



The West Bengal Tea Plantation Employees' Welfare Fund Act, 2015

Act No. 23 of 2015

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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1047-L.—11th August, 2015.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XXIII of 2015

THE WEST BENGAL TEA PLANTATION EMPLOYEES' WELFARE FUND ACT, 2015.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Kolkata Gazette*,
Extraordinary, of the 11th August, 2015.]

An Act to make provision for the constitution of a fund for promoting activities connected with the welfare of the employees employed in tea Plantation in West Bengal and for matters connected therewith and incidental thereto.

WHEREAS it is expedient to constitute a fund for promoting activities connected with the welfare of the employees employed in tea Plantation in West Bengal and for matters connected therewith and incidental thereto;

It is hereby enacted in the Sixty-sixth Year of the Republic of India, by the Legislature of the State of West Bengal, as follows :—

Short title, extent
and
commencement.

1. (1) This Act may be called the West Bengal Tea Plantation Employees' Welfare Fund Act, 2015.

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(Sections 2, 3.)

(2) It extends to the five districts of the State of West Bengal viz. Darjeeling, Jalpaiguri, Alipurduar, Uttar Dinajpur and Coochbehar.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, specify.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (1) "Board" means the West Bengal Tea Plantation Employees Welfare Board constituted under section 4;
- (2) "employer" when used in relation to a Tea Plantation means the person who has the ultimate-control over the affairs of the Tea plantations, and where the affairs of any Tea plantation are entrusted to any other person (whether called a managing agent, manager, superintendent, or by any other name) such other person shall be deemed to be the employer in relation to that plantation;

Explanation.— For the purposes of this clause, "the person who has the ultimate control over the affairs of the Tea plantation" means in the case of a Tea plantation owned or controlled by a company, firm or other association of individuals, whether incorporated or not, every director, partner or individual.

- (3) "employee" means any person who is employed (including apprentice) to do any skilled or unskilled, manual or clerical work in or in connection with a Tea plantation including its local head office, office, factory, workshop, school or hospital and who gets his wages directly or indirectly from the employer, but does not include a person whose total wages exceed Rs. 10,000/- (Rupees ten thousand) per *mensem* inclusive of dearness allowance and value of food concession, or a person working under a contractor in work not directly connected with cultivation and manufacture of tea;
- (4) "Inspector" means the person appointed in this behalf by the State Government, by order;
- (5) "Plantation" means any land used or intended to be used for growing tea which admeasures twenty-five acres or more and whereon thirty or more persons are employed, or were employed on any day of the preceding twelve months;
- (6) "prescribed" means prescribed by rules made under this Act;
- (7) "Soft loan" means loans that have lower interest rates than conventional bank loans.

3. (1) The State Government shall constitute a fund to be called the "Tea Plantation Employees' Welfare Fund" for the purposes of this Act.

(2) The fund shall consist of—

- (a) any voluntary donation;
- (b) any loan, grant-in-aid or subsidy paid by the Central or State Government or any local authority or Tea Board;
- (c) any sum paid by the Central Government or the State Government or any local authority for implementation of any scheme for the welfare of labour not employed in any establishment;
- (d) any sum borrowed under section 11.

Plantation
Welfare Fund.

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(Section 4.)

(3) The sums specified in clause (a) of sub-section (2) shall be paid or collected by such agencies, at such intervals and in such manner as may be prescribed.

(4) Subject to the provisions of the Comptroller and Auditor-General's (Duties, Power and Conditions of Service) Act, 1971 and the rules made thereunder, the Governor of West Bengal may entrust the audit of the accounts of the Board to the Comptroller and Auditor-General of India.

56 of 1971.

(5) The Comptroller and Auditor-General of India or any other person appointed by him in this behalf shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts.

(6) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the Audit Report and the Audit Certificate thereon shall be forwarded to the State Government and the State Government shall cause the same to be laid, as soon as may be after it is received, before the West Bengal Legislative Assembly.

Board.

4. (1) The State Government shall, by notification in the *Official Gazette*, constitute a Board to be called the West Bengal Tea Plantation Employees' Welfare Board.

(2) The Board shall consist of—

- (a) the Minister-in-charge of the Labour Department, Government of West Bengal who shall be the ex-officio Chairman of the Board;
- (b) Secretary, Labour Department, Government of West Bengal who shall be the Vice Chairman of the Board;
- (c) Labour Commissioner, West Bengal who shall be the Member Secretary-Convenor of the Board;
- (d) six official members to be nominated by the State Government in such manner as may be prescribed;
- (e) two persons representing the employers to be nominated by the State Government in such manner as may be prescribed; and
- (f) two persons representing the operative Trade Unions of Tea Plantation to be nominated by the State Government in such manner as may be prescribed:

Provided that the Board may incorporate any officer of any Department as a member of the Board, if it thinks necessary.

(3) Save as otherwise expressly provided in this Act, the members of the Board referred to in clauses (e) and (f) of sub-section (2) shall hold office for a term not exceeding three years from the date on which they become members of the Board:

Provided that notwithstanding the expiry of the term of office of any such member, he shall continue to hold office until the nomination of his successor is notified in the *Official Gazette*.

(4) The allowance, if any, payable to the non-official members of the Board shall be such as may be prescribed.

(5) The Board shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of a property, both movable and immovable, and shall by the said name sue and be sued.

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(Sections 5-10.)

(6) The Board shall be the trustee of the fund constituted under this Act.

(7) The Board shall conduct its business in such manner as may be prescribed.

Disqualification
and removal.

5. The State Government may remove any non-official member of the Board on such ground and in such manner as may be prescribed.

Resignation of
office by
members and
filling up casual
vacancies.

6. (1) A non-official member may resign by giving notice, in writing to the State Government, and on such resignation being accepted, he shall be deemed to have vacated his office.

(2) A casual vacancy in the office of a member shall be filled up, as soon as possible, by the State Government and a member so appointed shall hold office for the unexpired portion of the term of office of the member whose space he fills.

(3) No act or proceeding of the Board shall be invalid on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

Power to appoint
committees.

7. For the purpose of advising the Board in the discharging of its functions, the Board may constitute one or more committees, of which at least one member shall be a member of the Board.

Application of
fund.

8. The fund constituted under this Act shall be utilized for the following purposes—

- (a) to provide interest subvention and/or matching grants to the employers of tea gardens as soft loan which they may take for undertaking social welfare schemes viz. medical facilities, housing, primary education, potable water supply, sanitation and child care and for providing other basic amenities for the families of tea plantation employees;
- (b) to provide scholarship to the children of tea garden employees for undergoing training in the technical institutes, Polytechnics and other higher courses;
- (c) to provide margin money as a soft loan to incentivize the present owners or the new owners of the sick and closed tea gardens to infuse additional capital through bank loan for rejuvenation and modernization of the tea gardens.

Explanation.— For the purpose of this section the interest of soft loan shall be such as may be notified by the Government from time to time.

Procedure for
obtaining
financial benefits
from the
Plantation
Welfare Fund.

9. (1) Application for obtaining financial benefits from the Tea Plantation Employees' Welfare Fund shall be submitted to the Board in such form and in such manner as may be prescribed.

(2) The Board may either allow the application with such conditions as it may deem fit and proper or reject the same with reasons to be recorded in writing: Provided that the Board shall take its decision preferably within three months of the receipt of the application.

Assistance of the
State Government
towards skill
development
activities for the
children of tea
plantation
employees.

10. The State Government shall provide necessary assistance in implementing approved course curriculum for skill development activities and facilitate the identification of vocational training providers who would be imparting employment linked training to the children of tea plantation employees. The State Government shall also provide assistance for appropriate assessment and certification on completion of training.

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(Sections 11-17.)

Power of Board to borrow.

11. The Board may, with the previous sanction of the State Government and subject to such conditions as may be specified in this behalf, borrow any sum required for the purposes of this Act.

Investment of fund.

12. If the fund or any portion thereof cannot be applied at an early date for carrying out any of the activities referred to in this Act, the Board shall invest the same in any of the securities specified in clauses (a) to (d) and (f) of section 20 of the Indian Trusts Act, 1882, so far as the securities are related to any State Government or Central Government.

2 of 1882.

Directions by the State Government to the Board.

13. The State Government may give the Board such directions as in its opinion are necessary or expedient in connection with expenditure from the fund or for carrying out any of the purposes of this Act. It shall be the duty of the Board to comply with such directions.

Appointment of Inspectors and their powers.

14. (1) The State Government may appoint Inspectors for carrying out the purposes of this Act.

(2) Any inspector may—

(a) make such inspection as may appear to him necessary for satisfying himself that the benefits or the soft loan so granted to the beneficiary are utilized in accordance with the provisions of this Act and the rules made thereunder or of any orders issued by the State Government under this Act. For this purpose he may with such assistants, if any, as he considers necessary being persons in the service of the Government, enter at all reasonable hours any premises or place for inspecting any records, registers, documents, and notices required to be maintained and kept under this Act or the rules made thereunder and require the production thereof for inspection and for taking copies, if necessary, and;

(b) exercise such other powers as may be prescribed.

(3) An Inspector shall for the purpose of giving effect to the provisions of this Act, have the power to—

(a) prosecute, conduct or defend before a Court any complaint or other proceeding arising under this Act; and

(b) require any employer to supply or send any true copy of any document or information relating to the provisions of this Act and the rules made thereunder.

Power of State Government or authorized officers to call for records.

15. The State Government or any officer authorized by the State Government in this behalf may call for the records of the Board, inspect the same and supervise the working of the Board.

Responsibility of employer to repay the loan amount alongwith accrued interest.

16. It shall be the responsibility and duty of the employer to repay the loan amount along with the interest accrued thereon within the stipulated time.

Interest on unpaid loans after stipulated time.

17. If the employer fails to repay the loan amount togetherwith interest within the stipulated time, he shall be liable to pay the penal interest at such rate as may be prescribed.

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(Sections 18-22.)

Mode of recovery of sums or loans payable by the Board.

18. Where any money is due to the Board from an employer under this Act, the Board or any person authorized by the Board may, without prejudice to any other mode of recovery make an application to the State Government for the recovery of the money due to the Board, and if the State Government is satisfied that any money is so due, it shall issue a certificate for that amount to the collector who shall proceed to recover the same in the same manner as an arrear of land revenue and the provision of Bengal Public Demands Recovery Act, 1913 will apply *mutatis mutandis*.

Ben. Act
III of 1913.

Penalties.

19. (1) Any person who wilfully obstructs an Inspector in the exercise of his powers or discharge of his duties under this Act or fails to produce for inspection on demand by an Inspector any registers, records, returns or other documents maintained in pursuance of the provisions of this Act or the rules made thereunder or to supply to him on demand true copies of any such documents, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees; or with both.

(2) If any person is guilty of misappropriation of money or property received under this Act or non-compliance with any of the requirements of this Act or the rules made thereunder, in respect of which no penalty is provided, he shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to ten thousand rupees.

Prosecution.

20. No prosecution for such offence shall be instituted by an Inspector except with the previous sanction of the Board.

Supersession of Board.

21. (1) If the State Government is satisfied that the Board has made default in performing any of the duties imposed on it by or under this Act or has abused its power, the State Government may, by notification in the *Official Gazette*, supersede the Board.

(2) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board under this Act shall be exercised or performed by such officer or officers, as the State Government may appoint for this purpose.

Rules.

22. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the forgoing power, such rules may be made for all or any of the following matters, namely:—

- (a) the intervals at which or the period within which any of the sums referred to in section 3 shall be paid to the fund, the manner of making of such payment and the agency for paying or collecting any such sum;
- (b) the procedure for defraying expenditure out of the fund;
- (c) the allowances, payable to the non-official members of the Board under sub-section (3) of section 4;
- (d) the manner referred to in sub-section (7) of section 4 in which the Board shall conduct its business;
- (e) the form of application to obtain benefits under this Act;
- (f) delegation of powers and functions of the Board to such Officer and the conditions and limitations subject to which such powers may be exercised or functions may be discharged;

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(Sections 23-25.)

- (g) the registers and records to be maintained and returns to be sent to the State Government by the Board under this Act;
 - (h) the publication of the report of the activities financed from the fund together with a statement of receipts and expenditure of the fund and a statement of accounts;
 - (i) any other matter which under this Act is required to be or may be prescribed.
- (3) The rules, as soon as they are made, be laid before the State Legislature.

Member of the Board and all officers and employees of Board to be public servant.

23. The members of the Board, the Inspectors and all other officers and other employees of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

Protection to persons acting in good faith.

24. No suit, prosecution or other legal proceeding shall lie against any person or anything which is in good faith done or intended to be done under this Act.

Power to remove difficulties.

25. If any difficulty arises in giving effects to the provisions of this Act, the State Government may, by order, make such other provisions or give such direction, not inconsistent with the provision of this Act, as appear to it to be necessary or expedient for the removal of difficulty.

By order of the Governor,

MADHUMATI MITRA,
Secy. to the Govt. of West Bengal,
Law Department.