

# The M.P. Scheduled Tribes Debt Relief Regulations, 1962

MADHYA PRADESH

India

## The M.P. Scheduled Tribes Debt Relief Regulations, 1962

### Act 1 of 1962

- Published on 29 September 1962
- Commenced on 29 September 1962
- [This is the version of this document from 29 September 1962.]
- [Note: The original publication document is not available and this content could not be verified.]

The M.P. Scheduled Tribes Debt Relief Regulations, 1962(M.P. Reg. No. 1 of 1962)[Dated 29th September, 1962]Received the assent of the President on the 29th September, 1962; assent first published in the "Madhya Pradesh Gazette", on the 28th September, 1962.In exercise of the powers conferred by sub-paragraph (2) of Paragraph 5 of the Fifth Schedule to the Constitution of India and after consultation with the Tribes Advisory Council, the Governor of Madhya Pradesh hereby makes the following Regulations, namely :-

### 1. Short title, extent and commencement.

(1)These Regulations may be called the Madhya Pradesh Scheduled Tribes Debt Relief Regulations, 1962.(2)They extend to all the Scheduled Areas in Madhya Pradesh.(3)They shall [come into force on such date] [W.e.f. 15-8-1963 vide Notification published in M.P. Rajpatra, Part I, dated 23-8-1963.] as the State Government may, by notification appoint.

### 2. Definitions.

- In these Regulations, unless the context otherwise requires,-(1)"Bank" means a banking company which transacts the business of banking and holds a licence granted by the Reserve Bank of India in that behalf;(2)"Creditor" means a person to whom a debt is owing and "debtor" means a member of a Scheduled Tribe by whom such debt is owed;(3)"Debt" includes :-(i)all liabilities owing to a creditor in cash, or kind, secured or unsecured, payable under a decree or order of a Civil Court or otherwise, whether due, or not due;(ii)arrears of wages or salary;(4)"interest" includes the return to be made over and above the principal, whether the same is charged or sought to be recovered specifically by way of interest or otherwise and whether or not such interest is capitalized;(5)"Member of Scheduled Tribes" means a member of any tribe, tribal community or part of or group within a tribe or tribal community specified as such with respect to the State of

Madhya Pradesh under Article 342 of the Constitution of India;(6)"Principal" means the actual advance made to a debtor whether in cash or kind;(7)"Scheduled Area" means any area declared to be Scheduled Area within the State of Madhya Pradesh under Paragraph 6 of the Fifth Schedule to the Constitution of India;(8)"Secured Debt" means a debt subsisting on the date of coming into force of these regulations, whether due or not due, and secured by mortgage of or charge on the immovable property or by pawn or pledge of movable property of the debtor;(9)The words and expressions used in these Regulations but not defined shall have the meaning assigned to them in the Code of Civil Procedure, 1908 (V of 1908).

### **3. Establishment of Debt Relief Courts.**

(1)The State Government may by Notification, establish one or more Debt Relief Courts in any Scheduled Area.(2)The State Government shall appoint a Revenue Officer not below the rank of a Deputy Collector to be the Presiding Officer of a Debt Relief Court.(3)The Debt Relief Court shall have such territorial jurisdiction as may be specified in the notification under [clause] [Substituted by M.P. Reg. No. 1 of 1964.] (1).

### **4. Inapplicability of the regulations in certain cases.**

- The provisions of the Regulations shall not apply to the claims due in respect of :-(a)any liability in respect of any sum due to any Co-operative Society registered under law relating to the Co-operative Societies for the time being in force;(b)land revenue or any sum recoverable as an arrear of land revenue;(c)tax, toll, rate, cess, fees or any other duty payable to Government or a Local Authority under any enactment for the time being in force;(d)such amount as may be found due to an assignee of proprietary rights or a tenant on account of rent at rates approved by the Government;(e)any liability arising out of a breach of trust;(f)any liability due to a bank;(g)any liability of a guardian arising out of misapplication or misappropriation of the property of his ward;(h)[ x x x ] [Omitted by M.P. Reg. No. 1 of 1964.](i)any liability in respect of maintenance whether under decree of Court or otherwise;(j)any money for the recovery of which a suit is barred by limitation.

### **5. Consequences which shall ensue on coming into force of the Regulations.**

(1)On coming into force of these Regulations in any Scheduled Area under [clause (3) of Regulation 1] [Substituted by M.P. Reg. No. 1 of 1964.], the following consequences shall ensue, namely :-(i)No Civil Court having jurisdiction over such Scheduled Area shall entertain any suit or proceeding against a debtor for the recovery of the debt;(ii)All proceedings in execution of any decree for money or proceeding for making final, any preliminary decree for foreclosure or sale or proceedings in execution of any final decree for sale against a debtor for the recovery of his debt shall stand withdrawn and all property of a debtor under attachment in any such proceeding shall forthwith be realized;(iii)Every debtor in detention in a Civil prison in execution of any decree for money passed against him by a Civil Court in respect of a debt shall forthwith be released.(2)If, on the date of coming into force of these Regulations, any suit or proceeding of the nature specified in clause (1) is pending before any such Civil Court, the Civil Court shall issue a direction to the plaintiff to submit the claim in respect of such debt before the Debt relief Court having jurisdiction over the area within

a period not exceeding sixty days as may be specified in such direction.(3)If the plaintiff fails to comply with the direction of the Court under clause (2) within the period specified by it, the suit or proceeding, as the case may be, shall stand dismissed and every claim contained therein shall be deemed, for all purposes and all occasions, to have been discharged as against the debtor :Provided that if the plaintiff files a statement of claim within a further period of thirty days and satisfies the Court that he was for good and sufficient cause unable to submit the same within the period specified in the order, the Court may, on such terms and conditions as it may deem fit, revive the claim.

## **6. Application by creditor to Debt Relief Court.**

(1)On the coming into force of these Regulations every creditor shall file a separate application in respect of each of his debtors praying for the determination of the debts due to him alongwith three spare copies thereof before such Debt Relief Court as may be specified by the State Government by Notification in this behalf.(2)The application under clause (1) may be filed in person or by duly authorised agent or by registered post acknowledgment due. Such application shall contain the particulars specified in clause (4) and shall notwithstanding anything contained in the Indian Limitation Act, 1908 [(IX of 1908)] [Substituted by M.P. Reg. No. 1 of 1964.] be filed within 60 days of the establishment of the Debt Relief Court concerned.(3)Every claim of a creditor against his debtor which is not submitted within the time specified in clause (2) shall be deemed for all purposes and all occasions to have been discharged against the debtor :Provided that if a creditor files an application within a further period of thirty days and satisfies the Debt Relief Court that he was for good and sufficient cause unable to file the same within the period specified, the Court may, on such terms and conditions as it may deem fit, revive the claim.(4)Every application to be submitted to a Debt Relief Court under clause (1) shall contain the following particulars and shall be signed and verified by the creditor in accordance with Order VI, Rule 15 of the Code of Civil Procedure, 1908 (V of 1908)(a)a statement that the debtor is a member of Scheduled Tribe and the creditor intends to apply to the Debt Relief Court, for his debts against him;(b)the place where he and the debtor own land, ordinarily reside or earn their livelihood, carry on business or personally work for gain;(c)a statement of all claims outstanding against the debtor including those under Regulation 4 as nearly as may be ascertainable;(d)such other particulars as may be prescribed.

## **7. Consolidation of claims.**

- On the expiry of ninety days after the establishment of the Debt Relief Court, the Court receiving the applications under Clause 6 shall consolidate all the claims against a particular debtor in one case and if such debtor owns land, ordinarily resides or earns livelihood within its jurisdiction, shall proceed to deal with it, otherwise it shall transfer the same to such Debt Relief Court within the jurisdiction of which the debtor owns land, ordinarily resides or earns his livelihood, for disposal.

## **8. Procedure of Debt Relief Court dealing with claim.**

- The Debt Relief Court dealing with the claim under [Regulation] [Substituted by M.P. Reg. No. 1 of 1964.] 6, shall :-(i)pass an order fixing a date of hearing;(ii)cause notice of the date of hearing

together with a copy of the application to be served on all the creditors of the debtor and the debtor; and(iii)cause copies of such notice and application to be affixed to the Court house.

## **9. Application of Code of Civil Procedure to Debt Relief Court.**

(1)The Debt Relief Court in respect to proceedings under these Regulations shall so far as is practicable have the same powers and shall follow the same procedure as it would have and follow if it were a Court of original civil jurisdiction and subject to the provisions of these Regulations shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit and in particular in respect of the following matters, namely :-(a)joining any necessary or proper parties;(b)summoning and enforcing the attendance of any person and examining him on oath;(c)compelling the production of documents;(d)issuing commission for the examination of witnesses; and(e)proof of facts by affidavits or oral evidence.(2)Subject to the provision of these Regulations, the Debt Relief Court may inspect any site or examine any witness on commission.

## **10. Appearance before Debt Relief Court.**

- (i) No Legal Practitioner shall appear, plead or act, on behalf of any party, in any proceeding before the Debt Relief Court.(ii)The parties to any proceeding before the Debt Relief Court shall appear either personally or with the permission of the Court, through any other person who shall be a relative, partner, or a servant of such party and duly authorised by it in writing in this behalf.

## **11. Creditor to produce documents and statements of accounts.**

- On the date on which the case is fixed for hearing under Regulation 8, the Creditor shall produce the documents in his possession or control on which he bases his claim and a full and true statement of accounts of all previous transactions between him and his debtor leading to the claim and his account books or copies thereof, if any, in his possession or control. If such documents and statements are not produced at such hearing or at any adjourned hearing fixed for this purpose by the Debt Relief Court, the Court may declare such claim to be discharged for all purposes and all occasions against such debtor or debtors ;Provided that if the Debt Relief Court is satisfied that any creditor was, for good and sufficient cause, unable to produce such documents or statements it may require them to be produced on any further date fixed for the purpose and may on such terms and conditions as it may deem fit revive the claim.

## **12. Powers of Debt Relief Court to require proof of validity and subsisting character of debts.**

- On the day fixed for the hearing of the case or on any subsequent day to which the hearing may be adjourned, the Debt Relief Court shall require proof of the validity and subsisting character of the debt.

### **13. Calculation of interest and reduction of principal in all transactions.**

(1) The Debt Relief Court shall, notwithstanding anything contained in any other enactment for the time being in force, re-open all transactions made 25 years before the last transaction or before the 1st January, 1955 whichever is earlier and as far as may be [ascertain] [Substituted by M.P. Reg. No. 1 of 1964.] in respect of each debt the date on which it was originally advanced. It shall, notwithstanding the provisions of any agreement or law to the contrary, calculate the interest due in accordance with the rate specified in the first schedule appended to these Regulations, or such lower rate of interest as may have been agreed upon between the parties. It shall also determine the amount of principal, if any of each debt which would have remained unpaid if the calculation of interest had been made as herein provided : Provided that where any sum is payable under a labour agreement or service bond, the Debt Relief Court shall, after equitable adjustment of the remuneration of the labour rendered by the debtor from the date of the agreement or bond, determine the Debt due by the debtor. Explanation :- (1) (a) "Labour Agreement" or "Service Bond" means an agreement in writing or otherwise wherein the consideration for the performance of manual labour for a continuous period of one month by any person is included and includes an advance exceeding the equivalent of one month's fair and the equitable remuneration made or to be made to such person or at his request to someone else and the interest, if any, on such advance. (b) "Fair and equitable remuneration" means such amount as the State Government may, from time to time, by notification, fix or where the amount has not been so fixed twenty rupees a month where the labourer is not fed by the employer or ten rupees a month where the labourer is fed by the employer. (2) Notwithstanding anything contained in any other enactment for the time being in force, no Debt Relief Court shall recognise any Labour agreement or service bond entered into by a debtor after the commencement of these Regulations. (3) If the Debt Relief Court finds that the loan was originally advanced prior to the 1st January, 1955 then it shall reduce the principal determined under clause (1) in accordance with the Second Schedule appended to these regulations. (4) Notwithstanding anything contained in any law for the time being in force, no Debt Relief Court shall, in respect of any debt to which these Regulations apply, award on account of arrears of interest a sum greater than the principal of the loan as determined under clause (1). (5) If the Debt Relief Court finds that nothing is due to the creditor, it shall pass an order discharging the debt with costs. (6) If the Debt Relief Court finds that the creditor has been paid in excess of the amount due to him by the debtor, it shall pass necessary order directing the creditor to refund the excess amount to the debtor in such manner as it may determine.

### **14. Preparation of a scheme of repayment to transfer of debtor's property.**

(1) When the amount due has been determined under Regulation 13, the Debt Relief Court shall, after taking into account the liability of debtor in respect of claims referred to in Regulation 4, prepare a scheme of repayment of the debtor's debt. (2) If the debtor has transferable property which he is willing to transfer to enable him to repay the whole or any part of his debt, the Debt Relief Court may, subject to the provisions of clause (3), sanction such transfer on such conditions as it may think necessary to impose in order to safeguard the rights of the creditors including those to whom many liability under Regulation 4 is due and may grant such reasonable time as is necessary for the debtor to transfer such property : Provided that when there is any mortgage, lien or charge

upon the property, such sanction shall only be given upon terms which will ensure that such mortgage, lien or charge shall subsist to such extent as is sufficient to safeguard the interest of the secured creditor :Provided further that when a transfer has been agreed to before the Debt Relief Court by the parties to the proceedings, and either party fails to complete the transaction within a period of sixty days, the Court may take action, as far as may be, under Order XXI, Rule 32 of the Code of Civil Procedure, 1908 (V of 1908).(3)No transfer shall be sanctioned :-(i)of land belonging to a debtor in favour of a person who is not member of a Scheduled Tribe; and(ii)in respect of such personal property of the debtor as is exempt from attachment under Section 60 of the Code of Civil Procedure, 1908 (V of 1908).(4)If after the transfer of property, if any, under clause (2), the debt as determined under Regulation 13, has not been satisfied, the Debt Relief Court shall fix instalments for the repayment of the remaining debt in such manner as may be prescribed and may, in case of default order payment of simple interest at a rate not exceeding four per cent if the debt is unsecured and three percent if it is secured :Provided that in fixing instalments, the Debt Relief Court shall have regard to the extent of the transferable property in the possession of the debtor, and his paying capacity to be determined in accordance with the rules made in this behalf.

## **15. Provisions governing payment of instalments.**

(1)Every instalment shall be payable on or before the date fixed by the order of the Debt Relief Court and this may, at the option of the debtor be paid either to the Collector or to such other Revenue Officer as he may authorize in this behalf or to the creditor who shall pass a receipt therefor in such form as may be prescribed.(2)When the land revenue or rent, as the case may be, due by the debtor is suspended or remitted, in whole or in part, the instalment shall be suspended and shall become payable one year after the last of the remaining instalments. No interest shall be charged on such suspended instalment, for the period it remains suspended.

## **16. Provisions when default made in payment of instalment.**

(1)If any instalment is not paid on or before the due date, the creditor may apply within eighteen months from the date of default, to the Collector within whose jurisdiction the debtor owns land, ordinarily resides or earns his livelihood or to such other Revenue Officer as may be appointed in this behalf by the State Government, for the recovery of such instalment as an arrear of land revenue, and thereupon the Collector or such other Revenue Officer shall recover such instalment as an arrear of land revenue.(2)If the instalment or part thereof is irrecoverable, the Collector or other Revenue Officer may certify accordingly.(3)If an instalment or part thereof is certified as irrecoverable under clause (2) or if two consecutive instalments remain in arrears, the Collector on the application of the creditor, shall pass an order that the order of the Debt Relief Court fixing instalments shall cease to have effect, and he may fix such smaller instalments for the remaining debt and in such manner as he thinks fit:Provided that if an instalment or part thereof or if two consecutive instalments, so fixed by the Collector again remain in arrears, the balance remaining due shall be recoverable as if a decree and in case of a mortgage lien or charge, as if a final decree, had been passed by a Court of Civil jurisdiction.(4)If an instalment is recoverable as an arrear of land revenue, the Collector, or other Revenue Officer shall, as far as may be, follow the procedure laid down, for the time being in force, for the recovery of Government dues as arrears of land

revenue.

## **17. Application of sums recovered under Regulation 16 (1).**

- When the Collector or other Revenue Officer recovers any sum under clause (1) of Regulation 16, he shall, in the first instance, apply the sum realized from the sale of any immovable property other than his cultivating land, to the amount payable on account of the debt which is secured by a mortgage or lien on such property in accordance with the provisions of the Transfer of Property Act, 1882 and if there is a surplus or if the debt is not so secured, towards the payment of any other amount due by the debtor in accordance with scheme drawn up by the Debt Relief Court or if the sum is insufficient towards such repayments rateably. If there is any surplus, such surplus shall be applied for rateable repayments of further instalments, if any, under the scheme and the balance if any, returned to the debtor.

## **18. Invalidity of transfer made by debtor in certain circumstances.**

(1) No transfer of immovable property shall be valid if made by a debtor, in respect of whose debts proceedings are pending under Regulation 6 or Regulation 7 unless made with the sanction of the Debt Relief Court. (2) Every transfer of immovable property made by a debtor in respect of whose debts a scheme has been prepared under clause (1) of Regulation 14, shall be void unless made with the sanction of the Collector within whose jurisdiction the debtor ordinarily resides or earns his livelihood. The Collector shall not sanction any transfer of such property unless he is satisfied that such transfer will not defeat the claims of any creditor the payment of whose claims has been ordered by such scheme.

## **19. Application of Sections 49 and 50 and Order XXII of the Code of Civil Procedure.**

- If during the period for which the scheme prepared under Regulation [14] [Substituted by M.P. Reg. No. 1 of 1964.] is in force the debtor or the creditor dies, the provisions of Sections 49 and 50 and Order XXII of the Code of Civil Procedure, 1908 (V of 1908), as far as may be, apply.

## **20. Act inapplicable to debts payable by insolvents.**

- Nothing contained in these Regulations shall apply to the debts payable by any person who has been adjudicated [an insolvent] [Substituted by M.P. Reg. No. 1 of 1964.] prior to the coming into force of these Regulations : Provided that the adjudication has not been annulled before or after the commencement of these Regulations.

## **21. Revision of order of Debt Relief Court.**

- Any person aggrieved by an order of a Debt Relief Court may within ninety days of such order apply to the District Court for revision of the order on the following grounds :-(a) that the order is

contrary to law;(b)that the Court has exercised a jurisdiction not vested in it by law or has failed to exercise a jurisdiction vested in it by law;(c)that the instalments fixed under [clause (4)] [Substituted by M.P. Reg. No. 1 of 1964.] of Regulation 14 are inequitable, but subject to such order as the District Court may pass thereon, such order shall be final and no application for revision shall lie against such order. Explanation : - For the purposes of this regulation, the District Court means the Court of the District Judge within whose civil jurisdiction the Debt Relief Court is situated and includes the Court of the Additional District Judge within the jurisdiction of such District Judge to whom the District Judge may transfer such cases.

## **22. Payment of Court fees by creditors in proceedings under these Regulations.**

(1)The creditor shall be liable to pay one-fifth of such Court-fees upon the amount determined as due under Regulation 13 as he would be liable to pay upon a plaint filed for recovery of that sum, and no further proceeding shall be taken under these Regulations until the sum due has been paid :Provided that no Court-fee shall be payable if Court-fees have already been paid in respect of a Debt.(2)If such Court-fees are not paid within such time as the Debt Relief Court considers to be reasonable in each case, it may declare his claim to be discharged for all purposes and all occasions.

## **23. Bar of suits or other legal proceedings.**

- No suit or other legal proceedings shall be instituted against the Government or the Collector or the Revenue Officer authorised by the Collector in respect of anything done in dealing with any instalments paid by a debtor under [clause] [Substituted by M.P. Reg. No. 1 of 1964.] (1) of Regulation 15, but nothing in this regulation shall prevent any creditor entitled to recover such instalments from recovering from any person to whom it has been paid by the Collector or the Revenue Officer.

## **24. Bar against jurisdiction of Courts in certain matters.**

(1)Subject to the provisions of Regulation 20, the jurisdiction of the Civil Courts and the Courts having jurisdiction under the Provincial Insolvency Act, 1920, shall be barred in respect of :-(a)any matter pending before the Debt Relief Court;(b)the claim for any debt which has been discharged or deemed to have been discharged under [these Regulations] [Substituted by M.P. Reg. No. 1 of 1964.].(c)the recovery of any debt, the recovery of which is included in any scheme under [clause] [Substituted by M.P. Reg. No. 1 of 1964.] (1) of Regulation 14 for the time being in force and any order of the Debt Relief Court under clauses (2) and [(4)] [Inserted by M.P. Reg. No. 1 of 1964.] of that regulation and under Regulation 22; and(d)any order of the Collector under Regulation 17.(2)Nothing hereinbefore contained shall prevent a Court which has stayed proceedings under the provisions of these Regulations from resuming them and passing such orders in regard to them as are not inconsistent with these Regulations.



## **25. Limitation.**

- In calculating the period of limitation for any suit filed in, or proceedings before, Civil Court for the recovery of a debt which was the subject of any proceedings under these regulations, the time during which such proceeding had continued shall be excluded.

### **25A. [ Creditor not to accept any payment against a debt discharged under these regulations. [Inserted by M.P. Reg. No. 1 of 1964]**

(1)No creditor shall accept any payment against any claim for a debt which has been discharged or deemed to have been discharged under these Regulations.(2)Whoever contravenes the provisions of clause (1), shall be punished with imprisonment which may extend to six months or fine which may extend to one thousand rupees or with both.(3)The Court convicting any person under clause (1) may, in addition to the fine, direct such person to deposit, the amount so accepted in the Court within a period to be specified in the order for being refunded to the debtor.

### **25B. Offence under Regulation 25-A to be cognizable.**

- Notwithstanding anything in the Code of Criminal Procedure, 1898, an offence under Regulation 25-A shall be cognizable.]

## **26. Power to make rules.**

(1)The State Government may make rules :-(a)regarding any matter which is required to be prescribed under these Regulations;(b)prescribing the Court-fees to be paid on applications made to Debt Relief Courts;(c)prescribing the scales of diet money and travelling allowance to be paid to witnesses;(d)prescribing the Court-fees to be charged for serving and executing processes issued by Debt Relief Court;(e)prescribing the charges to be made by the Debt Relief Courts for anything done under these Regulations and the person by whom and the manner in which such charges shall be paid;(f)prescribing the procedure to be followed by the Collector or other Revenue Officer in dealing with the instalment paid to him under clause (1) of Regulation 15;(g)prescribing the manner in which notices shall be issued, served and published under these Regulations;(h)prescribing the records to be kept and the returns to be made by a Debt Relief Court;(i)prescribing the jurisdiction of Debt Relief Courts;(j)determining the paying capacity of a debtor;(k)prescribing the procedure for recorded oral evidence in proceedings under these Regulations;(l)generally for carrying into effect the purposes of these Regulations.First Schedule[See clause (1) of Regulation 13]Rate of InterestSimple interest per cent per annum on

Secured debt    Unsecured debt

4 ½ per cent    6 per cent.

Second Schedule[See clause (3) of Regulation 13]If the debt was incurred on or before the 31st December, 1943-30 per cent.If the debt was incurred after the 31st December, 1943 but on or before the 31st December, 1947-20 per cent.If the debt was incurred after the 31st December, 1947 but on

or before the 31st December, 1949-15 per cent.If the debt was incurred after the 31st December, 1949 but on or before the 31st December, 1954-10 per cent.