

The West Bengal Tanks (Acquisition Of Irrigation Rights) Act, 1974.

WEST BENGAL

India

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Act 23 of 1974

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The West Bengal Tanks (Acquisition Of Irrigation Rights) Act, 1974. West Bengal Act 23 of 1974 [4th April, 1974] Assent of the Governor first published in the Calcutta Gazette, Extraordinary, of the 4th April, 1974. An Act to provide, in the public interest, for the acquisition of the right of using water of derelict tanks for purposes of irrigation and for matters connected therewith or incidental thereto. Whereas it is expedient to provide, in the public interest, for the acquisition of the right of using water of derelict tanks for purposes of irrigation and for matters connected therewith or incidental thereto; It is hereby enacted as follows:-

1. Short title.

- This Act may be called the West Bengal Tanks (Acquisition of Irrigation Rights) Act, 1974.

2. Declaration as to the policy of the State.

- It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

3. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, -(i) "Collector" means the Collector of the district and includes any officer not below the rank of a Sub-divisional Officer appointed by the State Government to carry out all or any of the functions of a Collector under this Act; (ii) "Derelict tank" means a tank which has fallen into disrepair or disuse; (iii) "prescribed" means prescribed by rules made under this Act; (iv) "tank" includes doba, pukur, beel, baor, or other water area.

4. Acquisition.

(a) If the Collector is satisfied that the public has no right to use the water of any derelict tank and that such tank is, or when excavated will be, capable of irrigating the adjoining lands, he may, by order in writing, and after serving the same in the prescribed manner, on the owner of the tank, and where the tank is in the occupation or any other occupier not being the owner, also on such occupier, acquire the right of using water of such tank for the purposes of irrigation of the adjoining lands, and on and from the date of such order, such right shall stand transferred to, and vest in, the State Government. (b) After acquisition and vesting as aforesaid, the Collector may make such further orders as may appear to him to be necessary or expedient in connection with, or in relation to such acquisition.

5. Power of Collector to enter upon tanks.

- Where the Collector acquires the right of using the water of any tank for the purposes of irrigation under section 4, it shall be lawful for the Collector or for any person or persons authorised by him in this behalf, to enter upon such tank, and to excavate, enlarge or deepen the tank or construct, strengthen, enlarge or improve any bund or embankment of such tank or to do any other thing for the purposes of ensuring irrigation to the adjoining lands.

6. Enforcement of the the right of the public to use water.

- Where the public has the right of using water for purposes of irrigation from any derelict tank and the owner, or where there are more than one owner, all the owners do not agree or neglect to provide irrigational facilities, it shall be competent for the Collector to enforce by order in writing the right of the public and to take action as provided in section 5.

7. Restriction on the use of water.

- Notwithstanding anything contained in sections 4 and 6, the water of any tank shall not be used for the purposes of irrigation beyond such limit as may be fixed by the Collector having regard to the minimum level of water necessary for pisciculture.

8. Amount to be paid.

- Where the right of using water for purposes of irrigation of any tank has been acquired under section 4, there shall be paid to the owner and every person interested in such tank, an amount which may be determined by the Collector at the rate of rupee one per 0.4 hectares of the total area of the tank.

9. Appeal.

- Any person aggrieved by an order under section 6, may appeal to such authority as may be prescribed.

10. Bar to jurisdiction of Courts.

- Any order served or any action taken or anything done in exercise of the power conferred by or under this Act, shall not be called in question in any Court.

11. 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 rule or order made thereunder.

12. Power to make rules.

- The State Government may make rules for carrying out the purposes of this Act.

13. Repeal and savings.

(1)The West Bengal Tanks (Acquisition of Irrigation Rights) Ordinance, 1973, is hereby repealed.(2)Anything done or any action taken under the West Bengal Tanks (Acquisition of Irrigation Rights) Ordinance, 1973, shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 15th day of October, 1973.