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MADHYA PRADESH ACT

No. 1 of 1959

THE MADHYA PRADESH SUGARCANE (REGULATION OF SUPPLY AND PURCHASE) ACT, 1959

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MADHYA PRADESH ACT

(No. 1 of 1959)¹

THE MADHYA PRADESH SUGARCANE (REGULATION OF SUPPLY AND PURCHASE) ACT, 1958

(Received the assent of the President on the 26th February 1959; assent first published in the "Madhya Pradesh Gazette" on the 13th March 1959.)

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

CHAPTER— I

Preliminary

1. (1) This Act may be cited as the Madhya Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1958. Short title, extent and commencement.
- (2) It extends to the whole of Madhya Pradesh.
- (3) It shall come into force on such date² as the State Government may, by notification, appoint.
2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.
 - (a) "assigned area" means an area assigned to a factory under section 16;
 - (b) "Board" means the Sugarcane Board established under section 3;
 - (c) "cane" means sugarcane intended for use in a factory;
 - (d) "Cane Commissioner" means the Officer appointed to be Cane Commissioner under section 9, and includes an Additional Cane Commissioner appointed under section 10;
 - [(d-1) "Cane development" means and includes—
 - (i) (a) improvement of land;
 - (b) construction of wells and other works for supply of water; and
 - (c) purchase of seeds, pesticides fertilizers and irrigation and other mechanical equipment;
 for purposes of cultivation of sugarcane; and
 - (ii) such other matters as the State Government may from time to time, by notification, declare to be cane development;]³
 - (e) "Cane-grower" means a person who cultivates cane either by himself or by members of his family or by hired labour and who is not a member of a Cane-growers' Co-operative Society;

1. For Statement of Objects and Reasons (in English) see "Madhya Pradesh Gazette" Extraordinary, dated the 28th March, 1958, page 463 and (in Hindi) 474. For proceedings in Assembly see Madhya Pradesh Vidhan Sabha Proceedings, 1958, Volume 3, No. 30, pages 2644-2671 and No. 31, pages 2736 to 2769, Vol. 4 No. 3, page 247, No. 15, page 1630-1652.

2. 1st July 1959, see Govt. of M.P. Agriculture Deptt. Notifi. No. 2712-1381-XIV, dated the 23rd June, 1959, published in the "M.P. Gazette" dated the 26th June, 1959, Part I, page 736.

3. Ins. by M.P. Act No. 4 of 1970, S. 2.

- (f) "Cane-growers" Co-operative Society means a Society registered under any law relating to Co-operative Societies in force in any part of Madhya Pradesh, one of the objects of which is to sell cane grown by its members and includes the federation of such societies, registered under such law;
- (g) "Collector" includes any person whom the State Government may, by notification, appoint to exercise and perform the powers and duties of a Collector under this Act;
- (h) "Council" means the Cane Development Council established under section 5;
- (i) "crushing season" means the period beginning on the 1st October in any year and ending on the 30th June next following;
- (j) "factory" means any premises, including the precincts thereof wherein twenty or more workers are working or were working on any day during the preceding twelve months and in any part of which any manufacturing process connected with the products of sugar by means of vacuum pans is being carried on or is ordinarily carried on with the aid of mechanised power;
- (k) "managing agent" has the meaning assigned to it in the Indian Companies Act, 1956 (1 of 1956);
- (l) "occupier of a factory" means the person who has ultimate control over the affairs of the factory, and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;
- (m) "purchasing agent" means a person licensed under this Act to act as a purchasing agent; and
- (n) "reserved area" means an area specified in an order issued under section 15.

CHAPTER—II

Administrative Machinery

Sugarcane Board.

3. (1) There shall be established by the State Government, by notification, Sugarcane Board for Madhya Pradesh.
- (2) The Board shall consist of—
- (a) the Minister-in-charge of Agriculture;
- (b) the Minister-in-charge of Industries;
- (c) nine members to be appointed by the State Government of whom three shall be representatives of Sugar factories and three shall be representatives of cane-growers and the Cane-growers' Co-operative Societies and the remainder shall be persons possessing technical knowledge in sugarcane or otherwise interested in the development of sugarcane and its products;
- (d) the Cane Commissioner; and
- (e) the Secretary to the State Government in the Agriculture Department or such other officer as may be nominated by the State Government.
- (3) The Minister-in-charge of Agriculture shall be the Chairman of the Board and the officer nominated under clause (e) of sub-section (2) shall be the Secretary of the Board.

(4) The term of office of a member appointed under clause (c) of sub-section (2) shall be three years from the date of the publication of the name of such member in the Gazette.

(5) The Chairman shall, if present, preside at all meetings of the Board and in his absence the Minister-in-charge of Industries. If the Chairman and the Minister-in-charge of Industries are both absent at a meeting of the Board, then the members present shall elect a Chairman for the meeting.

4. The Board shall advise the State Government on the following matters, namely :—

Functions of the Board.

- (a) matters pertaining to the regulation of supply and purchase of cane for sugar factories;
- (b) the varieties of cane which are suitable or unsuitable for use in sugar factories;
- (c) the maintenance of healthy relations between occupiers or managers of factories, Cane-growers Co-operative Societies, Cane Development Council and purchasing agents; and
- (d) such other matters as may be prescribed.

5. (1) There shall be established, by notification, for the reserved area of a factory a Cane Development Council which shall be a body corporate by the name of such area or such other name as the State Government may notify in this behalf having perpetual succession, and subject to such restrictions or qualifications as may be imposed under this Act or any other enactment, vested with the capacity of suing and being sued in its corporate name, of acquiring, holding, administering and transferring property both movable and immovable, and of entering into contracts:

The Cane Development Council.

Provided that where the Cane Commissioner so directs, the Council may be established for a larger or smaller area than the reserved area of a factory.

(2) The area for which a Council is established shall be called a zone.

(3) The Council shall consist of—

- (a) the Chairman to be nominated by the Cane Commissioner with the approval of the State Government;
- (b) two members representing sugar factories to be nominated by the Cane Commissioner;
- (c) two members representing the cane-growers and the Cane-growers' Co-operative Societies of the zone to be nominated by the Cane Commissioner;
- (d) a member of the Legislative Assembly residing in or representing any area comprised in the zone to be nominated by the State Government; and
- (e) the District Agriculture Officer or an officer nominated by the Cane Commissioner who shall be Member-cum-Secretary.

(4) Every person nominated under sub-section (3) shall enter upon his office on the date on which the notification nominating him is published in the Gazette and the term of office of such person shall be three years from the date of such notification.

(5) The Cane Commissioner, if he is satisfied that it is necessary so to do, may with the approval of the State Government, dissolve the Council before the expiry of its term, or remove any member thereof for reasons to be recorded:

Provided that no action under this sub-section shall be taken unless the Council or the member, as the case may be, has been given a reasonable opportunity of being heard in the matter.

(6) Where a Council is dissolved, the following consequences shall follow :—

- (a) all members including the Chairman shall on a date to be specified in the order vacate their offices but without prejudice to their eligibility for renomination;
- (b) the Council shall be reconstituted by the Cane Commissioner in accordance with the provisions of sub-section (3); and
- (c) the duties, powers and functions of the Council shall, pending its reconstitution, be discharged, exercised and performed by the Cane Commissioner or such other officer as he may direct.

Functions of the Council.

6. (1) Functions of the Council shall be—

- (a) to consider and approve the programme of development for the zone;
- (b) to devise ways and means for the execution of the development plan in all its essentials such as cane varieties, cane-seed, sowing programme, fertilizers and manures;
- (c) to undertake the development of irrigation and other agricultural facilities in the zone;
- (d) to take necessary steps for the prevention and control of diseases and pests and to render all possible help in the soil extension work;
- (e) to impart technical training to cultivators in matters relating to the production of cane;
- (f) to administer the funds at its disposal for the execution of the development scheme subject to such conditions as may be prescribed; and
- (g) to perform other prescribed functions pertaining and conducive to the general development of the zone.

(2) The State Government may at any time direct the Cane Commissioner to convene a joint meeting of two or more Councils. Every such meeting shall be presided over by such person as may be nominated in that behalf by the State Government.

Casual vacancy

7. A casual vacancy in the Council shall be filled up in the manner stated in sub-section (3) of section 5 and any person nominated to fill the casual vacancy shall hold office for the unexpired term of his predecessor.

Council Fund.

8. (1) There shall be a fund at the disposal of the Council to meet the charges in connection with the discharge of its duties and performance of its functions under this Act.

(2) The fund of the Council shall consist of—

- (a) grants, if any, made by the Indian Central Sugarcane Committee;
- (b) grants, if any, made by the State Government;
- (c) sums received by the Council by way of commission under section 21; and

(d) any other sums which may be credited to it under the general or special orders of the State Government.

9. The State Government may, for purposes of this Act, appoint Cane Commissioner who shall perform such duties and exercise such powers as are conferred or imposed upon him by or under this Act.

Cane Commissioner.

10. (1) The State Government may appoint or designate such Government officer as it thinks fit to be Additional Cane Commissioner.

Additional Cane Commissioner.

(2) An Additional Cane Commissioner shall exercise such powers and discharge such duties of the Cane Commissioner as the State Government may direct.

11. (1) The State Government may for purposes of this Act appoint any person or designate such officer of the Government as it thinks fit to be Inspector within such local limits as may be assigned to him.

Inspectors.

(2) The Inspector shall perform the duties and exercise the powers conferred or imposed upon him by or under this Act.

CHAPTER—III

Supply and Purchase of Cane

12. (1) The Cane Commissioner may, for purposes of section 15, 16 or 17 by order, require the occupier to furnish in the manner and by the date specified in the order to the Cane Commissioner an estimate of the quantity of cane which will be required by the factory during such crushing season as may be specified in the order.

Estimates of requirements.

(2) The Cane Commissioner shall examine every such estimate and shall publish the same with such modifications, if any, as he may make.

(3) An estimate under sub-section (2) may be revised by an authority to be prescribed.

13. (1) The occupier shall maintain in the prescribed form a register of all such cane-growers and Cane-growers' Co-operative Societies, as shall sell cane to that factory.

Register of cane-growers and Cane-growers' Co-operative Society or Societies.

(2) The State Government may make rules for the inspection of such register and the procedure for the correction of any entry therein and obtaining copy of an entry from such register and in making such rules the State Government may also provide for payment of charges for correction and supply of copies.

14. (1) The State Government, for purposes of section 15, 16 or 17 by order, provide for—

Power of survey, etc.

- (a) survey to be made of the area proposed to be reserved or assigned for supply of cane to a factory and the recovery of the cost of such survey from the occupier;
- (b) the appointment of an officer for purposes of such survey, his duties and powers;
- (c) the procedure in accordance with which the survey shall be made;
- (d) the assistance and facilities to be provided to the officer appointed in pursuance of clause (b) by the persons owning or occupying land in the area; and
- (e) such incidental and consequential matters as may appear to be necessary or desirable for this purpose.

(2) Any amount due from the occupier in pursuance of clause (a) of sub-section (1) shall be recoverable from such occupier as an arrear of land revenue.

Declaration of reserved area.

15. Without prejudice to any order under clause (d) of sub-section (2) of section 19, the Cane Commissioner may, after consulting in the manner prescribed, the occupier and Cane-growers' Co-operative Society, if any, in any area to be reserved for a factory reserve such area for such factory and thereupon occupier thereof shall subject to provisions of section 22 be liable to purchase all cane grown in such area which is offered for sale to the factory.

Declaration of assigned area.

16. Without prejudice to any order under clause (d) of sub-section (2) of section 19, the Cane Commissioner may after consulting in the prescribed manner the occupier and Cane-growers' Co-operative Society, if any, in any area to be assigned, assign such area for the purpose of the supply of cane to a factory in accordance with the provisions of section 19 during any crushing season; and thereupon the occupier thereof shall subject to the provisions of section 22 be liable to purchase such quantity of cane grown in that area and offered for sale to the factory as may be determined by the Cane Commissioner.

Alteration of reserved or assigned area.

17. The Cane Commissioner may, at any time, if he considers it expedient so to do cancel any order reserving or assigning any area or alter the boundaries of an area so reserved or assigned.

Appeal.

18. An appeal shall lie to the State Government against the order of the Cane Commissioner passed under section 15, 16 or 17 before the expiry of thirty days from the date of the order :

Provided that the State Government may for sufficient cause admit any appeal after the expiry of such period.

Regulation of purchase and supply of cane in the reserved and assigned areas.

19. (1) The State Government may, for maintaining supplies, by order regulate—

- (a) a distribution, sale or purchase of cane in any reserved or assigned area; and
- (b) purchase of cane in any area other than a reserved or assigned area.

(2) Without prejudice to the generality of the foregoing powers such order may provide for—

- (a) the quantity of cane to be supplied by each cane-grower or Cane-growers' Co-operative Society in such area to the factory for which the area has been so reserved or assigned;
- (b) the manner in which cane grown in the reserved area or the assigned area shall be purchased by the factory for which the area has been so reserved or assigned and the circumstances in which the cane grown by a cane-grower shall not be purchased except through a Cane-growers' Co-operative Society;
- (c) the form and terms and conditions of the agreement to be executed by the occupier of the factory for which an area is reserved or assigned for the purchase of cane offered for sale;
- (d) the circumstances under which permission may be granted—
 - (i) for the purchase of cane grown in reserved or assigned area by a purchasing agent or any person other than the factory for which area has been reserved or assigned; and
 - (ii) for the sale of cane grown in a reserved or assigned area to any other person or factory other than the factory for which the area is reserved or assigned ;

- (e) such incidental and consequential matters as may appear to be necessary or desirable for this purpose.

20. (1) The occupier shall make suitable provision to the satisfaction of the Collector for the payment of the price of cane.

Payment of cane price.

[(2) Upon the delivery of cane, the occupier shall, subject to the deductions specified in sub-section (2-a) be liable to pay immediately the price of the cane so supplied, together with all other sums connected therewith and where the supplies have been made through a purchasing agent, the purchasing agent shall similarly be liable in addition to the occupier.

(2-a) Where a cane-grower or a Cane-growers' Co-operative Society, as the case may be, to whom price is payable under sub-section (1) has borrowed a loan for cane development from any agency notified by the State Government in this behalf, the occupier or the purchasing agent, as the case may be, shall be, on being authorised by that agency so to do, entitled to deduct from the price so payable, such amount as may be prescribed, towards the recovery of such loan and pay the same to the agency concerned forth-with.]¹

[(3) Where the person liable under sub-section (2) is in default in making the payment of the price for a period exceeding fourteen days from the date of delivery he shall also pay interest at the rate of 14 1/2 per cent. per annum from the said date of delivery up to the date of payment but the Cane Commissioner may, in any case, direct with the approval of the State Government that no interest shall be paid or be paid at such reduced rate as he may fix.]²

(4) The Cane Commissioner shall forward to the Collector a certificate under his signature specifying the amount of arrears on account of the price of cane plus interest, if any, due from the occupier and the Collector, on receipt of such certificate, shall proceed to recover from such occupier the amount specified therein as if it were an arrear of land revenue together with further interest up to the date of recovery.

21. (1) There shall be paid by the occupier a commission for every one maund of cane purchased by the factory —

Commission on purchase of cane.

- (a) where the purchase is made through a Cane-growers' Co-operative Society, the commission shall be payable to the Cane-grower's Co-operative Society and the Council in such proportion as the State Government may declare; and
- (b) where the purchase is made directly from the cane-grower, the commission shall be payable to the Council.

(2) The commission payable under clauses (a) and (b) of sub-section (1) shall be at such rates as may be prescribed provided, however, that the rate fixed under clause (b) shall not exceed the rate at which the commission may be payable to the Council under clause (a).

(3) The provisions relating to payment, interest and recovery, including recovery as arrears of land revenue, applicable to price of cane shall mutatis mutandis apply to payment and recovery of commission under sub-section (1).

22. (1) The State Government may, by notification, declare that—

Power to declare varieties of cane to be unsuitable for use in factories.

- (a) cane of any variety grown in any area specified in such notification is unsuitable for use in a factory situated in the said area;
- (b) ratoon cane of any variety grown in any area specified in such notification is unsuitable for use in a factory situated in the said area; and
- (c) seed cane of any variety is unsuitable for distribution to cultivators in the area specified in such notification.

1. Subs. by M.P. Act. 4. of 1970, S. 3.

2. Subs. by M.P. Act, 5 of 1976, S. 2.

(2) A notification under sub-section (1) shall be issued not later than the 20th November of the year immediately preceding the crushing season with respect to which such notification is to operate.

(3) Where any seed cane of any variety has been declared under sub-section (1) to be unsuitable for distribution to cultivators in that area, the occupier or any other person acting on his behalf or Cane-growers' Co-operative Society shall not distribute seed cane of such variety or varieties to any person to be used by cane-growers or the members of the Cane-growers' Co-operative Societies in any area.

(4) Where cane or ratoon cane of any variety has been declared under sub-section (1) to be unsuitable for use in a factory, the occupier or any other person acting on his behalf or a cane-grower or a Cane-growers' Co-operative Society shall not plant cane of any variety or keep ratoon cane of any such variety.

CHAPTER—IV

Miscellaneous

23. [* * *]¹

Reference of disputes to Cane Commissioner.

24. If any dispute arises—

- (a) between a Cane-growers' Co-operative Society and a factory, or between a cane-grower and a factory, or between a Cane-growers' Co-operative Society and a cane-grower; or
- (b) between the Council and Cane-growers' Co-operative Society, or between the Council and a factory, or between the Council and a canegrower regarding the payment of contribution to the Council by a Society or a factory; or
- (c) relating to the business of the Council;

it shall be referred for decision to the Cane Commissioner or if he so directs to the arbitrator nominated by him and the decision of the Cane Commissioner or the arbitrator, as the case may be, shall be final.

Determination of occupier for the purpose of this Act.

25. (1) Where the occupier is a firm or other association of individuals, any one or more of the partners or members thereof may be prosecuted and punished under this Act for any offence for which the occupier is punishable:

Provided that the firm or association may give notice to the Collector that it has nominated one of its members to be occupier for the purpose of this Act, and such individual shall be deemed to be occupier for the purpose of this Act, until further notice cancelling his nomination is received by the Collector or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier is a company any one or more of the directors thereof, or in the case of a private company any one or more of the share-holders thereof may be prosecuted and punished under this Act for any offence for which the occupier is punishable:

Provided that the company may give notice to the Collector that it has nominated a director, or in the case of a private company, a shareholder to be the occupier for the purposes of this Act and such director or shareholder shall be deemed to be the occupier for the purposes of this Act until further notice cancelling his nomination is received by the Collector or until he ceases to be a director or shareholder.

26. If any person contravenes any of the provisions of this Act or any rule or order made thereunder he shall be liable to imprisonment extending to six months or to a fine not exceeding rupees five thousand or both and in the case of continuing contravention to a further fine not exceeding rupees one thousand for each day during which the contravention continues.

Penalties.

27. (1) No prosecution shall be instituted under this Act except upon complaint made by or under authority from the Cane Commissioner or the Collector of the district.

Institutions of proceeding.

(2) On the application of a person accused of an offence under this Act, the Cane Commissioner or the Collector of the district with the previous concurrence of the Cane Commissioner may at any stage compound such offence by levying a composition fee not exceeding the fine which could be imposed for such offence.

(3) No Court inferior to that of a Magistrate of the Second Class shall try any offence against this Act or any order or rule made thereunder.

28. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898¹ it shall be lawful for a Magistrate of the First Class especially empowered by the State Government in this behalf and trying any case under this Act or any order or rule made thereunder to pass a sentence of fine not exceeding five thousand rupees on any person convicted for any offence under this Act.

Special powers of Magistrate

29. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order or rule made under this Act.

Protection of action taken under the Act.

(2) No suit or other legal proceeding shall lie against the State 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 any order or rule made under this Act.

30. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules.

(2) Without prejudice to the generality of foregoing power, such rules may provide for —

- (a) the conduct of business by the Board and Council;
- (b) the business to be transacted at meetings convened under sub-section (2) of section 6;
- (c) the manner and form in which the fund placed at the disposal of the Council under section 8 shall be maintained and the application and payment from such fund;
- (d) the duties, powers and functions of the Cane Commissioner;
- (e) the matters relating to the appointment and other conditions of service of inspectors to be appointed under section 11 and their duties, powers and functions;
- (f) the fees to be paid in respect of applications and appeals under this Act ;
- (g) the appointment and licensing of purchasing agents, and other persons to be employed by the purchasing agents and the sugar factories for the purchase of cane, their functions and duties and the securities to be deposited by them and the conditions under which these securities may be forfeited;

1. Now see the Code of Criminal Procedure, 1973 (2 of 1974).

- (h) the form of the agreement to be entered into by or under the provisions of this Act and the penalty to be paid for breach of conditions of agreement;
- (i) the constitution, operation, management, supervision and audit of Cane-growers' Co-operative Societies and federation and conditions relating to recognition of such societies or federation for purposes of this Act and rules and control of their staff and finances;
- (j) the rate at which and the manner in which commission shall be paid to the Cane-growers' Co-operative Society on supply of cane by them ;
- (k) the correct weightment of cane, the provision of facilities for weightment and for checking weightments and of timings of weightments;
- (l) the provision of approach roads, parking space for carts bringing cane to factories, sheds for bullocks and cart-drivers, water-troughs for bullocks and other connected matters ;

[(1-1) deduction of amount under sub-section (2-a) of section 20;)]¹

(m) [* * *]²

- (n) the procedure for matters falling under section 24;
- (o) the form of the statements, returns, register and other forms required to be maintained by or under this Act and the filling of such returns, statements and forms ;
- (p) the form and the manner in which application shall be made for various purposes under this Act ;
- (q) the duties of any officer or authority having jurisdiction under this Act and the procedure to be followed by such officer or authority; and
- (r) the matters which are to be or may be prescribed.

(3) The rules made under this section shall come into force from a date to be appointed by the State Government.

(4) All rules made under this section shall, as soon as may be, after they are made, be laid before the Legislative Assembly and shall be subject to such modifications as the Legislative Assembly may make.

1. Ins. by M.P. Act 4 of 1970, S. 4.

2. Repealed by M.P. Act 39 of 1961, S. 18

MADHYA PRADESH ACT

No. 2 of 1959

THE MADHYA PRADESH GENERAL SALES TAX ACT, 1958

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