

Rajasthan Public Demands Recovery Act, 1952

(Act No. 5 of 1952)

[Received the assent of the President on the 25th day of January, 1952.]

An

Act

to consolidate and amend the law relating to the recovery of public demands in [the State of Rajasthan]

Whereas it is expedient to consolidate and amend the law relating to the recovery of public demands in¹ [the State of Rajasthan],

It is hereby enacted as follows:-

Part-I

Preliminary

1. ²[Short title, extent and commencement. - (1) This Act may be called the Rajasthan Public Demands Recovery Act, 1952.

(2) ³[It extends to the whole of the State of Rajasthan],

(3) It shall come into force on such [date] ⁴as the State Government may by notification in the [Official Gazette] appoint.]

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

(1) "certificate" means a certificate filed under this Act:

⁵[(2) "defaulter" means a person named in a certificate to be the person from whom any public demand is due, whether such demand is due from him personally or as a legal representative of any other person and includes a person-

(i) whose name is subsequently substituted or added as such; and

(ii) who is responsible as surety for the payment of any such demand.]

(3) ⁶[x x x]

(4) "prescribed" means prescribed by rules made under this Act: and

(5) "public, demand" means any arrear of money mentioned or referred to in the Schedule to this Act and includes any interest which may by law be chargeable

¹ Substituted by section no 4 of rajasthan Act no. 27 of 1957.Raj. Gazatte-1-09-1957.

² Substituted by section no 2 of Rajasthan Act no. 22 of 1952. Raj. Gazatte-12-07-1952

³ Substituted by item no. 17 of the schedule of Rajasthan Act. No.27 of 1957.Raj. Gazatte.-1-09-0957.

⁴ Came into force with effect from 15-06-1952 vide Notification no. F. 12(52) A. Rcv.I-B /52,dated 14-06-0952.

⁵ Substituted by section no 2 of Rajasthan Act 25 of 1956. Raj. Gazatte-26-07-1956

⁶ Omitted vide item no. 27 of the schedule of Rajasthan Act. No.27 of 1957.Raj. Gazatte.-1-09-0957.

thereon upto the date of the signing of a certificate in respect thereof under section 4.

[(6) "Public undertaking" means a Government company in which not less than fifty per cent of the paid-up share capital is held by the State of Rajasthan and also includes such other institution in which Government has financial interest, as may be specifically, notified in the Official Gazette by the State Government.]

Part-II

Filling Service and Effect of Certificates and Hearing of Objections thereto

3. Requisition for recovery - (i) When any public demand is due, the officer or authority charged with its realization may send to the Collector having jurisdiction in the place where the defaulter resides or owns property a written requisition in the prescribed form.

(ii) Every such requisition shall be signed and verified in the prescribed manner.

4. Filling of certificates. - (i) On receipt of any such requisition as is referred to in section 3, the Collector if he is satisfied that the demand is recoverable under this Act and that its recovery by suit is not barred by any law for the time being in force, may sign a certificate to that effect in the prescribed form specifying, therein the amount of the demand the account on which it is due the name of the defaulter and such other particulars as may be necessary for his identification and shall cause the certificate to be filed in his office.

(ii) Where the Collector is himself the officer charged with the realization of a public demand, he shall cause a like certificate to be signed and filed in his office.

5. Transmission of Certificates - (i) A Collector in whose office a certificate shall have been filed under section 4 may transmit a copy thereof to any other Collector within whose jurisdiction the defaulter resides or owns property.

(ii) Upon receipt of such copy, such other Collector shall proceed as if the certificate were originally filed in his office.

6. Service of notice and copy of certificate. - When a certificate has been filed under section 4 or transmitted under section 5 the Collector in whose office it has been so filed or to whose office it has been so transmitted shall cause to be served upon the defaulter in the prescribed manner a notice in the prescribed form along with a copy of the certificate:

Provided that, where the Collector in whose office the certificate has been filed under section 4 has served a notice under this section, it shall not be necessary for the Collector to whose office it may be transmitted under section 5 to serve a like notice again.

7. Effect of service of notice. - From and after the service upon a defaulter to the notice of a certificate under section 6-

(a) any private transfer or delivery of any immovable property of the defaulter situated within the local limits of [the jurisdiction of] the Collector issuing the notice or of any interest in any such property shall be void against any claim enforceable in execution of the certificate, and

(b) the amount due from time to time in respect of the certificate shall be a charge upon the immovable property of the defaulter, wherever situated, to which every other charge created subsequently to the service of the said notice shall be postponed.

8. Petition denying liability. - (1) The defaulter may, within thirty days from the service of the notice under section 6, or where the notice has not been duly served, within thirty days from the execution of any process for enforcing the certificate, present to the Collector issuing [the notice] a petition in the prescribed form signed and verified in the prescribed manner denying his liability in the whole or in part [on the ground that the demands is not recoverable under this Act or that its recovery by suit is barred by any law for the time being in force.]

[(2) A Collector to whom, a petition has been presented under sub-section (1) shall [x x x] where the certificate has been transmitted to such Collector under section 5, [x x x] forward the petition [to] the Collector in whose office the certificate has been originally filed.]

[(3) The Collector in whose office the certificate was originally filed shall hear and determine the petition and may set aside, modify or vary the certificate, if necessary in accordance with his decision.]

(4) All proceedings under the certificate shall be stayed pending the determination of a petition presented under this section.

9. [Omitted]

Part-III Execution of Certificates

10. Who may execute certificate. - A certificate may be executed by -

(a) the Collector in whose office it is originally filed under section 4,
or

(b) the Collector to whom a copy of the certificate is transmitted under section 5.

11. Execution of certificate by subordinate officers. - A Collector in whose office a certificate is filed under section 4 or to whom a copy of the certificate is transmitted under section 5 may send it for execution to any Assistant Collector or Tehsildar subordinate to him, within whose jurisdiction the defaulter resides or owns property:

Provided that no action under this section shall be taken until after the expiry of thirty days since the service of notice under section 6 or when a petition has been presented under section 8 until after its final determination.

12. When certificate may be executed. - No step in execution of a certificate shall be taken until the period of thirty days has elapsed since the date of the service of the notice under section 6, or, when a petition has been presented under section 8, until such petition has been heard and determined:

Provided that, if the Collector is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment for the recovery of an arrear of land revenue and that the realization of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, an attachment of the whole or any part of such property.

13. Modes of execution. - Subject to the other provisions of this Act, the amount due under a certificate may be recovered in one or more of the modes [specified in section 228 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956)] and the provisions of [that act] shall apply as if such amount were an area of land revenue due from the defaulter.

[13A. Power to grant installments. - The Collector referred to in section 10 may, for any sufficient reason, order that payment of the amount due under a certificate shall be made by such number of installments and on such terms as to payment of interest, the attachment of the property of the defaulter, the taking of security from him, or otherwise, as he thinks fit:

Provided that the installments granted shall not be spread over a period exceeding three years.]

Part-IV

Supplemental Provisions

14. Interest, costs and charges recoverable. - There shall be recoverable in the proceedings in execution of every certificate,-

[(a) interest upon the amount of public demand, as stated in the certificate, from the date of signing of the certificate up to the date of realization-

(i) at the rate of six and a quarter per cent per annum in the case of certificates signed before the commencement of the Rajasthan Public Demands Recovery (Amendment) Act 1976, and

(ii) at the rate of thirteen per cent per annum in the case of certificates signed after such commencement.]

(b) such costs as may be directed to be paid in any proceeding under this Act, and

(c) all charges incurred in respect of-

(i) the service of notice under section 6 and of warrants and other processes, and

(ii) all other proceedings taken for realizing the demand.

15. Payment under protest. - After a notice under section 6 has been served or at any subsequent stage, a defaulter may pay under protest the amount due under a certificate to the officer executing it. Such protest shall be in writing signed by the defaulter or his duly authorized agent and shall be made at the time of payment and thereupon all further proceedings in execution of the certificates shall be stayed.

16. Disposal by Collector. - If any amount has been paid under protest under section 15 and the protest is in order, such amount along with the protest shall be forwarded to the officer or authority charged with the realization of the public demand:

Provided that, where such protest is made on any of the grounds specified in section 9, the Collector to whom the payment has been so made shall keep the amount thereof in his custody till the expiry of the period within which a suit may be brought under section 20, or if a suit has in the meantime been brought until the same has been finally disposed of.

17. Persons under disability. - Where the officer executing a certificate is satisfied that the defaulter is a minor or of unsound mind he shall in any of proceeding under this Act, permit him to be represented by any suitable person.

18. Continuance of certificate. - No certificate shall cease to be in force by reason of the death of the defaulter.

19. Procedure on death of defaulter. - Where a defaulter dies before the amount due under the certificate has been fully satisfied, the officer executing it may after serving upon the legal representative of the deceased a notice in the prescribed form [proceed subject to the provisions of section 19-A to execute the certificate] against such legal representative and the provisions of this Act shall apply as if such legal representative were the defaulter and as if such notice were a notice under section 6.

[19A. Liability of legal representative. - Where the certificate is executed against the legal representative, whether the name of such representative was originally mentioned in the certificate, or was substituted under section 19, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of and for the purpose of ascertaining such liability, the officer executing the certificate may compel such legal representative to produce such accounts as such officer thinks fit.]

Part-V

Suits

20. Suits for cancellation or modifications of certificates. - (1) A defaulter may bring a suit to have a certificate canceled or modified and for any further consequential relief to which he may be entitled.

(2) Such a suit may be brought at any time within 6 months-

(a) from the service upon the defaulter of the notice required by section 6 or

(b) from the date of the determination of a petition denying liability under section 8 [x x x], or

(c) from the date of the protest lodged by him under section 15, [or]

[(d) from the date of the decision of an appeal filed by him under section 23-A]:

[x x x]

Provided [x x x] that notwithstanding anything contained in this Act and in any other law for the time being in force, the defaulter may in a suit instituted

under this section, prove that nothing was due from him on account of the public demand or that the amount due was less than the amount stated in the certificate.

21. Parties to the suit. - (1) A suit under section 20 shall ordinarily be brought against the officer or authority charged with the realization of the public demand:

Provided that where the suit is brought under clause (b) or clause (c) of subsection (2) of the said section, the Collector shall also be made a party thereto.

(2) The [State Government] shall not be made a party to any suit under section 20 unless the public demand was due to the [State Government].

22. Place of suing. - A suit under section 20 shall be instituted in a Civil Court [x x x] having jurisdiction in the local area in which the office of the officer or authority charged with the realization of the public demand is situated.

23. Suit not to operate as stay. - No suit instituted under section 20 shall operate to stay further proceedings under and in execution of the certificate sought to be canceled or modified otherwise than in pursuance of an injunction issued by the Court in which the suit is instituted.

[Part-V-A]

Appeal, Revision and Reviews

23A. Appeal. - (1) An appeal from [an Order made by the Collector under section 8 or 19-A] shall lie to the [revenue appellate authority].

(2) Subject to the provisions contained in section 5 of the Indian Limitation Act (IX of 1908), every such appeal shall be presented within thirty days from the date of the order.

(3) No appeal shall lie from any order of the [revenue appellate authority] passed on appeal.

[23B. Revision. - The Board of Revenue shall have power to revise any order made under this Act by any officer subordinate to the Board.

23C. Review. - Any order passed under this Act may, after notice to all persons interested, be reviewed, by the officer who made the order or by his successor-in-office, or, if the order is passed by the Board of Revenue, then by such Board on account of mistake or error either in the making of the certificate or in the course of any proceeding under this Act.

23D. Stay of execution during appeal, revision or review. - Pending the decision of any appeal or application for revision or review, execution may be stayed, if the appellate, revising or reviewing authority as the case may be, so

directs, but not otherwise; and such direction for stay may be given on such terms, if any, as the authority giving the direction may think fit.]

Part-VI

Miscellaneous

24. Costs. - Subject to such limitations as may be prescribed, the award of cost of and incidental to any proceeding under this Act, shall be in the discretion of the officer incharge of such proceeding and he shall have full power to direct by whom and to what extent such costs shall be paid.

25. Officers to have powers of Civil Court for certain purposes. - Every Collector, Assistant Collector or Tehsildar acting under this Act, shall have the powers of a Civil Court for the purposes of receiving evidence, administering oath, enforcing the attendance of witnesses and compelling the production of documents.

26. Protection of action taken under Act. - No suit, prosecution or other proceeding shall lie except as otherwise herein provided against the [State Government] or any officer of [State Government] or any person acting under the authority of the [State Government] or any officer of [State Government] in respect of anything which is in good faith done or intended to be done under this Act in furtherance of the provisions thereof.

27. Application of the Indian Limitation Act, 1908. - (1) Sections 6 to 9 of the Indian Limitation Act, 1908, shall not apply to suits or proceedings under this Act.

(2) Except as declared in sub-section (1) the provisions of the Indian Limitation Act, 1908, shall apply to all proceedings under this Act as if a certificate were a decree of a Civil Court.

28. Penalties. - Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken in execution of a certificate, shall be deemed to have committed an offense punishable under section 206 of the Indian Penal Code, 1860.

29. Power of Government to make rules. - (1) The [State Government] may [by Notification in the] [Official Gazette] make rules [x x x] for the purpose of carrying into effect the provisions thereof.

(2) Such rules may, in particular, and without prejudice to the generality of the powers conferred by sub-section (1), provide for all or any of the following matters, namely:-

- (a) the signature and verification of requisitions made under section 3;
- (b) the service of notices issued under section 6, the service of other notices or processes issued under this Act, and the manner in which service may be proved:
- (c) the signing and verification of petitions, under section 8, denying liability;
- (d) the forms to be used under this Act; and
- (e) all matters which according to the provisions of this Act. are to be prescribed.

[(3) xxx]

30. Saving of other laws. - (1) The powers given by this Act or the rules made thereunder shall be deemed to be in addition to and not in derogation from, any powers conferred by any other law for the time being in force for the recovery of any due, debt or demand to which the provisions of this Act are applicable, and except where expressly so provided, no legal remedy shall be affected by this Act.

(2) Nothing in this Act shall be construed-

(a) to impair any security provided by any other enactment for the time being in force, for the recovery of any dues, debt or demand, to which the provisions of this Act are applicable, or

(b) to authorize the arrest or detention in the civil prison of any person for the recovery of any tax payable to a local authority.

31. [x x x]

Schedule

Public Demands

[See Section 2(5)]

[x x x]

[6. Any money payable to the State Government or to a department or an officer of Government-

(i) Under or in pursuance of written instrument, or

(ii) Under in pursuance of an agreement evidenced by a writing, a correspondence or otherwise in repayment of any advances or in lieu of any services rendered or supplies made by the Government or such department or officer of Government.]

7. Any money payable to any local authority, in respect of which the person liable to pay the same has agreed, by a written instrument or agreement, duly

registered, that it shall be recoverable as a demand or a public demand or as an arrear of revenue or land revenue.

8. Any money payable to the [State Government] or to a department or an officer of [State Government] in consequence of loss, misappropriation, defalcation or breach of trust by a public servant.

9. Any money due from a person who is a surety for the payment of any sum recoverable under the provisions of this Act.

10. Any money due from a purchaser at a sale held in execution of a certificate under this Act, whether the sale is subsisting or not.

[11. Any money payable to a public undertaking-

(i) under or in pursuance of a written instrument; or

(ii) under or in pursuance of an agreement with the public undertaking and evidenced by a writing, a correspondence or otherwise in repayment of any loan or advance or in lieu of any services rendered or supplies made by or on behalf of the public undertaking; or

(iii) in consequence of loss, misappropriation, defalcation or breach of trust by any employee of a public undertaking.]