

THE PUDUCHERRY STATE AID TO INDUSTRIES ACT, 1970
(No. 3 of 1971)

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THE PUDUCHERRY STATE AID TO INDUSTRIES ACT, 1970

(Act No. 3 of 1971)

10th February, 1971.**AN ACT****to regulate State Aid to Industries in the Union territory of Puducherry.**

BE it enacted by the Legislative Assembly of Puducherry in the Twenty-first Year of the Republic of India as follows:

Short title, extent and commencement

1. (1) This Act may be called the Puducherry State Aid to Industries Act, 1970.

(2) It extends to the whole of the Union territory of Puducherry.

(3) It shall come into force on such date ¹ as the Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,--

(a) "Board" means the Board of Industries constituted under section 4;

(b) "cottage industry", means an industrial business or enterprise carried on in any premises to which the Factories Act, 1948 (Central Act No. 63 of 1948) does not apply and includes dairy farming, bee-keeping and poultry farming;

(c) "Government" means the Administrator of the Union territory appointed by the President under article 239 of the Constitution;

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

(e) "Sanctioning Authority" means any authority, officer or other person authorised to grant aid by or under this Act;

(f) "small-scale industry" means an industrial business or enterprise the capital invested in which does not exceed five lakhs of rupees;

1. The Act came into force on the first day of April 1971 vide Notification in Gazette No. 13, dated 30th March, 1971.

(g) "transfer" with all its grammatical variations and cognate expressions includes sale, exchange, mortgage, charge, lease or gift;

(h) "Union territory" means the Union territory of Puducherry;

(i) "village industry" means any industry which forms the normal occupation, whether whole time or part-time, of any class of the rural population of the Union territory.

Appointment of Director of Industries

3. The Government may, by notification in the Official Gazette, appoint any officer to perform all or any of the functions of the Director of Industries under this Act.

Constitution of Board of Industries

4. (1) The Government shall constitute, by notification in the Official Gazette, a Board of Industries consisting of the following seven members, namely:-

(i) Secretary to Government, Revenue and Development Department, Puducherry ex-officio;

(ii) Secretary to Government, Finance Department, Puducherry ex-officio;

(iii) Director of Industries, Puducherry ex-officio;

(iv) One member of the Legislative Assembly, Puducherry, nominated by the Speaker;

(v) One representative of the Chamber of Commerce, Puducherry, nominated by the Government;

(vi) Two representatives of the small-scale industrialists, nominated by the Government.

(2) The Secretary to Government, Revenue and Development Department shall be the Chairman and the Director of Industries shall be the Secretary of the Board.

(3) The Board shall advise the Government in dealing with applications for the grant of State aid under this Act.

(4) No member shall vote on, or take part in, the discussion of any question coming up for consideration at a meeting of the Board if the question is one in which he has any direct or indirect pecuniary interest by himself or his partner or in which he is interested professionally on behalf of a client or as agent for any person other than the Government or a local authority.

No aid except in accordance with the provisions of the Act

5. No aid shall be given by the Government to any industrial business or enterprise except in accordance with the provisions of this Act.

Industries to be aided

6. (1) The industries to which aid may be given under this Act shall be such as have an important bearing on the economic development of the country and shall be—

- (i) new or nascent industries, or
- (ii) industries to be newly introduced into areas where such industries are undeveloped, or
- (iii) cottage industries, or
- (iv) small-scale industries, or
- (v) handicrafts industries, or
- (vi) khadi and village industries, or
- (vii) old or established industries.

(2) No such aid shall be given to any joint stock company unless-

- (a) the same is registered in India on a rupee capital, and
- (b) the company conforms to such rules as may be made by the Government from time to time requiring that a maximum number or a proportion of the members on its board of management shall be citizens of India.

(3) Every recipient of aid under this Act shall make such provision for the training of apprentices as the Government may, from time to time, direct.

(4) The decision of the Government as to whether the conditions of this section are fulfilled shall be final and shall not be called in question in any court of law.

Method of giving State aid

7. Subject to the provisions of this Act and of the rules framed thereunder, the Government shall have power to give aid to an industrial business or enterprise in one or more of the following ways:-

- (a) by granting a loan;
- (b) by paying a subsidy for the conduct of research or for the purchase of implements or machinery or for any other specific purpose;
- (c) by subscribing for shares or debentures;
- (d) by making a grant on favourable terms of land, raw material, firewood or water, which is the property of the Government;
- (e) by supplying at concessional rates electric energy from a source which is the property of the Government.

Application for State aid and procedure in dealing with applications

8. (1) Any person desiring to obtain a loan or other aid for any industrial business or enterprise shall make his application to the Director of Industries in such form and shall furnish such information concerning his business as may be prescribed.

(2) If the extent of the aid applied for exceeds rupees fifty thousand and in any other case in which the Government considers this procedure necessary, the Director of Industries shall publish a notice in the prescribed manner calling upon any person who objects to the grant of the aid applied for to state his objections at a time or place to be specified, and shall hear such objection and make such inquiry as may be necessary.

(3) Every application for aid exceeding rupees ten thousand shall be placed before the Board for advice.

(4) No aid shall be granted under this Act if the Board, by unanimous resolution at a meeting, advises the rejection of the application for such aid.

Grant of loans

9. No loan shall be granted of an amount exceeding 75 per cent of the net value of the assets of the industrial business or enterprise and of any other property offered as collateral security for the loan after deducting in both cases existing encumbrances, such value to be ascertained by such person as may be appointed by the Government and in accordance with rules as may be prescribed:

Provided that for the purpose of this valuation, the additional assets which may be created by the expenditure of the sums granted as loan may be taken into account to such extent as may be prescribed.

Loans how secured

10. (1) Every loan granted under this Act shall be secured by a mortgage upon the whole or such portion of the assets of the business or enterprise as the sanctioning authority may consider sufficient and where the whole of the assets of the business or enterprise is, in the opinion of the sanctioning authority insufficient, by such collateral security as may be required by the sanctioning authority and shall bear interest payable on such dates and at such rates as the Government may determine.

(2) Notwithstanding anything contained in sub-section (1), but subject to such conditions, restrictions and limitations as may be prescribed, loans may be granted under this Act, on the personal security of the applicant, and every such loan shall bear interest payable on such dates and at such rates as the Government may determine.

(3) Notwithstanding anything contained in sub-section (1), or sub-section (2), the Government may direct that any loan granted under this Act to any industrial business or enterprise shall not bear any interest.

Prohibition of transfer of property without permission of the sanctioning authority

11. (1) Where after the commencement of this Act, any property has been taken as security for any loan granted or any grant made under this Act, then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to such property, the same shall not be transferred without the written permission of the sanctioning authority.

(2) The sanctioning authority may, in its discretion, by order, permit the transfer of any such property, if the transfer is made in furtherance of the purposes for which the loan was granted or the grant was made, and the assets resulting from the transfer are to be wholly utilised in furtherance of the said purposes.

Explanation.- When granting permission under this sub-section, the sanctioning authority may impose such conditions as it may deem fit to ensure that the assets resulting from the transfer are wholly utilised in furtherance of the purposes for which the loan was granted or the grant was made.

(3) If any such property is transferred without such permission or in contravention of any condition imposed by the sanctioning authority, the transfer shall be null and void.

Court not to attach, sell etc., without permission of the sanctioning authority

12. (1) No property referred to in section 11 shall be liable to be attached, sold, or made subject to a charge by any court, whether in execution of a decree or order or otherwise, unless the person seeking such relief from the court has obtained the written permission of the sanctioning authority to do so and files such permission in court.

(2) When granting such permission, the sanctioning authority may impose such conditions as it may deem fit to secure, the proper repayment of the loan or grant together with any interest chargeable thereon and cost, if any incurred.

(3) If any such property is attached or sold or a charge is created thereon, by any court without the permission of the sanctioning authority having been obtained and filed as aforesaid, or if any condition imposed by the sanctioning authority when granting such permission is contravened, then, the attachment, sale or charge, as the case may be, shall be null and void.

Inspection and returns

13. In any case in which a loan has been applied for under this Act, the applicant, and at any time during the currency of a loan that has been granted under it, the grantee, shall be bound—

(a) to comply with any general or special order of the Government relating to the inspection of the premises, buildings or plant or stock in hand of the industrial business or enterprise;

(b) to permit the inspection of all accounts relating to the industrial business or enterprise;

(c) to furnish full returns of all products manufactured or sold both as regards description and quantity;

(d) to maintain such special accounts or to furnish such statements as the Government may, from time to time, require;

(e) to submit the accounts of the industrial business or enterprise to such audit as the Government may prescribe;

(f) to train such number of apprentices for such period as may be directed by the Government.

Control of business assisted

14. In any case in which a loan or loans is or are granted under this Act amounting to rupees two lakhs or upwards, the Government shall, and in any other case may, by the appointment of Government Directors or otherwise, take power to ensure such control over the conduct of the business or enterprise as shall suffice in their opinion to safeguard their interests.

Repayment of loans

15. (1) Every loan granted under this Act shall be made repayable by instalments within such period from the date of the actual advance of the loan, or when the loan is advanced in instalments from the date of payment of the last instalment, as may be fixed by the order granting the loan.

(2) The period fixed as aforesaid shall not exceed twenty years unless the Government shall, by general or by special order, extend the same.

Subscriptions for shares or debentures or on capital

16. The condition of subscription for shares and debentures by the Government on the capital of any industrial business or enterprise shall be that the business or enterprise shall be subject to the provisions of section 13 in respect of inspection and returns as well as of the provisions of section 14 in respect of Government control.

Subsidy by the Government

17. The condition of any payment under guarantee of a minimum return on the paid-up capital or of the grant of Government land, raw material, firewood or water on favourable terms, or of the supply from a Government source of electric energy at concessional rates shall ordinarily be that an amount equal to the sum paid or to the value of the grant or concession as fixed at the time when it is made shall be repaid to the Government at the close of a fixed term of years if within that term the industrial business or enterprise shall be shown to be paying interest or a dividend upon the capital invested in excess of such rate as the Government may fix.

Disposal of profits when condition of State aid is not fulfilled

18. No recipient of the State aid shall pay any dividend or distribute or take any profits in excess of such percentage rate upon the amount of the capital of the industrial business or enterprise as the Government may fix from time to time until the conditions on which the state aid has been granted are fulfilled. The balance of the profits, after setting aside proper amounts for depreciation or obsolescence of plant and buildings, and for the payment of interest on debentures of loans, shall be carried to a reserve fund to be utilised in such manner as the Government may approve.

Grant of aid to cottage industries by Government

19. (1) The Government may, subject to such conditions, restrictions and limitations as they think fit, grant aid, in accordance with such rules as may be made under this Act for the purpose, to any cottage or small scale industries upto an amount or value not exceeding rupees ten thousand without reference to the Board.

(2) Subject to the rules that may be framed under this Act and to such other conditions as may be imposed, the Government may authorise any officer to sanction loans to any cottage or small scale industry upto the limit of rupees ten thousand.

Power of Government to call for records and pass orders

20. The Government may call for and examine the record of any officer or authority subordinate to them in respect of any proceeding to satisfy themselves as to the regularity of such proceedings or the correctness, legality or propriety of any decision or order passed therein and, if, in any case it appears to the Government that any such decision or order should be modified, annulled, reversed, or remitted for reconsideration, they may pass orders accordingly:

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

Method of recovery of money due

21. (1) All moneys payable under this Act, including any interest chargeable thereon, and cost, if any, incurred, if not paid when due, may be recovered from the person aided and his surety, if any, under the law for the time being in force as if they were arrears of land revenue.

(2) When any sum as aforesaid is paid by the surety or is recovered from him or out of his property under sub-section (1), the Collector shall on the application of the surety so far as possible, recover the same from the person aided and pay the same to the surety.

Exemption

22. The Government may, having regard to the value of the assets of any industrial business or enterprise or to the desirability of the Government themselves granting aid directly to any industrial business or enterprise or if they consider that it would not be in the public interest to apply all or any of the provisions of this Act thereto, by order exempt, subject to such conditions as they may think fit to impose, any industrial business or enterprise or class of industrial businesses or enterprise as they may specify in the order, from all or any of the provisions of this act or of any rule or order made thereunder.

Power to make rules

23. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe –

(a) the classes of industrial businesses or enterprises to which and the purposes for which aid may be given;

(b) the constitution of the Board, the term of office of its members, the quorum at the Board's meetings, the method of arriving at its decisions, the appointment of its staff, the remuneration of its members and all other matters relating to the conduct of its business;

(c) the manner of making applications for State aid and the information to be given in such applications, provided that no such rules shall require any applicant or grantee of aid to divulge any information relating to the technical details of any process or any patent owned by him;

(d) the manner of conducting inquiries and the matters to be specially inquired into in dealing with applications for State aid and the powers to be exercised by the sanctioning authority conducting such inquiries;

(e) the mode of ascertaining the value of the assets of an industrial business or enterprise or of any property offered as collateral security for a loan;

(f) the nature of the security to be taken for the due application of loans and grants and the rates of interest at which and the conditions under which loans or grants may be given and the creation of a mortgage or collateral security under section 10;

(g) the inspection of the premises, buildings, plant and stock on hand and the accounts of any industrial business or enterprise for which State aid has been granted;

(h) the mode of keeping and auditing the accounts and of furnishing returns of any industrial business or enterprise in respect of which State aid has been granted;

(i) the appointment and functions of Government directors or the prescribing of other methods of control of industrial business or enterprises in respect of which State aid has been granted;

(j) the application of profits in cases in which the conditions under which loans or grants have been made have not been fulfilled;

(k) the fixing of the period for the repayment of loans and the conditions and dates of the repayment of subsidies and grants;

(l) the recovery of any moneys due under this Act;

(m) the conditions under which and the security on which loans shall be granted to any industrial business or enterprise under this Act;

(n) all matters connected with, or relating to the grant of aid by the Government under section 19 including all matters referred to in the foregoing clauses which are applicable to such grant.

(3) All rules made under this Act shall, as soon as possible after they are made, be laid before the Legislative Assembly, Puducherry, 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 session in which it is so laid or the session immediately following, the Legislative Assembly makes any modifications in the rule or decides that the rule should not be made, the rule 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 rule.

**Powers of the Government as regards starting or conducting industries
and giving aid of certain kinds**

24. Nothing in this Act shall be held to debar the Government ---

(a) from starting or conducting industrial enterprise for experimental purposes or with a view to stimulate industrial development;

(b) from assisting an industrial business or enterprise by agreements to purchase on business terms the whole or a portion of the products of the same;

(c) from assisting an industrial business or enterprise by giving gratis or in favourable terms, the services of Government officials, experts or others either in the capacity of advisers or for a limited period not exceeding one year for starting or conducting such business or enterprise;

(d) from assisting an industrial business or enterprise in connection with industrial education or the training of apprentices;

(e) from assisting any industrial business or enterprise in any other manner which may be determined by the Government;

(f) from assisting a village industry in any manner which may be determined by the Government;

(g) from establishing a company for the purpose of giving financial assistance to industrial concerns and enterprise or from subscribing for shares in, or in any manner aiding, such company, on such terms and conditions as the Government may, by general or special order, lay down;

(h) from subscribing for shares in or in any manner aiding, any industrial concern or enterprise, the paid up capital of which exceeds rupees thirty lakhs on such terms and conditions as the Government may, by general or special order, lay down;

(i) from assisting any industrial business or enterprise in the purchase of implements or machinery;

(j) from assisting in the marketing of products in the possession of any industrial business or enterprise.

Repeal and saving

25. (1) The Arrete No. 476 dated 14-5-1959 as amended by Arrete dated 1-12-1960, is hereby repealed.

(2) The repeal by sub-section (1) of the corresponding law shall not affect ---

(i) the previous operation of the corresponding law or anything done or duly suffered thereunder; or

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the corresponding law; or

(iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the corresponding law; or

(iv) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Subject to the provisions of sub-section (2) anything done or any action taken under the corresponding law repealed by sub-section (1) shall be deemed to have been done or taken under this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

STATEMENT OF OBJECTS AND REASONS FOR ACT 3 OF 1971

Industrial development is the prime concern of the State. The Government have been aiding and assisting industries in various ways. The Arrete No.476 dated 14-5-1959, which the present Bill replaces, only provides for granting loans upto Rs.50,000. By the present Bill, the Government seeks power to grant bigger loans in appropriate cases. The Bill also provides for the establishment of a Board of Industries which will advise the Government in giving aid to industries in various ways.
