

The Hyderabad (Abolition of Jagirs) Regulation, 1358 Fasli

MAHARASHTRA

India

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Act 69 of 1358

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The Hyderabad (Abolition of Jagirs) Regulation, 1358 Fasli (Hyderabad Regulation No. 69 of 1358 Fasli) Whereas it is expedient to abolish jagirs and to provide, pending the determination of terms of commutation, for the payment to Jagirdars and Hissedars of certain interim allowances; Now, therefore, in exercise of the authority vested in me for the administration of the Hyderabad State and of all other powers enabling me in that behalf, I make the following Regulation

Part I – Preliminary

1. Short title, extent and commencement.

(1) This Regulation may be called the Hyderabad (Abolition of Jagirs) Regulation, 1358 Fasli. (2) It shall extend to the whole of the [Hyderabad area of the State of Maharashtra.] [The words 'the Hyderabad area of the State of Bombay' were Substituted for the words 'Hyderabad State' [Schedule (Part III) of the Bombay (Hyderabad area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956 at page 255 of the Gazette and the words 'State of Maharashtra' were substituted for the words 'State of Bombay' under the provisions of section 4(i) of the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.] (3) It shall come into force on the date of its [publication in the Jarida] [Published in Extraordinary Jarida No. 40, dated the 15th Mehir, 1358 Fash.].

2. Definitions.

- In this Regulation, unless there is anything repugnant in the subject or context, (a) "Excise Revenue" means revenue from country-liquor, toddy, mhowra flowers, opium and ganja; (b) "Existing law" means law in force at the commencement of this Regulation, including Atiyat law, custom or usage having the force of law, and the terms of any grant and including also

orders made under existing law;(c)"Guzarayab" means a person who under a lawful order passed before the commencement of this Regulation is entitled to a maintenance allowance from the income of a Jagirdar or Hissedar or of a Jagir;(d)"Haq-e-intazam" means the money which under the existing law is paid to a Jagirdar as his remuneration for managing the Jagir;(e)"Hissedar" means a person who is entitled to a share in the income of a Jagir according to the existing law;(f)"Jagir" includes a Paigah, Samasthan, part of a Jagir, village Mukhta, village Agrahar, Umli and Mukasa, whether granted by a Ruler or a Jagirdar, and, as respects the period commencing on the date appointed for a Jagir under section 5, means the estate theretofore constituting a Jagir;(g)"Jagir Administrator" means the Jagir Administrator appointed under sub-section (1) of section 3 and, subject to the rules under this Regulation referred to in sub-section (2) of section 3, all references to the Jagir Administrator shall be read as including a reference to an Assistant and Jagir Administrator;(h)"Jagirdar" means the person who immediately before the date appointed under section 5 was the holder (qabiz) of a Jagir and includes the Amir of a Paigah and the Vali of a Samasthan;(i)"Year of account" means the Fasli year, or where the accounts of a Jagir are maintained according to a year of another era, the year according to that era.

3. Appointment of Jagir Administrator.

(1)The [Government] [The word 'Government' substituted for the words 'Military Governor' in sub-section (1) of section 3 Schedule (Part III) of the Bombay (Hyderabad Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956 at page 255 of the Gazette.] shall appoint a Jagir Administrator and as many Assistant Jagir Administrators as he considers necessary for the due administration of this Regulation.(2)Any power conferred or duty imposed by this Regulation on the Jagir Administrators may, save as otherwise provided in rules made thereunder, be exercised or discharged by an Assistant Jagir Administrator appointed under sub-section (1).

4. Appointment of Jagirdars to cease.

- After the commencement of this Regulation, no person shall be appointed to be, or be recognised as, a Jagirdar whether in succession to a deceased Jagirdar or otherwise.

Part II – Transfer of Administration and the Consequences thereof

5. Appointment of dates for transfer of administration.

(1)As soon as may be after the commencement of this Regulation, the [Government] [The word 'Government' substituted for the words 'Military Governor' in sub-section (1) of section 3 Schedule (Part III) of the Bombay (Hyderabad Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956 at page 255 of the Gazette.] shall appoint a date for the transfer to the administration of jagirs and may appoint different dates for different jagirs.(2)On the date so appointed for any Jagir (hereinafter referred to as the appointed day) the Jagirdar shall make over the management of the Jagir to the Jagir Administration and shall furnish him with an account of the revenue received and

expenditure incurred on account of the Jagir in the current, or, if the Jagir Administrator so requires, in the immediately preceding year of account, in so far as such revenue and expenditure are attributable to that year.(3)If the Jagirdar fails to comply with the provisions of sub-section (2) to the satisfaction of the Jagir Administrator, or obstructs the access of the Jagir Administrator to any lands or buildings belonging to the Jagir, or fails to furnish the Jagir Administrator with any documents relating to the administration of the Jagir, the Jagir Administrator may use or cause to be used such force as may be necessary for the purpose of entering upon any such lands or buildings or securing possession of any such documents.(4)If in any Jagir, a Jagirdar is not in existence on the appointed day, the Jagir Administrator shall require the duties imposed upon the Jagirdar by sub-section (2) to be discharged by such one of the Hissedars as he may designate for the purpose and references in subsections (2) and (3) of this section and in sub-section (4) of section 13 to the Jagirdar shall be read as referring to the Hissedar so designated.

6. Powers, rights and liabilities as from the appointed day As from appointed day.

(1)the Jagir shall be included in the Diwani and unless and until included in a district constituted under the Hyderabad Land Revenue Act, shall be administered by the Jagir Administrator;(2)the powers, rights and liabilities of the Jagirdar in relation to the Jagir shall cease to be exercisable and enforceable by or against the Jagirdar, and shall be exercisable and enforceable by or against the Jagir Administrator:Provided that where the Jagirdar has on or after the 1st October, 1948, entered into a contract in relation to a Jagir the performance of which has not been completed before the appointed day, the Jagir Administrator may repudiate the contract if in his opinion it was not entered into in the normal course of management of the Jagir, and where the Jagir Administrator so repudiates such contract any damages recoverable in respect of the repudiation shall be recoverable from the Jagirdar alone ;Provided further that where the Jagirdar has on or after the 1st January, 1949, effected a mortgage, lease, or other transfer of property included in the Jagir and the Jagir Administrator is of opinion that the mortgage, lease or other transfer was effected not in the normal course of management of the Jagir but in anticipation of legislation for the abolition of Jagirs, the Jagir Administrator may cancel the mortgage, lease, or other transfer and damages recoverable in respect of the cancellation shall be recoverable from the Jagirdar alone;(3)all expenditure incurred by the Jagir Administrator on the administration of a Jagir shall be defrayed from the revenue of the State;(4)no Jagirdar shall recover or receive any customary or other dues from any tenant of resident of the Jagir;(5)no Jagirdar shall in his capacity as such be required to pay the educational cess, or the cess for the maintenance of the Jagirdars' College, or any other cess imposed by Government;(6)no Peshkash, Haq-e-Malikana or pan shall be payable by a Jagirdar in respect of the Fasli year 1359 or any subsequent year;(7)the share of a Jagirdar or Hissedar in the net income of a Jagir, and the maintenance allowance of a Guzarayab, shall be inalienable save with the previous sanction of Government; not more than one half of such share or allowance shall be liable to attachment and sale in any one year of account in execution of a decree and no part thereof shall be so liable, save with the previous sanction of Government;(8)if a Jagirdar or Hissedar dies, his share in the net income of the Jagir, including his share in the Haq-e-intazam, shall devolve in accordance with his personal law :Provided that in the case of a Muslim Jagirdar or Hissedar the principle of Hijb Hirman shall not apply and that in the case of a male Hindu Jagirdar his share shall be deemed

to be his separate property;(9)if a Jagirdar or Hissedar dies and leaves no heir entitled to inherit, his share, in the case of a Jagir granted by a ruler, shall lapse to Government, and in the case of a Jagir granted by a Jagirdar shall be added to the gross revenue of the Jagir of the grantor.

Part III – Application of Jagir Revenue

7. Definitions.

- In this Part, -"gross revenue" means in relation to any Jagir the total realisations in any year of account on account of excise revenue, land revenue, forest revenue and such other revenues as may be specified in rules made under this Regulation :Provided that realisations on account of excise revenue shall be included in gross revenue in relation to those Jagirs only in which excise revenue was immediately before the commencement of this Regulation, included in the revenues of the Jagir;"balance" means in relation to a Jagir other than a Paigah, the sum remaining from the gross revenue after the making of the payment to Government required by section 8 and of any payments due on account of maintenance allowances payable to Guzarayabs from the income of the Jagir;"net income" means in relation to a Paigah the sum remaining from the gross revenue after the making of the payment to Government required by section 8 and of any payments due on account of maintenance allowances payable to Guzarayabs from the income of the Paigah, and in relation to a Jagir other than a Paigah the sum remaining from the balance after the making of the payments required by section 10.

8. Payment to Government.

- In respect of every Jagir there shall be paid to Government on account of administration expenses the percentage of the gross revenue specified in the appropriate entry in the second column on the annexed table.

Revenue of Jagir	Percentage payable to Government
1	2
	Per cent
1. Rs. 5,00,000 or more	58 1/2
2. More than Rs. 1,00,000 but less than Rs. 5,00,000	50
3. More than Rs. 25,000 but not more than Rs. 1,00,000	40
4. Not more than Rs. 25,000	25

Provided that if the payment of the appropriate percentage in respect of a Jagir embraced by entry 1, 2 or 3 in the first column would leave a balance less than the balance left to a Jagir with the maximum gross revenue embraced by the next succeeding entry in that column, the payment to Government in respect of such first named Jagir shall be so reduced as to leave a balance equivalent to the balance left to such second-named Jagir.

9. Classification of jagirs for the purposes of payments from the balance.

- For the purposes of payments to be made from the balance, jagirs (other than Paigahs), shall be classified in the following categories, namely, -(1)jagirs in which a Jagirdar exists and is entitled under the existing law to receive the haq-e-intazam;(2)jagirs in which a Jagirdar exists but is not entitled under the existing law to receive the haq-e-intazam;(3)jagirs where the death of the Jagirdar before the commencement of this Regulation was not followed by the appointment of a Jagirdar before that date;(4)jagirs in which the Jagirdar dies after the commencement of this Regulation.

10. Payments from the balance.

(1)In the case of jagirs in category (1) a sum equivalent to half the haq-e-intazam shall be paid to the Jagirdar and the like sum shall be distributed between the Hissedars (other than the Jagirdar) in the proportions to which they would have been entitled under the existing law to the income of the Jagir if the Jagirdar had not existed :Provided that if there is no Hissedar, a sum equivalent to the whole of the haq-e-intazam shall be paid to the Jagirdar.(2)In the case of jagirs in category (2) a sum equivalent to the haq-e-intazam shall be distributed between the Jagirdar and Hissedars in the proportions to which they are under the existing law entitled to the income of the Jagir.(3)In the case of jagirs in category (3) a sum equivalent to the haq-e-intazam shall be distributed between the Hissedars, including the heirs of the deceased Jagirdar, in the proportions to which they are under the existing law entitled to the income of the Jagir.(4)In the case of jagirs in category (4) an amount equivalent to the haq-e-intazam shall, as from the year of account following the year in which the Jagirdar dies, be distributed between Hissedars, including the heirs of the deceased Jagirdar, in the proportions to which they are under the existing law entitled to the income of the Jagir.

11. Distribution of net income.

(1)In the case of a Jagir other than a Paigah the net income shall be distributed between the Jagirdar and Hissedars in the proportion to which they are entitled under the existing law.(2)In the case of a Paigah two-fifths of the net income shall be payable to the Amir-e-Paigah and the remaining three-fifths shall be distributed among the Hissedars according to their shares, the Amir-e-Paigah not being deemed to be a Hissedar.

12. Maintenance allowance.

(1)From the amount payable to any person under section 11 there shall be deducted the amount of any maintenance allowance which under sub-section (2) is debitable to the share of that person.(2)The maintenance allowance payable to a Guzarayab shall, save where it is payable from the income of the Jagir, be debitable to the share of the person on whom he was or is dependent.(3)The Jagir Administrator may reduce any maintenance allowance payable to a Guzarayab which in his opinion is excessive in relation to the income of the Jagir from the revenue of which the allowance is payable.(4)On the death of a Guzarayab whose maintenance allowance was

hereditary the allowance shall devolve according to his personal law.(5)If any question arises regarding the person to whose share a maintenance allowance is debitable under sub-section (2), or as to whether a maintenance allowance is hereditary, the Jagir Administrator shall decide the question after affording to all the parties concerned an opportunity of being heard.

13. Accounts and advances.

(1)The Jagir Administrator shall maintain a separate account in respect of each Jagir and shall afford every Jagirdar and Hissedar reasonable facilities for the inspection of the same.(2)The Jagir Administrator shall make advance payments to Jagirdars and Hissedars in accordance with rules made under this Regulation and shall adjust the same when the net income of the Jagir is distributed.(3)The payment to Government required by section 8, the payment from the balance required by section 10, and the distribution of the net income in accordance with section 11, including payments to Guzarayabs under section 12, shall be effected as soon as may be after the expiration of the year of account.(4)In compiling the accounts for the year of account current on the appointed day, the Jagir Administrator may disallow any expenditure included in the accounts furnished by the Jagirdar under sub-section (2) of section 5 which in his opinion was not incurred in the normal course of management of the Jagir.

14. Interim nature of payments under this Regulation.

- The amounts payable to Jagirdars and Hissedars under this Regulation shall be deemed to be interim maintenance allowances payable until such time as the terms for the commutation of Jagirs are determined.

Part IV – Miscellaneous

15. Jagirs under the management of Court of Wards or a Committee.

- Where a Jagir is under the management of the Court of Wards or of a Committee of Management, appointed by the Government, the duties of the Jagir Administrator under this Regulation may at the discretion of Government be discharged by the Court of Wards or the Committee of Management, as the case may be.

16. Special provision for Jagirs granted to temples, etc.

- The provisions of this Regulation shall apply so far as may be to any Jagir granted to a temple or mosque or to any institution established for a religious or public purpose :Provided that in the case of such Jagir, -(a)the percentage of the gross revenue to be paid to Government shall, notwithstanding anything contained in section 8, be such percentage not exceeding ten as the Government may by notification in the Jarida direct either generally or in respect of a particular Jagir or a particular class of Jagirs;(b)the distribution or application of the net income shall be effected in accordance with the rules made under this Regulation which shall be so framed as to

respect so far as possible the wishes of the grantor and to be in consonance with custom and usage.

17. Home-farms.

(1) Nothing in this Regulation shall affect the home farm (seri Khudkasht) of a Jagirdar or Hissedar which, subject to any law for the time being in force, he shall continue to hold, -(a) where the village in which the farm is situate has been brought under survey and settlement whether before or after the appointed day, in accordance with the terms recorded at the time of such survey and settlement; (b) for so long as the village has not been brought under survey and settlement, in accordance with the terms and conditions prevailing immediately before the appointed day. (2) For the purposes of sub-section (1) the extent and boundaries of the home-farm of a Jagirdar or Hissedar shall be such as the Jagir Administrator may by order determine : Provided that no forest or waste land shall be included in any home-farm.

18. Personal property and liabilities not affected.

- Nothing in this Regulation shall affect, -(a) the personal property of a Jagirdar or Hissedar or any property other than the Jagir held by a Jagirdar on behalf of the Hissedar, or (b) any liability of a Jagirdar or Hissedar in respect of any loan taken from Government.

19. Employment in Government service of former servants of Jagirdars.

(1) The Jagir Administrator shall so far as possible employ in Government service such of the persons employed by a Jagirdar before the appointed day for the management of a Jagir as are in his opinion suitable for employment in Government service. (2) The terms on which such persons shall be employed in Government service shall be prescribed by rules made under this Regulation. (3) Subject to such conditions as may be prescribed by rules made under this Regulation Government may grant a pension, compensatory allowance or gratuity to any person employed by a Jagirdar before the appointed day for the management of a Jagir who is not thereafter employed in Government service.

20. Appeal and revision.

(1) A party aggrieved by any order passed by the Jagir Administrator under this Regulation may appeal against the order to Government or to such authority as Government may appoint in this behalf. (2) An appeal under sub-section (2) shall be filed within 60 days of the date on which the aggrieved party is informed of the order against which he appeals : Provided that the Appellate Authority may for sufficient cause entertain an appeal filed after the expiration of the said 60 days. (3) Government or such authority as Government may appoint in this behalf may revise any order passed by the Jagir Administrator : Provided that no order adversely affecting any person shall be passed in revision without giving that person an opportunity of being heard.

21. Judicial proceedings.

(1)Save with the previous sanction of Government, no civil or criminal proceedings shall be instituted against the Jagir Administrator or any other public servant in respect of anything done or purporting to have been done under this Regulation.(2)All claims relating to a Jagir or to any share in the income thereof, whether arising under this Regulation or otherwise, shall, subject to this Regulation but notwithstanding any existing law, be filed in, and decided by, the appropriate Civil Court:Provided that any proceeding pending at the commencement of this Regulation before an Atiyat Court or before a Commission or any other authority shall be completed in accordance with the existing law as if this Regulation had not been enacted.

22. Penalty.

- Whoever, -(a)fails to comply in whole or in part with the requirements of sub-section (2) of section 5, or(b)resists or obstructs the Jagir Administrator or any person employed under his orders in the exercise of the powers conferred by sub-section (3) of section 5, or(c)contravenes, or attempts to contravene, or abets the contravention of sub-section (4) of section 6, shall be punishable with imprisonment which may extend to one year or with fine or with both.

23. Repugnant existing laws.

- This Regulation shall have effect notwithstanding anything contained in any existing law, and where an existing law is repugnant to the provisions of this Regulation, it shall, to the extent of the repugnancy, cease to have effect.

24. Power to make rules.

(1)The Government may make rules to carry out the purposes of this Regulation.(2)In particular and without prejudice to the generality of the foregoing power, such rules may, -(a)specify with reference to sub-section (2) of section 3 any powers and duties of the Jagir Administrator which shall not be exercised or discharged by an Assistant Jagir Administrator;(b)determine the additional classes of revenue to be included in the gross revenue of a jagir as defined in section 7;(c)provide for the conditions under which, the times at which, and the manner in which, advance payments to Jagirdars and Hissedars under sub-section (2) of section 13 shall be made;(d)prescribe, in conformity with the proviso to section 16, the manner in which the net income of a Jagir granted to a temple or mosque or to any institution established for a religious or public purpose shall be distributed or applied;(e)prescribe the terms of employment in Government service of persons formerly employed by Jagirdars;(f)prescribe the terms and conditions on which a pension, allowance or gratuity may be paid to a person formerly employed by a Jagirdar who is not employed in Government service;(g)prescribe the procedure to be adopted in the presentation and disposal of appeals under, and in the exercise of the revisional powers conferred by section 20.