

Rajasthan Local Fund Audit Act, 1954

28 of 1954

[17 December 1954]

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PREAMBLE

An Act to provide for and regulate the Audit of the Local Funds under the management or control of certain local authorities in 2[The State of Rajasthan].

Be it enacted by the Rajasthan State Legislature in the fifth year of the Republic of India, as follows:-

1. Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 24.12.1954.

1. Short title :-

This Act may be called the Rajasthan Local Fund Audit Act, 1954.

2. Extent :-

1[This Act extends to the whole of the State of Rajasthan].

1. Substituted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

3. Definitions :-

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

(a) "Auditor" means the ¹[Director] or any other person empowered by the State Government to perform the functions of a auditor under this Act;

²[(b) "Chairman" means the President, Chairman, Mayor of a Municipal Institution; Zila Pramukh, Pradhan, or Sarpanch of a Panchayati Raj Institution or Chairperson of any other local authority, by whatever name called, and in case of a dissolved or superseded local authority, the person or persons lawfully appointed to exercise the powers and perform the duties of such local authority];

¹[(c) "Audit" includes Special Audit, Pre- Audit, Concurrent Audit, Post Audit including Detailed Audit and Test Audit:

(i) "Special Audit" means an audit of accounts pertaining to a specified item or series of items requiring thorough examination;

(ii) "Pre-Audit" means audit before payment, withdrawal or adjustment out of a local fund;

(iii) "Concurrent Audit", means audit on the spot, either simultaneously with or soon after the making of payment, withdrawal or adjustment out of Local Fund; and

(iv) "Post Audit" means audit after making of payment, withdrawal or adjustment out of a local fund, which is not Concurrent Audit but includes Detailed Audit which means an audit of accounts for the whole year and Test Audit which means an audit of a certain period selected at random by the Director or any other authority

empowered by him];

³[(d) "Director" means the Director of Local Fund Audit Department and includes a Senior Deputy Director, Deputy Director and an Assistant Director of the said department];

⁴[(dd) "Local Authority" shall mean a Municipal Board, Council, Corporation, a Zila Parishad, a Panchayat Samiti, a Panchayat or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or-local fund, and shall include, a society registered under the Rajasthan Societies Registration Act, 1958 (Act No. 28 of 1958); and such other institutions, boards, agencies or bodies as also subsidiaries thereof, constituted under any Rajasthan Law, which are in receipt of financial grant, subsidy, funds or financial assistance in any form from the Government;]

(e) "Local Fund" means any fund to the control or management of which a local authority is legally entitled and includes the proceeds of any cess, rate, duty, fee or tax which such authority is legally entitled to impose, and any property vested in such authority,

(f) ⁵[XXX] .

(g) "Controlling Authority" means any Officer appointed or authorised by the State Government to perform the functions of the Controlling Authority under this Act.

1. Substituted by Raj. Act No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1957.

2. Substituted by Raj. Act No. 8 of 1998, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 3.7.1998.

3. Substituted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

4. Inserted by Raj. 8 of 1998, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 31.7.1998.

5. Omitted by Raj. No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

4. Liability of Local Authorities to submit their accounts for audit :-

The accounts of any Local Authority whose accounts are declared by the State Government, by a notification in the ¹[Official Gazette] to be subject to audit under this Act, shall, notwithstanding anything

contained in any enactment, by which such local authority is constituted, or in any rules made thereunder, be subject to audit in all respects in the manner provided by or under this Act.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

5. Accounts to be submitted for audit at such period or periods as may be required :-

The Chairman of every local authority, whose accounts are declared under Sec. 4 to be subject to audit under this Act, shall present or cause to be presented for audit all accounts of its local fund in the manner and form prescribed by rules under Sec. 16 to the auditor yearly or at such period or periods, as may be required by the State Government ¹[:].-.

²[Provided that the Chairman of every such Local Authority shall present or cause to be presented for audit all accounts of its local fund in the manner and form prescribed by rules immediately in the case of concurrent audit and in the case of test audit for the period as demanded by the Director.]

1. Substituted by Raj. Act No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

2. Inserted by Raj. No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

6. Power of auditor to require production of documents and attendance of persons concerned, etc :-

(1) For the purpose of any audit under this Act, an auditor may-

(a) require in writing the production at the head office of the local authority of such vouchers, statements, returns, correspondence, notes or other documents in relation to the accounts, as he may think fit;

(b) require in writing any salaried servant of the local authority accountable for or having the custody or control of such vouchers, statements, returns, correspondence, notes or other documents or any person having directly, indirectly, by himself or his partner, any share or interest in any contract with or under the local authority, to appear in person or an authorised agent before him at the head office of the local authority, and answer any question or sign a

declaration with respect thereto;

(c) in the event of an explanation being required from the Chairman or other honorary officer or member of a local authority, in writing invite such person to meet him at the head office of the local authority and shall in writing specify the point on which his explanation is required.

(2) The auditor may, in any requisition or invitation made under sub-sec. (1), fix a reasonable period, not being less than three days within which the said requisition or invitation shall be complied with.

(3) The auditor shall give to the local authority not less than two weeks notice in writing of the date on which he proposes to commence the audit:

Provided that, notwithstanding anything contained in this sub-section, the Auditor may, for special reasons which shall be recorded in writing, give shorter notice than two weeks or commence ¹[a concurrent or test audit or] a special or detailed audit on the authority of the State Government or the Controlling Authority or the ²[Director] without giving notice.

1. Inserted by Raj. Act No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

2. Substituted by Raj. Act No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

7. Penalty for disobeying requisition under Sec. 6 :-

(1) Any person who willfully neglects or refuses to comply with any requisition lawfully made upon him under clause (a) or clause (b) of sub-sec. (1) of Sec. 6 shall be liable, on conviction before a Magistrate, to a fine which may extend to one hundred rupees :

Provided that no proceedings under this section shall be instituted except on the written sanction of the State Government, or the Controlling Authority:

Provided further that before giving such sanction the State Government or the Controlling Authority shall call upon the person against whom the proceedings are to be instituted to show cause why the sanction should not be given.

(2) No Court inferior to that of a Magistrate of the first class shall try any offence against this Act.

8. Audit report to be sent to certain Officers and bodies as

[State Government] may direct :-

Audit report to be sent to certain Officers and bodies as ¹[State Government] may direct

As soon as practicable after completion of the audit, but not later than three months thereafter, the ²[Director] shall prepare a report on the accounts audited and examined and shall send such report to the local authority concerned and copied thereof to such Officers and bodies, as the State Government may direct.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

2. Substituted by Raj. Act No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

9. Directors report what to contain :-

¹[The ¹[Director] shall include in his report, a statement of -

(a) every payment which appears to him to be contrary to law;

(b) the amount of any deficiency waste or loss which appears to have been caused by the gross negligence or misconduct of any person;

(c) the amount of any sum received which ought to have been but is not brought into account by any person; and

(d) any material impropriety or irregularity which he may observe in the accounts of or in the recovery of moneys due to the local authority, other than mentioned in clauses (a), (b) and (c) above.

1. Substituted by Raj. Act No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

10. Local Authority to remedy defects procedure to be followed after report of the [Director] under Sec. 8 :-

Local Authority to remedy defects procedure to be followed after report of the ¹[Director] under Sec. 8

(1) On receipt of a report under Sec. 8, the Chairman shall remedy any defects or irregularities which may have been pointed out in the report, and shall place the report, together with a statement of the action taken or proposed to be taken thereon and an explanation in regard thereto before a meeting of the local authority. He shall also, within three months of the receipt of the

report, sent to the ¹[Director] intimation of his having remedied the defects or irregularities, if any, pointed out in the report, or shall, within the said period supply the ¹[Director] any further explanation in regard to such defects or irregularities as, the local authority may wish to give.

(2) On receipt of such intimation or explanation, the ¹[Director] may, in respect of all or any of the matters discussed in his report,

-

(a) accept the intimation or explanation given by the Chairman and withdraw the objection; or

(b) direct that the matter be re-investigated at the next audit or at any earlier date, or

(c) hold that the defects or irregularities pointed out in the report or any of them have not been removed or remedied.

(3) The ¹[Director] shall send a report of his decision to the Controlling Authority within one month of the date of the receipt by him of the intimation or explanation of the Chairman referred to in sub-sec. (1) or, in the event of the Chairman failing to give such intimation or explanation, on the expiry of period of three months mentioned in the said sub-section and shall forward a copy of such report to the Chairman. If the ¹[Director] holds that any defects or irregularities have not been removed or remedied, he shall state in the report whether, in his opinion, the defects or irregularities can be regularised and, if so, by what method, and if they do not admit of being regularised, whether they can be condoned and, if so, by what authority. He shall also state whether the amounts to which the defects or irregularities relate should, in his opinion, be surcharged or charged, and, if so against whom:

Provided that in the case of reports on the accounts of such local authorities as are specially notified by the State Government in this behalf, the report referred to in this sub-section shall be submitted by the ¹[Director] to such Officer, being the head of a Department, as the State Government may direct. Such Officer shall take such action, as may be necessary regarding any defects or irregularities falling under clause (c) of sub-sec. (2) which may have been brought to notice in the report. If he is of the opinion that the amounts to which any such defects or irregularities relate, should be surcharged, or charged, he shall forward the report to the Controlling Authority with his recommendation in that behalf.

(4) The local authority concerned shall publish in its next administration report such portion of the report under Sec. 8, as

deal with defects and irregularities falling under clause (c) of sub-sec. (2), together with the explanation thereof, if any, given under sub-sec. (1), and the final report of the ¹[Director] thereon given under sub-sec, (3). Such report of defects and irregularities, explanation and final report shall be open to the inspection of the public at the office of the local authority for a period of one month from the date of their receipt.

(5) Nothing in this section or in Sec. 9 shall preclude the ¹[Director] at any time from bringing to the notice of the Controlling Authority for such action, as the Controlling Authority may consider necessary, any information which appears to the ¹[Director] to support a presumption of criminal misappropriation or fraud or which in his opinion deserves special attention or immediate investigation.

1. Substituted by Raj. Act No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

11. Controlling Authority to surcharge or charge illegal payment or loss caused by gross negligence or misconduct :-

(1) The Controlling Authority may after considering the recommendation of the ¹[Director] or of any Head of a Department under the proviso to sub-sec. (3) of Sec. 10, as the case may be, and after taking the explanation of the person concerned, or making such further inquiry, as he may consider necessary, disallow any item which appears to him to be contrary to law and surcharge the same on the person making or authorising the making of, the illegal payment and may charge against any person responsible therefore the amount of any deficiency, waste or loss caused by the gross negligence or misconduct of that person of any sum received which ought to have been but is not brought into account by that person and shall, in, every such case, certify the amount due from such person:

Provided that no order of surcharge or charge shall be made under this Act in -respect of any item included in, or which ought to have been included in, but was omitted from any accounts for any period prior to 1st April, 1955.

(2) The Controlling Authority shall state in writing the reasons for its decision in respect of every surcharge or charge and shall send by registered post a copy thereof to the person against whom it is made.

(3) If a person to whom a copy of the decision of the Controlling Authority is sent under sub-sec. (2) refuses to take delivery thereof, he shall be deemed to have been duly received it on the day on which it was refused by him.

1. Substituted by Raj. Act No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

12. Recovery of surcharges and charges how made :-

(1) Every sum certified by the Controlling Authority to be due from any person under sub-sec. (1) of Sec. 11 shall be paid by such person into the Treasury or Bank in which the funds of the local authority concerned are lodged, within one month from the receipt by him of the decision of the Controlling Authority, unless within that time such person has applied to the Court or to the State Government as provided in Sec. 13.

(2) The said sum, if not duly paid, or, if an application has been made to the Court or to the State Government against the decision of the Controlling Authority as provided in sub-sec. (1) of Sec. 13, such sum as the Court or the State Government shall declare to be due, shall be recoverable as if it were an arrear of land revenue.

13. Application against order of surcharge or charge. :-

(1) Any person aggrieved by order of surcharge or charge made by the Controlling Authority under sub-sec. (1) of Sec. 11 may, within one month from the receipt by him of the decision of the Controlling Authority, either -

(a) apply to the principal Civil Court of original jurisdiction to set aside such order; and the Court (after hearing such person and the Controlling Authority or his representative and), taking such evidence as it thinks necessary, may confirm, modify, or remit such surcharge or charge and make such orders or as to costs as it thinks proper in the circumstances; or

(b) in lieu of such application; apply to the State Government, which shall, after hearing the person aggrieved and the Controlling Authority for his representative, pass such orders thereon as it thinks fit, and the orders made by the Court or the State Government under this sub-section shall be final.

(2) Pending disposal of the application all proceedings on the certificate shall be stayed if the person aggrieved by the decision of the Controlling Authority makes out a prima facie case and obtains

from the Court or the State Government an order staying proceedings.

14. Expenses in respect of requisitions of auditors to be payable out of local funds :-

All expenses incurred by a local authority in complying with any requisition of an auditor under sub-sec. (1) of Sec. 6 shall be payable out of its local fund.

15. Exercise of powers and duties of. [State Government] by other Officers :-

Exercise of powers and duties of. ¹[State Government] by other Officers

The powers and duties conferred and imposed upon the State Government by or under this Act may be exercised by .any Officer empowered by the State Government by rules made in this behalf.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

15. Rules :-

(1) The State Government may by notification in the ¹[Official Gazette], make rules, not inconsistent with this Act, for the purpose of carrying into effect the provisions 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 manner and form in which the accounts of a local authority, whose accounts are subject to audit under this Act, shall be kept and presented;

(b) the power and duties of Auditors and procedure to be followed by them conducting an audit and the times at which such audit may be conducted;

(c) the powers and duties of the ²[Director];

(d) the periods at which accounts of the local fund of a local authority shall be submitted for audit under Sec. 5;

(e) the Officer or Officers to be empowered under Sec. 15;

(f) the manner in which all matters required to be published under this Act shall be published; and

(g) all other matters which may be or are required to be prescribed

by rules.

1. Substituted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.

2. Substituted by Raj. Act No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

16. xxx xxx xxx :-

xxx xxx xxx

17. Duty to maintain accounts in specified cases :-

¹[Notwithstanding anything in this Act or in any enactment constituting any local authority or in any rules made thereunder, the ²[Director] shall perform such duties and exercise such powers in relation to the maintenance of such accounts of such local authority or authorities, as the State Government may direct.]

1. Inserted by Raj. Act No. 30 of 1961, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 24.10.1961.

2. Substituted by Raj. Act No. 17 of 1987, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 21.4.1987.

18. Section :-

¹[[X X X]

1. Omitted by Raj. Act No. 27 of 1957, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 13.8.1957.