

Telangana State Commission for Debt Relief (Small Farmers, Agricultural Labourers and Rural Artisans) Act, 2016

TELENGANA

India

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Act 12 of 2016

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Telangana State Commission for Debt Relief (Small Farmers, Agricultural Labourers and Rural Artisans) Act, 2016(Act No. 12 of 2016)[Dated 27th May, 2016]Received the assent of the Governor on the 26th May, 2016.An Act to provide for constitution of a commission with power to pass awards after adjudication and to recommend appropriate measures for the redressal of the grievances of small farmers, agricultural labourers and rural artisans through conciliation and negotiation and for matters connected therewith or incidental thereto.Be it enacted by the Legislature of the State of Telangana in the Sixty-seventh Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Telangana State Commission for Debt Relief (Small Farmers, Agricultural Labourers and Rural Artisans) Act, 2016.(2)It extends to the whole of the State of Telangana.(3)It shall come into force on such date as the Government may by notification, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(i)"agriculture" with its grammatical variations and cognate expressions includes,-(a)horticulture;(b)the raising of crops (including plantation crops) grass or garden produce;(c)dairy farming;(d)poultry farming;(e)breeding of livestock and bees;(f)grazing;but does not include the cutting of wood only;(ii)"Agricultural Labourer" means a person who does not hold any agricultural land and whose principal means of livelihood is by manual labour on agricultural land, in the capacity of a labourer on hire or on exchange, whether paid in cash or in kind or partly in cash and partly in kind;(iii)"appropriate level of debt" means the

amount determined by the Commission as repayable by the debtor under clause (b) of sub-section (1) of section 5;(iv)"Commission" means the Telangana State Commission for Debt Relief constituted under section 3;(v)"Co-operative Society" means a society registered or deemed to have been registered under the [Telangana] [Adapted by G.O.Ms.No.53, Agriculture and Cooperation (Coop-II) Department, dated 20.05.2016.] heirs, legal representatives, assignees, Co-operative Society and any other person as may be notified by the Government; Co-operative Societies Act, 1964;(vi)"creditor" means any person engaged in money lending, whether under a licence or not and includes his;(vii)"debt" means any liability, whether secured or unsecured due from a farmer, agricultural labourer and rural artisan on or before the date of commencement of this Act or, in respect of any particular distress affected area in the State, on or before such date as the Government may, by notification in the Gazette, specify whether payable under a contract, or under a decree or order of any Court or tribunal or otherwise and includes,• any sum payable to,-• an institutional creditor;• a co-operative society;• any sum borrowed by a farmer, agricultural labourer and rural artisan from the creditor;but does not include any loan amount taken by the farmer, agricultural labourer and rural artisan for commercial purposes or luxury other than agricultural allied commercial purposes, to augment his income and the amount payable to Central or State Governments and the amount due to Local Self Government Institutions, Statutory Bodies, Central or State Public Sector Undertakings and other Institutions as may be notified by the Government;(viii)"district" means a revenue district;(ix)"distress affected area" means revenue district or districts or part thereof in the State, declared by the Government under section 6, for the purpose of this Act;(x)"distress affected crop" means any crop or crops of the State declared by the Government under section 6, for the purpose of this Act;(xi)"distress affected farmer" means a farmer declared as such by the Commission and includes agricultural labourer and rural artisan for the purpose of this Act;Note. - Farmer means "a small farmer for the purpose of this Act".(xii)"fair rate of interest" means the rate of interest determined by the Commission under clause (b) of subsection (1) of section 5 of this Act;(xiii)"financial institution" means any financial institution constituted by or under any Central Act, State Act for the time being in force and owned and controlled by the Government;(xiv)"Government" means the Government of Telangana;(xv)"institutional creditor" means the State Bank of India or any Subsidiary Bank within the meaning of clause (k) of section 2 of the State Bank of India (Subsidiary Bank's) Act, 1959 or any Scheduled Bank;(xvi)"interest" means any amount or other thing paid or payable in excess of the principal sum borrowed or pecuniary obligation incurred, or where anything has been borrowed in kind, in excess of what has been so borrowed, by whatsoever name such amount or thing may be called, and whether the same is paid or payable entirely in cash or entirely in kind or partly in cash and partly in kind and whether the same is expressly mentioned or not in the document of contract, if any;(xvii)"member" means a member of the Commission constituted under section 3 of the Act and includes the Chairman;(xviii)"notification" means a notification published in the Telangana Gazette; and the word notified shall be construed accordingly;(xix)"penal interest" means any amount payable in excess of interest on a debt;(xx)"prescribed" means prescribed by rules made by the Government under this Act;(xxi)"principal amount" means the amount originally advanced together with the amount, if any, as has been subsequently advanced, notwithstanding any stipulation to treat any interest as capital and notwithstanding that the debt has been renewed, whether by the same farmer or by his heirs, assignees, or legal representatives or by any other person acting on his behalf or on his interest, and whether in favour of the same creditor or his

heirs, assignees or legal representatives or of any other person acting on his behalf or in his interest;(xxii)"rural artisan" means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary thereto and includes a fisherman or any person who normally earns his livelihood by practicing a craft either by his own labour or by the labour of all or any of the members of his family in rural area;(xxiii)"Secretary" means the Secretary to the Commission appointed under sub-section (4) of section 3;(xxiv)"small farmer" means a person whose principal means of livelihood is income derived from agricultural land and who holds and personally cultivates, or who cultivates as a tenant or share cropper or mortgagee with possession, agricultural land which does not exceed in extent, -(a)in the case of persons other than the members of the Scheduled Tribes, one hectare, if it is wet, or two hectares, if it is dry;(b)in the case of the members of the Scheduled Tribes, two hectares, if it is wet, or four hectares, if it is dry;Explanation. - For the purposes of computing the extent of land under this clause, one hectare of wet land shall be deemed to be equal to two hectares of dry land.

3. Constitution of the Commission.

(1)The Government shall, as soon as may be after the commencement of this Act, by notification in the Gazette, constitute a Commission by the name, "the Telangana State Commission for Debt Relief (Small Farmers, Agricultural Labourers and Rural Artisans)", for the purpose of exercising the powers and performing the functions under this Act.(2)The Commission shall consist of five members, namely: -

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| (i) a retired High Court Judge | : | Chairman |
| Members not exceeding four, either from farmers community or persons of | | |
| (ii) eminence having experience and expertise in economic/co-operative/agricultural sector | : | Members |

(3)The Chairman and Members shall be nominated by the Government.(4)The Government may, appoint a Secretary and other staff as may be necessary, to assist the Commission in such manner as may be prescribed.(5)The Secretary and other staff of the Commission shall be under to the administrative control of the Chairman.

4. Term of the Commission and conditions of service of the members.

(1)The term of the Commission shall be 3 years:Provided that the Government may extend the period, if considered necessary.(2)The Commission shall regulate its own procedure for the conduct of its business.(3)The salary, allowances, and the other conditions of service of the Chairman and members shall be, as may be prescribed.

5. Powers and functions of the Commission.

(1)The Commission shall have all such powers as are necessary for achieving the objects of this Act, and in particular,(a)to recommend to the Government either suo motu or on application, after such enquiry as it may deem fit and subject to such general guidelines as may be prescribed by Government, to declare a district or districts or part thereof or a crop or crops as distress affected area, or distress affected crop, as the case may be, and on application to declare a farmer as distress affected farmer subject to such enquiry and norms;(b)to fix, in the case of creditors other than institutional creditors, a fair rate of interest and an appropriate level of debt, to be payable as the Commission may consider just and reasonable by a farmer declared as distress affected or related to an area or crop declared as distress affected area or distress affected crop as per section 6 as the case may be;(c)to undertake conciliation for settlement of disputes between indebted farmers and creditors, other than institutional creditors, on the basis of the fair rate of interest and appropriate level of debt fixed under clause (b);(d)to adjudicate disputes between farmers described in clause (b) and creditors other than institutional creditors, and to pass awards which shall be binding on both parties:Provided that before passing an award as per this clause a creditor shall be given a reasonable opportunity of being heard;(e)to enter into negotiations with the creditors for loan waiver, interest rate relief, loan rescheduling or loan moratorium to farmers described in clause (b);(f)to recommend to the Government regarding the extent and the manner in which the debt relief to be granted to the farmers;(g)to recommend to the Government to take over the entire or partial debt and exonerate the farmers, from the effects of the debt;(h)to recommend to the Government to do such acts as may be necessary to ensure that future credit requirements of the farmers are met through such agencies, as may be prescribed;(i)to take such action and to make such recommendation as may be considered necessary as in clauses (a) to (h) in respect of agricultural labourers and rural artisans also;(j)to make periodical reports to the Government generally on any matter pertaining to the above aspects;(k)to perform such other functions and exercise such other powers, as may be prescribed.(2)Issue orders keeping in abeyance the repayment of all debts described in clauses (b) and (i) of sub-section (1) to the creditors, other than institutional creditors, for a period not less than one year but not more than 3 years:Provided that such orders shall be subject to the awards and directions under sub-section (1).(3)Notwithstanding anything contained in any other provisions of this Act, any debt relief granted to a farmer, agricultural labourer and rural artisan by way of waiver of principal, interest and penal interest, if any, shall not exceed seventy five per cent if such debt is fifty thousand rupees or less and fifty per cent, if such debt exceeds fifty thousand rupees, arrived at after settlement or rupees one lakh whichever is less.(4)An award passed by the Commission under clause (d) of sub-section (1) shall be final and shall not be called in question in any court.(5)The awards of Commission under clause (d) of subsection (1) shall be executed under the provisions of the Code of Civil Procedure, 1908, (Central Act V of 1908) as if it is decree of a Civil Court.(6)The Commission shall, for the purpose of exercising the powers conferred by or under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908, (Central Act V of 1908.) in respect of the following matters, namely:-(a)summoning and enforcing the attendance of any person and examining him on oath;(b)requiring the discovery and production of any documents;(c)receiving evidence on affidavit;(d)issuing commission for the examination of witnesses or for local investigation;(e)inspecting any property or thing concerning which any decision has to be

taken;(f)requisitioning of any public record or copy thereof from any court, authority or office; and(g)any other matter which may be prescribed.

6. To declare as distress affected area or distress affected crop.

- As soon as may be, after the receipt of a recommendation under clause (a) of sub-section (1) of section 5, the Government may declare, as the case may be, as a distress affected area or a distress affected crop.

7. Application for debt relief.

- A farmer, agricultural labourer and rural artisan claiming any debt relief under this Act shall file an application before the Commission in such manner and in the form as may be prescribed.

8. Sitzings of the Commission.

- The Commission may decide the place of sitting, quorum etc of its sittings.

9. Special provisions in respect of settlement of certain loans taken by farmer.

(1)Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any Court or Tribunal, a member authorised by the Commission may initiate negotiation to, -(a)reschedule short-term loans into medium term loans and medium term loans into long term loans, in respect of the debts availed of by a farmer described in clause (b) of sub-section (1) of section 5 from commercial banks or other scheduled banks, or(b)provide necessary facilities for one time settlement of agriculture loans falling under the category of non-performing assets, as per the guidelines issued by the Reserve Bank of India, or(c)waive penal interest as per the norms fixed by the Reserve Bank of India, with the concurrence of the Reserve Bank of India and the National Bank for Agriculture and Rural Development.(2)Where any settlement of loan is made under subsection (1), the said farmer shall be bound to repay such loan to the bank concerned, within the period allowed by such bank.

10. Re-scheduling of loans taken by a farmer from financial institutions.

(1)Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any Court or Tribunal, the Commission may reschedule the recovery of loans availed by a farmer described in clause (b) of subsection (1) of section 5 on or before the date of declaration as a distress affected area, distress affected crop under section 6 or a distress affected farmer from any financial institution notified by the Government for this purpose.(2)Where the rescheduling of the loan is made under sub-section (1), the farmer shall be bound to repay such loan with interest to the financial institution concerned within the period allowed by Commission:Provided that the Commission may, on application by the farmer, exempt him, by order, from the repayment of the

same for the period so rescheduled, for the reasons to be recorded: Provided further that the farmer shall be bound to repay the same on such later dates, so fixed by the Commission.

11. Bar of suits, applications and other proceedings.

- No suit for recovery of debt shall be instituted, or application for execution of a decree in respect of a debt shall be made against a farmer described in clause (b) of sub-section (1) of section 5 and no appeal, revision petition or application for review against any decree or order in any such suit or application shall be presented or made against such a farmer in any Civil Court, or Tribunal or other authority, and such suits, applications, appeals and petitions instituted or made against such a farmer before the date of declaration of a district or part thereof as a distress affected area and pending on such date shall stand stayed, for such period as the Commission may recommend in that behalf.

12. Payment of debt in instalments.

(1) Notwithstanding anything contained in any law or contract or in any decree or order of any Court or Tribunal, a farmer described in clause (b) of sub-section (1) of section 5 may discharge his debts in suitable instalments together with fair rate of interest as recommended by the Commission on the principal amount outstanding at the time of each payment, in the manner as may be directed by the Commission and on payment of the same in the manner directed by the Commission, the whole debt shall be deemed to be discharged. (2) Where any instalment of a debt is not paid on the due date as directed by the Commission, the creditor shall be entitled to recover the same in the manner as may be determined by the Commission: Provided that, before taking decision by the Commission under this section, the farmer shall be given an opportunity of being heard.

13. The debt shall be deemed as fully repaid.

- Notwithstanding anything contained in this Act or in any other law or contract or in any decree or order of any Court or Tribunal, if a farmer, agricultural labourer, rural artisan has repaid the principal amount taken as loan by him and an amount equal to it to a creditor other than institutional creditor, the debt shall be deemed to be fully discharged.

14. Annual Report to be laid before the Legislature.

(1) The Commission shall prepare a report of its function of that year under this Act and the same shall be submitted to Government in such form on or before such date as may be prescribed. (2) The Annual Report submitted to the Government by the Commission under sub-section (1) shall be laid before the Legislature, as soon as may be, after the same is received by the Government.

15. Accounts and Audit.

(1)The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed.(2)The accounts of the Commission shall be audited annually and the audited report shall be placed before the Legislature.

16. Overriding effect of Act.

- The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law, other than this Act, or any instrument having effect by virtue of any law other than this Act.

17. Bar of jurisdiction of Civil Court.

- No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under the Act or the rule made thereunder are required to be settled, decided or dealt with or to be determined by the Commission or the Government:Provided that nothing in this section shall be applicable to the execution proceedings under sub-section (5) of section 5.

18. Member of the Commission shall be public servants.

- Every member of the Commission nominated under sub-section (1) of section 3 and the Secretary and other staff appointed under sub-section (4) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code 1860 (Central Act 45 of 1860).

19. Protection of action taken in good faith.

- No suit or legal proceeding shall lie against any member of the Commission or Secretary or other officers for anything which is done or purported to be done in good faith under this Act.

20. Power to remove difficulties.

(1)If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, as occasion requires, do anything not inconsistent with the provisions of this Act, which appears to them to be necessary for the purpose of removing the difficulty:Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.(2)Every order made under this section shall be laid before the Legislature.

21. Power to make rules.

(1)The Government may, by notification in the Gazette, make rules to carry out all or any the provisions of this Act.(2)Every rule made under this Act shall immediately after it is made, be laid

before, each House of the State Legislature, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following, the Legislature of the State agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.