

THE KERALA COIR WORKERS' WELFARE FUND ACT, 1987

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ACT 34 OF 1987

THE KERALA COIR WORKERS' WELFARE FUND ACT, 1987

An Act to provide for the constitution of a fund to grant relief to, to promote the welfare of, and to pay pension to coir workers and self employed persons in coir industry in the State of Kerala.

Preamble.—WHEREAS it is expedient to provide for the constitution of a fund to grant relief to, to promote the welfare of, and to pay pension to coir workers and self employed persons in coir industry in the State of Kerala and for certain other matters incidental thereto;

BE it enacted in the Thirty-eighth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Coir Workers' Welfare Fund Act, 1987.

(2) It extends to the whole of the State of Kerala.

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force on such date as the Government may, by notification in the Gazette, appoint; and different dates may be appointed for different provisions of this Act

Provided that the provisions relating to payment of pension shall be deemed to have come into force on the 1st day of April, 1987.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Board" means the Kerala Coir Workers' Welfare Fund Board constituted under section 6;

(b) "Chief Executive Officer" means the Chief Executive Officer appointed under sub-section (1) of section 9;

(c) "coir products" means mats and mattings, rugs and carpets, ropes and other articles manufactured wholly or partly from coir and coir yarn;

(d) "coir worker" means any person who is employed for wages to do any work in connection with the various processes in coir industry and who gets his wages directly or indirectly from the employer, dealer or producer of coir products and includes any person employed by or through a contractor or through an agent and depends mainly on coir industry for his livelihood, and includes any other person employed in coir industry, whom the Government may by notification in the Gazette from time to time declare to be a coir worker for the purposes of this Act;

Explanation—If any question arises as to whether a person is or is not a coir worker for the purpose of this Act, the matter shall be referred to the Government or such officers as may be authorised by the Government in this behalf which or who, as the case may be, shall in consultation with the concerned Project Level Advisory Committee of trade unions in coir industry, constituted for such coir project area, for the purpose, take a decision, which shall be final.

(e) "contribution" means the sum of money payable to the fund under section 4;

(f) "dealer" means any person who is engaged in the business of purchase, sale, or storage for sale, of husks or fibre or coir yarn or any coir products or a person who rets husks and includes an agent of a dealer but does not include a cultivator who sells, or stores for sale, raw husks owned by him;

(g) "Director of Coir Development" means the Director of Coir Development for the State of Kerala;

(h) "employer" means any person who directly employs, whether on behalf of himself or for any other person, one or more coir workers to do any work in connection with retting raw husks, taking out and counting retted husks, beating retted husk; cleaning fibre, spinning yarn, dyeing, drying or bundling of coir yarn and fibre, rehanding, weaving mats and mattings, producing rugs or other coir products,

(i) "family" means the husband, wife and their children;

(j) "fibre" means coir fibre extracted from coconut husk;

(k) "fund" means the Coir Workers' Welfare Fund established under section 3 and the scheme;

(l) "husk" means coconut husk, green, dry or retted;

(m) "member" means a member of the fund;

(n) "person" includes a Company, a firm, an association of individuals or a Co-operative Society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969),

(o) "prescribed" means prescribed by rules made under this Act;

(p) "processes in coir industry" means retting raw husks, taking out and counting retted husk, beating retted husk, cleaning fibre, spinning yarn, dyeing, drying, bundling coir yarn and fibres, rehanding, weaving mats and mattings, rugs and carpets, or making other coir products, shearing and allied process in finishing coir products and includes packing,

(q) "producer of coir products" means a person who carries on the business of processing coir and coir products for export or for internal marketing but does not include a coir co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969);

(r) "Schedule" means the schedule to this Act,

(s) "scheme" means a scheme framed under this Act.

(t) "self-employed person" means a person other than a coir worker, who is engaged in the extraction of coir fibre, spinning yarn and manufacture of coir products for other persons and depends mainly on coir industry for his livelihood,

(u) "yarn" means the coir yarn obtained by the spinning of fibre;

(v) "year" means the financial year.

3. Coir Workers' Welfare Fund Scheme.—(1) The Government may, by notification in the Gazette, frame a scheme to be called the Kerala Coir Workers' Welfare Fund Scheme for the establishment of a fund under this Act for the welfare of the coir workers and self-employed persons in the coir industry and there shall be established, as soon as may be after the framing of the scheme, a fund in accordance with the provisions of this Act and the scheme.

(2) There shall be credited to the fund,—

(a) the contributions specified in section 4;

(b) the amount borrowed by the Board under section 10,

(c) damages realised under section 19;

(d) grants or loans or advances made by the Government of India or the State Government or the Coir Board or any institutions;

(e) any donations from whatever source;

(f) any amount raised by the Board from other sources to augment the resources of the Board;

(g) fee levied under the scheme;

(h) any other amount which, under the provisions of the scheme, shall be credited to the fund.

(3) The fund shall vest in, and be administered by the Board constituted under section 6;

(4) The fund may be utilised for all or any of the following purposes, namely:—

(a) for payment of pension,—

(i) to a member who is unable to work due to oldage or infirmity or who has completed the age of sixty years; and

(ii) to a person who before the commencement of this Act was a coir worker or a self employed person and completed the age of sixty years or who suffers from permanent disablement and is out of employment;

(b) for payment of family pension to the spouse of a deceased member;

(c) for payment of financial assistance to a member who suffers from permanent or temporary disablement;

(d) for payment of loans or grants to a member to meet the day to day expenses during off season or to meet expenses for the marriage of children or for expenses in connection with disease or death of dependents or for expenses in connection with the education of children or for expenses for construction or maintenance of houses,

(e) to provide maternity benefits to women workers engaged in coir industry who are not eligible for such benefits under any other law for the time being in force;

(f) to provide for distress relief to the family of a member affected by natural calamities and epidemics;

(g) to provide for the coir workers, self-employed persons and members of their families,—

(i) medical facilities,

(ii) nurseries and creches;

(iii) education, vocational training and facilities for part-time employment;

(h). for implementation of any other purpose specified in the scheme.

(5) Subject to the provisions of this Act, the scheme framed under sub-section (1) may provide for all or any of the matters specified in sub-section (4) and in the schedule.

(6) The scheme shall be laid, as soon as may be, after it is framed, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the scheme, the scheme shall thereafter have effect only in such modified form, so however that, any such modification shall be without prejudice to the validity of anything previously done under the scheme

4. *Contribution to the fund.*—(1) Every coir worker and every self employed person shall contribute to the fund one rupee each per month

(2) Every employer other than a coir co-operative society shall in respect of each coir worker contribute to the fund two rupees per month

(3) Every coir co-operative society which employs a coir worker shall in respect of each such coir worker contribute to the fund one rupee per month

Explanation—For the purposes of sub-sections (2) and (3), coir co-operative society means a society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) which is engaged in the process of retting raw husks, beating retted husk and spinning yarn.

(4) The Government shall contribute to the fund every year an amount equal to twice the amount contributed by the coir workers and self employed persons by way of grant

(5) Every producer of coir products and every dealer shall contribute to the fund an amount equal to one per cent of their sale proceeds in a year.

(6) The contribution shall be paid to the Chief Executive Officer or to any officer of the Board authorised by the Board in this behalf.

(7) Where the amount of any contribution payable under this Act involves a fraction of a rupee, the scheme may provide for the rounding off of such fraction to the nearest rupee.

5. *Modification of scheme.*—(1) The Government may, by notification in the Gazette, add to, amend or vary the scheme either prospectively or retrospectively.

(2) Every notification under sub-section (1) shall be laid, as soon as may be after it is issued, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the notification or decides that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

6. *Constitution of Board*—(1) The Government may, by notification in the Gazette, constitute, with effect from such date as may be specified therein a Board to be called "the Kerala Coir Workers' Welfare Fund Board" for the administration of the fund and to supervise or carry out the activities financed from the fund.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Board shall consist of such number of Directors not exceeding fifteen in number, as may be appointed by the Government and they shall be chosen in such manner as may be prescribed.

Provided that fifty per cent of the number of Directors shall be from among coir workers and self-employed persons and the remaining shall represent the Government, employers, producers and/or dealers.

(4) One of the members of the Board shall be appointed by the Government to be its Chairman.

(5) The Government shall publish in the Gazette the names of all the Directors of the Board.

(6) The Board shall administer the fund vested in it in such manner as may be specified in the scheme.

(7) The Board may, with the previous approval of the Government, delegate to the Chairman or to any Director of the Board or to the Chief Executive Officer, such of its powers and functions under this Act or the scheme as it may consider necessary for the efficient administration of the fund, subject to such restrictions and conditions, if any, as it may specify.

7 *Term of office of Directors.*—(1) A Director appointed under sub-section (3), of section 6 shall hold office for a period of three years.

(2) Notwithstanding anything contained in section 8, the Government may, at any time, for reasons to be recorded in writing, remove from office any Director of the Board after giving him a reasonable opportunity of showing cause against the proposed removal:

Provided that it shall not be necessary to record in writing the reason for the removal or to give an opportunity of showing cause against the proposed removal, if the Government are of the opinion that it is not expedient, in the public interest, to record the reasons in writing or to give such opportunity.

(3) Any Director may resign his membership by giving notice in writing to the Government, but shall continue in office until his resignation is accepted by the Government.

8. *Removal of non-official Directors.*—(1) The Government may, by notification in the Gazette, remove any non-official Director of the Board from office,—

(a) if he has, without the permission of the Board, been absent from the meetings of the Board for three consecutive meetings:

Provided, however, that such absence may be condoned by the Board before the publication of the notification in the Gazette;

(b) if he, in the opinion of the Government, is unsuitable or has become incapable of acting as a Director or has so abused his position as a Director as to render his continuance as such Director detrimental to the public interest:

Provided that before removing a Director under this sub-section, he shall be given a reasonable opportunity to show cause why he should not be removed.

(2) A non-official Director of the Board removed under clause(a) of sub-section (1), shall be disqualified for reappointment as a Director of the Board for a period of three years from the date of his removal unless otherwise ordered by the Government.

(3) A non-official Director of the Board removed under clause(b) of sub-section (1) shall not be eligible for reappointment until he is declared by an order of the Government to be no longer ineligible.

9. *Appointment of officers and staff.*—(1) The Government may appoint a Chief Executive Officer and such number of other officers and staff as they consider necessary to assist the Board in the discharge of its functions and duties under this Act.

(2) Subject to the provisions of sub-section (3), the method of appointment, salary and allowances, discipline and the other conditions of service of the Chief Executive Officer and the other officers and staff appointed under sub-section (1) shall be such as may be prescribed.

(3) In the case of posts in the service under the Board to which appointment is made by direct recruitment,—

(a) fifty per cent shall be reserved for appointment from candidates belonging to the families of coir workers and self-employed persons; and

(b) fifty per cent shall be filled in accordance with the procedure laid down in the Kerala State and Subordinate Service Rules, 1958.

10. *Power of the Board to borrow.*—The Board may, from time to time, with the previous approval of the Government and subject to such terms and conditions as may be specified by the Government, borrow money for the purposes of the scheme.

11. *Determination of amount due.*—(1) The Chief Executive Officer or any other officer authorised by the Board in this behalf, may, after making such enquiry as may be necessary and after giving every person liable to pay contribution under section 4, an opportunity to be heard, by order determine the amount due from every employer or dealer or producer of coir products under the provisions of this Act or the scheme.

(2) The officer conducting the enquiry under sub-section (1), shall, for the purposes of such enquiry, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses.

(3) Any enquiry under this section shall be deemed, to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Central Act 45 of 1860) and for the purpose of section 196 of the said Code.

(4) Any person aggrieved by an order under sub-section (1) may, within thirty days from the date of receipt of the order, prefer an appeal to the Director of Coir Development or to an officer not below the rank of a project officer authorised by him in this behalf and the Director of Coir Development or the officer authorised by him may, after making such enquiry, pass such orders thereon as he thinks fit.

(5) The Government may, either *suo motu*, or on application of the aggrieved person, call for the records of any proceedings taken by the Director of Coir Development or the officer authorised by him under sub-section (4) and make such enquiry, and pass such orders, as they deem fit:

Provided that an application for revision under this sub-section shall be made within thirty days from the date on which the order was communicated to the applicant:

Provided, further that no order shall be passed under this sub-section without giving the person who may be affected thereby, an opportunity to be heard.

12. *Provisional assessment and collection of contribution.*—(1) Every employer or dealer or producer of coir products liable to pay contribution under section 4 shall, pending determination under section 11 of the amount due from him, pay on or before the 5th day of every month, an amount equivalent to one twelfth of the amount payable annually by him according to the latest determination under the said section.

(2) The contribution for a month due from a coir worker or self-employed person shall become payable on or before the 5th day of the succeeding month.

(3) Where the contribution is not paid on or before the due date, the Chief Executive Officer or any officer of the Board authorised by it in this behalf, shall issue a notice to the defaulter showing the amount of arrears, and if the amount is not paid within fifteen days of the receipt of such notice, it may be recovered in the same manner as arrears of public revenue due on land.

(4) The amount paid under sub-section (1) by an employer or dealer, or producer of coir products for a year shall be adjusted against the amount determined under section 11 for that year.

13. *Mode of recovery of money due from coir workers, self-employed persons, employers, dealers and producers of coir products.*—Any amount due from the coir workers, self-employed persons, employers, dealers and producers of coir products in pursuance of the provisions of this Act or the scheme may, if the amount is in arrears, be recovered in the same manner as an arrear of public revenue due on land.

14. *Priority of payment of contribution over other debts.*—Where any employer or dealer or producer of coir products liable to pay contributions under section 4 is adjudicated as insolvent or, in case such employer or dealer or producer of coir products is a company, an order for winding up is made, the amount due from such employer or dealer or producer of coir products under this Act or the scheme shall, where the liability therefor has accrued before the order of adjudication or winding up is made, be deemed to be included among the debts which under section 64 of the Insolvency Act, 1955 (2 of 1956) or under section 530 of the Companies Act, 1956 (Central Act 1 of 1956) are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

15. *Employer not to reduce wages etc.*—No employer or dealer or producer of coir products shall by reason only of his liability for the payment of any contribution to the fund, reduce whether directly or indirectly, the wages of any coir worker to whom the scheme applies or the total quantum of benefits to which the coir worker is entitled under the terms of his employment express or implied.

16. *Directors of Board etc., to be public servants*—Every Director of the Board, the Chief Executive Officer and other officers and members of the staff of the Board appointed under sub-section (1) of section 9 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

17. *Penalty*—(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or under the scheme or of enabling any other person to avoid such payment knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or of the scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment for a term which may extend to two months or with fine which may extend to four hundred rupees, or with both.

(3) No court inferior to that of a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

(4) No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made with previous sanction of the Chief Executive Officer.

18. *Offences by Companies.*—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any officer of the company, such officer of the company shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm, co-operative society or other association of individuals ;

(b) “officer of the company” means the Managing Director, Director, Managing Agent, Secretary, Treasurer or Manager of the company and includes the office bearers of a firm, co-operative society or other association of individuals.

19. *Power to recover damages* —Where any person makes default in the payment of any contribution to the fund under this Act or the scheme, the Board may recover from him damages, not exceeding twenty-five per cent of the amount of arrears as they may think fit to impose.

20. *Protection for acts done in good faith.*—No suit or other legal proceeding shall lie against any Director of the Board or any other person in respect of anything which is in good faith done or intended to be done under this Act or under the scheme.

21. *Directions by Government.*—(1) The Government may, after consultation with the Board, give to the Board general directions to be followed by the Board.

(2) In the exercise of the powers and performance of its duties under this Act, the Board shall not depart from any general directions issued under sub-section (1) except with the previous permission of the Government.

22. *Power to order inquiry.*—(1) The Government may, at any time, appoint any person to inquire into the working of the Board and to submit a report to the Government.

(2) The Board shall give the person so appointed all facilities for the proper conduct of the inquiry and furnish to him such documents, accounts and information in the possession of the Board as he may require.

23. *Power to supersede the Board*—(1) If, on consideration of the report under section 22 or otherwise, the Government are of opinion that the Board has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act or the scheme or has exceeded or abused its powers, the Government may, by notification in the Gazette, supersede the Board for such period not exceeding six months as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1),—

(a) all the Directors of the Board shall, as from the date of such publication, vacate their offices as such Directors;

(b) all the powers and duties which may be exercised or performed by the Board shall, during the period of supersession be exercised or performed by such officer or officers as may be specified in the notification;

(c) all funds and other properties vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government shall reconstitute the Board in the manner provided in section 6.

24. *Audit of accounts of the Board and remuneration of auditors.*—(1) The Government shall appoint auditors to audit the accounts of the Board.

(2) The Board shall pay to the said auditors such remuneration as the Government may direct.

(3) The accounts of the Board shall be examined and audited once in every year by such auditors.

25. *Annual report and audited statement of accounts.*—(1) The annual report of the Board shall be prepared under the direction of the Board and after approval by the Board, a copy of the report shall be submitted to Government before the end of July every year.