

The Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959

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Act 28 of 1959

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The Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959 (Bihar Act 28 of 1959) Governors' assent first published in the Bihar Gazette, dated the 16th December, 1959. An Act to provide for the levy of betterment contribution on certain lands in the State of Bihar. Be it enacted by the Legislature of the State of Bihar in the Tenth Year of the Republic of India as follows: -

1. Short title, extent and commencement.

(1) This Act may be called the Bihar Irrigation and Flood Protection (Betterment Contribution) Act, 1959. (2) It extends to the whole of the State of Bihar. (3) It shall come into force on such date or dates and in such area or areas as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, -(a) 'betterment contribution' means the contribution leviable and realisable under Section 3 of this Act; (b) 'Collector' means the Collector or the Deputy Commissioner of a district and includes such other officer not below the rank of a Deputy Collector as the State Government may appoint to perform all or any of the functions of the Collector under this Act; (c) 'flood protection work' includes embankments, groynes, spurs, dams, barrages, sluices and all other work, for the protection of lands or buildings from floods or erosion, constructed, improved or maintained by the State Government; (d) 'irrigation work' means any work of irrigation or any system of such work, natural or artificial, constructed, improved or maintained by the State Government and includes, -(i) all canals, channels, tanks, reservoirs, ponds, spring-ponds, lakes and other natural collection of water, or parts thereof, all embankments, barrages, weirs, dams, guide banks, and all other works which are constructed,

improved or maintained by the State Government for the purposes of irrigation; and(ii)all lands used for the purposes of the works referred to in sub-clause (i) and all buildings, machinery, fences, gates and other erections connected therewith on such lands;(e)'land' includes interest in lands, benefits arising out of lands and things attached to the earth or permanently fastened to anything attached to the earth;(f)'owner' in relation to any land includes any person having an interest in such land; and(g)'prescribed' means prescribed by Rules under this Act.

3. Power of State Government to levy betterment contribution.

- Subject to the provision of Section 4, the State Government shall be entitled to levy and recover a betterment contribution in accordance with the provisions of this Act from the owner of any land which in its opinion is benefited by any irrigation work or flood protection work or part of such work whether completed after the commencement of this Act or at any time before such commencement but not earlier than the 15th day of August, 1951:Provided that -(a)in respect of the land of a privileged person as defined in clause (i) of Section 2 of the Bihar Privileged Persons Homestead Tenancy Act, 1947 (Bihar Act IV of 1948), no betterment contribution shall be levied;(b)in respect of an irrigation work or part of such work -(i)no betterment contribution shall be leviable except after four years of the completion of the irrigation work or part of such work, as the case may be; and(ii)no betterment contribution shall be levied if the cost of such work, not being a reservoir or storage dam, is less than rupees ten lakhs; and(c)in respect of flood protection work no betterment contribution shall, except in respect of lands situated in an urban area, be levied if the cost of such work is less than rupees five lakhs.Explanation 1. - A land shall be deemed to be benefited from an irrigation work if it is capable of being benefited from such work notwithstanding that the benefit is not enjoyed due to any action or inaction on the part of the owner of such land.Explanation 2. - For the purposes of this Act, the date of completion of an irrigation work or flood protection work or part of such work shall be the date which may be notified in this behalf by the State Government in the Official Gazette.Explanation 3. - In this Section and in Section 4 'urban area' means lands comprised within the local limits of Municipality or a Notified Area Committee established under the Bihar and Orissa Municipal Act, 1922 (B.& O. Act VII of 1922) or within the local limits of the Patna Municipal Corporation.

4. Specification of lands benefited and rates of betterment contribution.

- Whenever the State Government proposes to levy a betterment contribution under Section 3, it shall, by notification in the Official Gazette, specify the lands which are benefited from an irrigation work or flood protection work and upon such notification the owner of such lands shall be liable to pay betterment contribution at the following rates, namely: -

Rate of levy.

Rs.

- (a) in case of an irrigation work, not 75 per acre.
being a storage dam or reservoir,
where the flow of water is not

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| | perennial; | |
| (b) | in case of an irrigation work, not being a storage dam or reservoir, where the flow of water is perennial; | 105 per acre. |
| (c) | in case of a storage dam or reservoir; | 120 per acre. |
| (d) | in case of a flood protection work, where the land benefited is not situated within an urban area; and | 50 per acre. |
| (e) | in case of a flood protection work, where the land or building benefited is situated within an urban area; | Rs. 200 per acre or 25 per cent of its annual value as entered in the valuation list prepared under Section 101 of the Bihar and Orissa Municipal Act, 1922 (B. & O. Act VII of 1922) or under Section 133 of the Patna Municipal Corporation Act, 1951 (Bihar Act XIII of 1952), as the case may be, whichever is less: |

Provided that where the lands or buildings benefited from an irrigation work or flood protection work lie within the local limits of the districts of Ranchi, Hazaribagh, Palamau, Singhbhum, Dhanbad or Santhal Parganas, the rate of betterment contribution shall be four-fifths of the rates mentioned in clauses (a), (b), (c), (d) and (e).

5. Issue of demand notice.

- After a notification under Section 4 has been issued, the Collector shall prepare an assessment list and cause a notice of demand to be prepared and served on the owner, in the prescribed manner, requiring him to pay the betterment contribution.

6. Objections to demand.

(1) Any owner who has been served with a notice of demand under Section 5 may, within sixty days of the service of such notice, file, in the prescribed manner, a petition before the Collector objecting to the levy of any one or more of the following grounds, namely: -(i) that his land has not been benefited by the irrigation work or flood protection work; (ii) that he is not an owner in respect of the land or building; (iii) that he is a privileged person within the meaning of clause (i) of Section 2 of the Bihar Privileged Persons Homestead Tenancy Act, 1947 (Bihar Act IV of 1948); (iv) that he is not liable to pay the full amount of betterment contribution assessed to him; (v) that the amount of betterment contribution in respect of the land should be apportioned among the different owners of the same; or (vi) that the area noted in the demand notice is not correctly recorded. (2) On a petition under sub-section (1) being filed, the Collector shall give the petitioner a reasonable opportunity to adduce such evidence as he may like in support of his petition and after considering the evidence adduced and after such further inquiry, if any, as he may consider necessary, pass, for reasons to be recorded, such orders as he may deem fit: Provided that no order of apportionment shall be made

unless notice in this behalf has been served on each of the owners amongst whom apportionment is to be made: Provided further that the apportionment of the betterment contribution assessed in respect of the land or building shall be made with due regard to the respective rights of the owners thereof.

7. Appeals.

(1) Any person aggrieved by an order made under Section 6 may, within sixty days of the passing of such order, appeal, (i) if the order has been passed by the Collector of the district, or the Deputy Commissioner, to the Commissioner; and (ii) if the order has been passed by any other officer, to the Collector of the district or the Deputy Commissioner, as the case may be: Provided that the Commissioner as regards item (i) and the Collector of the district or the Deputy Commissioner, as the case may be, as regards item (ii) may, for sufficient cause, extend the time for preferring the appeal. (2) The appeal shall be preferred and heard in such manner as may be prescribed and the authority hearing the appeal shall pass such order as it thinks fit.

8. Revision.

- On an application made within forty-five days of the passing of an order under Section 7, the Board of Revenue, if the order has been passed by the Commissioner, and the Commissioner, if the order has been passed by the Collector of a district or the Deputy Commissioner, as the case may be, may revise such order: Provided that the Board of Revenue or the Commissioner, as the case may be, may, for sufficient cause, extend the time for making the application.

9. Finality of orders.

- Any order passed under Section 8 and subject to the order passed under Section 8, any order passed under Section 7, and subject to orders passed under Sections 7 and 8, any order passed under Section 6, shall be final.

10. Costs in appeal or revision.

- In every appeal under Section 7 and in every revision under Section 8, the cost shall be in the discretion of the appellate or the revisional authority, as the case may be.

11. Liability of owner to pay the betterment contribution.

- Every owner shall become liable to pay the betterment contribution on the date of service of notice of demand under Section 5.

12. Remission or suspension of the recovery of betterment contribution in certain circumstances.

- If the State Government is satisfied -(i)that the crops on any land lying within the area assessed to betterment contribution are seriously damaged on account of the failure of the irrigation work or the flood protection work, drought, flood, tempest, hailstorm or any other irresistible force, or(ii)that the land being water-logged or due to some other causes has become unculturable, or(iii)that the land has for some reason or the other ceased to receive irrigation from the irrigation work or to be benefited from the flood protection work, or(iv)that the agricultural industry has received a set-back on account of serious fall in the price of agricultural produce, the State Government may, subject to such conditions as it may think fit, suspend the recovery of, remit or refund in full, or in part, the betterment contribution or any instalments thereof in respect of such land.

13. Betterment contribution may be paid in instalments.

(1)An owner may, if he so elects, pay the betterment contribution in fifteen equal annual instalments subject to such terms and conditions as may be prescribed.(2)(i)If within twelve months from the date of service of the notice under Section 5, the owner pays the entire amount of the betterment contribution, a rebate at the rate of twenty per centum shall be allowed on such amount.(ii)If on any day after twelve months from the date of service of the notice under Section 5 and within two years of such service, the owner pays the entire amount outstanding against him on account of betterment contribution, a rebate at the rate of fifteen per centum shall be allowed on such amount.

14. Deduction from betterment contribution.

- Any person liable to pay any betterment contribution for lands benefited by the construction, improvement or maintenance of any irrigation work or flood protection work, shall be entitled to deduct from the amount of such betterment contribution any amount which the Collector finds to have been previously paid by him under the Bihar Public Irrigation and Drainage Works Act, 1947 (Bihar Act X of 1947) to the State Government towards the cost of such work.

15. Power of Civil Court, to Collector and certain other authorities for certain purposes and proceeding to be judicial proceeding.

(1)The Collector or an authority before whom an appeal under Section 7 or revision under Section 8 lies, shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit, in respect of the following matters, namely: -(a)enforcing the attendance of any person and examining him on oath or affirmation, and(b)compelling the production of documents.(2)Any proceeding under this Act before the Collector or an authority empowered to hear appeal under Section 7 or revision under Section 8, shall be deemed to be 'judicial proceeding' within the meaning of Sections 193 and 228 and for the purpose of Section 196 of the Indian Penal Code, 1860 (XLV of 1860).

16. Power to enter on land.

- If, in the opinion of the Collector, it is desirable for the purpose of this Act so to do, he may, by general or special order, authorise any officer of Government and his subordinate officers and persons employed by him to enter upon any land and to do any act necessary for such purpose: Provided that no person shall enter into any building or any enclosed courtyard or garden attached to a dwelling house, except with the consent of the occupier thereof, without previously giving such occupier at least seven days' notice in writing of his intention to do so.

17. Power to compel production of documents, etc.

(1) The Collector or any person authorised by a general or special order by the Collector in this behalf may, for the purpose of this Act, by notice require any person to make and deliver to him a statement or to produce records or documents in his possession or control relating to any land at the time and place specified in the notice. (2) Every person required to make or deliver a statement or to produce any record or document under sub-section (1) shall be deemed legally bound to do so within the meaning of Sections 175 and 176 of the Indian Penal Code, 1860 (XLV of 1860).

18. Betterment contribution recoverable as public demand.

- Any sum including interest thereon or cost of any appeal or revision due to the State Government under this Act, shall be a charge on the lands assessed to the betterment contribution and shall take priority over all other claims on the lands except rent in respect thereof payable to the State Government and shall be recoverable as a public demand.

19. Betterment contribution to be ear-marked.

- The betterment contribution levied and recovered under this Act shall be ear-marked for expenditure on serving debts in relation to irrigation works or flood protection works or on the construction, improvement or major repairs of such works.

20. Indemnity.

- No claim shall lie against the State Government for compensation or for the refund of betterment contribution on account of loss occasioned by any temporary failure or stoppage of water in an irrigation work or flood protection work or by any cause beyond the control of the State Government or by any repairs, alterations or additions made to such work.

21. Bar to suits or proceedings.

- No suit, prosecution or other legal proceedings shall lie against any person in respect of anything done or intended to be done in good faith under this Act or the Rules made thereunder.

22. Savings.

- No proceeding under this Act shall be defeated or invalidated by reason only of any defect or omission in the publication or service of any notification, statement, notice or order, unless material injury is done to any person by such defect or omission.

23. Power to make Rules.

(1)The State Government may, after previous publication, make Rules not inconsistent with this Act for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, the State Government may make Rules to provide for all or any of the following matters, namely: -(a)the manner in which petition under Section 6 or an appeal under Section 7 or a revision under Section 8 shall be preferred and heard;(b)the manner in which notice of demand under Section 5 shall be prepared and served and the demand realised;(c)the grant of suspension, abatement or remission of betterment contribution;(d)the circumstances and the manner in which refund, if any, of the betterment contribution shall be allowed;(e)the manner in which betterment contribution shall be apportioned among different owners; and(f)any other matter which is required to be or which may be prescribed under this Act.

24. Removal of difficulty.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, do anything, not inconsistent with this Act or the Rules made thereunder, which appears to it necessary for the purposes of removing the difficulty.