

Bahawalpur Development Authority Act, 1991

11 of 1991

[09 October 1991]

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An Act to provide for the establishment of Bahawalpur Development Authority Preamble.- Whereas it is expedient to provide for the establishment of Bahawalpur Development Authority for the development of the area comprising the Revenue Division of Bahawalpur excluding the desert areas of the Division presently covered by the Cholistan Development Authority; It is hereby enacted as follows:-

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bahawalpur Development Authority Act 1991.

(2) It shall come into force at once.

(3) The area of jurisdiction of the Authority shall be such as may be determined by the Government by Notification.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or the context-

(a) "Authority" means the Bahawalpur Development Authority;

(b) "area" means the area of jurisdiction of the Authority as may be notified;

(c) "Chairman" means Chairman of the Authority;

(d) "Director General" means Director General of the Authority;

(e) "Government" means Government of the Punjab;

(f) "Government Agency" includes-

(i) a division, department, bureau, section, commission, board, office or unit of the Government;

(ii) a local council; and

(iii) a development or any other public authority, company or corporation (whether autonomous or semi-autonomous) owned or controlled by the Government or a Local Council;

(g) "land" includes earth, water and air above, below or on the surface and any improvement in the structure customarily regarded as land and benefit arising out of land and things attached to earth

or permanently fastened to earth;

(h) "member" means member of the Authority and includes its Chairman;

(i) "person" includes an individual, company, firm, co-operative society or association of individuals, whether incorporated or not;

(j) "prescribed" means prescribed by rules or regulations.

3. Establishment Of The Authority :-

(1) As soon as may be after the commencement of this Act, the Government may establish an Authority known as Bahawalpur Development Authority.

(2) The Authority shall be a body corporate having power to acquire and hold property, movable and immovable, shall have perpetual succession and a common seal and shall by the said name sue and be sued.

4. Constitution Of The Authority :-

(1) The Authority shall consist of such members as may be notified by the Government.

(2) The Government shall appoint one of the members of the Authority as its Chairman.

5. Powers And Functions :-

(1) Subject to the provisions of this Act and the rules framed thereunder, the Authority may exercise such powers and take such measures as may be necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing subsection, the Authority may-

(a) prepare, implement and enforce schemes for development of agriculture and industry, forest conservation and development, development of irrigation facilities, development of means of communications, development of mineral resources, construction and development of housing, water supply, sewerage, drainage, promotion of tourism, environmental improvement, urban renewal including slums clearance and re-development, solid waste disposal, health and education facilities and preservation of objects or places of historical, archaeological, scientific, cultural and recreational importance;

(b) acquire property, both movable and immovable;

- (c) sell, lease, exchange or otherwise dispose of any property vested in it;
 - (d) undertake any works and incur any expenditure;
 - (e) procure machinery, instruments or any other material required by it;
 - (f) enter into contracts;
 - (g) cause studies, surveys, experiments, technical researches or contribute towards the cost of any such studies, surveys, experiments or technical researches, made by any other Agency;
 - (h) issue interim development orders for areas for which a scheme is under preparation and restrict or regulate by general or special order any change in the use of land and alteration in building structures and installations;
 - (i) cause removal of any works obstructing the execution of its schemes;
 - (j) seek and obtain advice and assistance for the preparation of any scheme, or for the execution of any schemes from any Government Agency or person, and such Agency or person shall give the advice and assistance sought by the Authority to the best of its ability, knowledge and judgment and the additional expenditure, if any, involved in giving such advice or assistance shall be borne by the Authority; and
 - (k) undertake any other function which the Government may assign to it.
- (3) The Authority, with the approval of the Government may, and if directed by the Government, shall undertake the maintenance and regulation of such schemes and other activities of a Government Agency as may be necessary, and when a scheme or any activity is undertaken by the Authority, the assets and liabilities connected therewith shall also stand transferred to the Authority.
- (4) The Authority, with the approval of the Government may, and if directed by the Government, shall transfer any of its functions and powers to a Government Agency on such terms and conditions as it may deem fit.
- (5) The Government on its own or on a resolution of the Authority, may delegate all or any of its functions and powers including powers to levy or recover a tax to the Authority to such extent and for such period as may be necessary.

6. Appointment Of Director General :-

- (1) The Director General may be appointed by the Government on

such terms and conditions as the Government may fix.

(2) The Director General shall-

- (a) be a whole-time officer of the Authority;
- (b) perform such duties as may be assigned to him and exercise such powers as may be delegated to him by the Authority; and
- (c) hold office during the pleasure of the Government.

7. Appointment Of Officers And Association Of Other Persons :-

(1) The Authority may, subject to such general or special orders as the Government may give, appoint such officers, advisers, experts, consultants and employees as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit.

(2) The Authority may associate with it, in such manner, on such terms and for such purpose as it may deem fit, any person whose assistance or advice may be required in carrying out the purposes of this Act.

8. Executive Authority :-

(1) Save as otherwise provided, the executive authority of the Authority shall vest in and be exercised by its Director General.

(2) All acts of the Authority shall be expressed to be taken in the name of the Authority and shall be authenticated by the Director General by affixation of his official seal.

9. Disposal Of Business :-

(1) The business of the Authority shall be disposed of at its meetings or at the meeting of its Committees, by its Director General or servants or other functionaries.

(2) The Authority shall have the power to act notwithstanding any vacancy in its membership.

(3) No proceeding shall be invalid by reason only that some persons who were not entitled to do so, sat and voted or otherwise took part in the proceedings.

(4) The Authority may constitute such financial, technical, and advisory committees as it may deem necessary for carrying out the purposes of this Act.

10. Meetings :-

- (1) The members of the Authority shall meet at such place and at such time as the Authority may decide.
- (2) The Authority may frame regulations for the conduct of its meetings.
- (3) The Chairman and in his absence any other member of the Authority elected by the members for that purpose shall preside over the meetings.
- (4) The Authority shall hold at least one meeting during each quarter of the year.

11. Preparation Of Schemes :-

- (1) The Authority shall in such form and in such manner as may be prescribed, prepare schemes for the area or any part thereof.
- (2) No planning or development schemes shall be prepared by any person, Local Council or Government Agency within the area except with the concurrence of the Authority.

12. Notification Of Schemes :-

Any scheme prepared under this Act may, at any time, be amended or modified by the Authority in the same manner as may be prescribed for the preparation of a scheme.

13. Power To Give Directions :-

- (1) The Authority may, with the prior approval of the Government, require a Government Agency, within whose jurisdiction any particular locality or aspect of development covered by a scheme lies-
 - (a) to execute a scheme in consultation with the Authority;
 - (b) to take over and maintain any of the works and services in that area;
 - (c) to provide any amenity in relation to the land which in the opinion of the Authority ought to be provided; and
 - (d) to enforce regulations on behalf of the Authority.
- (2) The expenditure incurred on the execution of any scheme or on the taking over or maintenance of any work, or the enforcement of regulations, under this section, shall be borne as may be agreed to between the Authority and the Government Agency and in the event of disagreement, as may be determined by the Government.

14. Power To Execute Any Schemes :-

(1) When the Authority is satisfied that any direction given by it under sub-section (1) of Section 13 with regard to any scheme, has not been carried out by the Government Agency, the Authority may itself undertake any works for the execution of that scheme and the cost thereof shall be borne as may be agreed between the authority and the Government Agency and in the event of disagreement as may be determined by the Government.

(2) Where any work is undertaken by the Authority under sub-section (1), it shall be deemed to have, for the purposes of execution of such work, all the powers which may be exercised, under any law, by the Government Agency concerned.

15. Power To Act As A Local Council :-

During such period and for such locality, as the Government may by notification specify, the Authority may, notwithstanding anything contained in any other law, exercise and perform such powers and functions as a Local Council may exercise and perform in relation to its local area, under the Punjab Local Government Ordinance 1979.

16. Borrowing Money :-

(1) The Authority shall be deemed to be a Local Authority for the purpose of borrowing money and any scheme or project prepared or undertaken by the Authority shall be deemed to be "work" as defined in Section 2 of the Local Authorities Loans Act 1914:

Provided that no local or foreign loan shall be obtained by the Authority without the previous sanction of the Government.

(2) The Authority may, in consultation with the Finance Department, Government of the Punjab, borrow money or raise funds by issuing bonds or debentures or otherwise, for carrying out the purposes of this Act at such rate of interest as may be approved by the Government.

17. Power To Levy Betterment Fee :-

Where as a consequence of any scheme having been executed by the Authority, the value of any property in that locality, in the opinion of the Authority, has increased or will increase, the Authority shall, with the previous consent of the Government, be entitled to levy upon owners of the property or any person having an interest therein, a betterment fee in respect of the increase in

value of the property resulting from the execution of the scheme.

18. Assessment Of Betterment Fee :-

(1) Wherever it appears to the Authority that any particular development scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Authority may, by an order made in this behalf, declare that for the purpose of determining the betterment fee, the execution of the scheme shall be deemed to have been completed and shall thereafter give notice in writing to the owner of the property or any person having an interest therein that the Authority proposes to assess the amount of betterment fee in respect of the property mentioned in Section 17.

(2) The betterment fee under Section 17 or under sub-section (1) of this Section, shall be assessed and be payable, in the manner prescribed.

19. Authority Fund :-

(1) There shall be formed a fund to be known as the Authority Fund which shall vest in the Authority and shall be utilised by the Authority in connection with its functions under this Act including the payment of salaries and other such remunerations by the Authority.

(2) To the Authority Fund, shall be credited-

(a) grants made by the Government;

(b) all moneys received from Federal Government or any international agency by way of grants, loans, advances or otherwise;

(c) all fees, rates and charges received by the Authority under this Act;

(d) all moneys received by the Authority from the disposal of lands, buildings and other properties movable or immovable;

(e) proceeds from the self-financing schemes;

(f) loans obtained from the Government or State Bank of Pakistan or any Scheduled Bank with special or general sanction of the Government;

(g) all profits or interests accruing from investment; and

(h) such proceeds from the sources of income or disposal of assets of the Government, as the Government may direct to be placed at the disposal of the Authority.

(3) The Authority may keep in current account of any Scheduled

Bank such sum as may be prescribed and any amount in excess of the said amount shall be invested in the Government securities, the Government sponsored saving schemes or in such manner as may be determined by the Authority.

Explanation.- For the purpose of this sub-section, the Government includes Federal Government.

20. Rates And Fees :-

With the previous consent of the Government, funds may be raised by the Authority, from time to time, to meet the cost of its schemes by imposing fees, rates and other charges.

21. Accounts :-

The Authority shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed.

22. Budget :-

The Authority shall prepare, every year, in such form and at such time as may be prescribed a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the Authority and shall submit the same to the Government for approval and if the Government does not approve or modify the budget within thirty days of its receipt, the budget as prepared by the Authority shall be deemed to be the approved budget.

23. Audit :-

The accounts of the Authority shall be audited in such manner as may be directed by the Government.

24. Penalty :-

Whoever contravenes any provision of this Act, or any rules or regulations made thereunder shall, if no other penalty is provided for such contravention, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

25. Causing Damage To Property And Disobedience Of Orders :-

(1) Whoever willfully causes damage, or allows damage to be

caused to any property which vests in the Authority, or which is intended to be acquired by the Authority, or unlawfully converts it to his own or any other persons use shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Whoever refuses or willfully neglects to provide any officer or servant of the Authority with the means necessary for entering into any premises for the purposes of collecting any information or making an examination or enquiry in relation to any water works shall be punishable with imprisonment extending to one year, or fine or with both.

(3) Whoever, without lawful excuse, fails or refuses to comply with any direction or order issued by the Authority under this Act, shall be guilty of an offence punishable under Section 24.

(4) Whoever attempts to commit or abets the commission of an offence punishable under this Act, shall be deemed to have committed that offence.

(5) Any Magistrate empowered for the time being to try in a summary way the offences specified in sub-section (1) of Section 260 of the Code of Criminal Procedure 1898 may, if such Magistrate thinks fit, on application being made in this behalf by the prosecution, try an offence punishable under this Act, in accordance with the provisions contained in Sections 262 to 265 of the said Code.

26. Cognizance Of Offences By Court :-

No Court shall take cognizance of any offence punishable under this Act except on a complaint in writing made by an officer authorised for the purpose, by the Authority.

27. Annual Report :-

The Authority shall prepare for every year a report of its activities during that year and submit the report to the Government in such form and manner as may be prescribed.

28. Recovery Of Dues :-

Any sum due to the Authority from, or any sum wrongly paid by the Authority to, any person under this Act, shall be recoverable as arrears of land revenue.

29. Conversion Of Property To A Different Use :-

Any conversion of the property to a different use or purpose other than the one provided under a scheme, by a person or agency, without the previous approval of the Authority in writing, shall be punishable with a fine which may extend to rupees five hundred per day from the date of its conversion till the default continues or with imprisonment for a term which may extend to one year, or with fine, or with both.

30. Summary Ejectment Of Unauthorised Occupants :-

The Authority may, in the manner prescribed, cause any person in unauthorised occupation of any land or property vesting in the Authority to be ejected by use of such force as may be necessary.

31. Approval Of Buildings Etc :-

(1) Where any building or structure is erected or used or any land is used in contravention of the provisions of this Act or of any rule, regulation or order made thereunder, the Authority may, in the manner prescribed, cause the owner, occupier, user or person in control of such building, structure, work or land to remove, demolish or alter the building, structure or work or to use it in such manner so as to bring such erection, construction or user in accordance with the provisions of this Act.

(2) If any order under sub-section (1) in respect of any building, structure, work or land is not complied with within such time, as may be specified therein, the Authority may, after giving the person affected by the order, an opportunity of being heard, remove, demolish or alter the building, structure or work or stop the use of the land and, in so doing, may use such force as may be necessary and may also recover the cost thereof from the person responsible for the erection, construction or use of the building, structure, work or land in contravention of the provisions as aforesaid.

32. Members, Officers And Employees To Be Public Servants :-

The Chairman, Members, Director General, Officers, Servants, Experts and Consultants of the Authority shall be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code.

33. Immunity Of The Authority And Its Employees :-

No suit, prosecution or any other legal proceedings shall lie against the Authority, the Chairman, the Director General, any Member, servant, expert or consultant of the Authority, in respect of anything done or intended to be done in good faith under this Act.

34. Delegation Of Powers :-

(1) The Authority may, by general or special order, delegate to the Director General, or any member, officer or employee of the Authority any of its powers, duties or functions under this Act or the rules made thereunder, subject to such conditions, as it may deem fit to impose.

(2) The Director General may, subject to the approval of the Authority, delegate any of his powers, duties or functions, other than those delegated to him under sub-section (1), to any member, officer or employee of the Authority.

35. Jurisdiction Of Courts Barred :-

Save as otherwise provided by this Act, no Court or other authority shall have jurisdiction to question the legality of anything done or any action taken under this Act, by or at the instance of the Authority.

36. Power To Make Rules :-

Subject to the provisions of this Act, the Government may make rules for carrying into effect the purposes of this Act.

37. Power To Make Regulations :-

Subject to the provisions of this Act and the rules framed thereunder, the Authority may make regulations as may be necessary, to carry out the purposes of this Act and the rules.

38. The Act To Prevail Over Other Laws :-

In the event of any conflict or inconsistency between the provisions of this Act and the provisions of any other law, the provisions of this Act shall, to the extent of such conflict or inconsistency, prevail.

39. Repeal :-

The Bahawalpur Development Authority Ordinance 1991 (XX of 1991), is hereby repealed.