

The West Bengal Agricultural Lands And Fisheries (Acquisition And Resettlement) Act, 1958.

WEST BENGAL

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Act 18 of 1958

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The West Bengal Agricultural Lands And Fisheries (Acquisition And Resettlement) Act, 1958.W.B. Act 18 of 1958[23rd September, 1958.]An Act to provide for the acquisition of agricultural lands and fisheries and resettlement of agricultural lands for certain purposes.Whereas it is expedient in the public interest to provide for the protection of agricultural lands, the cultivation or production whereof is injuriously affected by fisheries and for that purpose to provide for the acquisition of such lands and fisheries and for the resettlement of such lands for agricultural purposes:It is hereby enacted as follows:-

1. Short title, extent and commencement. -

(1)This Act may be called the West Bengal Agricultural Lands and Fisheries (Acquisition and Resettlement) Act, 1958.(2)It extends to the whole of West Bengal.(3)It shall come into force at once.

2. Definitions. -

In this Act unless there is anything repugnant in the subject or context,-(1)"Collector" includes any officer not below the rank of a Sub-divisional Magistrate appointed by the State Government to carry out all or any of the functions of a Collector under this Act;(2)"fishery" means any land whereon water is confined naturally or artificially whether periodically or throughout the year for pisciculture or for fishing;(3)"agricultural land" means land ordinarily used for purposes of agricultural or horticulture, and includes such land notwithstanding that it may be lying fallow for time being;(4)"notified area" means any area in respect of which a notification has been issued under section 4;(5)"prescribed" means prescribed by rules made under this Act.

3. Act to override other laws, etc. -

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any contract express or implied or in any instrument and notwithstanding any usage or custom to the contrary.

4. Publication of preliminary notification. -

Whenever it appears to the State Government that the cultivation or production of agricultural lands in any area is affected or is likely to be affected injuriously by the establishment or existence of any fishery in such area or by extension of such fishery by the inclusion of adjoining lands therein or in any other manner, the State Government may, by notification in the Official Gazette, declare its intention to acquire such fishery and all lands within the area and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the notified area in such manner as may be prescribed.

5. Hearing of objections. -

(1) Any person interested in any fishery or land within the notified area may, within thirty days from the date of issue of the notification under section 4, file an application before the Collector objecting to the acquisition of such fishery or land. (2) The Collector shall, after giving all objectors opportunity of being heard and making such inquiry, if any, as he thinks necessary, submit to the State Government a report containing his recommendations together with the record of the proceedings held by him.

6. Acquisition and delivery of possession. -

(1) If, on a consideration of the report of the Collector and of the record of proceedings held by him, the State Government is Satisfied that the cultivation or production of agricultural lands in the notified area is affected or is likely to be affected injuriously by the establishment or existence of any fishery in such area or by extension of such fishery by the inclusion of adjoining lands therein or in any other manner and that it is necessary so to do for the purpose of protecting the lands, the State Government may, by order published in the Official Gazette, acquire the fishery and the lands in the notified area or such part thereof as it thinks fit. (2) On and from the beginning of the day on which the order is so published, the fishery and the lands mentioned therein shall vest absolutely in the State free from all incumbrance's and the Collector shall take possession of such fishery and lands and shall, for that purpose, cause an order to be served on the persons in possession of such fishery and lands requiring them to deliver possession thereof to him by such date as may be specified in the order. (3) If any person fails or refuses to comply with the order under subsection (2), the Collector may take or cause to be taken such steps and use or cause to be used such force as he thinks necessary to enforce the delivery of possession to him of the fishery and lands in respect of which the order was made. (4) If any person contravenes any order made under this Act he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may

extend to two thousand rupees, or with both.(5)On taking delivery of possession of the fishery and the lands acquired, the Collector shall, in such manner as may be prescribed, cause public notice to be given at convenient places on or near the fishery and the lands acquired stating that the State Government has acquired the fishery and the lands and inviting claims to compensation from persons interested.

7. Compensation. -

(1)Whenever any fishery and lands are acquired under section 6 there shall be paid in the manner prescribed to every person interested, compensation, the amount of which shall be determined by the Collector in the manner and in accordance with the principles hereinafter set out:Provided that where any such fishery or land is resettled under section 11 with any person, the compensation, if any, payable for it to such person shall be set off against the consideration which may be otherwise payable by such person for such resettlement.(2)Compensation payable under sub-section (1) shall be determined by the Collector according to the following principles:-

(a) for agricultural or other lands-

(i) for the first five hundredrupees of the net average annual income	...	ten times such income;
(ii) for the next five hundredrupees of the net average annual income	...	eight times such income;
(iii) for the next five hundredrupees of the net average annual income	...	four times such income;
(iv) for the balance of the netaverage annual income	...	two times such income;

(b) for a fishery-

(i) for the first five thousandrupees of the net average annual income	...	three times such income;
(ii) for the balance of the netaverage annual income	...	two times such income.

Explanation. - Net average annual income shall mean-(a)in the case of agricultural land, one-third of the average value of the produce derived or derivable from such land during a period of five years immediately preceding the date of vesting;(b)in the case of other land, the average income, less two per cent, of such income, derived or derivable therefrom during a period of five years immediately preceding the date of vesting; and(c)in the case of a fishery, one-third of the average income from the fishery during a period of five years immediately preceding the date of vesting.

8. Apportionment of Compensation. -

Where there are several person interested in any fishery or land, the Collector shall apportion the compensation determined under Section 7 among such persons in accordance with the nature and extent of interest held by each such person.

9. Award. -

After determination and apportionment of compensation for any fishery or land acquired under this Act, the collector shall make an award and notify the award in such manner as may be prescribed.

10. Appeal. -

(1) Any person aggrieved by an award of the collector under section 9 may, within thirty days from the date of receipt of notice of the award, appeal-(a) if the award is made by any officer other than the Collector of the district, to the Collector of the district, and (b) if the award is made by the Collector of the district, to the Commissioner of the Division. (2) No appeal shall lie against an appellate order passed by the Collector of the district or the Commissioner of the Division.

11. Disposal of fishery and lands after acquisition. -

On acquisition of the fishery and lands under this Act the State Government may take such action as it may think fit for the reclamation or protection of lands affected or likely to be affected by the fishery and may thereafter resettle the lands for cultivation on payment of such consideration as may be determined by the State Government so, however, that such consideration shall not exceed the compensation payable for such land under section 7: Provided that any such land as was previously cultivated and is fit for cultivation shall be resettled with the person who last cultivated it, or, if such person is not agreeable to take resettlement of the land or cannot be traced, with any other person, on the terms and conditions on which the same was previously held by the person who last cultivated it.

12. Disposal of surplus lands. -

The State Government may deal with the fishery and any land remaining after resettlement referred to in section 11 in such manner as may be prescribed.

13. Powers of Court. -

The Collector or the Commissioner may, for the purpose of carrying out any of his functions under this Act, exercise such powers as are vested in a Civil Court in respect of-(a) the summoning and enforcing the attendance of any person and examining him on oath; (b) compelling the production of documents; (c) issuing commissions for the examination of witnesses; and (d) inspecting any property or thing concerning which any question may arise.

14. Delegation of powers of the State Government. -

The State Government may, by notification in the Official Gazette, delegate any of its powers under this Act, except the power to make rules under section 16, to the Board of Revenue, subject to such reservations, if any, as may be specified in the notification.

15. Indemnity. -

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

16. Power to make rules. -

(1)The State Government may 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-(a)the fees, if any, payable for petitions of appeal under section 10 and the procedure to be followed in such appeal,(b)all or any of the matters which, under any provision of this Act, may be or are required to be prescribed or provided for by rules.