

The Orissa Dadan Labour (Control and Regulation) Act, 1975

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Act 42 of 1975

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The Orissa Dadan Labour (Control and Regulation) Act, 1975 Orissa Act No. 42 of 1975 Statement of Objects and Reasons. - The rural working class of the State of Orissa who are sent outside the State by Sardars and Khatadars to work under contractors and employers; of the concerned States are not given proper wages and other facilities as promised them at the time of their recruitment. The Sardars and Khatadars are reported to obtain signature of these labourers on blank papers at the time of recruitment and later on fill up the same to suit their purpose. At times the labourers also do not go to the working places outside the State after taking the advance money given by the Sardars and thereby compel the Sardars to take the shelter of Court for realisation of the advance money. The State Government have no legal power to take effective action against the contractors and employers residing outside the State for non-payment or underpayment of wages and for non-provision of other facilities. Even after best efforts of the State Government for taking remedial measures in consultation with the concerned State Government no appreciable improvement in the conditions of employment of these labourers has been noticed. The State Government therefore, proposed to hold the Sardars and Khatadars of this State who act as the agents of the said contractors and employers in recruiting and supplying these labourers responsible to make proper payment of wages and provision of other facilities by registering them and controlling their activities by means of a special legislation for that purpose. The Bill seeks to achieve the above purpose. Published vide Orissa Gazette Extraordinary No. 1737/29, 10. 1975, w.e.f. 1.1.1976 For Statement of Objects and Reasons see Orissa Gazette Extraordinary No. 496/ 17.3.1975. An Act to regulate the recruitment of labourers from the State to work outside the State and for matters incidental thereto Be it enacted by the Legislature of the State of Orissa in the Twenty-sixth Year of the Republic of India as follows

:Chapter-I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Orissa Dadan Labour (Control and Regulation) Act, 1975. (2) It extends to the whole of the State of Orissa. (3) It shall come into force on such date as the State Government

may, by notification, appoint and different dates may be appointed for different provisions of this Act.

2. Definitions.

- In this Act, unless the context otherwise requires-(a)"agent" means a person who recruits Dadan Labourers on behalf of an employer for any work carried on outside the State of Orissa and includes a contractor, sub-contractor, Khatadar, Sardar and persons with similar designation who make such recruitment;(b)"Chief Inspector" means the Chief Inspector appointed under Section 13;(c)"Competent Authority" means a Competent Authority appointed under Section 12;(d)"Dadan Labourer" means a person recruited on the basis of a contract (either express or implied) from the State of Orissa for doing any skilled, semi-skilled or unskilled manual work outside the State;(e)"employer" means the person for whom a dadan labourer is under the terms of an agreement (either express or implied), bound to work ;(f)"establishment" in relation to an agent means the place or places where any records relating to the agency are kept ;(g)"Inspector" means an Inspector appointed under this Act;(h)"prescribed" means prescribed by rules made under this Act;(i)"registering authority" means the registering authority appointed under Section 3;(j)"registration certificate" means the certificate of registration granted under Section 5;(k)"rules" means rules made under this Act.

Chapter-II Registration of Agents

3. Appointment of registering authority.

- The State Government may, by an order notified in the Official Gazette-(a)appoint an officer or officers, as they think fit to be registering authorities for the purposes of this Chapter ; and(b)define the limits, within which a registering authority shall exercise the powers conferred on him by or under this Act.

4. No person to act as agent without registration.

- No person shall, after the commencement of this Act, act as an agent without being registered as such and except under and in accordance with a registration certificate issued in that behalf.

5. Registration of agents.

(1)Every agent who is acting as such immediately prior to the commencement of this Act shall make an application within sixty days from the said date, to the registering authority in the prescribed manner for his registration :Provided that the registering authority may entertain any such application for registration after expiry of the said period, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.(2)Any person who desires to act as an agent may also make an application for his registration to the registering authority in the prescribed manner.(3)Every application for registration shall be made in such form and shall be accompanied by such fees as may be prescribed and shall be presented in the office of the registering authority.(4)Where the application for registration is complete in all respects, the registering

authority shall register the agent and issue to the agent a certificate of registration containing such particulars as may be prescribed and shall enter the particulars relating to the agent as contained in the application for registration in a register to be maintained in the prescribed form.(5)A registration certificate shall be valid till the end of a calendar year during which it is issued and may be renewed for a period of one year on presentation of an application to the registering authority in such form and on payment of such fees as may be prescribed and every such application shall be presented not less than two months before the expiry of the registration certificate :Provided that the registering authority may entertain an application for the renewal of a registration certificate after the last date for presentation of the application if the application is made before the expiry of the registration certificate and is accompanied by an additional fee equal to twenty-five per cent of the fees for renewal.(6)Where the application is not complete in all respects, the, registering authority shall return the same to the applicant within fifteen days of receipt of the application pointing out the defects for rectification and re-submission within fifteen days of its receipt by the agent.

6. Revocation of registration in certain cases.

- If the registering authority is satisfied, either on a reference made to it in this behalf or otherwise, that-(a)the registration of the agent has been obtained by mis-representation or suppression of any material fact ; or(b)the agent has contravened any of the provisions of this Act or the rules made thereunder ; or(c)for any reason the registration has become useless or ineffective and, therefore, requires to be revoked,he may, after giving an opportunity to the agent to be heard, revoked the registration.

7. Appeal.

(1)Any person aggrieved by an order made under Section 5 or Section 6 may, within thirty days from the date on which, the order is communicated to him, prefer an appeal to an appellate authority appointed in that behalf by the State Government :Provided that the appellate authority may entertain the appeal after the expiry of said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeals in time.(2)On receipt of an appeal under Sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard dispose of the appeal as expeditiously as possible.

8. Register to be maintained by a registered agent.

- Every registered agent shall maintain a register in the prescribed form, showing-(a)the name, father's name, age and address of the Dadan Labourer recruited by him;(b)the name and address of the employer;(c)place and nature of work;(d)brief description of the agreement; and(e)such other particulars as may be prescribed.Chapter-III Conditions of Recruitment and Welfare of Dadan Labourer

9. Conditions of recruitment of Dadan labourer.

(1) No agent shall recruit any dadan labourer without entering into an agreement with him in the prescribed form. (2) The recruitment of a dadan labourer shall be subject to the following terms and conditions, namely : (a) the rate of wages payable to the dadan Labourer shall in no case be less than the minimum rate of wages fixed under the Minimum Wages Act, 1948 (11 of 1948) in respect of employees engaged in work similar in nature to that performed by the dadan labourer and in relation to the local area wherein such labourer is required to work ; (b) the conditions relating to hours of work, day of rest and payment for work on a day of rest shall not be less favourable than those provided for under the aforesaid Act in respect of employees engaged in work similar in nature to that performed by the Dadan Labourer and in relation to the local area wherein such Labourer is required to work ; and (c) such other conditions as may be prescribed.

10. Liability to work to be extinguished on expiry of the period of agreement.

- The liability to work under the agreement between the agent and the dadan labourer shall stand extinguished on the expiry of the period specified in such agreement : Provided that the extinguishment of the liability to work shall in no way affect the other rights and liabilities of the parties to the agreement.

11. Liability of the agent to pay the dues of labourer.

- The agent shall be liable for payment of all dues accruing to a dadan labourer in accordance with the terms of the agreement.

12. Recovery of dues.

(1) The State Government may, by notification in the Official Gazette, appoint any officer of the Labour Department of the State Government not below the rank of an Assistant Labour Commissioner or any other officer with judicial experience as a Judge of a Civil Court or and Sub-divisional Judicial Magistrate to be the competent authority having jurisdiction over such area as may be specified in the notification to hear and decide claims arising out of any agreement entered into between the agent and the dadan labourer in pursuance of Section 9. (2) Where any agent or any dadan labourer has any claim of the nature referred to in Sub-section (1), the claimant himself, or any person authorised by him in writing in this behalf or in the case of the death of the claimant, any member of his family or an Inspector may, without prejudice to any other mode of recovery, make an application to the competent authority for computation of the dues of the claimant : Provided that every such application shall be presented within six months from the date on which the dues become payable : Provided further that an application may be entertained by the competent authority after the expiry of the said period of six months if it is satisfied that the claimant was prevented by sufficient cause from making the application in time. (3) When any application under Sub-section (2) is entertained, the competent authority shall, after giving the concerned parties and such other persons as it considers to be interested a reasonable opportunity

of being heard and after making such further enquiry as it may consider necessary, compute the dues of the claimant.(4)If the competent authority, while hearing an application under this section, is satisfied that the application is either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the person against whom the claim is made by the persons presenting the application.(5)Any amount due to the claimant as computed by the competent authority may be recovered-(a)if the competent authority is a Magistrate, by it as if it were a fine imposed by it as a Magistrate ; or(b)if the competent authority is not a Magistrate, by the issue of a certificate by it for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of public demand.(6)All orders made under this section shall be final and shall not be liable to be challenged in any Court.(7)Every competent authority appointed under Sub-section (1) shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of -(a)summoning and enforcing the attendance of witnesses and examining them on oath ;(b)requiring the discovery and production of documents;(c)receiving evidence on affidavit ; and(d)such other matters as may be prescribed.(8)Every competent authority shall be deemed to be a Civil Court for the purpose of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).Chapter-IV Appointment, Powers and Duties of Chief Inspector and Inspectors

13. Appointment of Chief Inspector and Inspectors.

(1)The State Government may by notification, appoint a Chief Inspector who shall be the chief executive authority for the purpose of carrying out the provisions of this Act.(2)The State Government may, by notification, appoint such persons as they think fit to be Inspectors for the purposes of this Act and define the local limits within which they shall exercise their powers under this Act.(3)In addition to any power conferred on the Chief Inspector by or under this Act, he may exercise all or any of the powers of an Inspector.

14. Powers of Inspector.

(1)Subject to the rules made in this behalf, an Inspector may, within the local limits of his jurisdiction -(a)make such examinations of the records and registers maintained by an agent and take the statement of any person as may be deemed necessary for carrying out the provisions of this Act;(b)seize or take copies of such records as he may consider relevant in respect of an offence which he has reasons to believe to have been committed under this Act ;(c)exercise such other powers as may be prescribed.(2)Any person required to produce any document or thing or to give any information required by an Inspector shall be deemed to be legally bound to do so within the meaning of Section 175 and Section 176 of the Indian Penal Code (45 of 1860).

15. Inspectors to be public servants.

- The Chief Inspector and every Inspector appointed under Section 13 shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

16. Agent bound to produce records.

(1)Every agent shall, on demand, produce for inspection by an Inspector all registers and records required to be kept under this Act and the rules made thereunder.(2)Where the agent fails to produce for inspection any register or record before an inspector on demand, it shall be presumed that the agent has no register or record to produce and the Inspector shall proceed with the inspection accordingly.Chapter-V Penalties and Procedures

17. Offence.

- Whoever contravenes any of the provisions of this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

18. Cognizance of offences.

(1)No prosecution under this Act shall be instituted except with the previous sanction of the Chief Inspector.(2)No Court shall take cognizance of any offence punishable under this Act, save on complaint made by an Inspector or the Chief Inspector.Chapter-VI Miscellaneous

19. Protection of actions taken under this Act.

(1)No suit, prosecution or other legal proceeding shall lie against any officer of the Government 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.(2)No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

20. Power to make rules.

(1)The State Government may, subject to the condition of previous publication, make rules for the purpose of carrying out the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :(a)the form and manner of making an application to the registering authority for registration of an agent;(b)fees for registration and renewal of registration of an agent;(c)the form and manner of making application for renewal of registration of an agent;(d)form of registration certificate to be issued to the agent;(e)the records and registers to be maintained by an agent for the purpose of securing compliance with the provisions of this Act and the rules made thereunder and the particulars to be entered therein;(f)the form of agreement to be entered into between the agent and the dadan labourer;(g)other particulars and conditions to be fulfilled with regard to recruitment of dadan labourers;(h)the submission of returns by the agent to the register in authority;(i)the powers which may be conferred on the Inspectors and the Chief Inspector under this Act and their functions;(j)form of register to be maintained by the registering authority; and(k)any other matter

which is required to be, or may be, prescribed.(3)All rules made under this Act shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if during the said period the State Legislature makes modifications, if any, therein, the rules shall thereafter have effect only in such modified form; so, however, that such modifications shall be without prejudice to the validity of anything previously done under the rules.