mind and stands so declared by a competent Court; or

(d) is or has been convicted of any offence involving moral turpitude :

Provided that the disqualification under clause (a) shall not apply to the Secretary of the Board.

(2) The State Government may remove from office any member of the Board who,-

(a) is or has been subject to any of the disqualifications mentioned in sub-section (1); or

- (b) is absent without leave of the Board from more than three consecutive meetings of the Board; or
- (c) is in the opinion of the State Government acting in a manner prejudicial to the interests of the Board.

6. Resignation And Filling Up Of Casual Vacancy :-

- (1) A member may resign his office by giving notice thereof in writing, to the State Government and on such resignation being accepted, shall be deemed to have vacated his office from the date of such acceptance.
- (2) A casual vacancy in the office of a member shall be filled up, as soon as conveniently may be, by the State Government and a member so nominated shall hold office for the unexpired portion of the term of the office of his predecessor.
- (3) No act or proceedings of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board or on the ground that any person had taken part in the proceedings of the Board and had voted in an unauthorised manner.

CHAPTER 3

VESTING AND APPLICATION OF FUND

7. Contribution :-

- (1) With effect from such date as the State Government may, by notification, appoint every occupier shall pay contribution to the Board at such rate 1[x x x] as the State Government may, from time to time, fix by notification.
- 2[(2) The amount of contribution payable under sub-section (1) shall be paid to the Board before the last day of each calendar month.]
- 3[(2-A) Every occupier shall transport his manufactured Slate Pencil from the Slate Pencil Factory after obtaining a no dues certificate to the effect that the contribution payable under sub-section (1) has been paid to the Board.]
- (3) The amount of contribution paid to the Board under sub-section (2) shall form part of the Fund and be applied as hereinafter provided.
1. Omitted by M.P. Act No. 13 of 1994 (w.e.f. 15-7-1994).
 2. Substituted by M.P. Act No. 13 of 1994 (w.e.f. 15-7-1994).
 3. Inserted by M.P. Act No. 24 of 1999.

7A. Group Insurance Scheme :-

1[(1) The Board shall introduce a Group Insurance Scheme for the workers with effect from 1st December, 1991.

(2) The annual insurance premium of the workers payable under the Group Insurance Scheme shall be contributed by the Board and the occupier in proportion of twenty-five per cent and seventy five per cent respectively.

1. Inserted by M.P. Act No. 13 of 1994 (w.e.f. 15-7-1994).

7B. Interest On Unpaid Contribution Or Premium :-

(1) If an occupier does not pay to the Board any contribution or premium when due, the Secretary of the Board may cause to be served a notice on the occupier to pay the amount within the period specified therein, which shall not be less than fifteen days from the date of the service of the notice.

(2) If the occupier fails without sufficient cause to pay the contribution or premium within the period specified in the notice, the amount together with interest at the rate of twenty four per cent per annum shall be recoverable as arrears of land revenue.

7C. Consequences Of Non-Payment Of Contribution Or Premium :-

Without prejudice to the generality of the provision of Section 7-B, if a consignment of Slate Pencils is transported from the Slate Pencil Factory or any establishment thereof without payment of contribution or premium, the following consequences shall ensue,-

(a) The person appointed to collect the contribution or the Inspector may detain the consignment;

(b) The person or the Inspector, as the case may be, shall on detention of the consignment prepare a list of items of consignment duly signed by him and furnish a copy thereof to the person in charge of the consignment at the time of its detention alongwith a notice in the prescribed form to the effect that the detained goods shall be sold by auction at such place, date and time as may be specified therein;

(c) The person or Inspector shall also cause a copy of the aforesaid list and notice to be sent forthwith to the Secretary of the Board;

(d) If the amount due is not paid before the date fixed for auction the Secretary shall cause the consignment to be sold by public auction and the sale proceeds thereof shall be applied for the payment of amount due and other expenses incurred in connection with the detention and sale;

(e) The surplus if any of the sale proceeds shall forthwith be credited to the fund of the Board and notice of such credit shall be given to the occupier and also to the person from whose custody the goods were seized;

(f) The person or the occupier may within one month of the date of notice make an application to the Secretary of the Board for refund of the surplus and the Secretary after such enquiry as he may deem fit refund the same to the person entitled thereto.

8. Vesting And Application Of Fund :-

(1) The Fund shall vest in and be held and applied by the Board as a Trustee subject to the provisions, and for the purposes of the Act. The moneys therein shall be utilised by the Board to defray the cost

of carrying out activities which may be specified by the State Government from time to time to promote the welfare of the workers and of their dependents.

(2) Without prejudice to the generality of sub-section (1), the moneys in the Fund may be utilised by the Board to defray expenditure on the following:-

- (a) grant-in-aid to the members of family of a worker who died or may die on account of silicosis;
- (b) medical treatment of a worker suffering from silicosis;
- (c) community necessities of a worker and his dependents;
- (d) educational facilities for members of family of a worker;
- (e) establishment of primary health centers and dispensaries for Slate Pencil factory;
- (f) home industries and subsidiary occupations for women and unemployed persons dependent on Slate Pencil factory;
- (g) games, sports, entertainments, and other forms of recreation of the worker;
- (h) reading rooms and libraries for the worker;
- (i) payment of life insurance premium in respect of a worker;
- (j) cost of administering the Act including allowances of the members of the Board, salaries and allowances of the staff appointed by the Board;
- (k) such other objects as would in the opinion of the Board improve the standard of living and ameliorate the social conditions of a worker :

Provided that the, Fund shall not be utilised in financing any activity which the occupier is required to carry out under any law for the time being in force.

Explanation :- For the purposes of this sub-section, "members of the family" in the case of a worker means the other spouse, son, un-married daughter, father, grand father, mother, grand mother, brother, un-married sister, paternal uncle, paternal uncles wife or widow, or brothers son or unmarried daughter living jointly with, or any other relation dependent on him.

(3) Notwithstanding anything contained in sub-section (1), the State Government may, authorise the board to utilise the fund for giving loan or advance to an occupier where such loan or advance is for enabling, the occupier to discharge the obligation imposed on him by or under any law for the time being in force, for the safety and health of the workers and members of their family.

(4) If any question arises whether any particular expenditure is or is not debitable to the Fund the matter shall be referred to the

State Government whose decision shall be final and binding.

8A. Budget :-

1[The Board shall prepare in such form and at such time each year as may be prescribed a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure and copy thereof shall be forwarded to the State Government.]

1. Inserted by MP. Act No. 13 of 1994 (w.e.f. 15-7-1994).

9. Audit And Accounts :-

(1) The Board shall cause to be maintained such account, records and registers, as may be prescribed.

(2) The Board shall soon after the close of the financial year prepare an annual statement of its accounts in such form and such manner as may be prescribed.

(3) The accounts of the Board shall be audited by the Director of Local Fund Accounts and shall be subject to the provisions of the Madhya Pradesh Sthaniya Nidhi Sampariksha Adhiniyam, 1973 (No. 43 of 1973), and the provisions of the said Act shall apply to the Board as if the Board were a local authority subject to the modification that the principal officer in relation to the Board shall mean the Secretary of the Board.

CHAPTER 4

APPOINTMENT OF STAFF AND INSPECTORS

10. Appointment Of Officer And Staff :-

(1) The Board shall have powers, subject to such conditions as may be prescribed, to appoint officers, clerical and executive staff to carry out and supervise the activities financed from the Fund.

(2) The Secretary of the Board shall be appointed by the State Government, who shall be the principal Executive Officer of the Board.

(3) The State Government may depute to the service of the Board any Government servant and the term and conditions of deputation of such servants shall be determined by the State Government in consultation with the Board and the terms and conditions so determined shall be binding on the Board.

11. Service Conditions :-

The method of recruitment and the condition of service including pay-scale of the persons appointed under sub-sections (1) and (2)

of Section 10 shall be such as may be prescribed.

12. Limitation Of Certain Expenditure :-

The expenditure on the officers and servants appointed under this Chapter and other administrative expenditure shall not exceed the prescribed percentage of the annual income of the Fund.

13. Inspector :-

(1) Inspectors appointed under sub-section (2) of Section 40 of the Madhya Pradesh Shops and Establishments Act, 1958 (No. 25 of 1958) and those appointed under sub-section (1) of Section 8 of the Factories Act, 1948 (No. LXIII of 1948) shall be the Inspectors for the purposes of this Act in respect of the Slate Pencil Factory to which this Act applies in order to inspect records and to ascertain and verify sums payable into the Fund.

1[(I-A) The State Government may appoint any Officer of the Government or the Board as an Inspector in addition to those appointed under sub-section (1) for the purpose mentioned therein.]

(2) Any Inspector may-

(a) with such assistance, if any, as he thinks fit, enter at any reasonable time, any premises for carrying out the purposes of the Act;

(b) exercise such other powers as may be prescribed.

1. Inserted by M.P. Act No. 13 of 1994 (w.e.f. 15-7-1994).

CHAPTER 5

MISCELLANEOUS

14. Power To Call For Records, Etc. :-

The State Government or any officer authorised by the State Government in this behalf may call for any information or the records of the Board, inspect the same and may supervise the working of the Board.

15. Direction By State Government To Board :-

The State Government may give to the Board, such directions as in its opinion are necessary or expedient in connection with welfare of the workers, expenditure from the Fund or for carrying out the other purposes of the Act and the Board shall comply with such directions.

16. Mode Of Recovery Of Sum Payable To Board :-

Any sum payable to Board or into the Fund under this Act, shall without prejudice to any other mode of recovery, be recoverable on behalf of the Board as an arrear of land revenue.

17. Member Etc., To Be Public Servants :-

The members of the Board, and the persons appointed or deputed under Section 10 shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (XLV of 1860).

18. Protection To Persons Acting In Good Faith :-

No suit, prosecution or other proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

19. Penalty For Obstructing Inspector In The Discharge Of His Duties Or For Failure To Produce Documents, Etc. :-

Any person, who wilfully obstructs an Inspector in the exercise of his powers or discharge of his duties under this Act or fails to produce for inspection on demand by an Inspector any registers, records or other documents required to be maintained in pursuance of the provisions of this Act or the rules made thereunder or to supply him on demand true copies of relevant entries from such register or record or true copies of any such documents, shall on conviction be punished,-

(a) for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and

(b) for a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both :

Provided that where the offender is sentenced to fine only the amount of fine shall not be less than fifty rupees.

20. Jurisdiction :-

(1) No Court inferior to that of a Judicial Magistrate of the first class shall try an offence punishable under Section 19.

(2) No prosecution for such offence shall be instituted, except by an Inspector with the previous sanction of the Chairm

21. Power To Make Rules :-

(1) The State Government may, by notification and subject to the condition of previous publication, make rules to carry 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 persons who shall collect the sums and the intervals at which and the manner in which such sums shall be paid or collected under sub-section (3) of Section 3;

(b) the number of representatives of occupiers, workers and independent members on the Board under sub-section (3) of Section 4;

(c) the accounts, records and registers to be maintained under sub-section (1) and the form in which annual statement of accounts shall be prepared under sub-section (2) of Section 9;

(d) conditions subject to which Board may appoint officers, clerical and executive staff under Section 10;

(e) the method of recruitment and conditions of service of the persons under Section 11;

(f) the percentage of the annual income of the fund beyond which the Board may not spend on the officers and servants and other administrative matters under Section 12;

(g) powers which an Inspector shall exercise under clause (b) of sub-section (2) of Section 13;

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

22. Removal Of Difficulty :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in Gazette, make such provision not inconsistent with the provisions of this Act as appears it to be necessary or expedient for the removal of the difficulty :

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid on the table of the Legislative Assembly.

