

Bihar Emergency Cultivation & Irrigation Act, 1955

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Bihar Emergency Cultivation & Irrigation Act, 1955 (Bihar Act 22 of 1955)

[The Act received the assent of the Governor on the 2nd November, 1955 and the assent was first published in the Bihar Gazette, Extraordinary of the 5th November, 1955.]

An Act to provide for Emergency Cultivation and Irrigation of certain lands in the State of Bihar.

Be it enacted by the Legislature of the State of Bihar in the Sixth year of the Republic of India as follows:-

CHAPTER I

Preliminary

1. Short title and extent. - (1) This Act may be called the Bihar Emergency Cultivation and Irrigation Act, 1955.

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

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

(a) '*Collector*' means the Collector of the district or any officer appointed by the State Government to discharge any of the function of the Collector under this Act;

(b) '*emergency tenant*' means a person with whom the Collector has settled any land under sub-section (1) of Section 3;

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(c) '*irrigation work*' means any means or work constructed, altered or maintained artificially for the purpose of securing the supply, removal or storage of water for irrigation purpose and includes-

(i) any part of any such means or work;

- (ii) any water-course, channel or reservoir for the supply, removal or storage of water for irrigation purposes;
- (iii) any work, embankment, structure, or supply or escape channel connected with any such water-course channel or reservoir;
- (iv) a head-work, dam, weir, outlet and sluice; and
- (v) a well or tank which is or may be used for irrigation purpose;

but does not include any such means or work which has been brought under the control of the State Government under the provisions of any other law for the time being in force; and

(d) 'occupier' means a person in actual possession of any land immediately before the commencement of this Act.

CHAPTER II

Arrangement By Collector For Cultivation of Fallow Land

3. Power of Collector to settle culturable land lying fallow for the purpose of cultivating food crops. - (1) If the Collector is satisfied, on such inquiry as he thinks fit, that any culturable land was lying fallow continuously for a period of two years ending with the 15th June of any year, on account of the inability or negligence of the occupier to cultivate the same, the Collector may settle the land, for the purpose of cultivation with a person, who has, in his opinion, the means to cultivate it and is willing to do so:

Provided that where any culturable land has once been settled by the Collector under this sub-section, he shall before making a fresh settlement cause a notice to be served on the occupier to communicate to the Collector, within a period of thirty days from the date of the service of the notice whether such occupier wants to cultivate such land after the expiry of the period of settlement; and if the occupier fails to send any communication to the Collector within the said period of thirty days or informs the

Collector that he does not want to cultivate the land, the Collector may settle the land again with any person under this sub-section.

(2) The settlement shall be made under a written lease in such form as may be prescribed by the State Government. The lease shall be kept in the office of the Collector and copies thereof shall be made over to the occupier and to the emergency tenant.

(3) Such settlement shall remain operative up to the 15th June of the year following the year in which the settlement is made.

(4) The emergency tenant shall not sell, mortgage, lease or otherwise transfer any interest in such land or any portion thereof.

(5) The interest of the emergency tenant in such land (including the crops grown thereon) shall not be liable to be attached or sold in execution of a decree or order of a Court:

Provided that this restriction shall not apply to the execution of a decree or a certificate under the Bihar 2/5 and Orissa Public Demands Recovery Act, 1914 (B. & O. Act IV of 1914), for arrears of rent obtained in respect of the same land which is sought to be attached or sold.

4. Payment of rent by emergency tenant. - (1) The Collector shall fix the rate of rent payable by an emergency tenant to the occupier of the land:

Provided that-

(a) where no rent is payable for the land by the occupier such rate of rent shall be the rate of rent prevailing in the vicinity for similar class of lands with similar advantages; and

(b) where rent is payable for the land by the occupier, such rate of rent shall be the rate of rent payable by the occupier.

(2) The rent payable under sub-section (1) shall fall due on the 15th June of the year following the year in which the settlement is made.

5. Ejectment of emergency tenant. - An emergency tenant shall be liable to ejectment from the land to which he was admitted to occupation under Section 3 on one or more of the following grounds, and not otherwise namely;-

(a) on the ground that he has failed to pay to the occupier an arrear of rent due in respect of the land;

(b) on the ground that he has made no reasonable efforts to cultivate the land within a period of one month from the date of settlement made by the Collector under Section 3; and

(c) on the ground that the period for which settlement was made by the Collector has expired.

6. Restoration of land to the occupier. - When the emergency tenant has made himself liable for ejectment on any of the grounds specified in Section 5, the emergency tenant or, if he be dead, his legal representative shall quit possession of the land and, if he fails to do so, the Collector shall eject him and restore the land to the possession of the occupier or, if the occupier be dead, to the possession of his legal representative, and the Collector may use such force as may reasonably be necessary for effecting the ejectment.

7. Right of landlord to realise rent. - Nothing in this Chapter shall affect the right of the landlord, if any, of the occupier to realise from him rent of the land for the period during which it remains in possession of the emergency tenant.

CHAPTER III

Emergency Supply and Distribution of Water from an Irrigation Work or a River or Chaur or Natural Stream

8. Power of Collector to order land to be irrigated from any irrigation work. - (1) Notwithstanding any entry in the record-of-rights or anything contained in any other law for the time being in force, if the Collector is satisfied, after such inquiry as he thinks fit, that a certain land is likely to be benefitted by any irrigation work, he may make an order that such land shall be irrigated from such work, on such terms and subject to such conditions as he thinks fit.

(2) In making an order under sub-section (1), the Collector shall assess such amount as may, in the opinion of the Collector, be fair and equitable to be paid by the persons whose lands will be irrigated from such work to the owner of the irrigation work and to the person or persons who maintain the work 3/5 in an efficient State.

9. Power of Collector to order land to be irrigated from any natural stream or river or chaur. - Notwithstanding any entry in the record-of-rights or anything contained in any other law for the time being in force, if the Collector is satisfied, after such inquiry as he thinks fit, that a certain land is likely to be benefitted by irrigation from any natural stream or river or chaur, he may make an order that such land shall be irrigated from such stream or river or chaur, as the case may be, on such terms and subject to such conditions as he thinks fit.

10. Preparation of scheme of irrigation and system of rotation. - (1) Before making an order under sub-section (1) of Section 8 or Section 9, the Collector shall cause a public notice to be served in such manner as he thinks fit calling upon all persons who are likely to be affected by the order to prefer any objection on the date specified in the notice.

(2) After hearing the objections preferred under sub-section (1), the Collector shall prepare a scheme of irrigation or a system of rotation regulating the time during which, and the manner in which, the lands shall be irrigated from the stream or, as the case may be, from the natural stream or river or chaur and may if necessary, modify the same from time to time.

(3) In preparing or modifying such scheme or system, the Collector shall have regard to the greatest good to be derived collectively by the lands to be irrigated:

Provided that, if there is an entry in the record-of-rights for the irrigation of such land from the irrigation work, natural stream or river or chaur, irrigation of such land shall have priority in the scheme or system and the surplus water left after the irrigation of such land shall be used for the irrigation of other lands.

CHAPTER IV

Miscellaneous

11. Appeals. - (1) An appeal shall lie from an order made, under Chapter II or Chapter III. -

(i) by an officer, other than the Collector of a district, to the Collector of the district or to any officer specially empowered by the State Government by notification to hear such appeals;

(ii) by the Collector of a district, to the Commissioner;

and the decision of the Collector of the district or of any officer so empowered or of the Commissioner on any such appeal shall be final.

(2) The Collector of the district may, at any time, transfer any appeal already filed before him to any officer specially empowered under clause (i) of sub-section (1) to hear such appeals or withdraw any appeal pending before any officer so empowered, and either hear such appeal himself or transfer it for disposal to any other officer so empowered.

(3) Appeals under this section shall be heard and disposed of in accordance with the procedure prescribed by rules made in this behalf.

(4) An appeal under this section shall be filed within thirty days of the date of the order appealed against.

12. Recovery of rent as a public demand. - The rent payable under subsection (1) of Section 4 or the amount payable under sub-section (2) of Section 8 shall be recoverable as a public demand.

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13. Penalty. - Whoever obstructs an emergency tenant from cultivating the land settled with him under sub-section (1) of section 3, or obstructs the irrigation of any land against an order made under section 8 or 9 shall, on conviction, be punishable with rigorous imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both.

14. Right in immovable property not to be taken away or altered - Nothing done and no order made under this Act shall be deemed to confer any right of occupancy in any land or to confer or take away or alter any other right in immovable property.

15. Bar of suits. - No suit shall lie in any Civil Court regarding any proceeding under this Act.

16. Indemnity. - No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

17. Collector to have the power of Civil Court. - The Collector shall have the same power regarding the summoning and attendance of witnesses and compelling the production of documents as a Civil Court has under the Code of Civil Procedure, 1908 (Act V of 1908).

18. Power to make rules. - The State Government may make rules for carrying out the purposes of this Act.

19. Act to override other enactments. - The provisions of this Act shall have effect, notwithstanding anything contained to the contrary in any other law for the time being in force.

20. Repeal and saving. - (1) The Bihar Emergency Cultivation and Irrigation (Temporary Provisions) Ordinance, 1955 (Bihar Ordinance No. VII of 1955), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action in the exercise of any power conferred by or under the said shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action taken.

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