

The 22nd June 1960

No.LJL.48/59.—The following Act of the Assam Legislative Assembly which received the assent of the President, is hereby published for general information.

Received the assent of the President on the 18th June 1960

ASSAM ACT No.XXIV OF 1960

THE ASSAM SHRAMIK BAHINI ACT, 1959

(As passed by the Assembly)

[Published in the *Assam Gazette*, Extraordinary, dated the 22nd June 1960]

An

Act

to provide for the formation and working of Shramik Bahini.

Preamble,

WHEREAS it is considered necessary to enthuse the spirit of voluntary co-operation and dignity of labour among the people resident in the State of Assam,

AND WHEREAS it is expedient to provide for the formation of voluntary associations of the workers and for their registration, for better and more regular supply of labour for execution of developmental works ;

AND WHEREAS it is expedient to create such circumstances as may enable the people of Assam to earn a good portion of the developmental expenditure incurred by the State of Assam, in the manner hereinafter appearing :

It is hereby enacted in the Tenth Year of the Republic of India as follows :—

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Shramik Bahini Act, 1959.

(2) It shall extend to the whole of the State 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 :—

(1) “Nayak” means the Nayak of the Shramik Bahini under Section 4.

(2) “President” means the President of the Shramik Bahini under Section 4.

(3) “Prescribed” means prescribed by rules made under this Act.

(4) “Chief Engineer” means an Officer holding the post of Chief Engineer, Public Works Department, Assam under both (Roads and Buildings) and (Flood Control and Irrigation Wings) which includes Additional Chief Engineers of both the Wings.

(5) “Regulation” means the regulation made under Section 31 of the Act.

- (6) "Shramik" means a person who is not below the age of 18 years and is a resident of the State of Assam and desirous of putting in his labour in any project, undertaking or contract work to earn his living or to supplement his income.
- (7) "Shramik Bahini" means a voluntary association of Shramiks for the purpose of putting in manual labour in any project, undertaking or work of the State Government, or any other Statutory body or Local Authority.
- (8) "Tender" is a formal offer for service, especially for execution of work or supply of materials, submitted in response to a notice issued by competent authority, containing terms and conditions of service to be rendered.
- (9) "Appropriate authority" in connection with any work on a contract basis with the—
- (a) State Government means the Government of Assam ;
 - (b) Statutory body means the Statutory body ; and
 - (c) Local authority means the Local authority.

CONSTITUTION OF SHRAMIK BAHINI

Mode of
forming
Shramik
Bahini.

3. (1) Any twenty-five, or more Shramiks (in an area) may, by individually signing application in the prescribed form and by otherwise complying with the provisions of this Act in respect of registration associate and form themselves into a Shramik Bahini.

*mode of a
maon sabha*

(2) The application under sub-section (1) shall specify one of the applicants as the convenor of the Shramik Bahini.

Executive
Committee.

4. (1) Immediately after a Shramik Bahini is registered under the provisions of this Act, a meeting of the members of the Shramik Bahini shall be convened by the convenor to elect from amongst its members an Executive Committee. The meeting shall be held at such date, time and place as the convenor may notify in this respect.

(2) The Executive Committee shall consist of not less than five and not more than seven members from whom one shall be elected as the President and the other as the Nayak.

(3) The Executive Committee shall sit at least once in two months.

(4) The term of the office of the President, the Nayak and members of the Executive Committee shall be one year

Annual meet- 5. (1) An annual meeting of the Shramik Bahini
ing of the shall be held in the beginning of every financial
Shramik year for the purpose of:—
Bahini.

- (a) reviewing the activities of the Shramik Bahini during the current year ;
- (b) considering the monetary position of the Shramik Bahini ;
- (c) deciding how incomes are to be distributed in accordance with the provisions of this Act ;
- (d) electing the Executive Committee for the next year ;
- (e) considering the annual accounts of the Shramik Bahini ; and
- (f) considering such other business as may be placed before the meeting in accordance with the regulation.

(2) Ordinary general meeting shall be held as often as found necessary for transacting the business of the Shramik Bahini but must be held at least once in six months.

REGISTRATION OF A SHRAMIK BAHINI

Registering
authority of
the Shramik
Bahini.

Application
for registra-
tion.

6. The Chief Engineer or any officer not below the rank of an Executive Engineer empowered by him in this behalf, shall be the registering authority of the Shramik Bahini.

7. Every application for registration of a Shramik Bahini shall be made to the Chief Engineer or to the officer not below the rank of an Executive Engineer empowered by him in this behalf in a statement containing the following particulars ; namely :—

- (a) the names, occupation and addresses of the Shramik members making the application ;
- (b) the name of the Shramik Bahini and the address of its office which may be situated at the residence of the Nayak or President or any other place considered suitable by the Shramik Bahini.

Registration.

8. The Chief Engineer or the officer not below the rank of an Executive Engineer empowered by him in this behalf on being satisfied that the Shramik Bahini had complied with the requirements of this Act, in regard to registration, shall

register the Shramik Bahini by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Shramik Bahini as contained in the statement submitted for registration.

Evidence of registration.

✓ 9. The Chief Engineer or the officer not below the rank of an Executive Engineer empowered by him in this behalf, on registering a Shramik Bahini under Section 8 shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the Shramik Bahini has been duly registered under this Act.

FUNCTIONS AND DUTIES OF SHRAMIK BAHINI

Functions of Shramik Bahini.

✓ 10. (1) The function of a Shramik Bahini shall be to do any work with their own manual labour on a contract basis with the State Government or any other statutory body or other local authority, provided that the Shramik Bahini may employ any skilled labour as and when it may deem fit and proper.

(2) The appropriate authority may, as and when considered necessary, allot work of any kind the value of which does not exceed Rs.40,000 to a Shramik Bahini for its execution without calling for tender at scheduled rate on receipt of an application from a registered Shramik Bahini.

(3) The Nayak or any other member whom the Executive Committee may select in this behalf, shall on behalf of the Shramik Bahini, enter into contract with the appropriate authority for taking up any work under sub-section (2) and shall sign any document or do such other thing as will be necessary in this respect.

Expenditure.

11. The Shramik Bahini shall bear the expenses necessary for the management of its affairs such as :—

- (a) expenses necessary for registration and for the maintenance of the Shramik Bahini office,
- (b) actual travelling expenses of the members of the Executive Committee when performing their duty under the provisions of this Act, and
- (c) such other incidental expenses as will be necessary for performing any other duties by the Shramik Bahini.

Sharing of
income.

12. (1) The net income of the Shramik Bahini after deducting expenses for the management of the affairs of the Shramik Bahini and payment of skilled labour, if any, shall be divided among the Shramiks, *pro rata*, that is proportionately on the basis of work put in.

(2) The Shramik Bahini may set apart an amount not exceeding 10 per cent. of the total net income, if it so desires, to constitute a Reserve Fund of such Bahini.

RIGHTS AND LIABILITIES OF SHRAMIK MEMBERS

Votes of
Shramik
members.

13. Each Shramik member shall have one vote only as a member in the affairs of the Shramik Bahini.

Address of
the Shramik
Bahini.

14. The Shramik Bahini shall have an address registered under the provisions of this Act to which all notices and communications may be sent, and shall send to the Chief Engineer or any officer empowered by him in this behalf, notice of every change thereof.

Copy of
Act, Regula-
tions to be
opened to in-
spection.

15. The Shramik Bahini shall keep copy of this Act and Regulations governing such Shramik Bahini and its proceedings and accounts open to inspection by any person authorised in this behalf by the appropriate authority free of charge at all reasonable times at the registered address of the Shramik Bahini.

The Shra-
mik Bahini to
be body cor-
porate.

16. The registration of a Shramik Bahini render it a body corporate by the name under which it is registered with perpetual succession and with power to hold property to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purpose of its constitution.

Shares or
interest not
liable to atta-
chment.

17. Subject to the provisions of this Act the interest of a Shramik in the capital funds of a Shramik Bahini shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such a Shramik individually.

18. The Shramik Bahini shall be paid at least 90 per cent of the value of the work executed by it within every fourteen days from the date of commencement of the work.

Transfer of
interest on
death of a
Shramik
member.

19. (1) On the death of a Shramik member the Shramik Bahini may transfer the shares or interest of the deceased Shramik member to the person nominated in accordance with the rules made in this behalf or, if there is no person so nominated, to such person as may appear to the Executive Committee to be the heir, or legal representative of the deceased Shramik member, or pay to such nominee, heir or representative, as the case may be, a sum representing

the value of such Shramik member's share or interest, as ascertained in accordance with the rules or regulations:

Provided that such nominee, heir or legal representative, as the case may be, may require payments by the Shramik Bahini of the value of the shares or interest of the deceased Shramik member ascertained as aforesaid.

(2) The Shramik Bahini may pay all other moneys due to the deceased Shramik member from the Shramik Bahini to such nominee, heir or legal representative, as the case may be.

(3) All transfers and payments made by a Shramik Bahini in accordance with the provisions of this section shall be valid and effectual against any demand made upon the Shramik Bahini by any other person or claimant.

Liability of
past Shramik
member.

20. The liability of a past Shramik member for the debts of a Shramik Bahini as they existed at the time when he ceased to be a Shramik member shall continue for a period of two years from the date of his ceasing to be member.

Register of
Shramik
members.

21. (1) A registered Shramik Bahini shall maintain a register of the members of the Shramik Bahini showing the name of member, date of membership, date of payment of membership fee and the date of ceasing to be a member.

(2) A copy of any entry in a register mentioned in sub-section (1) certified in the manner prescribed shall be admitted as evidence of membership or otherwise.

Proofs of
entries in
Shramik
Bahini's
books.

22. A copy of any entry in a book of a Shramik Bahini regularly kept in the course of management of the affairs of the Shramik Bahini, shall, if certified in such manner as may be prescribed by the rules, be received, in any suit or legal proceedings, as *prima-facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Exemption
from stamp
duty, registra-
tion fee,
etc.

23. The Shramik Bahini shall not be liable to pay any registration fee, or stamp duty or court fee stamp with tender.

INSPECTION OF AFFAIRS

Enquiry of
Chief Engineer.

24. (1) The Chief Engineer or any officer not below the rank of an Executive Engineer empowered by him or any other appropriate authority in this behalf may, of his own motion, or on the application of a majority of the Executive Committee, or of not less than one third of the members, hold an enquiry or direct some person authorised by him by an order in writing in this behalf to hold an enquiry into the constitution, working, financial conditions and accounts of a Shramik Bahini.

(2) The Nayak, the President and the Shramik member of a Shramik Bahini shall furnish such information in regard to the affairs of the Shramik Bahini as the Chief Engineer or the person authorised by him or any other appropriate authority may require.

DISSOLUTION OF THE SHRAMIK BAHINI

Dissolution.

25. (1) If the Chief Engineer after enquiry is of opinion that the Shramik Bahini ought to be dissolved, he may cancel the registration of the Shramik Bahini:

Provided that the Shramik Bahini shall be given an opportunity to show cause why the registration of the Shramik Bahini should not be cancelled.

(2) Notwithstanding anything contained in subsection (1), registration of a Shramik Bahini may be cancelled at the discretion of the Chief Engineer if more than two-third of its total number of members applies in writing for cancellation of the Shramik Bahini.

Effects of
cancellation
of registration.

No jurisdiction
of Civil
Court in
matter of
dissolution
of Shramik
Bahini.

Shramik
Advisory
Committee.

26. Where the registration of a Shramik Bahini is cancelled, the Shramik Bahini shall cease to exist as a body corporate.

27. No civil court shall have any jurisdiction in respect of any matter connected with the dissolution of the Shramik Bahini under this Act.

28. (1) The State Government may, from time to time, constitute at the subdivisional level a Shramik Advisory Committee, consisting of such number of persons as it may think fit in each case and on such terms and conditions as may be prescribed.

(2) A Shramik Bahini may, if it thinks fit, consult the Subdivisional Shramik Advisory Committee on any business coming before it, and shall so do in respect

of such business, as the State Government may, by general or special order in this behalf, specify or when required by the regulations so to do.

Pradesh Shramik Advisory Committee. 29. (1) The State Government may constitute a Pradesh Shramik Advisory Committee at the State level, consisting of such number of persons as it may think fit, and on such terms and conditions as may be prescribed.

(2) The functions of the Pradesh Shramik Advisory Committee shall be—

- (a) to assess the working of the Shramik Bahini ;
- (b) to chalk out plans from time to time in order to organise or re-organise the Shramik Bahini in the best interest of the Shramik Bahini ; and
- (c) to harness the man power more effectively

MISCELLANEOUS

Power of the State Government to frame rules 30.(1) The State Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) All rules made under this section shall be laid not less than fourteen days before the Assam Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Assam Legislative Assembly may make during the session in which they are so laid or the session immediately following.

Power of the Shramik Bahini to frame regulation. 31. Each Shramik Bahini may make regulation for its internal administration consistent with this Act and the rules made thereunder.

Certain Acts not to apply to Shramik Bahini. 32. The following Acts, namely:—

(a) The Societies Regulation Act, 1860,

Act XXV of 1860.

(b) The Assam Co-operative Societies Act, 1949,

Assam Act I of 1950, Act I of 1956.

(c) The Companies Act, 1956,

shall not apply to any Shramik Bahini and the registration of any such Shramik Bahini under any such Acts shall be void.

P. C. DAS,
Dy. Secy. to the Govt. of Assam Law Deptt.