

The Rajasthan Pass Book (Agricultural Holdings) Act, 1983

RAJASTHAN

India

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Act 14 of 1983

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The Rajasthan Pass Book (Agricultural Holdings) Act, 1983 Act No. 14 of 1983 Statement of Object and Reasons - Pass Books, containing relevant data and information regarding the lands held by agriculturists, were prepared and distributed to the majority of farmers in the State over the last decade with a view to provide them a ready record of their rights and titles, and also to facilitate the obtaining of credit facilities from the banks and other financial institutions by them. Administrative instructions had been issued in the year 1971 for preparation and distribution of Pass Books to agriculturists; and subsequently, statutory provisions regarding Pass Books were incorporated in the relevant rules. However, it was felt that unless a firm legal base is provided to back up these Pass Books and ensure that these are kept up-to-date at all times, the courts and financial institutions will not place adequate reliance on the entries made in it and the objectives in view will not be achieved. Hence, the need arose for this self-contained legislation. The Pass Books to be issued to the agriculturists should have firm statutory base, and should serve as a sort of record of rights of the agriculturists, and should contain not only full details of the land used by them for agriculture purposes but also contain an accurate account of the loans and credits raised by them on the security of their property. All transfers, of any part of their land, made by the agriculturists should be compulsorily entered in the Pass Books by the registering authorities and the agriculturists should be under legal obligation to produce the Pass Books before the competent authorities on such occasions. The Pass Books are to be issued by the Revenue Officer or other Officers authorised by the State Government in this behalf, and are to be kept up-to-date. The production of Pass Book before the financial institutions shall also do away with the need of producing copies of Jamabandies and other revenue records before them. As in the absence of Pass Books containing full details of land held by an agriculturists and of the debts and loans outstanding against him, the financial institution were facing great difficulty in giving financial assistance to the agriculturists and the problem required immediate solution, the Governor promulgated the Rajasthan Pass Book (Agricultural Holdings) Ordinance, 1983 (Ordinance No. 3 of 1983) on 29th July, 1983. This Bill seeks to replace the said Ordinance and to achieve the above objectives. Published in Rajasthan Gazette Extraordinary Part III-A Ex. dated 6-9-1983 p. 71. [Published in the Rajasthan Gazette, Part

IV-A, Extra ordinary, dated October 1, 1983][Received the assent of the President on the 30th day of September, 1983]As amended by the following:-

1. Rajasthan Act 17 of 1994 w.e.f. 26-10-1995;

2. Rajasthan Act. 16 of 1995 [17-5-1995].

An Act to provide for the issue of agricultural holdings Pass Books to enable agriculturists to have credit facilities and for matters connected therewith or incidental thereto. Be it enacted by the Rajasthan State legislature in the Thirty-fourth Year of the Republic of India, as follows:-Chapter-I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Rajasthan Pass Book (Agricultural Holdings) Act, 1983.(2)It extends to the whole of the State of Rajasthan.(3)It shall be deemed to have come into force on the 29th day of July, 1983.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"agriculture" includes making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, soil conservation and land development measures, raising and harvesting of crops, horticulture, forestry, cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture, agriculture, sericulture, piggery, poultry farming and other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities; and the words "agricultural purposes" shall be construed accordingly;(b)"Agriculturist" means a person who is engaged in agriculture;(c)"co-operative society" means a co-operative society registered, or deemed to be registered, under the Rajasthan Co- operative Societies Act, 1965 (Rajasthan Act 13 of 1965), the object of which is to provide financial assistance to its members, and includes a cooperative land development bank and an agricultural development bank;(d)"Financial institution" means and includes,-(1)a banking company as defined in clause (c) of Section 5 of the Banking Regulations act, 1949 (Central Act 10 of 1949) and includes,-(i)the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);(ii)a subsidiary bank as defined in the State Bank of India (Subsidiary Bank) Act, 1959 (Central Act 38 of 1959);(iii)a corresponding new bank as specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970);(iv)the Agricultural Re-finance and Development Corporation established under the Agricultural Re-finance and Development Corporation Act, 1963 (Central Act 10 of 1963);(v)the Rajasthan State Agro-Industries Corporation limited;(vi)Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (Central Act 1 of 1956);(vii)a Regional Rural Bank established under the Regional Rural Bank Act, 1976 (Central Act 21 of 1976);(viii)a banking institution notified by the Central Government under Section 51 of the Banking Regulations Act, 1949 (Central Act 10 of

1949);(ix)the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 61 of 1981);(2)a Panchayat Samiti established under the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959);(3)the Rajasthan Land Development Corporation established under the Rajasthan Land Development Corporation Act, 1975 (Rajasthan Act 17 of 1975);(4)a co-operative society;(5)any other institution which may be notified in this behalf by the State Government;(e)"financial assistance" means assistance by way of loans, advances, guarantee or otherwise for agricultural purposes;(f)"land" means land used for the purpose of agriculture or any purpose subservient thereto and which is assessed by the Government to land revenue, but not being land appurtenant to any residential building situated within the local limits of a municipality or cantonment;(g)"Land Revenue Act" means the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956);(h)"Pass Book" means a Pass Book issued under Section 4;(i)"Registrar" and "Sub-Registrar" shall have the meaning respectively assigned to them in the Registration Act, 1908 (Central Act 16 of 1908);(j)"Revenue Officer" means a Tehsildar or any other officer appointed by the State Government for the purposes of this Act;(k)words and expressions defined in the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955) and the Land Revenue Act, but not defined in this Act. shall, wherever used herein, be construed to have the meanings assigned to them by the said Acts; and(l)words and expressions used to denote the possessor of any right, title or interest shall be deemed to include the predecessors and successors of any right, title or interest of such person.

3. Act to override other laws.

- The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything contained in the Rajasthan Co-Operative Societies Act., 1965 (Rajasthan Act 13 of 1965) or in any other law for the time being in force including the Registration Act, 1908 (Central Act 16 of 1908) or in any instrument having effect by virtue of any enactment other than this Act.

4. Issue of Pass Books and matters relating thereto.

(1)Every agriculturist holding land in the State shall make a declaration in such form as may be prescribed to the Revenue Officer within the local limits of whose jurisdiction the land is situate containing full and correct particulars of the land held by him or in relation to which he holds an interest or in relation to the crops, if any, standing thereon or in relation to which he holds any interest and of all debts owned or loans raised by him by mortgaging or charging the whole or part of such land and subsisting on the date of making the declaration.(2)On receipt of the declaration made by an agriculturist under sub-section (1), the Revenue Officer shall make or cause to be made, in such manner as may be prescribed, an inquiry about the right of the agriculturist in relation to the land specified in the declaration or any interest held by him therein or in respect of any crops standing thereon on the basis of the annual registers and any other basis relevant to the inquiry.(3)If, as a result of such inquiry as mentioned in sub-section (2), the Revenue Officer is satisfied with regard to the right of the agriculturist relating to all or any of the properties specified in the declaration made by him under sub-section (1), he shall, on payment of prescribed fee by the

agriculturist, issue a Pass Book in such form as may be prescribed in favour of the agriculturist indicating therein the extent of credit worthiness of the agriculturist has right and the extent of encumbrances, if any, existing in relation to any of such properties on the date of issue of the Pass Book. The declaration made by the agriculturist under sub-section (1) shall be appended to and form part of the Pass Book.(4)The size and colour of the cover and papers to be used in the original Pass Book, its office copy and that of the duplicate copy shall be different and as prescribed.(5)If, on an application made by an agriculturist supported by affidavit, the Revenue Officer is satisfied that the Pass Book issued by him to the agriculturist making the application has been lost, or destroyed, he shall issue a duplicate copy thereof on payment of the prescribed fee and the words "Duplicate Copy" shall be conspicuously marked on it.(6)Where the Pass Book issued to an agriculturist has been filled up, damaged or mutilated and can no longer be used, another Pass Book shall be prepared in the prescribed manner and issued to him by the Revenue Officer on payment of such fee as may be prescribed.(7)In no case, a true or certified copy of the Pass Book shall be issued by the Revenue Officer to any agriculturist.

5. Presumption of correctness as to entries.

(1)Every entry made by the Revenue Officer in a Pass Book or a duplicate copy thereof issued under Section 4 shall be presumed to be correct until the contrary is proved.(2)The entries in the Pass Book shall be presumptive evidence of the rights of the holder thereof in respect of the land or other interest in the land or crops specified therein and may be accepted as such by a financial institution for the purpose of granting financial assistance to the holder of the Pass Book, whether or not, on the security of the properties specified in the Pass Book.

6. Endorsement on Pass Books.

(1)A financial institution granting any financial assistance to the holder of a Pass Book shall make an attested endorsement on the Pass Book indicating the amount of such financial assistance and where such financial assistance has been given on the security of any property, the financial institution shall also make an endorsement against the property on the security of which the financial assistance has been granted by it; and the endorsement so made shall have the effect of creating a charge in favour of the financial institution on the property against which the endorsement has been so made:[x x x] [Deleted by Rajasthan Act 17 of 1994.]Provided that where any charge on any land or interest therein was created by an agriculturist in favour of a co-operative society before the commencement of this Act, it shall not debar him from creating, after such commencement, a subsequent charge on such land or interest therein in favour of a financial institution's security for any financial assistance given to the agriculturist by such institution;Provided further that the financial institution, which sanctions the first loan after the issue of the Pass Book, shall ascertain and verify all past loans and encumbrances advanced to or created by, as the case may be, by the agriculturist and shall enter and authenticate the details thereof in the Pass Book.(2)A copy of every endorsement made by a financial institution in pursuance of the provisions of sub-section (1) shall be forwarded by it to the Revenue Officer within the local limits of whose jurisdiction the whole or any part of the property whereupon the charge so created is situate, and on receipt of the copy of such endorsement, the Revenue Officer shall make

the necessary entries in the record of rights maintained by him under the Land Revenue Act and in the office copy of the Pass Book.

7. Transfers not to be registered except on production of Pass Book.

(1) No transfer made by the holder of a Pass Book of any parcel of land specified in such Pass Book or any interest in such land or any crop standing thereon shall be registered by the Registrar or Sub-Registrar unless the Pass Books are produced before him by the transferor and the transferee if they are Pass Book holders, and on production of the Pass Books, he shall make an endorsement therein indicating the particulars of transfer registered by him: [x x x] [Proviso deleted by Rajasthan Act 17 of 1994.] (2) Where mutation in the revenue record is ordered owing to any transfer of land or, any interest therein, not requiring registration, a copy of the order shall be recorded in the Pass Book by the authority making such order: [x x x] [Proviso deleted by Rajasthan Act 17 of 1994.] (3) Any transfer effected in contravention of this Section shall be void. Chapter-III
Miscellaneous

8. Protection of action taken in good faith.

- No suit or other legal proceedings shall be against the Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

8A. [Power of the State Government in certain cases to postpone the enforcement of the provisions of Rajasthan Act No. 17 of 1994. -

Notwithstanding anything contained in this Act, where, due to the pendency of settlement operations, elections, updating of records or otherwise, the State Government considers it necessary to do so with respect to any local area in the State, it may, by notification published in the Official Gazette and for reasons to be specified in such notification, postpone the enforcement of the provisions of the Rajasthan Pass-Book (Agricultural Holdings) (Amendment), 1994 (Act No. 17 of 1994) in such local area for such period as may be specified in the Notification.] [Inserted by Act No. 16 of 1995]

9. Power to make rules.

(1) The State 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 provide for all or any of the following matters, namely:-(a) the form of declaration to be made by an agriculturist under sub-section (1) of Section 4; (b) manner in which the Revenue Officer shall make or cause to be made, inquiry under sub-section (2) of Section 4; (c) the form in which Pass Book shall be issued by the Revenue Officer in favour of an agriculturist and the fee required to be paid for the issue of Pass Book and the Duplicate Copy thereof; (d) the size and

colour of the cover and the papers to be used in the original Pass Book, its office copy and that of the duplicate copy;(e)the manner in which another Pass Book shall be prepared and the amount of fee that shall be charged therefor under sub- section (6) of Section 4;[x x x] [Clauses (f) & (g), deleted by Rajasthan Act No. 17 of 1994.](h)maintenance of records; and(i)such other matters which are required to be or may be prescribed under this Act.(3)All rules made under this Act shall be laid, as soon as may be, after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than thirty days which may be comprised in one session or in two successive sessions, and, if, before the expiry of the session in which they are so laid, or of the session immediately following the House of the State Legislature makes any modifications in any of such rules, or resolves that any such rules should not be made, such rules 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 thereunder.

10. Repeal and savings.

(1)The Rajasthan Pass Book (Agricultural Holdings) Ordinance, 1983 (Ordinance No. 3 of 1983) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.