

The West Bengal Minorities Development And Finance Corporation Act, 1995

WEST BENGAL

India

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Act 18 of 1995

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The West Bengal Minorities Development And Finance Corporation Act, 1995 West Bengal Act 18 of 1995 [10th October, 1995.] Assent of the Governor was first published in the Calcutta Gazette. Extraordinary, dated the 10th October, 1995. An Act to establish a Minorities Development and Finance Corporation in West Bengal. Whereas it is expedient to provide for the establishment of a Minorities Development and Finance Corporation in West Bengal; It is hereby enacted as follows:-

1. Short title, extent and commencement. -

(1) This Act may be called the West Bengal Minorities Development and Finance Corporation Act, 1995. (2) It extends to the whole of West Bengal. (3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions. -

In this Act, unless there is anything repugnant in the subject or context,- (a) "the Corporation" means the West Bengal Minorities Development and Finance Corporation established under section 3; (b) "minorities" means the minorities based on religion such as Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis), Jains and Jews and such other minorities within the purview of article 29 of the Constitution of India as the State Government may, by notification, specify from time to time; (c) "minority occupation" means a traditional occupation followed by the minorities; (d) "notification" means a notification published in the Official Gazette-; (e) "prescribed" means prescribed by rules made under this Act.

3. Incorporation. -

(1)The State Government may, by notification, establish a Corporation to be known as the West Bengal Minorities Development and Finance Corporation.(2)The Corporation shall be a body corporate by the name notified under sub-section (1), having perpetual succession and a common seal, and shall by the said name sue and be sued.

4. Constitution of the Corporation. -

(1)The Corporation shall consist of the following members, namely:-(a)[a Chairperson, who shall be a person of public eminence, to be nominated by the State Government] [Clause (a) substituted, by W.B. Act 23 of 1996, which was earlier as under:- Minister-in-charge, Minority Affairs. Minority Welfare Department, ex officio Chairperson:'.];(b)the Secretary, Department of Rural Development, Government of West Bengal, ex officio;(c)the Secretary, Department of Municipal Affairs, Government of West Bengal, ex officio;(d)the Secretary, Department of Cottage and Small Scale Industries, Government of West Bengal, ex officio;(e)[the Secretary, Minorities Development and Welfare Department, Government of West Bengal, ex officio;] [Clause (e) Substituted by W.B. Act 23 of 1996, which was earlier as under:- '(e) the Special Secretary, Home Department. Government of West Bengal, ex officio:'.](f)the Managing Director of the Corporation;(g)the Managing Director, West Bengal Finance Corporation, ex officio;(gg)[a representative of the West Bengal Minorities Commission;] [Clause (gg) Inserted by W.B. Act 23 of 1996.](h)such number of other members, not exceeding five, as the State Government may, by notification, appoint.(2)The State Government shall appoint, if it thinks fit, one of the members as the Vice-Chairperson of the Corporation.(3)In the event of the capital of the Corporation being raised by the issue of shares to the members of the public, provision shall be made by rules made under this Act for the representation of such share-holders in the Corporation and the manner in which the representatives shall be elected by such share-holders.(4)The term of office, and the manner of filling casual vacancies in the offices, of the members of the Corporation shall be such as may be prescribed.

5. Disqualifications for membership. -

A person shall be disqualified for being chosen as, and for being, a member of the Corporation-(a)if he is a lunatic or a person of unsound mind, or(b)if he has been adjudged insolvent, or(c)if he has been convicted of an offence involving moral turpitude,or(d)if he has directly or indirectly any interest in any subsisting contract made with, or in any work being done for, the Corporation except as a share-holder (other than a Director) in an incorporated company, provided that where he is a share-holder, he shall disclose to the State Government the nature and extent of the shares held by him in such company, or(e)if he has any financial interest in any work undertaken by the Corporation for execution.

6. Validity of acts and proceedings. -

No act or proceeding of the Corporation shall be invalid by reason only of the existence or any

vacancy amongst its members of any defect in the constitution thereof.

7. Transaction of business. -

(1)The Corporation shall meet at such time and place and shall, subject to the provisions of sub-sections (2) and (3), observe such rules of procedure in regard to transaction of business at its meetings as may be provided by regulations made under this Act.(2)The person to preside at a meeting of the Corporation shall be the Chairperson thereof or, in his absence from any meeting, the Vice-Chair-person, if any, or, in the absence of both the Chairperson and the Vice-Chairperson, such member as may be chosen by the members present from amongst themselves.(3)All questions at a meeting of the Corporation shall be decided by majority of votes of the members present and voting and, in the case of equality of votes, the Chairperson or, in his absence, any other person presiding shall have a second or casting vote.

8. Managing Director, Chief Accounts Officer and other staff. -

(1)The Corporation shall have a Managing Director, a General Manager and a Chief Accounts Officer, who shall be appointed by the State Government.(2)The Corporation may appoint such other officers and employees as it considers necessary for the efficient performance of its functions.(3)The conditions of appointment, and the scales of pay, of the officers and other employees of the Corporation shall,-(a)as respects the Managing Director, the General Manager and the Chief Accounts Officer, be such as may be prescribed; and(b)as respects the other officers and employees, be such as may, subject to the approval of the State Government, be determined by regulations made under this Act.(4)The Managing Director shall be the executive head of the Corporation and all other officers and employees of the Corporation shall be subordinate to him.

9. Officers and other employees of the Corporation not to have any interest in contract etc. -

No person who has, directly or indirectly by himself or by his partner or agent, any share or interest in any contract, by or on behalf of the Corporation or in any work undertaken by the Corporation, shall become or remain an officer or other employee of the Corporation.

10. Conferment of powers on Managing Director. -

The Corporation may, subject to such conditions and limitations as it may specify, authorise the Managing Director to exercise such powers and perform such duties as it may deem necessary for the efficient administration of its business.

11. Authentication. -

All orders and decisions of the Corporation shall be authenticated by the signature of the Chairperson or any other member authorised by the Corporation in this behalf and all other

instruments issued by the Corporation shall be authenticated by the signature of the Managing Director or by any other officer of the Corporation authorised by the Managing Director in this behalf.

12. Functions of the Corporation. -

(1) Subject to the provisions of this Act, the functions of the Corporation shall be to undertake generally the task of economic welfare of the minorities through industrial, commercial and cultural activities. (2) In particular and without prejudice to the generality of the foregoing provisions of this section, the functions of the Corporation shall be—(i) to plan and promote training programmes for increasing the skill and efficiency in different minority occupations and to establish vocational institutes for the purpose; (ii) to promote employment opportunities in various trades, crafts and intellectual pursuits, and to sanction stipends for training in different training institutes; (iii) to provide necessary infrastructure in connection with all minority occupations; (iv) to encourage and undertake setting up of manufacturing and processing units on commercial basis; (v) to promote entrepreneurship by sponsoring self-employment programmes in different trades, crafts, and business with the assistance of various financial institutions; (vi) to arrange the supply of necessary inputs at reasonable prices for different trades and crafts and to acquire and install suitable machinery and equipments for the purpose of hiring out; (vii) to plan, promote and undertake, on its own or in collaboration with such agencies or Governments as may be approved by the Corporation, programmes of minority welfare and development schemes approved by the Department of Minority Welfare, Government of West Bengal, or the minority commission, if any; (viii) to arrange for in-service training, apprenticeship and dealership in different factories, commercial organisations and industrial complexes; (ix) to provide financial assistance by way of grants, subsidies and loans, in cash or in kind, for such purposes as may be approved by the Corporation and also by providing cash credit accommodation against hypothecation of products; (x) to find out resources for financing all programmes to be undertaken by the Corporation and, to that end, to receive grants and gifts, raise loans, issue bonds and debentures, and draw, make, accept, discount, execute and issue promissory notes, bills of exchange, hundies, bills, warrants, and other negotiable instruments; (xi) to invest, or to deposit, surplus funds in Government securities or in such other means to be approved by the Corporation; (xii) to continue and to run the works and programmes transferred to the Corporation by the State Government for operation and to adopt suitable changes for their better execution; (xiii) to orient the economic schemes towards the objective of empowering the minorities to make use of the constitutional safeguards fully; (xiv) to function as a machinery for implementation of safeguards for the minorities of the State; (xv) to monitor its own sponsored schemes as well as the economic schemes being implemented under the minorities welfare programmes in consultation with the State level or the district level bankers; (xvi) to discharge such other functions as may be prescribed or as are supplemental, incidental or consequential to any of the functions conferred on it under this Act.

13. Powers of the Corporation. -

Subject to the provisions of this Act, the Corporation shall have power—(a) to acquire or hold such property, both movable and immovable, as the Corporation may deem necessary for the purpose of

any of its functions and to lease, sell or otherwise transfer any property held by it;(b)to purchase by agreement or to take on lease or under any form of tenancy any land and to erect thereon such buildings as may be necessary for the purpose of carrying on its undertakings;(c)to enter into, or to perform, such contracts as may be necessary for the discharge of its functions and the exercise of its powers under this Act;(d)to provide facilities for the consignment, storage and delivery of goods;(e)to do, with the prior approval of the State Government, all other things to facilitate the proper carrying on of the business and the functions of the Corporation.

14. Acquisition of land. -

The Corporation may take steps for acquisition of any land for discharging any of its functions under this Act in accordance with the provisions of the Land Acquisition Act, 1894.

15. The Corporation to act on business principles. -

It shall be the general principle of the Corporation that in carrying on its undertakings it shall act on business principles.

16. Capital of the Corporation. -

(1)The State Government may provide to the Corporation such capital as the State Government may consider necessary for the purpose of carrying out all or any of its functions under this Act, subject to such terms and conditions, not inconsistent with the provisions of this Act, as the State Government may determine.(2)The Corporation may supplement its capital by the issue of shares when so authorised by the State Government.(3)The authorised capital of the Corporation shall be divided into such number of shares as the State Government may determine, and the number of shares which may be subscribed by the State Government and the members of the public shall also be determined by the State Government:Provided that the value of the shares to be subscribed by the State Government shall not be less than fifty-one per cent of the authorised capital.(4)The allotment of shares to the members of the public under sub-section (3) shall be made by the Corporation in such manner as may be prescribed.(5)The shares of the Corporation shall not be transferable except in accordance with such rules as may be made under this Act.(6)The Corporation may, at any time, with the previous approval of the State Government, redeem the shares issued to the members of the public in such manner as may be prescribed.

17. Additional capital. -

If after the issue of shares under sub-section (2) of section 16, the Corporation requires any further capital, the Corporation may, with the previous sanction of the State Government, raise such additional capital by the issue of new shares and the provisions of sub-sections (3), (4), (5) and (6) of section 16 shall mutatis mutandis apply to such shares.

18. Guarantee by State Government in respect of shares. -

The shares of the Corporation shall be guaranteed by the State Government as to the payment of the principal.

19. Borrowing by the Corporation. -

(1)The Corporation may, with the previous approval of the State Government, borrow money in the open market or otherwise for carrying out any of its functions under this Act.(2)The money borrowed by the Corporation under sub-section (1) shall be guaranteed by the State Government as to the repayment of the principal and the payment of interest at such rate, not being less than four per cent per annum, as the State Government may, on the recommendations of the Corporation, fix at the time the money is borrowed.

20. Receipts into, and payments from, the general fund of the Corporation. -

All receipts of the Corporation shall be carried into its general fund and all payments by the Corporation shall be made therefrom.

21. Dividends on shares. -

The Corporation shall pay dividends on shares at such rate as may from time to time be fixed by the State Government, subject to any general limitations which may be imposed by the State Government, and the payment of such dividend shall be deemed to be a part of the expenditure of the Corporation.

22. Reserved and other funds. -

(1)The Corporation shall make such provisions for reserve and other specially denominated funds as the State Government may from time to time direct.(2)The management of the funds referred to in sub-section (1), the sums to be carried from time to time to the credit thereof and the application of the money comprised therein shall be determined by the Corporation.(3)None of the funds referred to in sub-section (1) shall be utilised for any purpose not connected with the functions of the Corporation without the previous approval of the State Government.

23. Expenditure from fund. -

The Corporation shall have power to spend such sums as it thinks fit on objects authorised under this Act, and such sums shall be treated as expenditure payable out of the general fund of the Corporation or the funds referred to in sub-section (1) of section 22, as the case may be.

24. Budget. -

(1)The Corporation shall, by such date in each year as may be prescribed, prepare and submit to the State Government for approval the budget for the next financial year showing the estimated receipts and expenditure during that financial year in such form as may be prescribed.(2)The Corporation may sanction any re-appropriation within the grant from one head of expenditure to another or from a provision made for one work to that in respect of another, subject to the condition that the aggregate of the grant is not exceeded.(3)The Corporation may, within such limits and subject to such conditions as may be prescribed, incur expenditure in excess of the limit provided in the budget approved by the State Government under any head of expenditure or in connection with any particular work.(4)A copy of the budget shall be placed before the State Legislature as soon as may be after the budget has been approved by the State Government.

25. Audit by Auditor appointed by State Government. -

(1)The Corporation shall cause to be maintained books of account and other books in relation to its accounts in such form and in such manner as may be prescribed.(2)The accounts of the Corporation shall be audited by the Auditor appointed by the State Government in this behalf at such times and in such manner as may be prescribed.(3)As soon as the accounts of the Corporation have been audited, the Corporation shall send a copy thereof together with a copy of the report of the Auditor thereon to the State Government.

26. Power of State Government to issue instructions. -

The State Government may issue to the Corporation general instructions to be followed by the Corporation and such instructions may include directions relating to the recruitment, and the conditions of service and training, of its employees, the wages to be paid to the employees, the reserves to be maintained by it and the disposal of its property, movable or immovable, and the Corporation shall be bound to follow such instructions.

27. Furnishing of returns etc. -

(1)The Corporation shall furnish to the State Government such returns, statistics, accounts and other information with respect to its property or activities or in regard to any proposed work as the State Government may from time to time require.(2)The Corporation shall also furnish to the State Government an annual report on its working as soon as may be after the end of each year and a copy of the annual report shall be placed before the State Legislature as soon as may be after it is received by the State Government.

28. Supersession of the Corporation. -

(1)The State Government may, by order published in the Official Gazette, supersede the Corporation for such period as may be specified in the order after giving a reasonable opportunity to the

Corporation to show cause against the order proposed to be issued and after considering the objection, if any, of the Corporation: Provided that it shall not be necessary to give any opportunity to the Corporation to show cause against the order proposed to be issued if the State Government is of the opinion that it is neither expedient nor necessary to do so in the public interest. (2) Upon the publication of the order under sub-section (1) superseding the Corporation, - (a) all the members of the Corporation shall as from the date of supersession vacate their respective offices as such members; (b) all the powers and duties which may by or under the provisions of this Act or of any other law for the time being in force be exercised or performed by or on behalf of the Corporation shall during the period of supersession be exercised and performed by such person or persons as the State Government may direct; (c) all property vested in the Corporation shall during the period of supersession vest in the State Government. (3) On the expiration of the period of supersession as specified in the order issued under sub-section (1), the State Government may - (a) extend the period of supersession for such further term as it may consider necessary, or (b) reconstitute the Corporation in the manner provided in this Act for establishing the Corporation.

29. Liquidation of the Corporation. -

No provision of any law relating to the winding up of companies or corporations shall apply to the Corporation and the Corporation shall not be placed in liquidation save by order of the State Government and save in such manner as may be directed by the State Government.

30. Recovery of sums due. -

Any sum payable to the Corporation shall be recoverable as an arrear of land-revenue under the Bengal Public Demands Recovery Act, 1913.

31. Power to make rules. -

(1) The State Government may, by notification, make rules to give effect to the provisions 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 conditions and manner of appointment of members of the Corporation, the representation in the Corporation of the State Government, and where shares are issued to the members of the public under section 16 or section 17, the representation of such share-holders, and generally all matters relating to the constitution of the Corporation; (b) the remuneration, allowance or fees to be paid to the members of the Corporation; (c) the term of office of members of the Corporation and the manner of filling casual vacancies among such members; (d) the number of the members necessary to constitute a quorum at a meeting of the Corporation; (e) the conditions of appointment, service and scales of pay of the Managing Director, the General Manager and the Chief Accounts Officer; (f) the manner in which the shares of the Corporation shall be allotted, transferred or redeemed; (g) the manner in which the net profits of the Corporation shall be utilised; (h) the date by which, and the form in which, the budget shall be prepared and submitted in each year and the limit and conditions under which the Corporation may incur expenditure in excess of the limit provided in the budget under section 24; (i) the form and the manner in which the accounts of the Corporation shall be maintained; (j) the

time at which and the manner in which the accounts of the Corporation shall be audited;(k)the form in which returns, statistics and reports shall be submitted under section 27;l) any other matter which has to be or may be prescribed.

32. Regulations. -

(1)The Corporation may, with the previous sanction of the State Government, make regulations not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation.(2)In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-(a)the time and place of meetings of the Corporation and the procedure to be followed in regard to transaction of business at such meetings;(b)the conditions of appointment and service, and the scales of pay, of officers and other employees of the Corporation other than the Managing Director, the General Manager and the Chief Accounts Officer.