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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 125]

भोपाल, बुधवार, दिनांक 20 मार्च 2013—फाल्गुन 29, शक 1934

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 20 मार्च 2013

क्र. 2302-104-इक्कीस-अ (प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश सिंचाई प्रबंधन में कृषकों की भागीदारी (संशोधन) विधेयक, 2013 (क्रमांक 10 सन् 2013) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्द्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

MADHYA PRADESH BILL

NO. 10 OF 2013

THE MADHYA PRADESH SINCHAI PRABANDHAN ME KRISHKON KI BHAGIDARI (SANSHODHAN)
VIDHEYAK, 2013.

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MADHYA PRADESH BILL

NO. 10 OF 2013.

THE MADHYA PRADESH SINCHAI PRABANDHAN ME KRISHKON KI BHAGIDARI
(SANSHODHAN) VIDHEYAK, 2013**A Bill further to amend the Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki Bhagidari Adhiniyam, 1999.**

Be it enacted by the Madhya Pradesh Legislature in the sixty – fourth year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki Bhagidari (Sanshodhan) Adhiniyam, 2013.

(2) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different areas of the State of Madhya Pradesh.

Amendment of section 3.

2. In section 3 of the Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki Bhagidari Adhiniyam, 1999 (No. 23 of 1999) (hereinafter referred to as the principal Act), for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Every water users’ area shall be divided into territorial constituencies, which shall be six in case of minor irrigation system and twelve in case of major and medium irrigation systems.”.

Substitution of section 4.

3. For section 4 of the principal Act, the following section shall be substituted, namely:—

Managing Committee of Water Users’ Association.

“4. (1) There shall be a Managing Committee for each Water Users’ Association comprising members of the territorial constituencies as specified in sub-section (2) of section 3 elected directly by the water users’ as specified in sub-clause (i) of clause (a) of sub-section (4) of section 3 from their respective territorial constituencies.

(2) The Managing Committee for Water Users’ Association shall be a continuous body, with one third of its elected members retiring every two years as specified in sub-section (3).

(3) The term of office of the members of the territorial constituencies shall, if not recalled or removed or disqualified under the provisions of the Act, be six years from the date of appointment of the competent authority under sub-section (1) of section 21:

Provided that at the first election, all the territorial constituency members shall be elected at one time, out of which one third of the members thereof shall retire on the completion of two years, another one third members shall retire after completion of four years and the remaining one third shall retire after completion of six years in office and their terms of retirement shall be decided before the commencement of first election of the members of the territorial constituencies by drawal of lots.

(4) The District Collector shall cause arrangements for the election of a Managing Committee consisting of one member from each of the territorial constituency of a water users’ area by the method of secret ballot in the manner prescribed.

- (5) The District Collector shall also cause arrangements for election of a President of the Managing Committee from amongst the members of the Managing Committee of the water users' association, in the manner prescribed.
- (6) If, at an election held under sub-sections (4) and (5), the President or the members of the territorial constituencies of water users' association are not elected, fresh election shall be held in the manner prescribed.
- (7) The President of the Managing Committee of water users' association shall, if not recalled or removed or disqualified under the provisions of the Act, be in office for a period of two years from the date of election or his tenure as member of territorial constituency, whichever is earlier.
- (8) The term of office of the President, and the members of Managing Committee of all the water users' associations formed subsequent to ordinary election, shall also expire at the time at which it would have expired, if he had been elected at the ordinary election.
- (9) The Managing Committee shall exercise the powers and perform the functions of the water users' association.”.

4. In Section 5 of the principal Act, in sub-section (3), the words “and the territorial constituency members” shall be omitted.

Amendment of Section 5.

5. For Section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution of Section 6.

“ 6 (1) There shall be a Managing Committee for every Distributory Committee, consisting of all members of the General Body of Distributory Committee.

Election of managing committee of Distributory committee.

(2) The District Collector shall cause arrangements, in such manner as may be prescribed for the election by the method of secret ballot of the President, from amongst the members of the Managing Committee of the Distributory Committee.

(3) If, at an election held under sub-section (2), the President is not elected, fresh elections shall be held as prescribed.

(4) If the Managing Committee of the Distributory Committee does not have a woman member, the Managing Committee shall co-opt a woman as a member who shall ordinarily be a resident of the farmers' organisation area.

(5) The term of office of the President and the Members of the Managing Committee of the Distributory Committee shall, if not recalled or removed or disqualified under the provisions of the Act earlier, be coterminous with the term of General Body specified in sub-section (3) of Section 5.

(6) The Managing Committee shall exercise the powers and perform the functions of the Distributory Committee.”.

6. In section 7 of the principal Act, for sub section (3), the following sub-section shall be substituted, namely:—

Amendment of Section 7.

“(3) All the Presidents of the Distributory Committee of the project area of major irrigation projects and all the Presidents of the Water Users' Associations of the project area of medium irrigation projects, so long as they hold such office, shall constitute the general body of the Project Committee including two nominated members, one of whom shall act as coordinator between various departments and Farmers' Organizations and who will be an Executive Engineer of the Water

Resources Department or Narmada Valley Development Department for Major Projects or an Assistant Engineer of the Water Resources Department or Narmada Valley Development Department for Medium Projects and second member will act as an adviser who will be from the Farmers Welfare and Agriculture Development Department. The nominated member shall not have right to vote.”.

Amendment of Section 8.

7. In section 8 of the principal Act, for sub-sections (1), (2) and (4), the following sub-sections shall be substituted, namely :—

- “(1) There shall be a Managing Committee, for every Project Committee, consisting of all members of General Body of the Project Committee.
- (2) (a) The District Collector shall cause arrangements in such manner as may be prescribed for the election by the method of secret ballot of Chairperson from amongst the members of Managing Committee of the Project Committee.
- (b) The Chairperson of the Project Committee of Major Projects shall be elected amongst the Presidents of Distributory Committee of the project area while the Chairperson of Medium Projects shall be elected amongst the Presidents of Water Users’ Association of the project area.
- (c) If, at an election held under clause (a) and (b), the Chairperson is not elected, fresh elections shall be held in prescribed manner.
- (4) The term of office of the Chairperson and the members of the Managing Committee of Project Committee shall, if not recalled or removed or disqualified under the provisions of the Act earlier, be coterminous with the term of General Body specified in sub-section(3) of Section 7.”.

Insertion of Chapter IV A.

8. In the principal Act, after Chapter IV, the following Chapter containing sections 22 A to 22 I shall be inserted, namely:—

“CHAPTER IV A CONTROL

Definition.

22 A. For the purpose of this Chapter “Appropriate Authority” means Divisional Commissioner in case of Project Committee, District Collector in case of Distributory Committee and Sub-Divisional Officer Revenue in case of Water Users’ Association.

Office bearers and officers or servant of Farmers’ Organization to be public servant.

22 B. Every office bearer of Farmers’ Organization and every officer or servant thereof shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

Inquiry into affairs of Farmers’ organization

22 C. The State Government or Appropriate Authority may, from time to time, cause an inquiry to be made on matters relating to maintenance or construction works by a Farmers’ Organization.

Power to suspend execution of orders etc.

22 D. (1) The State Government or Appropriate Authority may, by an order in writing and for reasons to be stated therein, suspend the execution of any resolution passed, order issued, license or permission granted, or prohibit the performance of any act by a Farmers’ Organization, if in its opinion,—

- (a) such resolution, order, license, permission or act is in excess of the powers conferred by this Act or is contrary to any law; or
- (b) the execution of such resolution or order, or the continuance in force of such license or permission or the doing of such act is likely to cause loss, waste or misapplication of any money or damage to any property vested in the Farmers’ Organization.

(2) Whenever an order is made by the Appropriate Authority under sub-section (1), it shall forthwith and in no case later than ten days from the date of order, forward to the State Government or an officer nominated by the State Government for this purpose, copy of the order with the statement of reasons for making it, and the State Government or the officer nominated by it may confirm, set aside, revise or modify the order or direct that it shall continue to be in force with or without modification permanently or for such period as may be deemed fit:

Provided that no order of the appropriate authority passed under sub-section (1) shall be confirmed, set aside, revised or modified by the State Government or the officer nominated by it without giving the Farmers' Organization concerned a reasonable opportunity of being heard against the proposed order.

22 E. (1) The State Government or Appropriate Authority may suspend any office bearer of a Farmers' Organization—

Suspension of office bearer of Farmers' Organizations.

- (a) against whom charges have been framed in any criminal proceeding under any law for the time being in force; or
- (b) against whom an enquiry has been initiated under section 22 C for serious negligence in discharge of duty under this Act or financial irregularities.

(2) An order of suspension by an Appropriate Authority under sub-section (1) shall be reported to the State Government in case of Project Committee, Divisional Commissioner in case of Distributory Committee and District Collector in case of water users' association within a period of ten days and shall be subject to such orders as the State Government/ Divisional Commissioner/ District Collector, as the case may be, may deem fit to pass and if the order of suspension is not confirmed by the State Government/Divisional Commissioner/District Collector, as the case may be, within 90 days from the date of receipt of such report it shall be deemed to have been vacated.

(3) In the event of the Chairperson/President, members of Managing Committee, of Farmers' Organization, as the case may be, is suspended under sub-section (1), the competent authority of the concerned Farmers' Organization shall cause to call a special meeting of the Farmers' Organization immediately, but not later than fifteen days from the date of receipt of information from concerning authority and the member shall elect from amongst themselves, a person to hold the office of Chairperson/President, members of Managing Committee, temporarily, as the case may be, and such officiating Chairperson/President and members of Managing Committee, shall perform all the duties and exercise all the powers of Chairperson or President, members of Managing Committee, as the case may be, during the period for which such suspension continues.

(4) A person who has been suspended under sub-section (1) shall also forthwith stand suspended from the office of Chairperson / President, members of Managing Committee, of any other Farmers' Organization of which he is a member or office bearer and such person shall also be disqualified for being elected under the Act during his suspension.

22 F. (1) The State Government or Appropriate Authority may, after such inquiry initiated under section 22 C as it may deem fit to make at any time, remove an office bearer of the concerned Farmers' Organization—

Removal of office bearers of Farmers' Organization.

- (a) if he has been found guilty of serious negligence in the discharge of his duties under this Act;
- (b) if his continuance in office is undesirable in the interest of the public

Provided that no person shall be removed unless he has been given an opportunity to show cause why he should not be removed from his office:

Provided further that the final order in the inquiry shall be passed within 90 days from the date of issue of show cause notice to the concerned office bearer and where

the pending case is not decided within 90 days, the appropriate authority shall inform all facts to his next senior officer in writing and request for extension of time for disposal of enquiry but such extension of time shall not be more than 30 days.

(2) A person who has been removed under sub-section (1) shall forthwith cease to be a member of any such Farmers' Organization of which he is a member and such person shall also be disqualified for a period of six years to be elected under this Act.

Liability of President/Chairperson for loss, waste and misappropriation.

22 G. (1) Every President /Chairperson, member, office-bearer, officer or servant of Farmers' Organization shall be personally liable for loss, waste or misapplication of any money or other property of the Farmers' Organization to which he has been a party or which has been caused by him by misconduct or gross neglect of his duties and the amount required for reimbursing such loss, waste, or misapplication shall be recovered by the Appropriate Authority:

Provided that no recovery shall be made under this section unless the person concerned has been given a reasonable opportunity of being heard.

(2) If the person concerned fails to pay the amount, such amount shall be recovered as arrears of land revenue and credited to the funds of the Farmers' Organization concerned.

Power to recover records, articles and money.

22 H. (1) Where the Appropriate Authority is of the opinion that any person has unauthorizedly in his custody any record or article or money belonging to the Farmers' Organization, he may, by written order, require that the record or article or money be delivered or paid forthwith to the Farmers' Organization, in the presence of such officer as may be appointed by the concerning authority in this behalf.

(2) If any person fails or refuses to deliver the record or article or pay the money as directed under sub-section (1), the Appropriate Authority may cause him to be apprehended and may send him with a warrant in such form as may be prescribed, to be confined in a civil jail for a period not longer than thirty days.

(3) The Appropriate Authority may—

(a) for recovering any such money direct that such money be recovered as an arrear of land revenue ; and

(b) for recovering any such record or articles issue a search warrant and exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1973 (No. 2 of 1974).

(4) No action under sub-section (1) or (2) or (3) shall be taken unless a reasonable opportunity has been given to the person concerned to show cause why such action should not be taken against him.

(5) A person against whom an action is taken under this section shall be disqualified to be member of any Farmers' Organization for a period of six years commencing from the initiation of such action.

Inspection of works of Farmers' Organization.

22 I. (1) The officer of the State Government namely, concerned Sub-Divisional Officer, Executive Engineer and Superintending Engineer of the Water Resources Department or NarmadaValley Development Department or any other Officer of the State Government duly authorized by the State Government may inspect the works and records of Farmers' Organization and shall submit inspection report regarding irregularities found in inspection to the State Government or Appropriate Authority, who can take punishable action as per the provision of this Act.

(2) The office bearers and competent authority of Farmers' Organization shall be bound to provide all information and records demanded by inspecting officer.”.

STATEMENT OF OBJECTS AND REASONS

In sub-section (5) of Section 4 of the Madhya Pradesh Sinchai Prabandhan Me Krishkon ki Bhagidari Adhiniyam, 1999(No. 23 of 1999), it is provided that the President and the members of the managing committee of water users' association shall, if not recalled earlier, be in the office for a term of five years from the date of appointment of the Competent Authority. The trainings are imparted to the office bearer of water users' association to build up the capacity. After the expiry of 5 years term, fresh elections are being conducted and new Presidents/ members of Managing Committee are elected. There is no continuity in the tenure of water users' association. To bridge the gap between irrigation potential created and actual irrigation, Command Area Development and Water Management Programme is being implemented by the Government of India, Ministry of Water Resources in a continuous manner. As per the guide lines of Government of India, water users' association are essentially be the implementing agency for Command Area Development and Water Management Programme implementation. Therefore, continuity in the tenure of water users' association is felt necessary. In view of maintaining the continuity in functioning of water users' association, the tenure of water users' association is now proposed for 6 years and after every two years, one third members of territorial constituencies are proposed to be elected in rotation. Therefore suitable amendments are proposed in Section 3 to 8 of the principal Act.

2. Also under the principal Act, annual maintenance works of canal are carried out by the Farmers' Organizations under their jurisdiction by the grant received from the State Government. Construction work of water courses, field channels and maintenance work of canals are also carried out under the Mahatma Gandhi National Rural Employment Guarantee Scheme. There is no provision for taking any action against office bearers of Farmers' Organization in case of any irregularity found against them. Therefore, for check and balance on Farmers' Organizations a new Chapter of "Control" is proposed to be inserted in the principal Act.

2. Hence this Bill.

Bhopal :
Dated the 15th March 2013.

JAYANT MALAIYA
Member-in-charge.