

(C)

GOVERNMENT OF WEST BENGAL

Law Department

Legislative

West Bengal Act XVIII of 1958

THE WEST BENGAL AGRICULTURAL LANDS AND
FISHERIES (ACQUISITION AND RESETTLEMENT)
ACT, 1958.

[*Passed by the West Bengal Legislature.*]

[Assent of the President was first published in the *Calcutta Gazette*,
Extraordinary, of the 23rd September, 1958.]

[23rd September, 1958.]

*An Act to provide for the acquisition of agricultural lands and
fisheries and resettlement of agricultural lands for
certain purposes.*

WHEREAS it is expedient in the public interest to provide
for the protection of agricultural lands, the cultivation or
production whereof is injuriously affected by fisheries and
for that purpose to provide for the acquisition of such lands
and fisheries and for the resettlement of such lands for
agricultural purposes;

It is hereby enacted in the Ninth Year of the Republic
of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Agri-
cultural Lands and Fisheries (Acquisition and Resettlement)
Act, 1958.

Short
title,
extent and
commence-
ment.

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

(3) It shall come into force at once.

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

(1) "Collector" includes any officer not below the rank
of a Subdivisional Magistrate appointed by the
State Government to carry out all or any of the
functions of a Collector under this Act;

(2) "fishery" means any land whereon water is con-
fined naturally or artificially whether periodi-
cally or throughout the year for pisciculture or for
fishing;

[West Ben. Act

(Sections 3—6.)

- (3) "agricultural land" means land ordinarily used for purposes of agriculture or horticulture, and includes such land notwithstanding that it may be lying fallow for the time being;
- (4) "notified area" means any area in respect of which a notification has been issued under section 4;
- (5) "prescribed" means prescribed by rules made under this Act.

Act to
override
other
laws, etc.

3. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any contract express or implied or in any instrument and notwithstanding any usage or custom to the contrary.

Publica-
tion of
prelimi-
nary
notifica-
tion.

4. Whenever it appears to the State Government that the cultivation or production of agricultural lands in any area is affected or is likely to be affected injuriously by the establishment or existence of any fishery in such area or by extension of such fishery by the inclusion of adjoining lands therein or in any other manner, the State Government may, by notification in the *Official Gazette*, declare its intention to acquire such fishery and all lands within the area and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the notified area in such manner as may be prescribed.

Hearing of
objec-
tions.

5. (1) Any person interested in any fishery or land within the notified area may, within thirty days from the date of issue of the notification under section 4, file an application before the Collector objecting to the acquisition of such fishery or land.

(2) The Collector shall, after giving all objectors opportunity of being heard and making such inquiry, if any, as he thinks necessary, submit to the State Government a report containing his recommendations together with the record of the proceedings held by him.

Acquisi-
tion and
delivery
of posses-
sion.

6. (1) If, on a consideration of the report of the Collector and of the record of proceedings held by him, the State Government is satisfied that the cultivation or production of agricultural lands in the notified area is affected or is likely to be affected injuriously by the establishment or existence of any fishery in such area or by extension of such fishery by the inclusion of adjoining lands therein or in any other manner and that it is necessary so to do for the purpose of protecting the lands, the State Government may, by order published in the *Official Gazette*, acquire the fishery and the lands in the notified area or such part thereof as it thinks fit.

XVIII of 1953.]

(Section 7.)

(2) On and from the beginning of the day on which the order is so published, the fishery and the lands mentioned therein shall vest absolutely in the State free from all incumbrances and the Collector shall take possession of such fishery and lands and shall, for that purpose, cause an order to be served on the persons in possession of such fishery and lands requiring them to deliver possession thereof to him by such date as may be specified in the order.

(3) If any person fails or refuses to comply with the order under sub-section (2), the Collector may take or cause to be taken such steps and use or cause to be used such force as he thinks necessary to enforce the delivery of possession to him of the fishery and the lands in respect of which the order was made.

(4) If any person contravenes any order made under this Act he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(5) On taking delivery of possession of the fishery and the lands acquired, the Collector shall, in such manner as may be prescribed, cause public notice to be given at convenient places on or near the fishery and the lands acquired stating that the State Government has acquired the fishery and the lands and inviting claims to compensation from persons interested.

7. (1) Whenever any fishery and lands are acquired under section 6 there shall be paid in the manner prescribed to every person interested, compensation, the amount of which shall be determined by the Collector in the manner and in accordance with the principles hereinafter set out: Compensation.

Provided that where any such fishery or land is resettled under section 11 with any person, the compensation, if any, payable for it to such person shall be set off against the consideration which may be otherwise payable by such person for such resettlement.

(2) Compensation payable under sub-section (1) shall be determined by the Collector according to the following principles:—

(a) for agricultural or other lands—

(i) for the first five hundred rupees of .. ten times such income;
the net average annual income

(ii) for the next five hundred rupees of .. eight times such income;
the net average annual income

(iii) for the next five hundred rupees of .. four times such income;
the net average annual income

(iv) for the balance of the net average .. two times such income;
annual income

(Sections 8—11.)

(b) for a fishery—

- (i) for the first five thousand rupees of .. three times such income;
the net average annual income
- (ii) for the balance of the net average .. two times such income.
annual income

Explanation.—Net average annual income shall mean—

- (a) in the case of agricultural land, one-third of the average value of the produce derived or derivable from such land during a period of five years immediately preceding the date of vesting;
- (b) in the case of other land, the average income, less two per cent. of such income, derived or derivable therefrom during a period of five years immediately preceding the date of vesting; and
- (c) in the case of a fishery, one-third of the average income from the fishery during a period of five years immediately preceding the date of vesting.

Apportionment of compensation.

8. Where there are several persons interested in any fishery or land, the Collector shall apportion the compensation determined under section 7 among such persons in accordance with the nature and extent of interest held by each such person.

Award.

9. After determination and apportionment of compensation for any fishery or land acquired under this Act, the Collector shall make an award and notify the award in such manner as may be prescribed.

Appeal.

10. (1) Any person aggrieved by an award of the Collector under section 9 may, within thirty days from the date of receipt of notice of the award, appeal—

- (a) if the award is made by any officer other than the Collector of the district, to the Collector of the district, and
- (b) if the award is made by the Collector of the district, to the Commissioner of the Division.

(2) No appeal shall lie against an appellate order passed by the Collector of the district or the Commissioner of the Division.

Disposal of fishery and lands after acquisition.

11. On acquisition of the fishery and lands under this Act the State Government may take such action as it may think fit for the reclamation or protection of lands affected or likely to be affected by the fishery and may thereafter resettle the lands for cultivation on payment of such consideration as may be determined by the State Government

XVIII of 1958.]

Sections 12—16.)

so, however, that such consideration shall not exceed the compensation payable for such land under section 7:

Provided that any such land as was previously cultivated and is fit for cultivation shall be resettled with the person who last cultivated it, or, if such person is not agreeable to take resettlement of the land or cannot be traced, with any other person, on the terms and conditions on which the same was previously held by the person who last cultivated it.

12. The State Government may deal with the fishery and any land remaining after resettlement referred to in section 11 in such manner as may be prescribed.

Disposal
of
surplus
lands.

13. The Collector or the Commissioner may, for the purpose of carrying out any of his functions under this Act, exercise such powers as are vested in a Civil Court in respect of—

Powers of
Court.

- (a) the summoning and enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents;
- (c) issuing commissions for the examination of witnesses; and
- (d) inspecting any property or thing concerning which any question may arise.

14. The State Government may, by notification in the *Official Gazette*, delegate any of its powers under this Act, except the power to make rules under section 16, to the Board of Revenue, subject to such reservations, if any, as may be specified in the notification.

Delega-
tion of
powers of
the State
Govern-
ment.

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

Indemnity.

16. (1) The State Government may make rules for carrying out the purposes of this Act.

Power to
make
rules.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for—

- (a) the fees, if any, payable for petitions of appeal under section 10 and the procedure to be followed in such appeal,
- (b) all or any of the matters which, under any provision of this Act, may be or are required to be prescribed or provided for by rules.