

The Punjab Termination of Agreement Act, 2004

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Act 17 of 2004

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The Punjab Termination of Agreement Act, 2004 Punjab Act No. 17 of 2004 Statement of Objects and Reasons. - No reliable and scientific study of the hydrological, ecological and sociological impact of large scale diversion of waters of rivers Ravi and Beas to a different basin contemplated by the Agreement dated 31st December, 1981 signed by Chief Ministers of Punjab, Haryana and Rajasthan had been undertaken. The total availability of waters in Ravi and Beas has been reduced to 14.37 MAF from 17.17 MAF (assumed under Agreement dated 31st December, 1981) as per the recent flow series of 1981-2002, which has drastically affected the basin areas within the Punjab. In the meantime, under the Yamuna Agreement dated 12th May, 1994 Haryana has been allocated 4.65 MAF of Yamuna water, which would be further augmented by the proposed Sarda Yamuna Link. Since the trans basin diversion contemplated under the Agreement dated 31st December, 1981 would adversely affect the interests of inhabitants of the basin areas within the State of Punjab and would also render 9 lakh acres of these areas dry and barren, it has become necessary, in public interest, to enact a law terminating this agreement and all other agreements relating to Ravi Beas waters and to discharge the Government of Punjab from all obligations under such agreements. Published by Punjab Government Gazette (Extraordinary), dated July 12, 2004, Page 1038.No. 26-Legislative/2004. - The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab, on the 13th July, 2004, and is hereby published for general information :-An Act to provide for terminating and discharging the Government of Punjab from its obligations under the Agreement dated 31st December, 1981 and all other agreements relating to the waters of the rivers Ravi and Beas in public interest. Whereas, the State of Punjab is proud of its position in the Indian Union and has equal concern for its neighbours and as a sovereign authority, the State of Punjab considers it its bounden duty to uphold the Constitution and the laws and to protect the interests of its inhabitants; Whereas, what was known as 'Indus system' before the partition of the country, became irrelevant after partition, since only three east flowing rivers, namely, Ravi, Beas and Sutlej, out of the six rivers constituting the said system remained within Indian territory for its exclusive use; Whereas, while all the three rivers, Ravi, Beas and Sutlej flow through the territory of the present State of Punjab, none of them flow through either the State of Haryana or the State of Rajasthan; Whereas, no part of territories of the States of Haryana and Rajasthan falls within the basin areas of the rivers Ravi and Beas; Whereas, even according to the

Irrigation Commission only 9,939 sq. km. of areas within Haryana fall within the 'Indus Basin' (not within the Ravi and Beas basin), as against 50304 sq. km. areas within Punjab;Whereas, present utilisation by Haryana is about 5.95 MAF of water (about 4.33 MAF from Sutlej and about 1.62 MAF from Ravi and Beas);Whereas, Punjab's claim of its share in Yamuna water has been turned down even though parts of Punjab fall within Yamuna basin;Whereas, even though the States of Haryana and Rajasthan are neither riparian nor basin States, they have continued to utilise the waters of rivers Ravi and Beas;Whereas, the State of Punjab as a good neighbour accepted such utilisations by the States of Haryana and Rajasthan as usages 'by sufferance', but not as a matter of any recognition of their rights;Whereas, the States of Punjab, Haryana and Rajasthan entered into an agreement on 31st December, 1981 allocating 3.5 MAF of water to Haryana and 8.60 MAF of water to Rajasthan out of the surplus flow of the rivers Ravi and Beas, then estimated at 17.17 MAF based on 1921-1960 flow series;Whereas, no reliable and scientific study of hydrological, ecological and sociological impact of such large scale trans-basin diversion from Punjab to Haryana and Rajasthan had been undertaken;Whereas, diversion of water on such a large scale from the donor deficit basin of Ravi and Beas to the surplus basin of the Yamuna river is contrary to national water policy guidelines;Whereas, such a huge trans-basin diversion of water is likely to have permanent adverse impact on the irrigation and other requirements within the basin areas of Punjab rendering about 9 lakh acres of the basin areas dry and barren;Whereas, in the wake of large scale militancy in Punjab, the Punjab Settlement was reached, which however, remained unimplemented in letter and spirit;Whereas, the total availability of waters in the rivers Ravi and Beas has reduced from 17.17 MAF (assumed under the Agreement dated 31st December, 1981) to 14.37 MAF as per the flow series of 1981-2002;Whereas, under the Yamuna Agreement dated 12th May, 1994, Haryana has been allocated 4.65 MAF of water which will be further augmented by the Sarda Yamuna Link. Whereas, there is material and substantial change in ground realities adverse to the interests of Punjab;Whereas, in the circumstances, the terms of the said Agreement dated 31st December, 1981 have become onerous, unfair, unreasonable and contrary to the interest of the inhabitants of the Ravi Beas basin, who have lawful rights to utilise the water of the rivers Ravi and Beas;Whereas, being conscious of the legal position that the obligations arising from an Agreement or a contract do not fetter the powers of the Legislature to enact a law in public interest;AND Whereas, in these circumstances, it is expedient to enact a law in public interest and in the interests of the inhabitants of the basin areas of the State of Punjab, terminating the Agreement dated 31st December, 1981 and all other agreements relating to Ravi Beas waters and to discharge the Government of Punjab from the obligations thereunder;Be it enacted by the Legislature of the State of Punjab in the Fifty-fifth Year of the Republic of India as follows :-

1. Short title and commencement.

(1)This Act may be called the Punjab Termination of Agreement Act, 2004.(2)It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)"Ravi Beas Waters" means the waters of the rivers Ravi and Beas flowing or stored and available for distribution in any of the headworks in the

territory of Punjab;(b)"Agreements" means all Agreements relating to the Ravi Beas waters including the Agreement dated 31st December, 1981 signed by the Chief Ministers of the State of Punjab, Haryana and Rajasthan; and(c)"Government" means the Government of Punjab.

3. Termination.

- Notwithstanding anything contained in any other law for the time being in force and any judgement, decree, order and decision of any Court, Tribunal or Authority, the Agreements shall be deemed to have been terminated with effect from the respective date, they were executed or made, as the case may be.

4. Discharge of obligations.

- Notwithstanding anything contained in any other law for the time being in force and any judgement, decree, holder and decision of any Court, Tribunal or Authority, any obligation of the Government of Punjab arising from the Agreement, shall be deemed to have been fully discharged with effect from the respective date, they were executed or made, as the case may be.

5. Protection of Existing usage.

- Notwithstanding anything contained in Sections 3 and 4 of this Act, all existing and actual utilisations through the existing systems, shall remain protected and unaffected.

6. Protection for actions taken in good faith.

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

7. Bar of jurisdiction.

- No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter arising under or connected with this Act.

8. Faithful execution of the provisions.

- The Government and its officials shall faithfully and diligently give effect to the provisions and mandate of this Act.

9. Power to make rules.

(1)The Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.(2)Every rule made under this section, shall be laid, as soon as may be, after it

is made, before the House of the State Legislature while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

10. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order, in writing published in the Official Gazette, make such provision not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty : Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act. (2) Every order made under this section, shall be laid, as soon as may be, after it is made, before the State Legislature, while it is in session for a total period of ten days.