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Orissa Act No. 18 of 1956

THE ORISSA DISPLACED PERSONS (REHABILITATION LOANS) ACT, 1955

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AN ACT TO PROVIDE FOR THE GRANT OF LOANS TO DISPLACED PERSONS IN THE STATE OF ORISSA FOR THEIR REHABILITATION

AND FOR RECOVERY THEREOF.

WHEREAS it is expedient to provide for the grant of loans to displaced persons in the State of Orissa for their rehabilitation and for the recovery thereof:

It is hereby enacted by the Legislature of the State of Orissa in the Sixth Year of the Republic of India as follows :

1. Short title, extent and commencement. - (i) This Act may be called the Orissa Displaced Persons (Rehabilitation Loans) Act, 1955.

(ii) It extends to the whole of the State of Orissa.

(iii) It shall come into force at once.

Statement of Objects and Reasons. - Rehabilitation loans are at present granted by the State Government of Orissa to displaced persons from East and West Pakistan on execution of agreements by them for re-settlement in Orissa. A large number of cases of displaced persons who have deserted the State without refunding the amount of loans advanced to them has come to the notice of the State Government who are experiencing difficulties in recovering the loans from such displaced persons on the strength of the loan, bonds executed by them as according to the terms of the loan bonds, the Government dues are recoverable under the Bihar and Orissa Public Demands Recovery Act, 1914 which has no extra-territorial application. It has, therefore, become necessary to make statutory provisions for the grant of loans to displaced persons and recovery of the same from them. The Bill is therefore, designed to incorporate provisions for the grant of rehabilitation loans, and for the recovery of loans granted to displaced persons since 1950 as an arrear of land revenue.

2. Such a Bill has already been passed by the State of Bihar and the other States n the Eastern Region are also taking steps to pass such a Bill.

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

(a) "Border slip" means, slip issued between the 1st day of March, 1950 and the 15th day of October, 1952 inclusive at the interception points on the border of India and

Pakistan at Bongaon and Banpur in the State of West-Bengal under the orders of the Refugee Rehabilitation Commissioner, West-Bengal;

(b) "Borrower" means a displaced person or a company, association or body of displaced persons whether incorporated or not to whom a loan has been granted under this Act and includes the heirs, successors and assigns of a borrower;

(c) "Collector" means the Collector of the district and includes the Additional District Magistrate of the district and any other officer specially appointed by the State Government to perform the functions of a Collector under this Act;

(d) "Company" means a company as defined in the Indian Companies Act, 1913 (Act VII of 1913);

(e) "Director of Relief and Rehabilitation" means an officer appointed as such by the State Government;

1*[(f) "Displaced person"* means a person who was ordinarily resident in the territories now comprised in East Pakistan but who on account of civil disturbances or the fear of civil disturbances or on account of the partition of India, has migrated-

(i) from the district of Noakhali or the district of Comilla now forming part of East Pakistan on or after the 1st day of October, 1946; or

(ii) from any other place in East Pakistan on or after the 1st day of June, 1947;

to the territories now included in the Union of India, with the intention of taking up permanent residence within such territories :

Provided that where, even though the head of the family of a person is not a displaced person but the individual status as displaced persons of other member of the family justify in the opinion of the State Government that the provisions of this Act shall apply to such person, then such person may be declared to be a displaced person.]

(g) "Loan" means a loan granted under the provisions of this Act in cash or in kind, and shall include any sum referred to in Subsection (4) of Section 4;

(h) "Migration Certificate" or "Emergency Certificate" means certificate issued by the Deputy High Commissioner for India at Decca in East Pakistan under Scheme No. 7 of the Government of India's Scheme of Passport system to regulate the Entry of Pakistan Nationals into India and Facilities for Indian Nationals

1. Substituted vide Orissa Act 23 OF 1959

to visit Pakistan to person who being domiciled in Pakistan at the date of issue of the certificate has declared his intention to leave Pakistan and settle in India;

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

(j) "sanctioning authority" means the authority who sanctions a loan.

3. Application for loan. - A displaced person may submit to the Collector within whose jurisdiction he resides or carries on any trade, profession or calling or intends to do so, an application for loan in such form as may be prescribed.

4. Sanction of loans. - (1) The Collector may, subject to any general or special direction of the State Government sanction loans not exceeding such amount as may from time to time be fixed by the State Government ; and he shall forward to the

Director, Relief and Rehabilitation with his remarks such applications as require loans exceeding the amount he is authorised to sanction.

(2) The Director, Relief and Rehabilitation may, subject to any general or special direction of the State Government, sanction loans not exceeding such amount as may be fixed by the State Government.

(3) The Director, Relief and Rehabilitation shall forward to the State Government with his remarks such applications as require loans exceeding the amount he is authorised to sanction and the State Government may, thereupon, sanction such amount of loan as they think fit.

(4) Any sum assessed on a displaced person by the State Government out of the expenditure incurred by the State Government on reclamation of land, irrigation, health and sanction trade and business and establishment of colonies for the rehabilitation of displaced persons shall be deemed to be a loan sanctioned under this section.

5. Advance of loans and execution of loan bonds. - (1) The loan sanctioned under Section 4 may be advanced in one lump sum or in instalments according as the sanctioning authority may in its discretion decide.

(2) Before receiving the advance of loan the borrower shall execute a bond in the prescribed form undertaking to apply the amount of loan solely for the purpose for which, and to comply with the terms and conditions on which, the loan is sanctioned and such bond shall include any sum referred to in Sub-section (4) of Section 4, and in the event of the loan being advanced in instalments a bond in the form so prescribed shall be executed on receipt of each such instalment.

6. Security for loan. - (1) All assets acquired with the loan shall be deemed to be mortgaged or hypothecated, as the case may be, to the State Government for re-payment of the loan with interest due thereon and the amount of the loan and the interest thereon shall be the first charge on such assets.

(2) Subject to the provisions of Sub-section (1) the borrower may with the prior approval of and subject to such conditions and restrictions, if any, imposed by the Collector, mortgage, convey or otherwise transfer any of his interests in the whole or any part of assets acquired with the loan and any mortgage,
conveyance or other transfer without such approval or in contravention of such restrictions and conditions, if any, shall be void as against the State Government:

Provided that nothing in this section shall affect the borrower's; right to transfer such articles of his stock-in-trade as are meant for transfer to customers and others in the normal course of business.

7. Inspection of assets. - Any person authorised in this behalf by the sanctioning authority or the Collector may enter any place or premises for inspecting any land construction, machinery, appliance, materials or stock-in-trade acquired or hired or proposed to be acquired or hired by any borrower with the loan granted to him.

8. Information, to be furnished by borrower. - The borrower shall be bound to furnish any information which the sanctioning authority or the Collector may require relating to the purpose or purposes for which the loan was advanced, the manner in which the loan has been or is being utilised and the financial position of the borrower.

9. Power to require re-payment before due period. - (1) Notwithstanding anything in any agreement or in any of the other provisions of this Act or the rules made thereunder, the Collector may, after giving the borrower an opportunity to show cause, order the borrower to re-pay the loan in full or any part thereof, with interest, within such time as may be specified in the order under one or more of the following circumstances, namely ;

(i) if the borrower has furnished any false or misleading information or has suppressed any fact in obtaining the loan; or

(ii) if the borrower fails to comply with the terms and conditions under which the loan has been sanctioned; of

(iii) if the Collector is satisfied that the borrower has applied any portion of the loan for purposes other than those for which it was granted; or

(iv) if the borrower has wilfully or by negligence caused material deterioration to the assets acquired with the loan; or

(v) if the borrower obstructs any person from entering any place or premises or making an inspection in exercise of powers conferred by or under this Act; or

(vi) if the borrower fails to furnish any information required by the sanctioning authority or the Collector; or

(vii) if the Collector considers it essential to effect immediate recovery of the loan in order to protect the interest of the State Government.

(2) An appeal shall lie to the State Government against an order passed under Sub-section (1) within such period and in such manner as may be prescribed and the decision of the State Government thereon shall be final.

Note - Under this section, the Collector is empowered to direct borrower to repay the loan in full or in part thereof with interest before the due period.

10. Power to postpone realisation. - Notwithstanding anything contained in this Act or the rules made thereunder the State Government or such other authority as may be prescribed may postpone the realisation of any instalments of the loan with interest due thereon.

11. Power to make recovery or to take over assets. - If the borrower fails to re-pay any amount of the loan or to pay any interest thereon under the terms and conditions of the loan or under the provisions of Section 9, the Collector may without prejudice to any other method of recovery-

(a) recover as arrears of land revenue such loan, instalments, interest or any cost incurred in recovering the loan with interest and also incidental expenses incurred in issuing the loan; and

(b) take over in whole or in part, the assets acquired with the loan on such terms and conditions as may be determined by the State Government.

12. Delegation of powers. - Subject to the provisions of this Act-

(i) the State Government may, by order delegate all or any of its powers, duties and functions under this Act or the rules made thereunder to any officer under its control; and

(ii) the Director of Relief and Rehabilitation or the Collector may, with the sanction of the State Government, delegate any of his powers, duties and functions under this Act to any other officer under the control of the State Government.

13. Protection of action taken under the Act. - No suit, prosecution or other proceedings shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

14. Remission of stamp duty and registration fee. - The State Government may, by notification, remit the stamp duty under any law for the time being in force or any fee under the law of registration for the time being in force, chargeable or any instrument executed under this Act or the rules made thereunder by or on behalf of a displaced person.

15. Retrospective application of the Act to prior loans. -Notwithstanding anything contained in any law for the time being in force and the provisions of this Act every loan granted since the first day of March, 1947 to a displaced person for his rehabilitation by the State Government or by any officer or authority subordinate to the State Government shall, for the purpose of its recovery, be deemed to be a loan granted under this Act and the provisions of this Act relating to re-payment and recovery of loan shall apply to such loan.

16. General powers of superintendence, direction and control of the Director of Relief and Rehabilitation. - The Director of Relief and Rehabilitation shall, for the purpose of this Act, have general powers of superintendence, direction and control over the Collector.

17. Bar of jurisdiction of Court. - The decision of the State Government as to whether the conditions of this Act have been satisfied shall be final, and any order passed under this Act shall not be questioned in any Court of law.

18. Power to make rules. - (1) The State Government may 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 all or any of the following matters, namely :

(a) the forms of application for loan, order of the sanctioning authority, the bond and any other instrument to be executed by the borrower and the notices and directions issued by the sanctioning authority and other authorities;

(b) the terms and conditions of loans and fixation of instalments;

(c) the fixation of the rate of interest and the manner of calculation thereof;

(d) the extent and manner of issue of loans and the procedure for realisation;

(e) the form and manner in which account and registers are to be maintained;

(f) the manner and circumstances in which remission of principal or interest may be granted as suspension of realisation may be allowed;

(g) the manner in which and the period within which an appeal under Sub-section (2) of Section 9 may be preferred;

(h) the manner and the machinery for investigation into applications for loans and into the proper utilisation of the loan money; and