

## **Haryana Preservation Of Sub-Soil Water Act, 2009**

**9 of 1971**

**[18 March 1971]**

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**Haryana Preservation Of Sub-Soil Water Act, 2009**

**[18 March 1971]**

An ACT to provide for the prevention of begging, detention, training and employment of beggars and their dependents in Certified Institution and the custody, trial and punishment of beggar offenders. Be it enacted by the Legislature of the State of Haryana in the Twenty-second Year of the Republic of India, as follows: -- 1 For Statement of Objects and Reasons, see Haryana Government Gazette (Extraordinary.), 1971, page 167. 2 For Statement of Objects and Reasons, see Haryana Government Gazette (Extraordinary.), dated the 18-7-1975, page 840.

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

- (1) This Act may be called the Haryana Prevention of Beggary Act, 1971.
- (2) It extends to the whole of the State of Haryana.
- (3) It shall come into force in any area of the State, on such date or dates as the State Government may by notification appoint in this behalf for that area.

**2. Definitions :-**

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

- (h) "beggar" means any person who is found begging;
- (i) "begging" means--
  - (i) soliciting or receiving alms in a public place whether or not under any pretence, such as singing, dancing, fortune-telling, performing tricks or selling articles;
  - (ii) having no visible means of subsistence and wandering about or remaining in any public place in such condition or manner as makes it likely that the person doing so exists by soliciting or receiving alms;
  - (iii) entering on any private premises for the purpose of soliciting or receiving alms;
  - (iv) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease whether of a human being or of an animal; or
  - (v) allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms;
- (c) "Certified Institution" means means any institution which the State Government provides and maintains for the detention,

training and employment of beggars and their dependents and includes a Certified Home and Special Home;

(d) "Certified Home" means a home certified by the State Government or by any subordinate authority empowered by it in this behalf to be a fit place for the reception and detention of beggars, suffering from leprosy or any other infectious or contagious disease notified in this behalf by the State Government;

(e) "Chief Inspector" means the person appointed to be the Chief Inspector of Certified Institutions under section 18;

1[(f) "child" means a child as defined in clause (d) of section 2 of the Haryana Children Act, 1974; ]

(g) "Court" means the court of a Judicial Magistrate of any class exercising criminal jurisdiction in the area in which this Act is in force;

(h) "Guardian" means a person who looks after or takes care of a child in the absence of, or in the event of the death of his parents;

(i) "imprisonment" means rigorous or simple imprisonment as described in section 53 of the Indian Penal Code, 1860 (XLV of 1860);

(j) "Parent" means the father or the mother of a child;

(k) "Police Officer" means a police officer not below the rank of an Assistant Sub-Inspector;

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

(m) "Probation Officer" means an officer appointed to be a Probation Officer under section 18;

(n) "public place" means and includes any place or precincts thereof to which for the time being the public have or are permitted to have an access, whether on payment or otherwise and includes a passenger bus and a railway compartment;

(o) "Reception Centre" means an institution for the reception and temporary detention of beggars provided by the State Government, or certified to be such under section 13;

(p) "Special Home" means a home notified by the State Government as suitable for the reception and detention of beggars, not physically capable of doing manual labour but not suffering from leprosy or any other infectious or contagious disease; and

(q) "Superintendent" means a Superintendent of a Reception Centre or a Certified Institution, as the case may be.

1 Substituted by Haryana Act 27 of 1975.

### **3. Power To Arrest :-**

(1) Any Police Officer or other person authorised in this behalf by the State Government may arrest without warrant any beggar: Provided that no person found begging on any premises, not being a public place shall be so arrested or shall be liable to any proceedings under this Act except on a complaint made by the occupier of such premises.

(2) Such Police Officer or other person shall take or send the person so arrested to the nearest police station:

Provided that the other person may hand him over to a Police Officer if he finds it convenient.

(3) The provisions of 1[section 57 of the Code of Criminal Procedure, 1973] shall apply to arrest made under this section and the officer-in-charge of the police station shall cause the arrested person to be kept in the prescribed manner until he is brought before a court.

1 Substituted by Haryana Act 27 of 1975.

#### **4. Summary Inquiry Before Detention :-**

(1) Where a person is brought before a court under section 3, the court shall make a summary inquiry in the prescribed manner as regards the allegation that he was found begging.

(2) If the inquiry referred to in sub-section (1) cannot be completed forthwith, the court may adjourn it from time to time and order the person to be remanded to such place and custody as may be convenient or release him on a bail bond, with or without sureties.

(3) If on making the inquiry referred to in sub-section (1), the court is not satisfied that the person was found begging it shall order that such person be released forthwith.

(4) If, on making the inquiry referred to in sub-section (1), the court is satisfied that such person was found begging it shall record a finding that the person is a beggar and convict him accordingly.

(5) The court shall order the person convicted under sub-section (4) to be detained in a Certified Institution in accordance with the provisions of section 7 for a period of not less than one year and not more than two years:

Provided that if the court is satisfied from the circumstances of the case that such person is not likely to beg again, it may release him after due admonition on a bond for his abstaining from begging, being executed with or without sureties, as the court may require, by the beggar or any other person whom the court considers

suitable:

Provided further that if the beggar is a minor, the bond shall be with sureties.

(6) In passing an order under this section, the court shall have regard to the following considerations: --

- (a) the age and character of the beggar;
- (b) the circumstances and conditions in which the beggar is living;
- (c) report, if any, made by the Probation Officer; and
- (d) such other matters as may, in the opinion of the court, require to be taken into consideration in the interest of the beggar.

(7) The report of the Probation Officer or any other report considered by the court shall be treated as confidential:

Provided that if such report relates to the character, health or conduct of, or the circumstances and conditions in which the beggar is living, the court may if it thinks expedient so to do communicate the substance thereof to the beggar or, if the beggar is dependent to his parents or guardian, if any, and may give the beggar or the parent or guardian, as the case may be, an opportunity of producing evidence which may be relevant to the matters stated in the report.

(8) A copy of the order made under sub-section (5) shall be sent forthwith by the court to the Chief Inspector.

(9) Notwithstanding anything contained in this section, when the person found to be a beggar as aforesaid is a child, the court shall not make any order under sub-section (5) but forward the child to 1[a Board constituted under section 3 of the Haryana Children Act, 1974], for being dealt with under that Act. For the purpose of ascertaining the age of the beggar, the court may, if necessary, cause him to be examined by a medical officer.

1 Substituted by Haryana Act 27 of 1975.

## **5. Penalty For Begging After Detention :-**

(1) Whoever having been previously detained in a Certified Institution in accordance with the provisions of section 4 is found begging again shall on conviction be punishable as is hereinafter provided in this section.

(2) When a person is convicted for the second time the court shall order him to be detained in a Certified Institution for a period not less than one year and not more than three years.

(3) When a person is convicted for the third or subsequent time, the court shall order him to be detained for a period of five years in

the Certified Institution and may convert any period of such detention, not exceeding one year, into a sentence of imprisonment:

Provided that the total period of detention and imprisonment, if any, shall not exceed five years.

#### **6. Power Of Court To Detain Dependents :-**

(1) When the court has ordered the detention of a beggar in a Certified Institution under section 4 or section 5, it may after making such inquiry as it thinks fit, order any person who is wholly dependent on such beggar to be detained in a Certified Institution for a like period:

Provided that before such an order is made such dependent or his parents or guardian, if any, as the case may be, shall be given an opportunity of showing cause why it should not be made.

(2) Where the dependent person is a child above the age of five years, the court shall forward him to 1[a Board constituted under section 3 of the Haryana Children Act, 1974, for being dealt with under that Act.]

1 Substituted by Haryana Act 27 of 1975.

#### **7. Report Of Medical Officer Before Committal :-**

(1) The court which finds a person to be guilty under section 4 or section 5 shall, before passing any sentence of his committal to a Certified Institution, send such person to the medical officer incharge of the local Civil Hospital or to the medical officer attached to a Certified Institution, if any, and call for a report about his age, physical capacity for ordinary manual labour and also whether he is suffering from any infectious or contagious disease.

(2) If the medical officer certifies that the said person is not a child, is physically capable of ordinary manual labour and is not suffering from any infectious or contagious disease, the court shall pass a sentence for a committal of such person to a Certified Institution.

(3) If the medical officer reports that the said person is physically incapable of ordinary manual labour but is not suffering from any infectious or contagious disease, the court shall pass a sentence for committal of such person to a Special Home.

(4) If the medical officer reports that the said person is suffering from any infectious or contagious disease, the court shall pass a sentence for committal of such person to a Certified Home.

## **8. Punishment For Escape From Certified Institution :-**

escapes, from a Certified Institution to which he has been committed on conviction under the provisions of this Act before the expiry of the period for which he has been committed, shall be punishable with imprisonment which may extend to three months.

## **9. Penalty For Employing Person For Begging :-**

Whoever employs or causes any person to solicit or receive alms, or whoever having the custody, charge or care of a child, connives at or encourages the employment or the causing of a child to solicit or receive alms or whoever uses another person as an exhibit for the purpose of begging, shall on conviction be punished with imprisonment for a term which may extend to three years but which shall not be less than one year.

## **10. Bonds :-**

The provisions of 1[Chapter XXXIII of the Code of Criminal Procedure, 1973], shall so far as may be, apply to bonds taken under this Act.

1 Substituted by Haryana Act 27 of 1975.

## **11. Appeal :-**

An appeal or revision shall lie as provided in 1[Chapters XXIX and XXX of the Code of Criminal Procedure, 1973], from any order of detention made under this Act. The period of detention shall be deemed to be a sentence of imprisonment for the same period.

1 Substituted by Haryana Act 27 of 1975.

## **12. Power To Release :-**

If the State Government at any time, of its own motion or on application made to it, is satisfied that a person convicted under section 4 or section 5 and committed to a Certified Institution has been cured of the disease or is in a fit state of health to earn his living or is otherwise fit to be discharged before the expiry of the period for which he has been committed, the State Government may by order, direct that the person so detained shall be released subject to such restrictions and conditions, if any, as may, be specified in the order.

### **13. Reception Centres :-**

State Government may provide and maintain one or more Reception Centres at such place or places as it thinks fit, and may certify any institution to be a Reception Centre for the purposes of this Act.

### **14. Certified Institutions :-**

(1) The State Government may provide and maintain one or more Certified Institutions at such place or places as it thinks fit, and may certify any institution to be a Certified Institution for the purposes of this Act. Any such Certified Institution may also provide for the teaching of agricultural, industrial and other pursuits, and for the general education and medical care of the inmates.

(2) Every Certified Institution and Reception Centre shall be under the charge of a Superintendent.

### **15. Search In Reception Centres And Certified Institutions :-**

The Superintendent of a Reception Centre or a Certified Institution may order that any person received in the Reception Centre or Certified Institution shall be searched, cleansed, that his personal effects shall be inspected, and that any money or valuables found with or on the said person shall be kept in the custody of such Superintendent, and that any effects other than money or valuables so found shall be disposed of in the prescribed manner. Where an order of detention is passed by the court against any such person, the Superintendent may order that any money or valuables found with or on the said person shall be disposed of in the prescribed manner. Where the court passes an order other than an order of detention with regard to any such person, his money and valuables shall be returned to him and if his clothing has been destroyed, he shall be provided with fresh clothing. The expenses of providing such clothing shall be borne by the State Government: Provided that a female shall be searched only by a female with due decency.

### **16. Management And Discipline :-**

Persons remanded to, or detained in, Reception Centres and Certified Institutions under this Act shall be subject to such rules of



management and discipline including the imposition of manual or other work and awarding of punishment as may, from time to time, be prescribed.

### **17. Disciplinary Imprisonment :-**

Without prejudice to any disciplinary action that may be taken under the section immediately preceding, the Chief Inspector, the Inspector or Superintendent may report to the court the case of any person detained in a Certified Institution who willfully disobeys or neglects to comply with any rule referred to in that section; and the court may thereupon, if satisfied that the said person has willfully disobeyed or neglected to comply with any such rule, convert the balance of the period of his detention in a Certified Institution or part thereof into a term of imprisonment.

### **18. Appointment Of Chief Inspector And Other Authorities :-**

(1) For carrying out the purposes of this Act the State Government may appoint a Chief Inspector of Certified Institutions, Inspectors and such number of Assistant Inspectors and Probation Officers as it thinks fit to assist the Chief Inspector, and every person so appointed to assist the Chief Inspector shall have the powers, and perform such of the duties of the Chief Inspector, as the State Government may direct, but shall act under the directions of the Chief Inspector.

(2) Every Certified Institution shall, at least once in every six months, be inspected by the Chief Inspector.

### **19. Transfer From One Reception Centre Or Certified Institution To Another :-**

(1) Subject to conditions prescribed, the Chief Inspector may direct any person detained in a Reception Centre or Certified Institution to be transferred therefrom to another Reception Centre or Certified Institution in the State:

Provided that the total period of detention of such person shall in no case be increased by such transfer.

(2) In directing such transfer the Chief Inspector shall have regard to the medical certificate and the directions, if any, made by the State Government, or court under section 23.

### **20. Release On Licence :-**

(1) Subject to such conditions as may be prescribed--

(a) the Chief Inspector or the Superintendent of the Certified Institution may at any time grant permission to a person detained in a Certified Institution to absent himself for short periods; and

(b) the Chief Inspector may at any time release such person conditionally and issue him a licence therefore.

(2) Any such licence shall be in force until the expiry of the term for which the person was ordered to be detained in a Certified Institution, unless sooner revoked.

(3) The period during which such person is absent from a Certified Institution by permission or by licence as aforesaid, shall, for the purpose of computing his term of detention in a Certified Institution, be deemed to be part of his detention.

## **21. Revocation Of Licence :-**

(1) Subject to such conditions as may be prescribed, the Chief Inspector may at any time revoke licence issued under section 20, and thereupon the released person shall be detained in a Certified Institution until the expiry of the term for which he had been ordered to be detained.

(2) For the purpose of this section the Chief Inspector may, if necessary, cause the released person to be arrested and sent to the nearest Reception Centre together with a copy of the order of detention, and thereupon the provisions of sub-section (1) of section 22 may apply.

## **22. Procedure On Order Of Detention Or Sentence Of Imprisonment :-**

(1) Subject to the provisions of sub-section (2) when a person has been ordered to be detained in a Certified Institution under section 4, section 5 or section 6, the court which ordered the detention shall forthwith forward him to the nearest Reception Centre with a copy of the order of detention. The person shall thereupon be handed over to the custody of the Superintendent of the Reception Centre and shall be detained in the Reception Centre until he is sent therefrom to a Certified Institution.

(2) When any such person has also been sentenced to imprisonment under sub-section (3) of section 5, or section 17, the court passing the sentence of imprisonment shall forthwith forward a warrant to a jail in which he is to be confined and shall forward him to such jail with the warrant together with a copy of the order

of detention. After the sentence of imprisonment is fully executed, the officer executing it shall, if detention in a Certified Institution for any period remains to be undergone by such person, forward him forthwith together with a copy of the order of detention to the nearest Reception Centre, and thereupon the provisions of subsection (1) shall apply.

(3) In computing the period for which a person is ordered to be detained in a Certified Institution there shall be included the period for which he is detained in a Reception Centre under this section.

### **23. Medical Examination And Detention Of Leprosy Patients And Lunatics :-**

(1) Where it appears to the State Government that any beggar detained in a Certified Institution under any order of a court is of unsound mind or is a leper, the State Government may by any order setting forth the grounds of belief that the beggar is of unsound mind or a leper order his removal to a mental hospital or leper asylum or other place of safe custody, there to be kept and treated as State Government directs during the remainder of the term for which he has been ordered to be detained or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the beggar or of others that he should be further detained under medical care or treatment, he should be detained until he is discharged according to law.

(2) Where it appears to the State Government that the beggar has ceased to be of unsound mind, or is cured of leprosy, the State Government shall, if he is no longer liable to be kept in custody, order him to be discharged. In case the beggar is still liable to be kept in custody the State Government shall, by an order directed to the person having charge of the beggar, send him to the Certified Institution from which he was removed.

(3) The provisions of section 31 of the Indian Lunacy Act, 1912, and the provisions of section 14 of the Lepers Act, 1898, shall apply to every beggar confined in a mental hospital or leper asylum under subsection (1) after the expiration of the period for which he was ordered to be detained; and the time during which a beggar is confined in a mental hospital or leper asylum under that subsection shall be reckoned as part of the period for which he may have been ordered by the Court to be detained:

Provided that where the removal of a beggar due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the

authorities of the institution in which the beggar is detained to apply to a court having jurisdiction under the Indian Lunacy Act, 1912, or the Lepers Act, 1898, as the case may be, for an immediate order of his committal to a mental hospital or a leper asylum.

#### **24. Transfer Between Certified Institutions :-**

(1) The State Government may direct any person detained in a Certified Institution to be transferred therefrom to any Institution of a like nature in any other part of India in respect of which provision similar to that in the State of Haryana is made by the State Government of that part under any law in force therein:

Provided that no person shall be transferred under this section to any other State without the consent of the Government of that other State.

(2) The State Government may, in consultation with the Superintendent of any Certified Institution consent to the transfer to that Institution of any person in respect of whom an order of detention has been made by a competent authority in any other part of India of the nature of an order made under this Act directing him to be detained in a Certified Institution or Institution of a like nature and upon such transfer the provisions of this Act shall apply to such persons.

#### **25. Seizure And Disposal Of Animals :-**

(1) Any Police Officer or other person effecting, under sub-section (1) of section 3, the arrest of a person who was found begging may seize any animal the sore, wound, injury, deformity or disease of which was exposed or exhibited by such person with the object of soliciting or receiving alms.

(2) The Police Officer or other person effecting the seizure may remove such animal to any infirmary appointed under section 35 of the Prevention of Cruelty to Animals Act, 1890, for detention therein pending orders of the Court under sub-section (3):

Provided that the other person may hand over the seized animal to a Police Officer if he finds it convenient.

(3) The Court before which the person found begging is brought may direct that the animal shall be treated and cared for in such infirmary until it is fit for discharge or that it shall be sent to a pinjrapole, or if the veterinary officer incharge of the area in which the animal is found or such other veterinary officer as has been

authorised by the rules made under section 15 of the Prevention of Cruelty to Animals Act, 1890, certifies that it is incurable or cannot be removed without cruelty, that it shall be destroyed; and the Court may also order that after release from the infirmary the animal may be confiscated.

(4) An animal sent for care and treatment to any infirmary shall not, unless the Court directs that it shall be sent to a pinjrapole or that it shall be destroyed, be released from such place except upon a certificate of its fitness for discharge issued by the veterinary officer incharge of the area in which the infirmary is situated or such other veterinary officer as has been authorised by rules made under section 15 of the Prevention of Cruelty to Animals Act, 1890.

## **26. Offences To Be Cognizable And Non-Bailable :-**

The offences under sections 5 and 9 of this Act shall be cognizable and non-bailable.

## **27. Persons To Be Deemed Public Servants :-**

All persons empowered to perform any function under this Act shall be deemed to be public servants within the meaning of the Indian Penal Code, 1860 (XLV of 1860).

## **28. Visiting Committee :-**

For every Certified Institution, the State Government shall appoint a Visiting Committee in such manner as may be prescribed and assign such powers, duties and functions to the Committee as may be prescribed.

## **29. Advisory Committee :-**

(1) The State Government may, for the whole or any part of the State, constitute an Advisory Committee consisting of such persons, not exceeding eleven in number, as it may appoint:

Provided that, where a local authority has agreed to render such financial assistance as the State Government may consider proper in each case, for the maintenance of Certified Institutions in which beggars from the area subject to the jurisdiction of the local authority are detained, the State Government shall appoint such number of persons as it deems fit on the Advisory Committee for such area representing the local authority.

(2) The Advisory Committee constituted under sub-section (1) in

any area, or any member thereof, may visit at all reasonable times any Certified Institution, in which beggars from that area are detained.

(3) The Advisory Committee may also, --

(a) tender advice as regards management to any Certified Institution through the Chief Inspector or such other officer as the State Government may specify;

(b) collect subscriptions towards the recurring as well as non-recurring expenses of any or all Certified Institutions within the local area or one in which beggars from that area are detained, and disburse the collections in the prescribed manner;

(c) advise the State Government, through the Chief Inspector, as regards the certification of any institution as a Certified Institution or the decertification of any Certified Institution within the area; and

(d) advise the State Government generally on the working of this Act in that area and particularly on any point referred to it by the Chief Inspector or any other officer specified by the State Government.

### **30. Protection Of Action Taken Under This Act :-**

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

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

(1) The State Government may, by notification and subject to the condition of previous publication 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, --

(a) the manner of authorising a purpose under clause (a) of section 2;

(b) the manner of keeping persons arrested or animals seized under sub-section (1) of section 3 or sub-section (1) of section 25, respectively;

(c) the manner of making summary inquiry under sub-section (1) of section 4;

(d) the manner in which and the place at which the persons sentenced under section 5 and section 17 shall serve their periods

of imprisonment;

(e) the manner of medical examination of beggars;

(f) the manner in which the effects and the money and valuables referred to in section 15 shall be disposed of;

(g) the management of Certified Institutions, the detention of persons committed to them and the maintenance, care, treatment and instructions of such persons including all matters relating to their labour and general conduct;

(h) the management and discipline of persons detained in a Reception Centre or Certified Institution including the imposition of manual or other work and the awarding of punishment for breach of any rule made under this clause;

(i) the powers and duties of the officers appointed under section 18;

(j) the conditions subject to which the Chief Inspector may direct transfers under section 19;

(k) the conditions subject to which a person may be released on licence under section 20;

(l) the conditions subject to which a licence may be revoked under section 21;

(m) the discharge of persons from Certified Institutions;

(n) the nature, incidents and maximum periods of the punishment to be imposed on persons detained in Certified Institutions for breach of any rules or for failure or neglect to accept any employment outside such institutions which may be secured for them;

(o) the manner of appointing a Visiting Committee under section 28 and the powers, duties and functions thereof;

(p) the appointment of Visiting and Advisory Committees and assignment of powers, duties and functions of such committees; and

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

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

(4) Every rule made under this section shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, the House agrees in making any modification in the rule

or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or to be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

### **32. Removal Of Difficulties :-**

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 provision or give such direction as appears to it to be necessary for removing such difficulty.