

The
Calcutta  Gazette

सत्यमेव जयते

Extraordinary
Published Authority

[PHALGUNA 11]

WEDNESDAY, MARCH 2, 1994

[SAKA 1915]

PART III—Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 364 L.—2nd March, 1994. — The following Act of the West Bengal Legislature, having been assented to by the President of India, is hereby published for general information: —

West Bengal Act XIX of 1993

THE WEST BENGAL INLAND FISHERIES (AMENDMENT) ACT 1993.

[Passed by the West Bengal Legislature]

[Assent of the President of India was first published in the Calcutta Gazette, Extraordinary, of the 2nd March, 1994.

An Act to amend the West Bengal Inland Fisheries Act, 1994.

Whereas it is expedient to amend the West Bengal Inland Fisheries Act, 1984, for the purpose and in the manner hereinafter appearing;

West Bengal Act
XXV of 1984

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

Short title and
Commencement

1. (1) This Act may be called the West Bengal Inland Fisheries (Amendment) Act, 1993.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Insertion of
new Chapter
IIIA in West
Ben. Act XXV
of 1984

In the West Bengal Inland Fisheries Act, 1984, after Chapter III, the following chapter shall be inserted : —

CHAPTER IIIA

Bar to conversion of water area etc. for other use

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- 17A. (1) No person shall—
- a) put any water area including embankment measuring 5 cottahs or 0.035 hectare or more, which is capable of being used as fishery, or any naturally or artificially depressed land holding measuring 5 cottahs or 0.035 hectare or more, which retains water for a minimum period of six months in a year, to such use, other than fishery, as may result in abolition of fishery, or
 - b) fill up any water area including embankment or naturally or artificially depressed land holding as aforesaid, with a view to converting it into solid land for the purpose of construction of any building thereon or for any other purpose, or
 - c) divide any water area including embankment or naturally or artificially depressed land holding as aforesaid into parts so as to make any such part measure less than 5 cottahs or 0.035 hectare for any purpose other than pisciculture or transfer any part of any such water area including embankment or naturally or artificially depressed land holding as so divided to any other person.
- (2) If the competent authority, on receipt of an information or on his own motion or otherwise, is satisfied that—
- a) any water area including embankment or naturally or artificially depressed land holding, referred to in clause (a) of sub-section (J) is being, or is about to be, put to any use, other than fishery, or
 - b) any such water area including embankment or naturally or artificially depressed land holding, is being, or is about to be, filled up, or
 - c) any such water area including embankment or naturally or artificially depressed land holding is being, or is about to be, divided into parts, or any part of any such water area including embankment or naturally or artificially depressed land holding as so divided is being, or is about to be, transferred to any other person,

in contravention of the provisions of sub-section (1), and (that it is necessary for the purpose of promotion of pisciculture, checking of destruction of fisheries and prevention of environmental degradation so to do, he may, by order in writing, take over the management and control of such water area including embankment, or naturally or artificially depressed land holding, as the case may be.

- (3) An order under sub-section (2) shall be served in the prescribed manner on the owner of the water area including embankment or naturally or artificially depressed land holding, as the case may be, or, where the water area including embankment or naturally or artificially depressed land holding

The West Bengal Inland Fisheries (Amendment) Act, 1993.

(Section 2.)

is in occupation of any person, not being the owner of such water area including embankment or naturally or artificially depressed land holding, on such person.

(4) The management and control of such water area including embankment in naturally or artificially depressed land holding may be transferred by the competent authority to any person for proper utilization for pisciculture of such water area including embankment or naturally or artificially depressed land holding, as the case may be, in such manner as may be prescribed,

(5) Every co-sharer or co-owner of a water area including embankment or naturally or artificially depressed land holding, referred to in clause (a) of subsection (1), shall be entitled to receive rent for taking over the management and control of such water area including embankment or naturally or artificially depressed land holding, as the case may be, by the competent authority at such rate as may be determined by that authority in the manner prescribed.

(6) The management and control of any water area including embankment or naturally or artificially depressed land holding may be taken over under subsection (2) for a period not exceeding 25 years or transferred to any person under sub-section (4) for a period not exceeding 10 years at a time.

(7) If the person referred to in sub-section (4) fails to utilize the water area including embankment or naturally or artificially depressed land holding, as the case may be, in accordance with the prevailing norms of pisciculture, the competent authority may, after giving notice to such person, resume the management and control of such water area including embankment or naturally or artificially depressed land holding, as the case may be, without payment of any rent or compensation to such person; and such water area including embankment or naturally or artificially depressed land holding, as the case may be, may thereafter be managed by the competent authority or transferred to some other person for pisciculture.

(8) The provisions of this section shall apply, *mutatis mutandis*, to any water area including embankment or naturally or / artificially depressed land holding, referred to in clause (a) of sub-section (1), which is owned or possessed by any person or persons either jointly or severally or owned by the State Government jointly with other person or persons.

(9) No water area including embankment or naturally or artificially depressed land holding, referred to in clause (a) of sub-section (1), shall be—

(a) put to any use other than fishery, or

(b) filled up with a view to converting it into solid land,

for the purpose of implementation of any development scheme by any department of the Central Government or the State Government or any public undertaking under the administrative control of the Central Government or the

The West Bengal Inland Fisheries (Amendment) Act, 1993.

(Section 2.)

State Government or any statutory body or local authority or any organisation in the public sector or any organisation or individual in the private sector, except with the prior approval of the State Government in the Department of Fisheries.

(10) (a) The" competent authority may, by a written notice, require any person who, by contravening the provisions of sub-section (1),—

(i) puts any water area including embankment or naturally or artificially depressed land holding to any use other than fishery, or

(ii) fills up any water area including embankment or naturally or artificially depressed land holding with a view to converting it into solid land, or

(iii) divides any water area including embankment or naturally or artificially depressed land holding into parts for any purpose other than pisciculture or transfer any part of any such water area including embankment or naturally or artificially depressed land holding as so divided to any other person,

to restore, within such period as may be specified in the notice, such water area including embankment or naturally or artificially depressed hand holding, us the case may be, to its original condition at his own expense.

(b) If such person fails to restore such water area including embankment or naturally or artificially depressed land holding to its original condition within the period specified in the notice under clause (a), the competent authority may, by order in writing, take over the management and control of such water area including embankment or naturally or artificially depressed land holding, as the case may be, restore it to its original condition, and recover the entire cost in this behalf or any part thereof from such person.

(c) The management and control of such water area including embankment or naturally or artificially depressed land holding as may be taken over by the competent authority under clause (b) may be transferred by the competent authority to any person for proper utilisation of such water area including embankment or naturally or artificially depressed land holding, as the case may be, in such manner as may be prescribed. And, thereupon, the provisions of sub-sections (5), (6), (7) and (8) shall apply to such water area including embankment or naturally or artificially depressed land holding, as the case may be.

(II) Any person who commits any offence by contravening the provisions of sub-section (I) shall, without prejudice to the provisions of sub-section (10), be punished with imprisonment for a term which may extend to two years or with fine" which may extend to two lakh rupees or with both, and the provisions of section 20 shall not apply to such person."

By order of the Governor,
S. K. PHAUJDAR.
Secy. to the Govt. of West Bengal.