

Punjab Package Deal Properties (Disposal) Act, 1976

21 of 1976

[30 April 1976]

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Punjab Package Deal Properties (Disposal) Act, 1976

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An Act¹ to provide for the disposal of properties taken over by Punjab Government in package deals and for matters connected therewith Be it enacted by the Legislature of the State of Punjab in the Twenty-seventh Year of the Republic of India as follows: 1 For statement of objects and reasons, see Punjab Government Gazette (Extraordinary), 1976, page 309.

1. Short Title :-

This Act may be called the Punjab Package Deal Properties

(Disposal) Act, 1976.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(1) Commissioner" means the Commissioner of a Division".

(1-A) "package deal property. means the surplus evacuee property taken over by the State Government and referred to in the Government of India letter-

(i) No. 3(35)Pol.II/60, Land and Rent, dated 3rd June, 1961, read with letter No. 3(54)/Pol.II/60-L&R, dated 5th March, 1962,

(ii) No. F.18(40)J /61/Prop/Comp & Prop., dated 23rd March, 1963, and

(iii) No. F.18(40)/61-Prop-Comp & Prop, dated 29th March, 1983, reproduced in the Schedule to this Act;

but excluding such property as may be required for transfer or allotment, by way of compensation to a displaced person, as defined in the Displaced Persons (Compensation and Rehabilitation) Act, 1954, and rural agricultural land required for similar allotment to a displaced person of non-Punjabi extraction in pursuance of the directions of the Central Government given under Section 32 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, read with sub-rule (2) of Rule 66 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955:

(2) "Scheduled Castes. means such castes as have been specified in Part X of the Constitution, (Scheduled Castes) Order, 1950, in relation to the State of Punjab:

(3) "standard acre. means a measure of land convertible with reference to yield from, and the quality of, the soil, into an ordinary acre according to the prescribed scale:

(4) State Government" means the Government of the State of Punjab: and

(5) unauthorized occupation a person shall be deemed to be in unauthorized occupation of any package deal property-

(a) where he has, whether before or after the commencement of this Act, entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant, or

(b) where he, notwithstanding anything contained in para (a), has whether before or after the commencement of this Act, entered into possession, thereof in pursuance of an order obtained by him by means of fraud, false representation or concealment of any material facts; or

(c) where he, being an allottee, lessee or grantee, has by reason of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, ceased, whether before , or after the commencement of this Act, to be entitled to occupy or hold such package deal property: or

(d) where any person authorized to occupy any package deal property, has, whether before or after the commence of this Act -

(i) sublet, in contravention of the terms of allotment, lease or grant, without the permission of the State Government or of any other authority competent to permit such sub-letting, the whole or any part of such package deal property; or

(ii) otherwise acted in contravention of any of the terms, express or implied, under which he is authorized to occupy such package deal property. -

Explanation- For the purpose of sub-clause (a), a person shall not merely by reason of the fact that he has paid any rent be deemed to have entered into possession as allottee lessee or grantee.

1 Added, -vide Notification No. 10-Leg/79, published in the Punjab Government Gazette, (Extraordinary), dated 15th May 1979, page 33.

3. Appointment Of Chief Sales Commissioners And Other Officers :-

(1)¹ For every district, the State Government shall, by notification in the Official Gazette, appoint a Chief Sales Commissioner, as many Sales Commissioners and Tehsildars (Sales) or Naib-Tehsildars (Sales), as may be necessary for the purpose of performing the functions assigned to them by or under this Act.

(2) Subject to the general superintendence and control of the State Government the Commissioner shall control the Chief Sales Commissioners, the Sales Commissioners, Tehsildars (Sales) and Naib Tehsildars (Sales) in his division and the Chief Sales Commissioner shall control the Sales Commissioner, Tehsildars (Sales) and NaibTehsildars (Sales) in his district.

¹ Inserted by Act No; 10 of 1979, published in Punjab Government Gazette, (Extraordinary) dated 15th May, 1979 at Page 33.

4. Power To Transfer Package Deal Property :-

(1) Subject to any rules that may be made under this Act, the Tehsildar (Sales) or Naib-Tehsildar (Sales) may transfer any, package deal property-

- (a) by sale by public auction;
- (b) by sale by auction restricted to socially and educationally, Backward Classes of citizens notified by the State Government from time to time or to the members of the Scheduled Castes;
- (c) by sale to such class of occupants and at such price as the State Government may by general or special order specify;
- (d) by sale to any co-operative society, Government company or local authority or to any corporate body for a public purpose;
- (e) by lease on such terms and conditions as may be prescribed;
- (f) in such other manner as may be prescribed

Provided that, except in the case of a sale under clause (d), the maximum area that may be transferred to any person, including the area, if any, already owned by him, shall not exceed five standard acres or ten ordinary acres whichever may be less :

Provided further that no transfer shall be made Benami.

(2) For the purposes of transferring any package deal property under section (1), the Tehsildar (Sales) or Naib Tehsildar (Sales) may transfer the same to any person individually or jointly With any other person or persons.

(3) Every Tehsildar (Sales) or Naib Tehsildar (Sales) selling any package deal property- by public auction or otherwise under subsection (1) shall be deemed to be a Revenue Officer within the meaning of sub-section (4) of section 89 of the Registration Act, 1908 (XVI of 1908).

5. Power To Recover Damages :-

Where a Tehsildar (Sales) or Naib Tehsildar (Sales) is satisfied that any person is or has at any time been in unauthorized occupation of any package deal property, then, without prejudice to any other action which may be taken against that person, the Tehsildar (Sales) or Naib Tehsildar (Sales) 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 package deal property and may, by order, require that person to pay the damages within such period and in such installments as may be specified in the order:

Provided that no order shall be made against any person under this section 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, why 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 Tehsildar (Sales) or Naib Tehsildar (Sales), as the case may be.

6. Recovery Of Certain Sums As Arrears Of Land Revenue :-

(1) Any sum payable to the State Government in respect of any package deal property may be recovered in the same manner as an arrear of land revenue.

(2) If any question arises whether a sum is payable to the State Government within the meaning of sub-section (I) in respect of any package deal property, it shall be referred to the Sales Commissioner within whose jurisdiction the package deal property is situate and the Sales Commissioner shall, after making such enquiry as he may deem fit and giving to the person by whom the sum is alleged to be payable an opportunity of being heard, decide the question, and the decision of the Sales Commissioner shall, subject to any appeal or revision under this Act, be final and shall not be called in question by any Court or other authority.

(3) For the purposes of this section, a sum shall- be deemed to be payable to the State Government notwithstanding that its recovery is barred by the Limitation Act, 1963 (35 of 1963) or any other law for the time being in force relating to limitation of action.

7. Power To Vary Or Cancel Leases Or Transfers Of Any Package Deal Property :-

(1) Notwithstanding anything contained in any other law for the time being in force but subject to any rules that may be made under this Act, the Tehsildar (Sales) or Naib Tehsildar (Sales) may cancel any transfer or terminate any lease or amend the terms of any transfer or lease under which any package deal property is held or occupied by a person.

Provided that no transfer shall be cancelled, lease terminated or the terms of any transfer or lease amended unless such an action is permissible under the terms and conditions of the instrument of transfer or lease, as the case may be, and unless an opportunity of showing cause has been given to the transferee or lessee, as the case may be.

(2) Where any person-

(a) has ceased to be entitled to the possession of any package deal property by reason of any action taken under subsection (1); or- -

(b) is, in the opinion of the Tehsildar (Sales) or Naib Tehsildar (Sales) otherwise in unauthorized possession of any package deal

property; -

he shall, after he has been given a reasonable opportunity of showing cause against his eviction from such package deal property, surrender possession of the property on demand being made in this behalf by the Tehsildar (Sales) or Naib Tehsildar (Sales) or by any other person duly authorized by the Tehsildar (Sales) or Naib Tehsildar (Sales) as the case may be.

(3) If any person fails to surrender possession of any package deal property on demand made under sub-section (2), the Tehsildar (Sales) or Naib Tehsildar (Sales) may, notwithstanding anything to the contrary contained in any other law for the time being in force, eject such person and take possession of such property and may, for such purpose, use or cause to be used such force as may be necessary.

8. Appeals To Sales Commissioner :-

(1) Any person aggrieved by an order of the Tehsildar (Sales) or Naib-Tehsildar (Sales) under this Act may, within thirty days from the date of the order, prefer an appeal to the Sales Commissioner, in such forms and manner as may be prescribed.

Provided that the Sales Commissioner may entertain an appeal after the expiry of the said period of, thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Sales Commissioner may, after hearing the appeal, confirm, vary or reverse the order appealed against and pass such order in relation thereto as he may deem fit.

9. Appeal To Chief Sales Commissioner :-

(1) Any person aggrieved by an order of the Sales Commissioner may, within thirty days from the date of order, prefer an appeal to the Chief Sales Commissioner, in such form and manner as may be prescribed:

Provided that the Chief Sales Commissioner may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Chief Sales Commissioner may, after hearing the appeal, confirm, vary or reverse the order appealed against and pass such order, in relation thereto as he may deem fit.

10. Power Of Revision :-

(1) The Chief Sales Commissioner may at any time call for the record of any proceedings under this Act in which a Tehsildar (Sales), or a Naib-Tehsildar (Sales)¹ or a Sales Commissioner in his district has passed an order for the purpose of satisfying himself as to the legality or propriety of any such order and may pass such order in relation thereto as he may deem fit.

(2) Without, prejudice to the generality of the foregoing power under sub-section (1), if the Chief Sales Commissioner is satisfied that any order, whether passed before or after the commencement of this Act, for the transfer of package deal property to any person, has been obtained by him by means of fraud, false representation or concealment of any material facts, then, notwithstanding anything contained in this Act, the Chief Sales Commissioner may pass an order cancelling or modifying the order of such transfer

(3) No order which prejudicially affects any person shall be passed under this section without giving him a reasonable opportunity of being heard.

(4) Any person aggrieved by an order made under sub-section (2) may within thirty days from the date of the order, make an application for the revision of the order, in such form and manner as may be prescribed, to the Commissioner¹ and the Commissioner may pass such order, thereon as he thinks fit.

¹ Inserted by Act No. 10 of 1979 published in Punjab Government Gazette (Extraordinary) dated May 15, 1979 at page 33.

11. Review And Amendment Of Orders :-

Clerical or arithmetical mistakes in any order passed by any officer or authority under this Act or errors arising therein from any accidental slip or omission may at any time be corrected by such officer or authority or the successor-in-office of such officer or authority.

12. Powers Of Officers :-

Every officer appointed under this Act shall for the purpose of making any enquiry or hearing an appeal under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (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 any document;

(c) requisitioning any public record from any Court or office;

(d) issuing commissions for examination of witnesses:

(e) appointing guardians or next friends of persons who minor or of unsound mind;

(f) any other matter which may be prescribed:

and any proceedings before any such officer shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code, 1860 (Act XL V of 1860), and every such officer shall be deemed to be a Civil Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973 (Act 2 of 1974).

13. Functions And Duties Of Officers :-

Subject to the provisions of this Act and the rules made there under the officers appointed under this Act may take such measures as may be considered necessary or expedient for the purpose of securing, administering; preserving, managing or disposing of any package deal property entrusted to them and generally for the purpose of satisfactorily discharging any of the duties imposed on them by or under this Act and may for any such purpose as aforesaid, do all acts necessary or incidental thereto.

14. Power To Transfer Cases :-

1[(1) The State Government may by an order in writing, at any time, transfer any case pending before a Commissioner to another Commissioner.

(2) The Commissioner may by an order in Writing, at any time, transfer any case pending before a Chief Sales Commissioner to another Chief Sales Commissioner in his division.

(3) The Chief Sales Commissioner may, by an order in writing at any time, transfer any case pending before any officer appointed under this Act to another officer within his district.

(4) The officer to whom the case is transferred under sub-section (1), sub-section (2) or sub-section (3) may, subject to any special direction in the order of transfer, proceed from the stage at which it was so transferred.

1 Substituted, vide Act 10 of 1979, published in Punjab Government Gazette, dated 15th May 1979 at page 33.

15. Power To Call For Record Of Proceedings :-

1[(1) The State Government may at any time call for the record of any case under this Act pending before or disposed of by, any officer and may pass such order in relation thereto as in its opinion the circumstances of the case require and as is not inconsistent with any of the provisions contained in this Act or the, rules made thereunder.

(2) Subject to the provisions of sub-section (1), the Commissioner may at any time call for the record of any case under this Act pending before, or disposed of by, any officer, and may pass such order in relation thereto as in his opinion the circumstances of the case require and as is not inconsistent with any of the provisions contained in this Act or the rules made thereunder.

(3) The State Government or the Commissioner shall not under this section pass an order reversing or modifying any proceedings or order of any officer without giving the affected person an opportunity of being heard.

1 Substituted, vide Act 10 of 1979, published in Punjab Government Gazette dated 15th May 1979 at page 33.

15A. Pending Cases :-

(1) Any appeal against an order of the Sales Commissioner pending under sub-section (1) of section 9 or any proceedings pending under sub-section (1} or sub-section (2) of section 10, immediately before the commencement of the Punjab Package. Deal Properties (Disposal) Amendment Act, 1979, before the Chief Sales Commissioner shall stand transferred to and be decided. by the concerned Chief Sales Commissioner .

(2) Any application for the revision of an order of the Chief Sales Commissioner under sub-section (4) of Section 10 or any proceedings pending under section 15, immediately before the commencement of the Punjab Package Deal Properties (Disposal) Amendment Act, 1979, before the State Government, shall stand transferred to and be decided by the concerned Commissioner.

16. Bar Of Jurisdiction And Finality Of Orders :-

(1) Save as otherwise expressly provided in this Act, every order made by any officer or authority under this Act shall be final and no Civil Court shall have jurisdiction to entertain any suit or

proceeding, in respect of any matter which the State Government, or any officer or authority appointed under this Act is empowered by or under this Act to determine, 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.

(2) Nothing in the; Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973, shall apply to package deal property.

17. Protection Of Action Taken In Good Faith :-

No suit or other legal proceeding shall lie against the State Government or any person appointed 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

18. Power To Make Rules :-

(1) The State Government may, by notification in the official Gazette, 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 scale according to which a standard acre is to be converted into ordinary acres;

(b) the terms and conditions under which package deal property may be disposed of or transferred under section 4;

(c) the form and manner in which and the time within which an application for the transfer of property may be made by an occupant and the particulars which it may contain;

(d) the procedure for the transfer of property and the manner of realization of the sale-proceeds;

(e) procedure for valuation of any property forming part of the package deal property;

(f) the principles of assessment of damages of package deal property under unauthorized occupation;

(g) the powers, functions and duties of the Tehsildar (Sales) and Naib-Tehsildar (Sales);

(h) the form and manner in which records and books of accounts may be maintained;

(i) the form and manner in which appeals, revisions or other applications may be preferred or made under this Act and the procedure for hearing such appeals, revisions or other applications;

- (j) the fees payable in respect of appeals, revisions or other applications made under this Act;
- (k) the powers vested in Civil Court which may be exercised by an officer appointed under this Act;
- (l) any other matter which is to be or may be prescribed under this Act.

(3) Every rule made under this section shall be laid, as soon as may be, after it is made, before the House of 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 session aforesaid, the House agrees in making any modifications 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 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 or omitted to be done under that rule.