

## ACT NO. V OF 1886.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th January, 1886.)

An Act to declare and amend the law relating to the Stone Mahál in the District of Mirzapur in the North-Western Provinces.

WHEREAS it is expedient to declare and amend the law relating to the Stone Mahál in the district of Mirzapur in the North-Western Provinces; It is hereby enacted as follows:—

*Preliminary.*

Short title  
and com-  
mencement.

1. (1) This Act may be called the Mirzapur Stone Mahál Act, 1886; and

(2) It shall come into force on such day as the Local Government, by notification in the official Gazette, appoints.

(3) The power conferred by this Act on the Local Government to make rules may be exercised at any time after the passing of this Act; but a rule so made shall not take effect until the Act comes into force.

Repeal.

2. On and from the day on which this Act comes into force, Bengal Regulation II of 1800 (*a Regulation for laying open to public use the stone-quarries at Chunar, Gházipur* [properly called Ghásipur] and *Mirzapur, in the Province of Benares, subject to a fixed duty*) shall be repealed.

3. In

(Rights of the Government and the Public.—Sections 3-6.)

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

(1) "the district" means the whole of the area comprised in the district of Mirzapur as constituted at the time of the passing of this Act, except the lands described in the schedule to this Act :

(2) "Collector" means the Collector of the Mirzapur district, and includes an Assistant Collector of the first class empowered by him to perform any of the functions of the Collector under this Act :

(3) "Commissioner" means the Commissioner of the Benares Division :

(4) "Board" means the Board of Revenue of the North-Western Provinces :

(5) "quarry" means to take from the surface as well as to extract from a quarry :

(6) "transport" means to remove from one place to another within the district :

(7) "proprietor" includes an assignee of land-revenue and any person claiming under a proprietor or exercising any of the rights of a proprietor.

*Rights of the Government and the Public.*

4. The Government is entitled to levy duty on all stone quarried in the district.

Right of the Government to levy duty. Prohibition of levy of duty by proprietors.

5. No proprietor of any land in any part of the district is entitled to impose any prohibition or restriction, or to demand or receive any sum by way of rent, premium, duty or price, in respect of the opening of a quarry, or the quarrying of stone, in the land, or in respect of the storing of stone at the quarry or the transport of stone over the land, or, save as may be provided by rules made under this Act, to receive from any person any compensation whatever in respect of any of the matters aforesaid.

6. (1) Subject to the rules made under this Act, any person is entitled to open a quarry, or quarry stone,

Right of the public to quarry stone.

## (Rules.—Section 7.)

stone, in any land in any part of the district, and to store the stone at the quarry, and to transport it over any land.

(2) A person may, so far as the rules made under this Act permit, acquire an exclusive right to open a quarry, or quarry stone, within certain local limits in any part of the district, and may retain the right so long as those rules permit.

(3) If a dispute as to the right referred to in sub-section (1), to open a quarry, or quarry stone, in any land, or as to the existence of or mode of exercising an exclusive right referred to in sub-section (2), to open a quarry, or quarry stone, within certain local limits, arises between any persons, or if a dispute as to the right to store stone on, or transport stone over, any land arises between the person claiming to store or transport the stone and the proprietor of the land, it shall, on application for that purpose by either of the disputing parties to the Collector, be decided by him.

(4) A Civil Court shall not take cognizance of any such dispute, or in any suit or proceeding whatever make any decree or order whereby any party to the dispute may be bound with respect to the subject-matter thereof either directly or indirectly.

*Rules.*

Power to  
make rules.

7. (1) The Local Government may, from time to time, make rules consistent with this Act to regulate within the whole or any specified part of the district all or any of the following matters:—

- (a) the quarrying of stone, and the places where stone may be quarried;
- (b) conflicting claims to exercise the right of opening a quarry or quarrying stone;
- (c) the conditions on the fulfilment of which a person is to acquire an exclusive right of opening a quarry, or quarrying stone, within certain local limits, and how that right may cease to exist;

(d) the



## (Rules.—Section 8.)

- (d) the compensation to be paid for injury caused to crops or arable land by the quarrying, storing or transport of stone, and the authority by which the compensation is to be determined;
- (e) the transport of stone;
- (f) the storing of stone;
- (g) the classification of stones, the rate or rates of duty to be paid in respect of each class of stone to the Government or to a farmer to whom the Government has leased the duties leviable thereon, and the time when, the place where, and the persons by whom, the duty is to be paid;
- (h) the exemptions from, or reductions of, duty to be allowed, the conditions to attach to those exemptions or reductions, and the consequences to ensue on the breach of any of those conditions;
- (i) the custody and disposal of stone confiscated or seized under this Act; and
- (j) generally for carrying out the purposes of this Act.

(2) In making a rule under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the first during which the breach continues.

8. (1) The Local Government shall, before making any rules under section 7, publish a draft of the proposed rules for the information of persons interested. Procedure for making rules.

(2) The publication shall be made in such manner as in the opinion of the Local Government is sufficient.

(3) A notice shall be published with the draft specifying

## (Offences.—Sections 9-14.)

specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall, before making the rules, receive and consider any objection or suggestion which is made by any person with respect to the draft before the date so specified.

Publication  
of rules.

9. Every rule made under section 7 shall be published in the official Gazette in English and in such other language or languages as the Local Government directs, and that publication shall be conclusive proof that the rule has been made as required by section 8.

Deferred  
operation of  
rules altering  
duty.

10. If a rule made under section 7, sub-section (1), clause (g), alters the rate of duty to be paid in respect of any class of stone, it shall not have effect till the expiration of one year from the date on which it is published.

*Offences.*

Penalties for  
evasion of  
duty.

11. If any person evades, or attempts to evade, or abets the evasion of, the payment of any duty payable under a rule made under section 7, sub-section (1), clause (g), he shall be punished with fine which may extend to two hundred rupees and twenty times the duty payable on the stone in respect of which the offence was committed, and the Court convicting him may further order the confiscation of the stone.

Burden of  
proof as to  
payment of  
duty.

12. The burden of proving that duty has been paid on stone in respect of which a prosecution for an offence under section 11 has been instituted shall lie on the accused person.

Limitation  
for prosecu-  
tions.

13. A prosecution for an offence under section 11 or against a rule made under section 7 shall not be instituted after the expiration of six months from the commission of the offence.

Saving of  
prosecutions  
under other  
laws.

14. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under section 11 or against a rule made under section 7, or from



*(Arrest, Seizure and Search.—Sections 15-16.)*

from being liable under that other law to any other or higher punishment or penalty than that provided by section 11 or a rule made under section 7 :

Provided that a person shall not be punished twice for the same offence.

*Arrest, Seizure and Search.*

15. (1) Any officer whom the Collector, with the previous sanction of the Commissioner, may empower in this behalf, may— Powers of officers.

X of 1882.

(a) proceed, in respect of an offence under section 11 or against a rule made under section 7 which in his presence a person commits or is accused of committing, in the same manner as a police-officer may proceed, under section 57 of the Code of Criminal Procedure, 1882, in respect of a non-cognizable offence which in his presence a person commits or is accused of committing ; and

(b) seize any stone in respect of which he has reason to believe that an offence under section 11 or against a rule made under section 7 has been committed, and, if the stone is being transported, use, for the removal thereof to the nearest place appointed for the custody of stone seized under this Act, any animals and conveyances used in transporting it.

(2) The powers conferred by this section may be exercised as well beyond as within the limits of the district, and if in the exercise of those powers a person is arrested or stone is seized beyond those limits, then, notwithstanding anything in this Act, the person arrested shall be liable to be dealt with, and the stone seized to be disposed of, in the same manner as if he had been arrested or it had been seized, within those limits.

16. (1) A Magistrate may issue his warrant for the search, after sunrise and before sunset, of any building, Search-warrants.  
vessel

(*Recovery of Duty.—Appeal and revision.—Sections 17-18.*)

vessel or place in which he has reason to believe that stone in respect of which an offence under section 11 or against a rule made under section 7 has been committed is kept or concealed, and for the seizure of any stone found there.

(2) The provisions of the Code of Criminal Procedure, 1882, relating to searches under that Code shall, so far as the same are applicable, apply to searches under this section. X of 188

*Recovery of Duty.*

Recovery of  
duty.

17. An arrear of duty payable to the Government under a rule made under section 7, sub-section (1), clause (g), and an arrear due from a farmer of duties payable on stone, may be recovered from the person primarily liable to pay the same to the Government, or from his surety (if any), as if it were an arrear of land-revenue.

*Appeal and revision.*

Appeal and  
revision.

18. (1) Decisions and orders passed under this Act or any rule thereunder by an Assistant Collector, whether as Collector or otherwise, shall be appealable to the Collector of the Mirzapur district in the manner provided by the law for the time being in force in the district respecting appeals from the orders of an Assistant Collector to the Collector in matters pertaining to land-revenue.

(2) Decisions and orders passed by the Collector of the Mirzapur district under this Act or any rule thereunder shall be appealable to the Commissioner in the manner provided by the law aforesaid respecting appeals from the orders of the Collector to the Commissioner.

(3) The Board may revise any decision or order passed under this Act or any rule thereunder by an Assistant Collector, whether as Collector or otherwise, or by the Collector of the Mirzapur district, or under sub-section (2) by the Commissioner.

*Miscellaneous.*

(Miscellaneous.—Sections 19-20.—The Schedule.—  
Lands excluded from the area comprised in the  
District of Mirzapur.)

*Miscellaneous.*

19. The rates of duty actually levied at the time of the passing of this Act shall continue to be levied until the Act comes into force, and shall then be deemed to have been prescribed by a rule made under section 7, sub-section (1), clause (g). Saving of existing rates of duty.

20. (1) Notwithstanding anything hereinbefore contained, but subject to any rules which the Local Government may from time to time make to regulate the enjoyment of the privilege hereby conferred, the inhabitants of the tract south of the Vindhya range of hills shall be exempt from the payment of duty on stones quarried by them within the limits of that tract for their own use within those limits. Exemption of the inhabitants of the hills.

(2) The Local Government may, from time to time, by notification in the official Gazette, define the limits of the said tract for the purposes of this section.

THE SCHEDULE.

LANDS EXCLUDED FROM THE AREA COMPRISED IN THE DISTRICT OF  
MIRZAPUR.

(See section 3, sub-section (1).)

Pargana or tappá.	Village.	Remarks.
Kantit . . . . .	Bajtha . . . . .	These villages were transferred from the Allahabad district in 1840.
	Baghaura Rajman . . . . .	
	Páli . . . . .	
	Sumatia . . . . .	
	Barha Khurd . . . . .	
	Basaura . . . . .	
	Chak Kothara . . . . .	
	Chak Madari . . . . .	
	Dogauli . . . . .	
	Rasanli . . . . .	
	Kothara . . . . .	
Upraudh . . . . .	Ghunghuti . . . . .	These villages were transferred from the Allahabad district in 1861.
	Hargarh . . . . .	
	Nairi Katari . . . . .	
	Durjanipur . . . . .	
	Deohat . . . . .	
	Mahuat . . . . .	
	Maheshpur . . . . .	
	Katra Lahorya Dih . . . . .	
	Bhainsaur . . . . .	
	Mahagarhi . . . . .	