

The Bihar and Orissa Local Fund Audit Act, 1925

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Act 2 of 1925

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The Bihar and Orissa Local Fund Audit Act, 1925(Bihar and Orissa Act 2 of 1925)[Dated 20th May, 1925]For Statement of Objects and Reasons, see the Bihar & Orissa Gazette, dated 1924, Part V, p. 25.An Act to provide for and regulate the audit of local funds in Bihar and Orissa.Preamble. - Whereas it is expedient to provide for and regulate the Audit of Local Funds in Bihar [and Orissa];And whereas the previous sanction of the Governor-General under subsection (3) of Section 80-A of the Government of India Act has been obtained to the passing of this Act;It is hereby enacted as follows:-

1. Short title and extent.

(1)This Act may be called the Bihar and Orissa Local Fund Audit Act, 1925.(2)It extends to the whole of Bihar and Orissa including the Santhal Parganas.

2. Definitions.

- In this Act, unless there be anything repugnant in the subject or context,-(a)"auditor" means an auditor appointed under this Act;(b)"Examiner of Local Accounts" includes any person for the time being performing the duties of the Examiner of Local Accounts; and(c)"local fund" means any fund not being a Cantonment fund to the control or management of which a local authority is legally entitled, and any cess, rate, duty, or tax which such authority is legally entitled to impose, and any property vested in such authority.

3. Liability of local authority to submit its accounts to audit.

- Notwithstanding anything contained in any enactment by which a local authority is constituted the accounts to any local authority whose accounts are declared by State Government by notification to be subject to audit under the Act shall be subject to audit in all respects in the manner provided by or under this Act, and any provision in any such enactment inconsistent with or repugnant to the

provisions of this Act or of any rule made thereunder shall, to the extent of such inconsistency or repugnance, be deemed to have been repealed by this Act.

4. Appointment of auditors.

- The State Government may by notification appoint auditors of local funds.

5. Auditor to be public servant.

- An auditor shall for the purposes of the powers and duties conferred and imposed on him by or under this Act, be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

6. Power of auditor to require production of documents and attendance of persons concerned, etc.

- For the purpose of any audit an auditor may-(a)by summons in writing or by letter require the production before him of any document which he may deem necessary for the proper conduct of the audit;(b)by summons in writing require any whole-time paid servant of the local authority accountable for, or having the custody or control of, any such document to appear in person before him at any such audit; and(c)require any such person to make and sign a declaration with respect to such document or to answer any question, or prepare and submit any statement relating thereto.

7. Penalty for disobeying direction of auditor.

- Any person who wilfully neglects or refuses to comply with any direction of the auditor under Section 6 shall be liable on conviction before a magistrate to a fine not exceeding one hundred rupees:Provided that no proceedings under this section shall be instituted except on the written sanction of the Examiner of Local Accounts.

8. Audit report.

- Within two months next after the completion of the audit the auditor shall prepare a report on the accounts audited and examined and shall deliver such report to the local authority concerned and a duplicate copy thereof to the Examiner of Local Accounts.

9. Power of Examiner of Local Accounts to surcharge or charge illegal payment or loss incurred by negligence.

(1)The auditor shall include in his report a statement of-(a)every payment which appears to him to be contrary to law,(b)the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person.(c)the amount of any sum which ought to have been but is not brought into account by any person.(2)After considering such report the Examiner of Local

Accounts may-(a)order that any payment referred to in clause (a) of sub-section (1) shall be allowed or that no further action shall be taken as regards any amount referred to in clause (b) or (c) of the said sub-section, or(b)serve a notice on the person making or authorizing any payment or the person responsible for or failing to account for such amount, requiring him to show cause within one month why such payment should not be surcharged or such amount should not be charged against him.(3)After considering such cause as may be shown by any such person the Examiner of Local Accounts may surcharge such payment on the person making or authorizing such payment or charge the amount of any loss or deficiency against the person responsible therefor or any amount which ought to have been but is not brought into account against the person failing to account for such amount and shall in every such case certify the amount due from such person.

10. Recovery of surcharges and charges.

(1)Any amount certified under Section 9 as due from any person shall, if not paid by such person within one month next after the date of the certification thereof, be recoverable from him as a public demand, and the Examiner of local Accounts shall, for the purposes of Section 5 of the Bihar and Orissa Public Demands Recovery Act, 1914, be deemed to be the person to whom such public demand is payable.(2)The Examiner of Local Accounts shall pay all certified amounts received by him to the local authority concerned.

11. Appeal from order of surcharge or charge.

(1)Any person aggrieved by any surcharge or charge made may appeal to such authority as State Government may appoint in this behalf to set aside such surcharge, or charge, and the authority so appointed after making such inquiries as it considers necessary may pass such orders as it thinks fit.(2)Pending the disposal of such appeal all proceedings on the certificate shall be stayed.

12. Payment of expenses incurred in civil suit under B. and O. Act 4 of 1914.

(1)All expenses incurred by the Examiner of Local Accounts in any suit brought in a civil court under Section 43 of the Bihar and Orissa Public Demands Recovery Act, 1914, in connection with any certificate duly filed under that Act on his requisition shall in the first instance be borne by the State Government.(2)The State Government may recover from the local authority concerned such amount as may be decreed as costs in favour of the local authority and any amount so recoverable shall be paid to the State Government by such local authority.

13. Charges in respect of audit to be payable out of local fund.

- All expenses incurred by a local authority in complying with any requisition of the auditor under clause (b) of Section 6 shall be payable out of its local fund.

14. Power to make Rules.

- The State Government may after previous publication make Rules as to all or any of the following matters, namely :-(i)the manner in which a local authority shall keep accounts in cases in which no such provision or, in the opinion of the State Government, insufficient provision is made by the enactment under which such authority is constituted;(ii)the powers and duties of auditors and the procedure to be followed by them for conducting an audit and the times and places at which such audit may be conducted;(iii)for the recovery by the State Government from a local authority of expenses incurred by the Examiner of Local Accounts under Section 10 or the State Government under Section 12; and(iv)the powers and duties of the Examiner of Local Accounts.