

THE RAJASTHAN IMPOSITION OF CEILING ON AGRICULTURAL HOLDINGS

(AMENDMENT AND VALIDATION) ACT, 1979

(ACT NO. 6 OF 1979)

[Received the assent of the President on the 7th day of April, 1979.]

An Act further to amend the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973.

Be it enacted by the Rajasthan State Legislature in the Thirtieth Year of the Republic of India, as follows:—

1. Short title & commencement.- (1) This Act may be called the Rajasthan Imposition of Ceiling on Agricultural Holdings (Amendment and Validation) Act, 1979.

(2) It shall be deemed to have come into force on the 30th day of December, 1978.

'Statement of Objects and Reasons

Section 15 of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (Act No. 11 of 1973) empowers the State Government to direct re-opening of the cases finally decided under the old ceiling law contained in the relevant provisions of the Rajasthan Tenancy Act as also under the new ceiling law. For the cases under the new law, the time limit was four years from the date of passing of the final orders or upto 31st December, 1978 whichever was later. No case decided more than four years prior to the said date could be available for re-opening. The cases finally decided under the old law could be re-opened within period of six years from the commencement of the new law contained in the Act of 1973. The Act came into force on 1-1-1973. The time limit thus expired on 31-12-1978 it became necessary to extend the time limit.

Section.15 of the ActNo. 11 of1973 as originally enacted was amended by Act No 8 of 1976 and again by Act No. 6 of 1978. These two amending Acts did not receive the assent* of the President. The constitutional validity of these two amending Acts had been challenged in the Rajasthan High Court on the ground that they were invalid for want of assent of the President. The Rajasthan High Court has since upheld the constitutional validity of the two Acts. But then in order to take the legal and constitutional position out of pale of any possible doubt and to safeguard against any successful challenge in higher judicial forums it is considered expedient to re-enact the relevant provisions of the said two Acts.

Since the Rajasthan Legislative Assembly was not in session and the circumstances existed, which rendered it necessary for him to take immediate action, the Governor, after obtaining the previous instructions of the President, made and promulgated the Rajasthan Imposition of Ceiling on Agricultural Holdings (Third Amendment) Ordinance, 1978 (Ordinance No. 17 of 1978) on the 30th day of December, 1978. This Bill seeks to replace the said Ordinance].

2. Amendment of section 15, Rajasthan Act 11 of 1973.- (1) Section 15 of the

Rajasthan imposition of Ceiling on Agricultural Holdings Act, 1973 (Rajasthan Act 11 of 1973), hereinafter referred to as the principal Act,—

(a) in relation to the period from the 1st day of January, 1973 to the 7th day of April, 1978 shall be deemed to have been substituted by the following, namely:—

"15. Power to reopen cases. -(1) Notwithstanding anything contained in this Act, if the State Government, after calling for record or otherwise, is satisfied that any final order, passed in any matter arising under this Act is in contravention of the provisions of this Act and that such order is prejudicial to the State Government or that on account of the discovery of new and important matter or evidence which has since come to its notice, such order is required to be re-opened, it may, at any time within four years of the date of such final order or within three years from the 15th day of August 1975 whichever is later, direct any officer subordinate to it to re-open such decided matter and to decide it afresh in accordance with the provisions of this Act.

(2) Without prejudice to any other remedy that may be available to it under the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955), if the State Government, after calling for the record or otherwise, is satisfied that any final order passed in any matter arising under the provisions repealed by section 40, is in contravention of such repealed provisions and that such order is prejudicial to the State Government or that on account of the discovery of new and important matter or evidence which has since come to its notice, such order is required to be re-opened, it may, at any time within six years of the commencement of this Act, direct any officer subordinate to it to re-open such decided matter and to decide it afresh in accordance with such repealed provisions:

Provided that no final order passed by the Board in the matter referred to in sub-section (1) or in sub-section (2) shall be directed to be re-opened and decided afresh under the said sub-sections unless the State Government is satisfied that such order is required to be re-opened on account of the discovery of new and important matter or evidence which has since come to its notice or due to some mistake or apparent on the face of the record";

(b) in relation to the period from the 8th day of April, 1978 to the 13th day of August, 1978 shall be deemed to have been substituted by the following, namely:—

"15. Power to re-open cases-(I) Notwithstanding anything contained in this Act, if the State Government after calling for the record or otherwise is satisfied that any final order passed in any matter arising under this Act is in contravention of the provisions of this Act and that such order is prejudicial to the State Government or that on account of the discovery of new and important matter or evidence which has since come to its notice, such order is required to be re-opened, it may direct any officer subordinate to it to re-open such decided matter and to decide it afresh in accordance with the provisions of this Act:

Provided that no such direction shall be issued unless a notice to show cause against the proposed action has been served upon the person concerned:

Provided further that no notice referred to in the foregoing proviso shall be issued after the expiry of four years from the date of the final order sought to be re-opened or after expiry of three years from the 15th day of August, 1975, whichever is later.

(2) Without prejudice to any other remedy that may be available to it under Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955), if the State Government, after calling for the record or otherwise, is satisfied that any final order passed in any matter arising under the provisions replaced by Section 40, is in contravention of such repealed provisions and that such order is prejudicial to the State Government or that on account discovery of new and important matter or evidence which has since come to its notice, such order is required to be re-opened, it may direct any officer subordinate to it to re-open such decided matter and to decide it afresh in accordance with such repealed provisions:

Provided that no such direction shall be issued unless a notice to show cause against the proposed action has been served upon the person concerned:

Provided further that no notice referred to in the foregoing proviso shall be issued after the expiry of six years of the commencement of this Act:

Provided that no final order passed by the Board in the matter referred to in sub-section (1) or in sub-section (2) shall be directed to be re-opened and decided afresh under the said sub-sections unless the State Government is satisfied that such order is required to be re-opened on account of the discovery of new and important matter or evidence which has since come to its notice or due to some mistake or error apparent on the face of the record."

(2) In section 15 of the principal Act,—

(a) the second proviso to sub-section (1) shall be substituted by the following, namely :—

"Provided further that no notice referred to in foregoing proviso shall be issued after the expiry of five years from the date of the final order sought to be re-opened or after the expiry of the 30th day of June, 1979, whichever is later."

(b) the second proviso to sub-section (2) shall be substituted by the following, namely:-

"Provided further that no notice referred to in the following proviso shall be issued after the expiry of seven years from the date of the final order sought to be reopened or after the expiry of 30th day of June. 1979, whichever is later."

3. Validation .- Notwithstanding any order, judgment or decree of any court, tribunal or authority, all things done, actions taken, directions issued and orders passed in consonance with the provisions of clauses (a) and (b) of sub-sections (1) of section 2

of this Act shall be deemed to have been validly done, taken, issued or passed under the provisions of the said clauses.

4. Repeal and savings.- (1) The Rajasthan Imposition of Ceiling on Agricultural Holdings (Third Amendment) Ordinance, 1978 (Ordinance No. 17 of 1978) is hereby repealed.

(2) Notwithstanding such repeal, all things done or action taken under the principal Act as read with the said Ordinance shall be deemed to have been done or taken under the principal Act as read with this Act.