

BENGAL REGULATION 2 OF 1793

(THE BENGAL LAND-REVENUE REGULATION, 1793)

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BENGAL REGULATION 2 OF 1793

(THE BENGAL LAND-REVENUE REGULATION, 1793) [1]

[1st May, 1793.]

A Regulation for abolishing the Courts of Mal Adalat or Revenue Courts and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewani Adalat; and prescribing Rules for the conduct of the Board of Revenue [2] and the Collectors.

1. In * * * * [3] Bengal the greater part of the materials required for the numerous and valuable manufactures, and most of the other principal articles of export, are the produce of the lands: it follows that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture.

Preamble

But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these [States] 4.

The Hindus, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence; and the generality of such of the lower orders of the Natives as are not of that persuasion are, from habit or necessity, in a similar predicament.

The extensive failure or destruction of the crops that occasionally arises from drought or inundation is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and the manufacturers from whose labours the country derives both its subsistence and wealth.

Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue subject to these calamities until the proprietors and cultivators of the lands shall have the means of

[1] SHORT TITLE.—This short title was given by the Amending Act 1897 (V of 1897), since repealed.

LOCAL EXTENT.—This Regulation has been declared, by notification under the Scheduled Districts Act, 1874, (XIV of 1874) section 3, to be in force in the District of Sylhet—see Notification No. 713-L., dated the 27th September 1937.

PARTIAL REPEAL.—So much of this Regulation as requires the appointment of dewans in the different districts, or defines the duties of the dewans, or relates in any other manner, directly or indirectly, to those offices, was repealed by Bengal Regulation XV of 1813. Specific references in the Regulation to dewans were repealed by the Repealing Act, 1874 (XVI of 1874), and have been omitted—see footnotes, *post*.

[2] In Assam, the Chief Commissioner (Now, the State Government)—see the 'Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), section 3, and Schedule D, Part II, *post* as adapted by A. O., 1950.

3. The words "the British territories" is omitted by A. O., 1950.

4. Substituted for 'Provinces' by A. O., 1950.

increasing the number of the reservoirs, embankments and other artificial works, by which, to a great degree, the untimely cessation of the periodical rains may be provided against, and the lands protected from inundation; and as a necessary consequence the stock of grain in the country at large shall always be sufficient to supply those occasional, but less extensive, deficiencies in the annual produce which may be expected to occur notwithstanding the adoption of the above precautions to obviate them.

To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the [Government]¹ has been directed in its arrangements for the internal government of these [States].²

As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed forever.

These measures have at once rendered in the interest of the proprietors to improve their estates, and given them the means of raising the funds necessary for that purpose.

The property in the soil was never before or formally declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess or raise money upon the credit of their tenures, without the previous sanction of Government.

With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government.

The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the raiyats or tenants for each Bigha of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public and the remainder the share of the landholder.

Refusal to pay the sum required of him was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of Government, and the above-mentioned share of the landholder, or such sum as special custom, or the orders of Government, might have fixed was paid to him by the farmer or from the public treasury.

When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and moneyed man had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious.

The same causes, therefore, which prevented the improvement of land depreciated its value.

Further measures, however, are essential to the attainment of the important object above stated.

1. Substituted for "British Administration" by A. O., 1950.

2. "Provinces" by A. O., 1950.

All questions between Government and the landholders respecting assessment and collection of the public revenue and disputed claims between the latter and their raiyats or other persons concerned in the collection of their rents, have hitherto been cognizable in the Courts of Mal Adalat or Revenue Courts.

The Collectors of the Revenue preside in these Courts as judges and an appeal lies from their decision to the Board of Revenue, and from the decrees of that Board to the Governor General in Council in the Department of Revenue.

The proprietors can never consider the privileges which have been conferred upon them as secure, whilst the Revenue-officers are vested with these judicial powers.

Exclusive of the objections arising to these courts from their irregular summary, and often ex parte proceedings, and from the Collectors being obliged to suspend the exercise of their judicial functions, whenever they interfere with their financial duties, it is obvious that, if the regulations for assessing and collecting the public revenue are infringed, the Revenue-officers themselves must be the aggressors, and that individuals who have been wronged by them in one capacity can never hope to obtain redress from them in another.

Their financial occupations equally disqualify them for administering the laws between the proprietors of land and their tenants.

Other security, therefore, must be given to landed property and to the rights attached to it before the desired improvements in agriculture can be expected to be effected.

Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the landholders.

The Revenue-officers must be deprived of their judicial powers.*

All financial claims of the public, when disputed under the Regulations, must be subjected to the cognizance of Courts of Judicature, superintended by Judges who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenants.

The Collectors of the revenue must not only be divested of the power of deciding upon their own acts, but rendered amenable for them to the Courts of Judicature, and collect the public dues subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it.

No power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed or the value of landed property effected.

* As to the general powers of Revenue-officers, see the Assam Land and Revenue Regulation, 1886 (I of 1886), Chapter VII, sec.

Land must, in consequence become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture which are as essential to their own welfare as to the prosperity of the State.

The following rules, being the rules passed for the guidance of the collectors and the Board of Revenue, on the 8th June, 1787, and the 25th April, 1788, with alterations adapted to the principles above stated, have been accordingly enacted.

2. [Abolition of Courts of Mal Adalat.] Rep, by the Repealing Act, 1873. (12 of 1873).
- Collectors of Revenue. 3. The collection of the revenue payable to Government from the estates in each zila is to be committed, as heretofore, to a civil covenanted servant of the company, who is to be styled Collector of the Revenue [1] of the zila to which he may be appointed * * * [2]
- Collectors subject to Board of Revenue. 4. The Collectors [1] are to correspond with Board of Revenue [3] and to conform to all instructions with which they have been furnished by that Board, and that are or may not be altered or revoked by this or any other Regulation * * * * [4], and also to all instructions which the Board of Revenue [3] may hereafter transmit to them.
- Seals of Collectors. 5. The Collectors [1] of the several zilas are to use a circular seal one inch and a half in diameter.
The seals of the Collectors [1] in Bengal and Orissa are to bear an inscription to the following effect, in the Bengali * 5 Characters and language 7, and the seals of the collectors in Bihar a similar inscription, in the * * * * * 6 Hindustani language and Nagri character.
“The seal of the Collector [1] of the zila of”
- Collectors to keep diary. 6. The Collectors [1] are to keep a regular diary of their official transactions, either in the English, * * * 8 or Bengali language, recording and attesting them with their official signature at the time they may take place.
- Duties of Collectors. 7. The duties prescribed in the following section are to be performed by the Collectors [1] under the superintendence of the Board of Revenue [3].
- Nature of duties. 8. First.—To collect the amount of the fixed revenue assessed upon the lands of the zamindars, independent talukdars or other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded.

[1] In Assam, the Deputy Commissioner. As to the exercise of function^s of Deputy Commissioners, see the Assam Land and Revenue Regulation, 1886 (I of 1886), Chapter VII, *post*.

[2] The second sentence of S. 3, as to oaths, which was repealed by the Repealing Act, 1873 (XII of 1873), is omitted.

[3] In Assam, the Chief Commissioner (Now, the State Government) —see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s.3 and Sch. D. Pt. III, *post*, as amended by the A. O. 1950.

[4] The words and figures “published in the manner directed in Regulation (XLI, 1793, ”) which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

5. The words ‘and persian’ omitted by A. O. 1950.

6. The words ‘Persian Characters and language and the’ omitted by the A. O., 1950.

7. Substituted for ‘languages’ by A. O., 1950.

8. The word ‘Persian’ omitted by A. O., 1950.

Fifteenth.—To conform to all special orders that have been or may be issued to them by the Board of Revenue, [1] or by public officers empowered to issue such orders.

Officers to obey orders of Collector.

9. * * [2] all * * [3] officers under the Collector [4] are to act agreeably to his orders and such rules as he may prescribe.

Collectors not to employ private servants in public matters.

10. The Collectors [4] are prohibited from employing directly or indirectly, their private servants, whether banyas or others, in the discharge of any part of their public duties, it being required that, in all matters relating to the trust committed to them, they act as the only empowered agents of Government.

This prohibition, however, is not meant to restrict them from occasionally employing their assistants * * [5] or their inferior public servants in the cases and in the manner in which they are authorised to make use of their agency.

11. [Appointment and removal of Native cash-keepers.] Rep. by the A. O. 1937.

12. [Form to be observed in issuing public money.] Rep. by Act 25 of 1854.

13. [Appointment and removal of Native servants.] Rep. by the A. O. 1937.

In absence of Collector, senior Assistant to officiate.

14. In the event of the death or removal of a collector [4], or of his absence from his station, the senior Assistant on the spot is to perform the duties of Collector * * [6] and the public officers of the Collectorship are accordingly to obey his orders.

Collectors and their officers prohibited being concerned extraofficially in revenues.

15. No Collector, [4] Assistant * * [7] to a Collector, or any person [8] in the employ of a Collector or of an Assistant, shall hold, directly or indirectly, any farm, or be concerned on their private account in the collection or payment of the revenue of any lands in the zila, either as farmer, surety or otherwise; and * * [9] officers and private servants and dependents of Collectors and Assistants are prohibited from purchasing, directly or

[1] In Assam, the Chief Commissioner (Now the State Government) —see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), as adopted by the A. O., 1950.

[2] The words "The dewan and," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[3] The word "Native" omitted by A. O., 1950.

[4] In Assam, Deputy Commissioner. As to the exercise of functions of Deputy Commissioner, see the Assam Land and Revenue Regulation, 1886 (I of 1886), Chap. VII, *post*.

[5] The words "They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months' salary, or of being dismissed from their offices by the Collector, the Board of Revenue or the Governor General in Council, and also of being sued in the Court of judicature for damages by any person who may consider himself aggrieved by such unauthorised act," rep. by the A. O., 1937.

[6] The words "and the dewans," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[7] The words "or dewan," which were repealed by the same Act, are omitted.

[8] The word "person" substituted for the word "Native" by A. O., 1950.

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indirectly, any land that the Collector [1] may dispose of at public sale, under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the State Government [2] of the property having been so purchased,

16. The rules in the preceding section, however, are not to be considered to prohibit * * [3] an officer [4] of a Collector [1], or any private servant of a Collector [1] or of an Assistant, from purchasing *bona fide* the proprietary right in lands situated in the zila, by private sale. *Bona fide purchases of land at private sale by Collector's officers, etc.*

17. [Prohibition against giving land to Europeans.] *Rep. by the Repealing Act, 1868 (3 of 1868).*

18. [Collectors and their Assistants prohibited from trading.] *Rep. by A. O. 1937.*

19. [Dewans prohibited from lending money to proprietors of land.] *Rep. by the Repealing Act, 1873 (12 of 1873).*

20 The Collectors [1] are to be careful that the accounts and records of their respective zilas are kept complete and duly preserved. *Collectors to keep records.*

21-22. [Rules for rendering zilas compact, and prohibition against employing sepoys in collection of revenue.] *Rep. by the Repealing Act, 1874 (16 of 1874).*

23. [Restriction on advances of *takkawi*.] *Rep. by the Land Improvement Act, 1871 (26 of 1871).*

24. The Collectors [1] are prohibited deputing any person into the zila of any other Collector, or exercising any authority beyond the limits of their respective zilas, excepting in cases in which they may be authorised so to do * * * [5] by special orders from a competent authority. *Collectors not to exercise authority beyond limits of their zilas without orders.*

25. The Collectors [1] are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may be received * * * [6].

The keepers of the * * [7] records are to keep a register of these receipts regularly numbered. *Rule with regard to receipts.*

After having registered the receipts they are to attest on the face of them the date on which they may be registered.

A copy of this register is to be transmitted monthly to the Board of Revenue, or as often as that Board [8] may require.

[1] In Assam, the Deputy Commissioner. As to the exercise of functions of Deputy Commissioners, see the Assam Land and Revenue Regulations, 1886 (1 of 1886), Chap. VII, *post*.

[2] Substituted by the A. O., 1937 and A. O. 1959 for "Governor General in Council" to read as "State Government."

[3] The words "dewan or other," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[4] Substituted for "a Native Officer" by A. O., 1950.

[5] The words and figures "by a Regulation published in the manner directed in Regulation XLI, 1793, or" which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[6] The words "and the species of rupees in which each payment may be made" which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[7] The word "Native" omitted by A. O., 1950.

[8] In Assam the Chief Commissioner (Now the State Governments) — see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s. 3, and Sch. D., Pt. III, *post* as adapted by the A. O., 1950.

A similar register of receipts is to be kept by all tahsildars, sazawals or other * * [4] officers entrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the Collector [1] monthly or as often as he may require.

Register of receipts for salaries, etc.

26. The monthly or other receipts, for salaries, pensions, or allowances of whatever kind, which may be paid by the Collectors, [1] are to be deposited amongst the public records of their respective zilas, and a register of them is to be kept by the keepers of the * * [4] records * * * * [2].

27. [Collectors resigning or removed not to quit station without sanction.] *Rep. by the Repealing Act, 1874 (16 of 1874).*

28, 29. [Collectors to be subordinate to a Board of Revenue: its constitution.] *Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).*

30-32. [Power of Board over officers under them, and rules regarding deputation.] *Rep. by the Repealing Act, 1874. (16 of 1874)*

In what cases Board may require personal attendance.

33. The Board of Revenue [3] are empowered to require the personal attendance of any proprietor or farmer of land or any dependent talukdar, under farmer or raiyat, or any * * [4] officer employed under a Collector [1] for the purpose of adjusting any settlement, or examining any accounts, or inquiring into any matter coming within their cognizance, provided the personal attendance of the party shall appear to them indispensably necessary.

In such cases the Board [3] are to direct the Collector [1] to serve such person with a written notice under his official seal and signature, specifying the business on account of which his attendance is judged necessary, and requiring him to attend the Board by such period as they may limit, under pain of being subject to such daily fine until he attends, or shows satisfactory cause for his non-attendance, as the Board may think proper to impose.

The Board [3] are empowered to fine such persons neglecting to appear by the time required, in such amount as may appear to them proper upon a consideration of the case and the situation and circumstances in life of the party, and the amount of the fine shall be levied by the Collector, [1] by the process prescribed for the recovery of arrears of revenue.

But the Board of Revenue [3] are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a vakil.

[1] In Assam, the Deputy Commissioner. As to the exercise of function of Deputy Commissioners, see the Assam Land and Revenue Regulation 1886 (I of 1886), Chap. VII, *post*.

[2] The words "A copy of the register is to be transmitted annually to the Board of Revenue," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[3] In Assam the Chief Commissioner (Now the State Government—the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912)) adapted by the A. O., 1950.

[4] The word "Native" omitted by A. O., 1950.

34, 35. [Execution of Board's orders, and powers of Members.]
Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).

36. The Board of Revenue [1] are empowered to issue orders to their subordinate officers for making the settlement of lands that are or may be khas in conformity to the Regulations, and any special instructions which may be prescribed to them by the [2] [State Government].

Powers of Board as to settlement of lands held khas.

37. In all cases of a settlement being made with or on behalf of zamindars, independent talukdars or other actual proprietors of land, their lands are to be deemed sufficient security for the payment of the revenue.

Security for payment of revenue.

But, where lands are let in farm, a malzamin, or surety for the punctual discharge of the revenue, is to be invariably required.

38. No remissions upon the settlement of a preceding year, nor any remissions whatsoever, are to be granted by the Board without the sanction of the [2] [State Government].

Remissions.

39. It is to be observed as a general principle that the settlement of lands that are or may be khas is to be made by the Collectors [3] under the regulations and the instructions of the Board of Revenue [1].

Settlements to be made by Collectors.

But if the Board should deem a special deputation of one of their members, or of any other person, necessary to form the settlement of any such lands, they are to propose the measure to the [2] [State Government] with their reasons for recommending it.

40. Upon a settlement being concluded with any proprietor or farmer, conformably to the regulations, the Board of Revenue [1] are to issue the usual bandobasti parwana to the proprietor or farmer, without applying to the [2] [State Government] for [4] [its] sanction for that purpose.

Procedure on settlement being concluded.

[1] In Assam, the Chief Commissioner (Now the State Government)—See the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s.3, and Sch. D, Pt. III, *post*, as adapted by the A.O., 1950.

[2] The words "Governor General in Council" in ss. 36, 38 and 39 are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (I of 1903), since repeated. The words "Local Government" was adapted as "Provincial Government" by the A.O., 1937. The word "Provincial" has again been substituted by "State" by A.O., 1950.

[3] In Assam, the Deputy Commissioner. As to the exercise of functions of Deputy Commissioners, see the Assam Land and Revenue Regulation, 1886 (I of 1886), Chapter VII, *post*.

[4] Substituted for "his" by the A.O., 1937.

Collection
of revenue.

41. The collection of the revenue is committed to the Collectors [4] ; but the Board of Revenue [2] are to see that the revenues are realized by the stipulated periods, or that solid and satisfactory reasons are assigned by the Collectors [1] for any delay or deficiency.

The power of coercion over the proprietors and farmers of land is also vested in the Collectors, [1] as prescribed in Regulation 14, 1793. [3]

Temporary
suspensions.

42. The Board [2] are authorized to grant temporary suspensions of the demands of revenue whenever it may appear to them indispensably necessary, reporting the sum suspended, without delay to the [4] [State Government] with their reasons for the measure. But they are not to grant any suspensions beyond the current year.

Remissions
of balances.

43. No remissions of balances are to be granted without the special authority of the [4] [State Government].

44. [Accounts to be furnished to Governor General] Rep. by the Land Improvement Act, 1871 (26 of 1871).

Duty of
Board to
furnish ac-
counts, etc.

45. The Board of Revenue [2] are to furnish the [4] [State Government] with such annual, monthly or other accounts as they now are or may be required to submit to [5] [it].

They are likewise to observe all special orders which they have received or may receive from the [4] [State Government].

46, 47. [Prohibitions to be observed by Board, and acknowledgment for places restored to foreign powers. Rep. by the Repealing Act, 1874 (16 of 1874).

48. [Separate accounts of expenses for reducing rebellious zamindars and others.] Rep. by the Repealing Act, 1873 (12 of 1873).

49.—70. [Rules for conducting the business of Board, and powers of President.] Rep. by the Bengal Board of Revenue Regulation, 1822 (3 of 1822).

[1] In Assam, the Deputy Commissioner. As to the exercise of functions of Deputy Commissioners see the Assam Land and Revenue Regulation, 1886 (I of 1886), Chapter VII, *post*.

[2] In Assam, the Chief Commissioner (Now the State Government)—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s. 3, and Sch. D, Pt. III, *post*, as adapted by the A.O., 1950.

[3] Ben. Reg. XIV of 1793 was repealed by the Repealing Act, 1874 (XVI of 1874), but this reference is saved by the proviso to that Act.

[4] The words "Governor General in Council" in ss. 40, 42, 43 and 45 are to be read as if the words "Local Government" were substituted therefor—see the Amending Act, 1903 (I of 1903), since repealed. The words "Local Government" was adapted as "Provincial Government" by A.O., 1937. The word "Provincial" has again been substituted by the word "State" by A.O., 1950.

[5] Substituted by the A.O., 1937 for "him".