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EXTRAORDINARY

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT

NOTIFICATION

The 31st August 1978

No.LGL.335/75/188.—The following Act of the Assam Legislative Assembly which received the assent of the President is hereby published for general information.

ASSAM ACT X OF 1978

(Received the assent of the President on 16th August, 1978)

THE ASSAM FARMERS (GROUP IRRIGATION)
ACT, 1978

Act

to provide for creation of irrigation potential by the formation of groups amongst farmers.

Preamble

WHEREAS it is expedient to make provision for creating irrigation potential through utilisation of surface and under-ground water by formation of groups amongst farmers to obtain loan from Banks.

It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Farmers (Group Irrigation) Act, 1978.

- (2) It extends to the whole of Assam.
- (3) It shall come into force at once.

Definition

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

- (a) "agricultural land" includes land used or capable of being used for raising of crops, grass or garden produce, vegetables, seed farming, pisciculture, horticulture, growing of fruits or other similar purpose;
- (b) "bank" includes —
 - (i) a banking company as defined in section 5 of the Banking Regulation Act, 1949,
 - (ii) "State Bank of India" constituted under the State Bank of India Act, 1955,

- (iii) a subsidiary Bank as defined in the State Bank of India (subsidiary Banks) Act, 1959,
- (iv) a "Corresponding new Bank" constituted under section 3 of the Banking Companies (Acquisition and transfer of undertakings) Act, 1970,
- (v) the Assam Co-operative Central Land Mortgage Bank Limited constituted under the Assam Co-operative Land Mortgage Bank Act, 1960,
- (vi) a Co-operative Land Mortgage Bank registered under Assam Co-operative Societies Act, 1949,
- (vii) any other financial institution or a co-operative society which may be notified to be a Bank for the purposes of this Act by the State Government from time to time,
- (viii) "Regional Rural Bank" constituted under the Regional Rural Banks Act, 1976,
- (c) "cropping pattern" means a system of cultivation specified in a scheme for using agricultural land for any one or more or all of the following purposes—
 - (i) raising of crops, grass or garden produce and vegetables,
 - (ii) seed farming,
 - (iii) pisciculture,
 - (iv) horticulture,
 - (v) growing of fruits,
 - (vi) other purposes as may be notified by the State Government;

- (d) "defaulter" means any member of a group who refuses to make any contribution or take loan from a bank or fulfil any obligation, financial or otherwise, for implementing a scheme or fails to repay by due date any instalment of the loan taken for implementing the same ;
- (e) "group" means an association consisting of farmers not less than two in number formed for the purpose of implementing a scheme under this Act ;
- (f) "Irrigation Officer" means an Executive Engineer under the Irrigation Department having jurisdiction over an area and includes any other officer not below the rank of a Subordinate Engineer of the Irrigation Department authorised by the Executive Engineer for the purpose of this Act and further includes any other categories of officials or agencies duly notified by the State Government ;
- (g) "margin money" means the money required to be paid by a farmer for obtaining loan from a bank for implementing a scheme framed under this Act ;
- (h) "prescribed" means prescribed by rules framed under this Act ;
- (i) "scheme" means the details of any plan of an irrigation work for using surface water through lift and under-ground water through wells in any agricultural land to promote or increase or assure agricultural produce prepared for the purpose of rendering benefit to a group of farmers ;
- (j) "Superintending Engineer" means the Superintending Engineer of the Irrigation Department ;

(k) "under-ground water" means water available below top soil layers ;

(1) "well" means a well sunk for the search for extraction of under-ground water within any area for irrigation and includes an open well, dug well, bored well, dug-cum-bored well, tube well and filter point.

Formation of
group of farmers
and
request for
preparing a
scheme.

3. (1) Any two or more farmers owning or having a right in any agricultural land in compact area may form a group and apply to the Irrigation Officer in the prescribed manner requesting him to frame a scheme for the purpose of implementation of the provisions of this Act.

(2) On receipt of such application, the Irrigation Officer may enter upon any land proposed to be affected by the scheme and make the necessary enquiry or survey about the feasibility of the scheme and if he is satisfied about the feasibility of the scheme, he shall prepare a draft scheme and forward it to the applicant farmers for suggestions and objections.

(3) After considering such suggestions and objections as may be made by the applicant farmers, the Irrigation Officer may make such modifications in the draft scheme as he may think fit, and the draft scheme, as so modified, should be sent by him to the bank to enable it to consider the feasibility of the scheme, the credit worthiness of the farmers in question and the question whether it is prepared to finance the scheme.

(4) If the bank indicates its willingness to finance the scheme, the Irrigation Officer shall finalise the scheme and send a copy of the finalised scheme to the applicant farmers and also to the bank.

(5) On receipt of the notice from the Bank each farmer shall deposit the margin money with the Bank in the manner prescribed. If any farmer refuses or fails to deposit the margin money within the time prescribed, any one or more of the other farmers of the group concerned may deposit the margin money of the defaulting farmer with the Bank.

(6) Whenever required by the Bank, the farmers will execute mortgage deed or deeds of charge in respect of the lands made chargeable for securing repayment of the loans to be advanced by the Bank to the farmers of the group.

Enforcement
of Scheme
on unwilling
farmers.

4. (1) When it appears to any Irrigation Officer having jurisdiction over the area that framing and implementation of a scheme under this Act for any compact area is not possible owing to the failure of any one or more of the farmers having interest in any portion of such area to join the group, he may, on being satisfied after giving an opportunity to the farmer of being heard, in the manner as may be prescribed, that there is no reasonable ground for the farmer or farmers refusing to join a group and that such joining is necessary and essential in the public interest, direct him to join the group within such time as may be prescribed.

(2) If such farmer fails to join the group, the other farmers of the group formed for the purpose, may deposit the margin money in the manner laid down in sub-section (5) of section 3 and thereafter all the provisions of this Act shall apply to the defaulting farmer concerned.

Implementa-
tion of
scheme.

5. (1) The Irrigation Officer or the group of farmers, as the case may be, shall implement all schemes, framed under this Act in the manner prescribed.

(2) Any scheme, framed and implemented under this Act shall be maintained by the group of farmers in the manner prescribed.

(3) If the Irrigation Officer at any time finds that the group of farmers has not implemented or maintained the scheme or has failed or refused to do so, he may, after giving in writing a notice to the farmers, carry out such implementation and maintenance and the cost incurred for such implementation or maintenance shall be recoverable from farmers as public demand under the Bengal Public Demands Recovery Act, 1913.

Penalty for
obstruction
to the
scheme.

6. Any farmer of a group, refusing to adopt the cropping pattern specified in a scheme or obstructing the construction of field channels or other works necessary for the purposes of distribution of irrigation water to every part of the area as required under the scheme, shall be punishable with imprisonment for a term which may extend to three months or with a fine which may extend to five hundred rupees or with both.

Charge over
crops.

7. Notwithstanding anything in any mortgage deed or loan bond executed by a farmer for obtaining a loan for the purpose of implementing a scheme under this Act the mortgagee Bank shall have a first charge over the crops that may be raised on the land included in the scheme:

Provided that if the Bank financing the investment under the scheme is not financing the farmers for raising crops and such crop loans are given by another financial institution for raising that crops shall have proportionate charge over the crops.

Appeal against order of Irrigation Officer.

8. (1) Any farmer aggrieved by any order passed by an Irrigation Officer under the provisions of this Act may appeal, in the manner prescribed, within fifteen days from the date of receipt of the order, to the Superintending Engineer of the Irrigation Department having jurisdiction over the area in which the agricultural land of the farmer concerned is situated.

(2) The Superintending Engineer, after giving an opportunity to the parties to be heard, may within fifteen days of the date of appeal, confirm or modify the order of the Irrigation Officer or reject the appeal or remand the case for decision of the Irrigation Officer in the light of observations made by the Superintending Engineer.

Application or revision.

9. (1) Any farmer, aggrieved by an order passed by the Superintending Engineer under the provisions of sub-section (2) of Section 8, may apply in the manner prescribed to the State Government within fifteen days of the date of passing of the order for revising the same on the ground of hardship.

(2) The State Government may, within fifteen days of the date of appeal, call for the records of the case and pass orders as may be deemed fit, and such orders shall be final.

Bar of jurisdiction of courts or Tribunals etc.

10. (1) Except as provided in Sections 8 and 9 above, no order passed in exercise of any power conferred by or under this Act shall be called in question in any proceedings before a court or tribunal or any other authority.

(2) No Civil Court shall have jurisdiction in respect of any matter or action which the Irrigation Officer, Superintending Engineer or the State Government is empowered by or under this Act to determine or take 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.

Protection of
actions taken
in good faith.

11. No suit or other legal proceedings shall lie against any person for anything in good faith done or intended to be done in pursuance of any of the provisions of this Act or of any rule or order framed or made thereunder.

Power to
remove obs-
tructions etc.

12. when for the purpose of making any enquiry or survey, whether in the course of framing of a scheme under this Act or otherwise, the Irrigation Officer finds that it is expedient to remove any obstruction or clear any part of the land or any standing crop or cut down trees or jungles from any such land he may ask the farmers to remove such obstructions or crops or jungles and to cut down trees within such time as may be specified in writing by him and if the farmers either refuse or neglect to comply with any such order the Irrigation Officer shall himself arrange removal of the obstructions or crops or jungles and cut down trees, as the case may be, and the costs for such removal or cutting down shall be treated as costs for implementing the scheme and shall be recoverable from the farmers as public demand under Bengal Public Demands Recovery Act, 1913, in such proportion as may be specified in writing by the Irrigation Officer.

Recovery of
expenditure.

13. (1) When any farmer refuses to pay the margin money payable by him or refuses to obtain any loan for implementing a scheme, the Irrigation Officer shall apportion the expenditure incurred in implementing or maintaining the scheme amongst all the farmers of the group and the defaulter's share of such expenditure shall be recoverable from him as a public demand under Bengal Public Demands Recovery Act, 1913, and payments should be made to the other farmers of the Group and their loan accounts with the Bank in appropriate proportions.

(2) Notwithstanding any terms and conditions provided for in the mortgage deed or loan bond executed by a farmer of a group for the implementation of a scheme under this Act, if any farmer of the group defaults in payment of any instalment of the loan, due from him, such instalment of the loan shall be recoverable from him as a public demand under Bengal Public Demands Recovery Act, 1913 :

Provided that the provisions of Bengal Public Demands Recovery Act, 1913 shall not be applied against the defaulting farmers except on application by the Bank concerned to the Collector of the District or such other authority as may be empowered by the State Government in this behalf.

Cognizance
of offence by
court.

14. No court shall take cognizance of any offence punishable under this Act or of abetment of any such offence save on complaint made by an officer authorised by the State Government in this behalf.

Effect of
provisions of
the Act inco-
nsistent with
other laws.

15. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Power to
make rules.

16 (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) the manner in which the application for farming a scheme under sub-section (1) of Section 3 is to be made ;

- (b) the manner in which margin money is to be deposited with the bank and the time for deposit thereof under sub-section (3) of Section 5 ;
- (c) the manner for enforcement of the scheme on unwilling farmers under sub-section (1) of Section 4 ;
- (d) the manner in which the scheme is to be implemented and maintained under sub-sections (1) and (2) of Section 5 ;
- (e) the manner in which appeal is to be made under sub-section (1) of Section 8 ;
- (f) the manner in which the application for revision is to be made under sub-section (1) of Section 9 ;
- (g) and such other matters provisions whereof is necessary to be made in the rules.

(3) Every rule made under this Section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree 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 under that rule.

U. TAHBILDAR,
Secretary to the Govt. of Assam,
Legislative Department.