

Rajasthan Lakes (Protection And Development) Authority Act, 2015

5 of 2015

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Rajasthan Lakes (Protection And Development) Authority Act, 2015

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An Act to provide for development and protection of the lakes in the State of Rajasthan, for constitution of a lake development authority for that purposes and the matters connected therewith and incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Sixty-sixth Year of the Republic of India, as follows:-

CHAPTER 1 Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the Rajasthan Lakes (Protection and Development) Authority Act, 2015.

(2) It shall extend to the whole of the State of Rajasthan.

(3) It shall be deemed to have come into force on and from 25th January, 2015.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(i) "Authority" means the Rajasthan Lakes Development Authority constituted under section 8;

(ii) "boundary", in relation to a lake, means the lake boundary declared under section 4;

(iii) "Chairperson" means the Chairperson of the Authority;

(iv) "Chief Executive Officer" means the Chief Executive Officer of the Authority appointed as such by the State Government under section 10;

- (v) "committee" means a committee constituted under section 9;
- (vi) "construction" means any erection of a structure or a building including any addition or extension thereto, either vertically or horizontally and includes reconstruction, repair or renovation of an existing structure or building and excavation or filling the lake or protected area;
- (vii) "development", in relation to a lake, includes ecological management, conservation, restoration and regeneration of a lake;
- (viii) "flow area" means the area through which streams or feeders flow to the lake for its recharge;
- (ix) "Fund" means the Rajasthan Lakes Development Authority Fund constituted under section 13;
- (x) "lake" means an inland water body, whether it is natural or manmade, whether it contains water or not and whether it has been recorded as such in any revenue or other official record or not, which has had, at any time during fifty years preceding the commencement of this Act, a total submerged area of not less than three hectares in case of water body having socio-cultural, heritage or religious importance and not less than ten hectares in other cases;
- (xi) "Local Authority" means the Ajmer Development Authority constituted under the Ajmer Development Authority Act, 2013 (Act No. 39 of 2013), the Jaipur Development Authority constituted under the Jaipur Development Authority Act, 1982 (Act No. 25 of 1982), the Jodhpur Development Authority constituted under the Jodhpur Development Authority Act, 2009 (Act No. 2 of 2009), an Urban Improvement Trust constituted under the Rajasthan Urban Improvement Act, 1959 (Act No. 35 of 1959), or a Municipality constituted under the Rajasthan Municipalities Act, 2009 (Act No. 18 of 2009), a Panchayati Raj Institution constituted under the Rajasthan Panchayati Raj Act, 1994 (Act No. 13 of 1994) or any other body or authority declared by the State Government by notification in the Official Gazette, to be a local authority for the purposes of this Act;
- (xii) "member" means the member of the Authority and includes Chairperson and Vice-Chairperson of the Authority;
- (xiii) "prescribed" means prescribed by rules made under this Act;
- (xiv) "protected area" means the protected area declared under section 4;
- (xv) "regulations" means the regulations made by the Authority under this Act;
- (xvi) "rules" means the rules made by the State Government under

this Act;

(xvii) "State" means the State of Rajasthan;

(xviii) "town planning authority" means the Ajmer Development Authority constituted under the Ajmer Development Authority Act, 2013 (Act No. 39 of 2013), the Jaipur Development Authority constituted under the Jaipur Development Authority Act, 1982 (Act No. 25 of 1982), the Jodhpur Development Authority constituted under the Jodhpur Development Authority Act, 2009 (Act No. 2 of 2009), an Urban Improvement Trust constituted under the Rajasthan Urban Improvement Act, 1959 (Act No. 35 of 1959), or a Municipality constituted under the Rajasthan Municipalities Act, 2009 (Act No. 18 of 2009), a Panchayati Raj Institution constituted under the Rajasthan Panchayati Raj Act, 1994 (Act No. 13 of 1994) or any other body or authority declared by the State Government by notification in the Official Gazette, to be a local authority for the purposes of this Act;

(xix) "Vice-Chairperson" means the Vice-Chairperson of the Authority.

CHAPTER 2 Lakes Boundaries and Protected Area

3. Lakes to vest in the State Government :-

(1) Notwithstanding anything contained in any law, instrument or order, protection and development of all lakes within the State, except private properties situated in such lakes, shall, with effect from the commencement of this Act, vest in the State Government and no person shall undertake any activity, whatsoever, within the boundaries of a lake or use or draw any produce or water from a lake otherwise than in accordance with the permission granted by the Authority in the prescribed manner.

(2) The Authority shall not grant any permission under subsection (1) unless it is satisfied that such permission will not have adverse impact on protection and development of the lake.

(3) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, by order in writing, allow withdrawal and use of the water of a lake for the purposes for which it was withdrawn and used immediately before the commencement of this Act to the extent such withdrawal does not affect adversely the protection and development of the lake.

4. Declaration of lake boundaries and protected area :-

- (1) The State Government may, by notification in the Official Gazette, either suo-motu on the basis of information available with it or on the recommendation of the Authority, declare and specify-
- (i) the boundaries of a lake; and
 - (ii) a geographical area around a lake to be the protected area.
- (2) Any person aggrieved by the notification under subsection (1) may, within two months from the date of publication of such notification in the Official Gazette, file his objections or suggestions in the prescribed manner before the State Government.
- (3) On the expiry of the period specified in sub-section (2), the State Government may, after considering the objections and suggestions received by it under sub-section (2), either withdraw or modify the notification issued under sub-section (1) or reject the objections or suggestions, as the case may be, and the decision of the State Government shall be final.
- (4) The notification issued under this section shall prevail notwithstanding any other Rajasthan law for the time being in force.

5. Regulation of activities in the protected area :-

- (1) Every town planning authority shall consult the Authority before preparing spatial or development plan of any area comprising a lake and no spatial or development plan in respect of an area comprising a lake shall be approved or enforced without the prior approval of the Authority.
- (2) No construction shall be undertaken in the protected area without obtaining prior permission of the Authority in the prescribed manner.
- (3) Subject to the provisions of sub-sections (1) and (2), the State Government may, by notification in the Official Gazette, either suo-motu on the basis of information available with it or on the recommendation of the Authority, specify such other activities in the protected area as it considers expedient for the protection and development of the lake, which shall be prohibited or be undertaken only after obtaining prior approval of the Authority, in the prescribed manner.
- (4) The Authority shall not grant any permission under subsections (2) or (3) if it is satisfied that such permission is likely to have adverse impact on protection and development of the lake.

6. Protection and development of lakes :-

(1) Subject to any Central law relating to forest or environment, and policies or guidelines including any guidelines for National Plan on Conservation of Aquatic Ecosystem issued in this regard by the Central Government from time to time, the Authority shall undertake protection and development of the lakes and for this purpose, the Authority shall carry out following functions, namely:-

(a) to carry out survey and study of lakes and prepare, maintain and publish, in the prescribed manner, the record of lakes including their boundaries, flow area and such other matters as are deemed necessary for protection and development of the lakes;

(b) to prepare and recommend to the State Government plans, projects or schemes for protection or development of lakes;

(c) to implement such plans, projects or schemes of protection or development of lakes as may be approved by the State Government;

(d) to implement projects and raising financial resources from public and private source including Corporate Social Responsibility fund (CSR);

(e) to recommend to the State Government lake boundaries and protected area;

(f) to prevent and stop unauthorised activities within lake boundaries or the protected area;

(g) to prevent, stop and remove unauthorised construction in the protected area.

(2) The Authority may, if it considers expedient in the interest of protection or development of a lake so to do, remove any building, structure or any other object of obstruction within the protected area or the flow area of a lake:

Provided that no building, structure or any other object of obstruction which is a private property shall be removed unless-

(i) prior approval of the State Government has been obtained;

(ii) the owner and occupier, if any, of the property has been given a reasonable opportunity of hearing;

(iii) the owner of the property has been paid compensation for the damages to be sustained by him due to such removal.

(3) While determining the amount of compensation under this section, the Authority shall follow the principles of determination of compensation laid down by any law for the time being in force providing for compulsory acquisition of similar property.

(4) If any person entitled to compensation under this section disputes sufficiency of the amount of compensation, he may file an appeal to the District Judge having territorial jurisdiction over the

area in which the property is situated, within ninety days from the date of order of the Authority and the decision of District Judge shall be final.

7. Tourism and allied activities :-

The Authority may with the prior permission of the State Government undertake or permit any agency or department of the State to carry on activities for beautification of the protected area as long as Authority is satisfied that such activity shall not, in any manner, have any adverse effect upon the protected area.

CHAPTER 3 Establishment and Constitution of the Authority, etc

8. Constitution of the Authority :-

(1) As soon as may be after the commencement of this Act, the State Government shall constitute an authority to be known as the Rajasthan Lakes Development Authority to exercise powers and discharge functions of the Authority under this Act or the rules or regulations made thereunder.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and may sue or be sued by its corporate name.

(3) The Authority shall consist of a Chairperson, ViceChairperson or such other members, not less than seven and not more than twenty one, as the State Government may determine.

(4) The members of the Authority shall be nominated by the State Government and a member, other than ex-officio member, shall hold office for a period of three years from the date on which he enters upon his office or during the pleasure of the State Government, whichever is earlier:

Provided that while nominating members to the Authority, the State Government shall give adequate representation to the following, namely:-

(i) Finance, Local Self Government, Panchayati Raj, Revenue and Urban Development and Housing department of the State Government;

(ii) Department of the State Government responsible for Environment, Forest, Fisheries, Tourism, Water Resources and Art and Culture;

- (iii) experts in the field of environment, ecology, geology, hydrology, hydro-geology, limnology or lake conservation.
- (5) The terms and conditions of service, including remuneration and allowances, of members, other than ex-officio members, shall be such as may be prescribed.
- (6) A member other than ex-officio member may resign his office by a notice in writing submitted thirty days in advance to the Chairperson in case of other members and to the State Government in case of the Chairperson.
- (7) The headquarters of the Authority shall be at Jaipur or at such other place as the State Government may notify.
- (8) The Authority shall meet at least once in six months; however, the Chairperson shall have power to call a meeting of the Authority at any time.
- (9) The Authority shall follow such rules of procedure while transacting business at its meetings as may be prescribed.
- (10) In absence of the Chairperson, the meeting of the Authority shall be presided over by the Vice-Chairperson and in case of the absence of both the Chairperson and the ViceChairperson, meeting of the Authority shall be presided over by the member nominated for the purpose by the Chairperson.
- (11) The Authority shall be nodal authority for purpose of the National Plan on Conservation of Aquatic Ecosystem (NPCA).

9. Power to constitute committees :-

The Authority may, for carrying out its functions under this Act, constitute such committees from amongst its members or otherwise as it thinks fit and delegate to such committees such of its powers under this Act, with or without condition, as it may think fit:

Provided that the decision of a committee shall require approval of the Authority before its implementation.

10. Staff of the Authority :-

(1) There shall be appointed by the State Government an officer not below the rank of a Secretary to the Government to be the Chief Executive Officer of the Authority.

(2) The Authority may, with the prior approval of the State Government, create such number and category of posts of officers and other employees in the Authority as it considers necessary to carry out its functions under this Act and make appointment thereto.

(3) The salary and allowances and other terms and conditions of service of the officers and employees of the Authority shall be such as may be determined by the Authority by regulations.

(4) The Authority may, with the prior approval of the State Government, also engage such experts and technical persons on contract basis as it considers necessary to carry out its functions under this Act.

(5) The Chief Executive Officer and other officers and employees of the Authority shall be subject to the control and supervision of the Chairperson and shall exercise such powers and discharge such functions as may be conferred on, or assigned to, them by the Authority from time to time.

11. Vacancies, etc., not to invalidate proceedings of the Authority :-

No act or proceeding of the Authority shall be invalid merely by reason of-

- (a) any vacancy in, or any defect in the constitution of, the Authority; or
- (b) any defect in the appointment of a person acting as member of the Authority; or
- (c) any irregularity in the procedure of the Authority not affecting the merits of the case.

12. Authentication of orders, etc :-

All proceedings of the Authority shall be authenticated by the signature of the Chairperson or of any member authorised by the Chairperson in this behalf and all other orders and instruments of the Authority shall be authenticated by an officer of the Authority authorised by regulations.

CHAPTER 4 Finance, Budget and Accounts

13. Fund of the Authority :-

(1) The State Government shall constitute a fund to be known as the Rajasthan Lakes Development Authority Fund to which shall be credited all moneys received by the Authority, including -

- (a) such amount of contribution to be made by the State Government yearly or in such instalments in each year as it may determine in accordance with the projects or schemes included in the State Plan and under appropriation duly made in this behalf;

- (b) such other moneys as may be paid to the Authority by the State Government, Central Government or any other authority or agency by way of grants, loans, advances or otherwise;
 - (c) all moneys borrowed by the Authority including loans to be raised from the financing institutions;
 - (d) all moneys received by the Authority by way of rents and profits or in any other manner or from any other source ; and
 - (e) all donations received by the Authority.
- (2) The Authority may keep in saving or deposit account with any Scheduled Bank or any Co-operative or other Bank approved by the State Government in this behalf, such sum of money out of its Fund as may be determined by the Authority and any money in excess of the said sum shall be invested in such manner as may be determined by regulations.
- (3) Such accounts shall be operated by such officer of the Authority as may be authorised by it by regulations.

14. Application of Fund etc :-

All properties, fund and other assets vesting in the Authority shall be held and applied by it for the purposes and subject to the provisions of this Act and not otherwise.

15. Power of the Authority to borrow :-

The Authority may, with the previous approval of the State Government, borrow money for carrying out the purpose of this Act, at such rates of interest and on such conditions as the State Government may determine at the time money is borrowed.

16. Accounts and audit :-

- (1) The Authority shall keep accounts in such form and in such manner as may be prescribed.
- (2) The accounts of the Authority shall be subject to audit by the Director, Local Fund Audit Department in accordance with the provisions of the Rajasthan Local Fund Audit Act, 1954 (Act No. 28 of 1954).
- (3) The Authority shall pay from the Fund such charges for the audit as may be prescribed.

17. Budget :-

- (1) The Authority shall prepare, every year, in such form and at

such time as may be prescribed, an annual budget estimate in respect of the financial year next ensuing, showing the estimated receipts of the financial year next ensuing, showing the estimated receipts and expenditures of the Authority and submit it for the approval of the State Government.

(2) The Authority shall keep its expenditures strictly within the budget estimates as approved by the State Government.

18. Annual Report :-

(1) The Authority shall prepare at the end of each financial year, a report of its activities during the previous year and submit it to the State Government before the 30th day of September of the current year.

(2) The State Government shall cause such annual report including the statement of accounts to be laid before the House of the State Legislature.

CHAPTER 5 Miscellaneous

19. Power of the Authority to enter into agreement :-

The Authority may, for the purposes of implementing any plan, project or scheme under this Act, enter into agreement with any person or entity on such terms and conditions as it may determine with the approval of the State Government.

20. Powers of the Authority to give directions :-

Notwithstanding anything contained in any Rajasthan law for the time being in force, the Authority may give such directions to any department of the State Government or any local authority or any officer or employee thereof, as may be necessary for carrying out the purposes of this Act and such directions shall be binding on such department, authority or officer, as the case may be.

21. Power to remove encroachment :-

(1) The Authority may require any person, who has encroached upon any area within the boundaries of a lake or within the protected area, by notice in writing to remove the encroachment within the time specified in the notice, being a time not less than fifteen days, and restore the area in its original condition.

(2) If the person on whom a notice under sub-section (1) has been

served does not remove the encroachment or does remove the encroachment but does not restore the area in its original condition to the satisfaction of the Authority within the time specified in the notice, the Authority may remove the encroachment and restore the area to its original condition at the cost of such person.

(3) The cost incurred by the Authority under sub-section (2) shall, on the certificate of the Chief Executive Officer of the Authority, be recoverable as an arrear of land revenue.

22. Power of entry :-

It shall be lawful for a member or officer of the Authority or any other person authorised by the Authority in this behalf to enter into or upon any land, building or other premises, between sunrise and sunset, with such assistants or workmen as he may deem necessary, for the purpose of carrying out any of the functions of the Authority under this Act or any rules or regulations made thereunder:

Provided that no land, building or other premises which may be occupied at the time shall be entered, except with the consent of the occupier thereof, without twenty-four hours written notice having been given to the occupier:

Provided further that, in the case of any building or other premises used as human dwellings, due regard shall be had to the social and religious customs of the occupiers.

23. Power of Authority to call for information :-

The Authority shall have power to call for any information from any department of the State Government or any local authority or any other person which is required by it in the exercise of its powers and the performance of its functions under this Act or the rules or regulations made thereunder, and such department, authority or person shall be bound to furnish such information.

24. Control by the State Government :-

(1) The Authority shall exercise its powers and perform its duties under this Act or rules or regulations made thereunder, subject to any policy and guidelines of the State Government in respect of the protection and development of the lakes.

(2) The Authority shall be bound to comply with such directions of the State Government as may be issued by it for carrying out the

purposes of this Act.

(3) If, in connection with the exercise of the powers and the performance of the functions of the Authority under this Act or rules or regulations made thereunder, any dispute arises between the Authority and any department of the State Government or any local authority, the matter shall be referred to the State Government and the decision of the State Government thereon shall be final and binding.

25. Delegation of powers :-

(1) The State Government may, by notification in the Official Gazette, delegate to any officer subordinate to it all or any powers conferred on it by this Act except the power to make rules.

(2) The Authority may, by order in writing, delegate any of its powers and functions under this Act or rules or regulations made thereunder, except the power to make regulations, to any officer of the State Government, any local authority or any officer subordinate to it, subject to such conditions or restrictions as it may think fit:

Provided that the delegation of powers and functions under this sub-section to any officer of the State Government or local authority shall be made with the consent of the State Government or such authority, as the case may be.

26. Transitory provisions :-

(1) Until the Authority is constituted under this Act the powers and functions conferred and assigned to the Authority under this Act may be exercised by the State Government or any other authority or officer authorised by the State Government in this behalf.

(2) Until the rules or regulations are framed under the provisions of this Act the State Government may provide for the matters, required by this Act to be provided by rules or regulations, by issuing orders and guidelines.

27. Offence :-

Whoever contravenes any provision of this Act or rules or regulations made thereunder shall, on conviction, be punished with imprisonment for a term which may extend to two years or with fine which shall not be less than twenty-five thousand rupees.

28. Offence by companies :-

(1) If an offence under this Act is alleged to have been committed by a company, every person who, at the time of commission of the offence was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the commission of offence took place without his knowledge or that he exercised all due diligence to prevent such commission.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of , or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

29. Officer and other employees of the Authority to be public servant :-

The members, and every officer and employee, of the Authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

30. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall be maintainable against the Authority, any member or officer or employee thereof or any person acting under the direction of the Authority in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules or regulations made thereunder.

31. Power to make rules :-

(1) The State Government may, by notification in the Official

Gazette, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days, which may comprise in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

32. Power to make regulations :-

(1) Subject to the other provisions of this Act and the rules made thereunder, the Authority may make regulations for all or any of the matters required by this Act to be provided by regulations and generally for all other matters for which provision is, in the opinion of the Authority, necessary for the exercise of its powers and the discharge of its functions under this Act or the rules made thereunder.

(2) No regulation made by the Authority under sub-section (1) shall take effect unless it is published in the Official Gazette.

(3) The State Government may, at any time by notification in the Official Gazette, repeal wholly or in part or modify any regulation made by the Authority provided that, before taking any action under this sub-section, the State Government shall communicate to the Authority the grounds on which it proposes to do so, fix a reasonable period for the Authority to show cause against the proposal and consider the explanation and objections, if any, of the Authority.

(4) The repeal or modification of any regulation shall take effect from the date of publication of the notification in the Official Gazette, if no date is therein specified, and shall not affect anything done or omitted or suffered before such date.

33. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order published in the Official Gazette, do anything not inconsistent with the provisions of

this Act, which appears to be necessary or expedient for removing the difficulty: Provided that no order under this section shall be made after the expiry of two years from the date of the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is so made, before the House of the State Legislature.

34. Dissolution of the Authority :-

(1) Where the State Government is satisfied that the purpose for which the Authority was established under this Act have been substantially achieved so as to render the continued existence of the Authority in the opinion of the State Government unnecessary, it may, by notification in the Official Gazette, declare that the Authority shall be dissolved with effect from such date as may be specified in the notification; and the Authority shall be deemed to be dissolved accordingly.

(2) From the said date -

(a) all assets, properties, funds and dues which are vested in, or realisable by the Authority shall vest in, or be realisable by, the State Government;

(b) all liabilities which are enforceable against the Authority shall be enforceable against the State Government; and

(c) any function which has not been fully carried out by the Authority shall be carried out by the State Government.

35. Application of other laws :-

(1) The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith in any other Rajasthan law for the time being in force or any judgment or decision of a court or authority to the contrary.

(2) Any lease, licence or any instrument having effect by virtue of any law or any title to land forming part of the protected area shall stand pro tanto modified and shall have no effect:

Provided that nothing in this Act shall deprive any tenant of contractual rights and except to that extent that such rights are not inconsistent with the provisions of this Act.

36. Saving of religious rights :-

Nothing in this Act shall restrict or be construed as restricting any

religious rights of any section of the society in respect of a lake having religious importance.

37. Repeal and savings :-

(1) The Rajasthan Lakes (Protection and development) Authority Ordinance, 2015 (Ordinance No. 1 of 2015) is hereby repealed.

(2) Notwithstanding such repeal, all things done, actions taken or orders made under the said Ordinance shall be deemed to have been done, taken or made under this Act.