

West Bengal Act II of 1950.

THE WEST BENGAL BARGADARS ACT, 1950.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*, Extraordinary, of the 15th March, 1950.]

An Act to provide for the regulation of certain rights *inter se* of bargadars and owners of land and for the establishment of Bhag Chas Conciliation Boards for the settlement of disputes relating to certain matters between bargadars and owners of land.

WHEREAS it is expedient and necessary to provide for the regulation of certain rights *inter se* of bargadars and owners of land and for the establishment of Bhag Chas Conciliation Boards for the settlement of disputes relating to certain matters between bargadars and owners of land;

It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the West Bengal Bargadars Act, 1950.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on the date on which the West Bengal Bargadars Ordinance, 1949, ceases to operate.

(4) It shall remain in force up to the 31st day of March, 1953.

Short title,
extent,
commence-
ment and
duration.

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

Interpre-
tation.

(a) "Appellate Officer" means an officer appointed under section 11;

(b) "bargadar" means a person who under the system generally known as *adhi*, *barga* or *bhag*, cultivates the land of another person on condition of delivering a share of the produce of such land to that other person but shall not include any such person—

(i) if he has been expressly admitted to be a tenant by the owner in any document executed by him or executed in his favour and accepted by him, or

(ii) if he has been held by a Civil Court to be a tenant;

(c) "Board" means a Bhag Chas Conciliation Board established under sub-section (1) of section 6 and includes an officer authorised under the proviso to sub-section (4) of that section;

(d) "Collector" includes any officer appointed by the State Government to exercise all or any of the powers of a Collector under this Act;

(e) "Court" includes the High Court;

(f) "notification" means a notification published in the *Official Gazette*;

(Rights of bargadars and owners of land inter se.—
Sections 3—5.)

- (g) "owner" in relation to any land cultivated by any person as a *bargadar* means the person whose land the *bargadar* so cultivates;
- (h) "prescribed" means prescribed by rules made under this Act; and
- (i) "produce" includes straw or stalk of any crop.

Rights of bargadars and owners of land inter se.

Division of
produce.

3. The produce of any land cultivated by a *bargadar* shall be apportioned between the *bargadar* and the owner of such land in accordance with the following principles, namely:—

- (1) if the *bargadar* and the owner whose land he cultivates agree in writing to any mode of division, such mode of division shall be adopted;
- (2) if there is no such agreement as aforesaid—
 - (a) the *bargadar* or the owner, as the case may be, who supplies any seed for growing any crop shall be entitled to an amount of the produce equivalent to the quantity of seed supplied;
 - (b) the *bargadar* and the owner shall each be entitled to one-third of the balance of the produce which remains after deducting the amount of the produce referred to in paragraph (a): Provided that the *bargadar* shall receive a greater share of the balance of the produce, if he is entitled to such greater share under a written contract between himself and the owner or under any local custom or usage;
 - (c) the remainder of the produce left after deducting the quantities referred to in paragraphs (a) and (b) shall be divided between the *bargadar* and the owner in such proportion as would be fair and reasonable having regard to their respective contributions to the cost of cultivation including in particular the supply of plough-cattle, plough and other agricultural implements and manure and to the cost of protection or irrigation of the land.

Right to
supply
plough-
cattle, etc.

4. As between a *bargadar* and the owner whose land he cultivates, the *bargadar* shall have the prior right to supply plough-cattle, plough, other agricultural implements or manure or to bear any other expenses of cultivation.

Termina-
tion of
cultivation
by *barga-
dar*.

5. (1) The owner of any land cultivated by a *bargadar* shall be entitled to terminate the cultivation of such land by the *bargadar* on one or more of the following grounds, namely:—

- (a) that the owner desires to cultivate the land by himself or by members of his family or by servants or labourers;

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Section 6.)

- (b) that the *bargadar* has misused the land or has wilfully neglected to cultivate it properly;

Explanation.—If the produce of any land cultivated by a *bargadar* in any year is unduly below the produce in the same year of similar and similarly situated lands in the vicinity, the *bargadar* shall be deemed to have wilfully neglected to cultivate the land properly;

- (c) that the *bargadar* has failed to deliver to the owner within the prescribed period at least that share of the produce to which the owner is entitled under paragraph (b) of clause (2) of section 3; or

- (d) that the *bargadar* has failed to comply with any award or order of a Board or of an Appellate Officer, as the case may be, within the time allowed by the Board or by the Appellate Officer:

Provided that the cultivation of such land by a *bargadar* shall not be terminated on any of the above grounds except under the order of a Board.

(2) Where the cultivation of any land by a *bargadar* is terminated under clause (a) of sub-section (1) and the land is not cultivated by the owner himself or by members of his family or by servants or labourers within one year from the date of such termination or the land having been so cultivated is allowed to be cultivated by another *bargadar* within five years from such date, the *bargadar* first mentioned shall be entitled to be restored to the cultivation of the land by him.

Conciliation proceedings between bargadars and owners.

6. (1) The State Government may, by notification, establish one or more *Bhag Chas* Conciliation Boards for any local area specified in the notification.

Establishment of
Bhag Chas
Conciliation
Boards.

(2) Every Board shall consist of a Chairman who shall be a person in the service of Government and four other members, two of whom shall be representatives of *bargadars* cultivating lands situated in the local area for which the Board has been established and the other two shall be representatives of owners of lands cultivated by such *bargadars*.

(3) The Chairman and other members of the Board shall be appointed by the State Government and each of them shall hold office for such term not exceeding two years as the State Government may specify at the time of his appointment.

(4) The State Government may, at any time, cancel by notification, the appointment of the Chairman or of any other member of a Board or dissolve any Board stating the reasons for such dissolution in the notification:

Provided that when a Board is dissolved and the State Government does not consider the appointment

(Conciliation proceedings between bargadars and owners.—
Sections 7—9.)

of another Board to be necessary or desirable, it may authorise any person in the service of Government to exercise all or any of the powers of the Board, as it thinks fit.

Bhag Chas
Concilia-
tion
Boards to
have
exclusive
jurisdic-
tion to
decide
certain
disputes.

7. (1) Every dispute between a *bargadar* and the owner whose land the *bargadar* cultivates with regard to any of the following matters, namely:—

- (a) the division or delivery of the produce;
- (b) the priority of the right to supply plough-cattle, plough, other agricultural implements or manure or to bear any other expenses of cultivation;
- (c) the termination of or the restoration to cultivation of such land by the *bargadar*;
- (d) the place of thrashing or the place of delivery of the owner's share of the produce,

shall be decided by a Board established for the local area within which such land is situated.

(2) In deciding any dispute referred to in sub-section (1), a Board shall observe the provisions of sections 3, 4 and 5.

Explanation.—Where there is an agreement under clause (1) of section 3, a Board shall consider whether such agreement was made by the free consent of the parties thereto and shall disregard such agreement if it is satisfied that consent to such agreement was caused by coercion, undue influence, fraud, misrepresentation or mistake.

(3) The decision of a Board shall be embodied in the form of an award where the dispute is in respect of the division of the produce and shall in other cases be in the form of an order.

Power of
Board to
cause crop
to be har-
vested and
thrashed.

8. Where a Board established for a local area within which the land which a *bargadar* cultivates is situated, is satisfied that necessary steps may not be taken by the *bargadar* or the owner as the case may be, for harvesting or thrashing any crop in proper time, it may of its own motion or on the application of the aggrieved party cause such crop to be harvested or thrashed at the expense of the defaulting party and may order such expense to be recovered from the defaulting party in such manner as may be prescribed.

Bar of
jurisdic-
tion.

9. (1) No award or order or other proceedings whatsoever of a Board or of an Appellate Officer and no proceedings whatsoever in execution of such award or order shall be questioned in any Court.

(2) No Court shall entertain any suit or any proceedings whatsoever in respect of a matter required under sub-section (1) of section 7 to be decided by a Board referred to in that sub-section.

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(Conciliation proceedings between bargadars and owners.—
Supplemental.—Sections 10—18.)

Act V of
1908.

1 of 1872.

10. (1) A Board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a Civil Court by the Code of Civil Procedure, 1908.

Board's
power to
summon,
etc.

(2) In deciding any matter before it, a Board shall not be bound to observe the provisions of the Indian Evidence Act, 1872.

11. An appeal shall lie within the prescribed period to an Appellate Officer to be appointed by the State Government against any award or order of a Board made under this Act, except where such award or order was made by the Board with the consent of the *bargadar* and the owner.

Appeal.

12. (1) The procedure to be followed by a Board or by an Appellate Officer, shall be as may be prescribed.

Procedure
and
execution.

(2) An award or order made by a Board or by an Appellate Officer, shall be executed by the Collector in such manner as may be prescribed.

Supplemental.

13. Every Chairman or member of a Board and every Appellate Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Chairman,
etc., to be
deemed
to be
public
servants.

14. Any person who fails to comply with an award or order made under this Act shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Penalty.

15. Any money payable under an award or order made under this Act shall be recoverable as an arrear of public demand.

Money
to be
recover-
able as
public
demand.

16. No suit, prosecution or other legal proceedings whatsoever shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act or any rules made thereunder.

Indemnity.

17. (1) Nothing in this Act shall be deemed to create any relationship of landlord and tenant between an owner and a *bargadar* who cultivates his land.

Non-
accrual
of certain
rights.

(2) Nothing in this Act shall be deemed to confer on a *bargadar* any heritable or transferable right to cultivate the land of the owner.

18. The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything to the contrary in any other law, or in any custom, usage, contract or instrument.

Act to
prevail
over other
law, etc.

Act XLV
of 1860.

(Supplemental.—Sections 19, 20.)

Power to
make
rules.

19. (1) The State Government may make rules to carry out the purposes of this Act.

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

- (a) the period within which a *bargadar* shall deliver to the owner the share of the produce to which the owner is entitled under this Act;
- (b) the manner in which expenses shall be recovered under section 8 from the defaulting party;
- (c) the period within which an appeal shall lie under section 11 to an Appellate Officer;
- (d) the procedure to be followed by a Board or an Appellate Officer;
- (e) the manner in which an award or order made by a Board or Appellate Officer shall be executed by the Collector; and
- (f) any other matter required to be prescribed under this Act.

Savings
and
validation.

20. Any rule, order, award or appointment made, any notification issued, any proceedings or prosecution commenced, any punishment incurred or imposed, any action taken or anything done under any provision of the West Bengal *Bargadars* Ordinance, 1949, shall, on the said Ordinance ceasing to operate, be deemed to have been made, issued, commenced, incurred, imposed, taken or done under the corresponding provision of this Act, as if this Act had commenced on the 14th day of November, 1949.

West Ben.
Ord. X
of 1949.