

**THE PONDICHERRY IRRIGATION (LEVY
OF BETTERMENT CONTRIBUTION)
REGULATION, 1976**

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Promulgated by the President in the Twenty-sixth year of the Republic of India.

A Regulation to provide for the levy of betterment contribution on certain lands in the Union territory of Pondicherry.

In exercise of the powers conferred by the second proviso to clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him :-

Short title , extent and commencement

1. (1) This Regulation may be called the Pondicherry Irrigation (Levy of Betterment Contribution) Regulation, 1976.

(2) It extends to the whole of the Union territory of Pondicherry.

(3) It shall come into force on such date as the Government may, by notification, appoint.

Definitions

2. In this Regulation, unless the context otherwise requires,

(1) "contribution" means the betterment contribution referred to in section 5 or section 6.

(2) "drainage work" includes -

(a) channels, whether natural or artificial, for the discharge of waste or surplus water and all works connected with, or auxiliary to, such channels ;

(b) escape channels from an irrigation work ;

(c) dams, weirs, embankments, sluices and groynes ;

(d) All works for the protection of land from floods or from erosion, which are owned or controlled by the Government, or which are maintained by it, otherwise than by an assignment of land or land revenue made, confirmed, or recognised by the Government, or which, having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid, have not been made over to any person,

but does not include any works for the removal of sewage ;

(3) "execution", in relation to a notified work, means the construction, expansion, or alteration of the notified work ;

(4) "fasli year" means the year commencing on the 1st day July of a year and ending with the 30th day of June of the next year ;

(5) "Government" means the Administrator of the Union territory of Pondicherry appointed by the President under article 239 of the Constitution.

(6) "improved old ayacut", in relation to a notified work, means all lands which are significantly benefited by the execution of the notified work but does not include the ayacut of any existing irrigation or drainage work which has been merely repaired or restored to its original state after decay or injury.

Explanation I.- For the purposes of this clause, lands shall be deemed to be significantly benefited by the execution of a notified work if such lands -

(a) having been under single-crop irrigation or double-crop irrigation from a Government source of irrigation before the execution of the notified work, continue to be under such irrigation and are provided with a adequate supply or better assured supply of water for irrigation as a result of the execution of the notified work, or

(b) having been liable to non-beneficial submersion or stagnation of water before the execution of the notified work, have been substantially relieved of such submersion or stagnation as a result of the execution of the notified work :

Provided that no land shall be deemed to be significantly benefited if the more adequate supply or better assured supply of water for irrigation referred to in clause (a) of this Explanation or the substantial relief of submersion or stagnation referred to in clause (b) of this Explanation is as a result of mere repairs or restoration of the existing irrigation work or drainage work to its original state after decay or injury.

Explanation II.- For the purposes of Explanation I, the question whether any land -

(a) is provided with a more adequate supply or better assured supply of water for irrigation shall be decided with regard to -

(i) the raising of the irrigation source concerned to a higher settlement classification ;

(ii) supply of larger volume of water or supply of water for a longer duration ; and

(iii) such other like matters as may be prescribed ;

(b) has been substantially relieved of the non-beneficial submersion or stagnation of water shall be decided with regard to -

(i) the improvement of the land on account of the protection from submersion or stagnation or on account of the reduction in the period of submersion or stagnation ; and

(ii) such other like matters as may be prescribed.

Explanation III.- A land shall be deemed to be significantly benefited notwithstanding that the benefit is not enjoyed, provided that such non-enjoyment is due solely to action or inaction on the part of the person or persons interested in such land ;

(7) "irrigation work" includes -

(a) all canals, channels, tanks, wells, reservoirs, ponds, spring ponds and madugues used for the supply or storage of water and all works, embankments and structures (other than escape channels) connected therewith or auxiliary thereto, which are owned or controlled by the Government, or which are maintained by it, otherwise than by an assignment of land or land revenue made, confirmed or recognised by the Government, or which, having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid, have not been made over to any person ;

(b) all such lakes and other natural collections of water or parts thereof, as are situated on lands which are the property of Government ;

(c) all rivers and natural streams or parts thereof ;

(8) "land holder", in relation to any land, means the person who is in enjoyment of the said land and who has been benefited by any irrigation work ;

(9) "new ayacut", in relation to any notified work, means all lands which are benefited by the execution of the notified work.

Explanation I- For the purposes of this clause, lands shall be deemed to be benefited by the execution of a notified work, if such lands -

(a) having been left waste or under unirrigated cultivation before the execution of the notified work, have been brought under irrigation subsequently with water supplied from a Government source of irrigation as a result of the execution of the notified work, or

(b) having been under single-crop irrigation before the execution of the notified work, have been brought under double-crop irrigation subsequently with water supplied from a Government source of irrigation as a result of the execution of the notified work.

Explanation II.- A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed, provided that such non-enjoyment is due solely to action or inaction on the part of the person or persons interested in such land ;

(10) "notification" means a notification published in the Official Gazette,

(11) "notified work" means any irrigation work on drainage work, executed on or after the 1st November 1954 and notified by the Collector in the Official Gazette ;

(12) "prescribed" means prescribed by rules made under this Regulation.

New ayacut zones.

3. (1) Any new ayacut in every notified work may be classified into one or more of the following zones, namely :-

(i) wet zone ;

(ii) intermediary zone ; or

(iii) irrigated dry zone.

(2) A wet zone shall comprise all the land for which the water supplied as a result of the execution of a notified work will be ordinarily sufficient for one wet crop in a fasli year.

(3) An intermediary zone shall comprise all the lands for which the water supplied as a result of the execution of a notified work will be occasionally sufficient for one wet crop and will be ordinarily sufficient for one irrigated dry crop in a fasli year.

(4) An irrigated dry zone shall comprise all the lands for which the water supplied as a result of the execution of a notified work will be ordinarily sufficient for one irrigated dry crop in a fasli year but not sufficient for one wet crop in any fasli year.

Blocks under ayacut zone

4. (1) Every wet zone, every intermediary zone of every irrigated dry zone may consist of Block A, Block B, Block C, as classified below, namely :-

(a) Block A shall consist of contiguous wet lands of class 1, class 2, class 3 or class 4 ;

(b) Block B shall consist of contiguous wet lands of class 5 ;

(c) Block C shall consist of contiguous wet lands of class 6 ;

(2) Dry lands shall be classified according to the corresponding class rates.

Explanation - In this connection, classes 1, 2, 3, 4, 5, and 6 shall refer to the respective classes under which the lands have been registered in the revenue records.

Levy of betterment contribution on the lands in the new ayacut

5. There shall be levied a betterment contribution on every hectare of land in any new ayacut in accordance with the rates specified in the Schedule :

Provided that no betterment contribution shall be levied on any new ayacut under a notified work, the cost of which does not exceed seventy-five thousand rupees.

Levy of betterment contribution on lands in the improved old ayacut

6. (1) There shall be levied a betterment contribution on every hectare of land in any improved old ayacut in accordance with the provisions of this section :

Provided that no betterment contribution shall be levied on any land in any improved old ayacut under a notified work, the cost of which does not exceed seventy-five thousand rupees.

(2) The net expenditure on the notified work shall be ascertained by deducting from the gross expenditure on such work twenty times the annual increase in revenue, if nay, from all the lands

comprised in the improved old ayacut and in the new ayacut and the net expenditure as so ascertained shall be apportioned in the prescribed manner on all lands comprised in the improved old ayacut.

Explanation.- The expression "annual increase in revenue" means the increase in assessment and the increase in water-cess ascertained in the prescribed manner such increase is as a result of the execution of the notified work

(3) The betterment contribution shall, subject to a maximum of one hundred and twenty-five rupees per hectare, be one-third of the net expenditure per hectare of land apportioned under sub-section (2).

Exclusion of certain lands from ayacut in certain cases

7. (1) Any officer of the Revenue Department not below the rank of a Revenue Officer specially authorised by the Government in this behalf (hereinafter referred to as the authorised officer) may, from time to time postpone the inclusion of any land in the ayacut of a notified work for such period as he may by order in writing, specify on the ground that such land requires expensive lowering of the level or on such other ground as may be prescribed.

Explanation.- For the purposes of this sub-section, "expensive lowering of the level" means any reclamation involving expenditure exceeding two hundred and fifty rupees per hectare.

(2) Where the period specified in any order under sub-section (1) expires, the land referred to in that sub-section shall be deemed to be included in the ayacut aforesaid and the Government shall be entitled to levy contribution under this Regulation on such land with effect from the fasli year in which such land shall be deemed to be included in the ayacut under this sub-section.

(3) Where any land included in the ayacut of a notified work is not fit for the irrigation on the date of such inclusion for such reasons as may be prescribed and is subsequently brought under irrigation the Government shall be entitled to levy contribution under this Regulation on such land with effect from the fasli year in which the land is so brought under irrigation.

Authorised officer to levy contribution

8. Every authorised officer shall, after following such procedure as may be prescribed, by order, levy the contribution under this Regulation in respect of any land situated within his jurisdiction :

Provided that where the ayacut of a notified work lies within the jurisdiction of more than one authorised officer, the Government may, by general or special order, specify the officer who should levy the contribution in respect of lands in such ayacut.

Appeal

9. (1) Any person aggrieved by an order of the authorised officer with respect to the levy of contribution under this Regulation may prefer an appeal to the prescribed authority in such form, in such manner and within such time, as may be prescribed and such authority may make such order in the case as it may think fit :

Provided that before making any order under this section the prescribed authority shall give a reasonable opportunity to the affected person for making a representation in the matter.

(2) Any order made by the authorised officer with respect to the levy of contribution under this regulation shall, subject to the right of appeal provided in sub-section (1), be final, shall be binding on all persons having interest in the land and shall not be liable to be questioned in a court of law.

Contribution how paid

10. (1) The contribution payable by a land-holder shall be paid by him in annual instalments.

(2) The annual instalments per hectare shall be twelve rupees and fifty paise or one-twentieth of the total amount of the contribution payable by him whichever is higher :

Provided that a land-holder shall be entitled to pay within a period of two years from the date on which he becomes liable to pay the contribution the entire amount of contribution with a rebate at such rate as may be prescribed.

(3) Arrears of instalments of the contribution shall bear interest at the rate of six per cent per annum and such interest shall be recoverable as arrears of land revenue.

When contribution becomes payable

11. (1) The contribution shall become payable under this Regulation on a written notice of demand thereof issued by the authorised officer being served on the land-holder :

Provided that no such notice shall be reserved until the expiry of two years after the date of completion of the execution of the notified work :

Provided further that where, before the commencement of this Regulation, two years or more have elapsed from the date of completion of the execution of the notified work, such notice may be served at any time after such commencement.

(2) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other than land-holder, who has an interest in the land or on a successor-in-interest of the land-holder or in respect of any instalment of the contribution.

(3) (a) For the purpose of this section, the execution of a notified work shall be deemed to be completed on the date of cessation of all work connected with its execution or on the date when the notified work is ready to be put in actual operation whichever is later,

(b) The date referred to in clause (a) shall be notified by such authority or officer and in such manner, as may be prescribed.

Relinquishment or exchange of land in lieu of payment of contribution.

12. Notwithstanding anything contained in section 10, the Government may allow the owner of the land on which the contribution may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the Government on such conditions as may be prescribed :

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrance.

Rebate in certain cases.

13. If the Government accepts any money from any person for the execution of any notified work Land such person becomes liable to pay contribution in respect of any land benefited by such execution, the sum accepted from him shall be credited towards the contribution payable by him.

Payment of contribution by person having interest in land.

14. Any person having interest in a land may, notwithstanding that he is not the land-holder of such land, pay the contribution payable by the land holder in respect of such land and shall, if such person pays the entire contribution within a period of two years from the date on which the land-holder becomes liable to pay the contribution, be entitled to a rebate at such rate as may be prescribed.

Right of reimbursement in respect of contribution.

15. Where the land-holder liable to pay contribution under this Regulation is not the owner of the land or is a co-owner of the land, nothing in this Regulation shall be deemed to affect his right to reimbursement from the owner to recover proportionate part from the co-owner, as the case may be.

Apportionment of contribution.

16. Where a land-holder whose case is not covered by section 15 and who has paid an instalment of contribution under this Regulation is not the occupier of the land, he shall, in the absence of a contract to the contrary, be entitled to recover the amount of such instalment from the person who is in actual occupation of land during the year in which the said instalment is payable :

Provided that where such person is a tenant, the land-holder shall be entitled to recover from the tenant the instalment of contribution referred to in this section only if the tenant is liable under any law or custom of the locality to deliver to the land-holder a share of the produce and such share has not been altered subsequent to the completion of the work by agreement between the parties and the amount that can be recovered from such a tenant shall bear to the total amount of the instalment the same proportion as the tenant's share of the produce bears to the total produce of the land :

Provided further that, where the land-holder has paid the entire contribution with a rebate under the proviso to sub-section (2) of section 10, a twentieth part of the sum actually paid shall be deemed to be the instalment of the contribution payable during every year during which an instalment of the contribution would have been payable, had the entire contribution not been so paid.

Contribution recoverable as arrears of land revenue

17. (1) The contribution payable under this Regulation in respect of any land shall be deemed to be public revenue due upon the said land ; and the land and its products and the buildings (owned and occupied by the land-holder) standing upon the land shall be regarded as the security of the contribution.

(2) When the whole or portion of an instalment of the contribution payable in any year is not paid on the due date, the amount of the instalment or its unpaid portion shall be deemed to be an arrear of land revenue and the provisions of the law, for the time being in force, relating to recovery of land revenue shall apply to the recovery of the said arrear as they apply to the recovery of the land revenue due on the land.

Exemption

18. If, in the opinion of the Government, the enforcement of all or any of the provisions of this Regulation will cause hardship to any person or class of persons, the Government may, by notification setting out the ground therefor, exempt, either permanently or for a specified period, such person or class of persons from all or any of the provisions of the Regulation, subject to such conditions, if any, as the Government may deem fit to impose.

Delegation of powers

19. The Government may, by notification, direct that any power exercisable by it under this Regulation (except the power to grant exemption under section 18 and the power to make rules under section 21) shall, subject to such conditions, if any, as may be specified in the direction, be exercisable also by the Collector or such other authority, as may be specified in the direction.

Regulation deemed not to affect recovery in certain cases

20. Subject to the provisions of section 13, nothing contained in this Regulation shall be deemed to limit or otherwise affect the power of the Government to recover any money which any land-holder of any land included in the ayacut of any notified work may have agreed before the date of the commencement of this Regulation, or may agree after that date, to pay to the Government as a condition precedent to the execution of any such work.

Power to make rules

21. (1) The Government may, by notification, make rules to carry out the purposes of this Regulation and in particular -

- (a) for the matters to be prescribed under explanation II to clause (6) of section 2 ;
- (b) for the manner of classification of dry lands under sub-section (2) of section 4 ;
- (c) for the manner of apportioning the net expenditure, and of ascertaining the increase in assessment and the increase in watercess, under sub-section (2) of section 6 ;
- (d) for the procedure to be followed by the authorised officer before the levy of contribution under this Regulation ;
- (e) for the appointment of the prescribed authority under sub-section (1) of section 9, the form and manner in which, and the time within which, appeals may be preferred and the fees payable in respect thereof and the procedure which may be followed by such prescribed authority ;
- (f) for all matters expressly required or allowed by this Regulation to be prescribed.

(2) Every rule made under this Regulation shall, as soon as possible after it is made, be laid before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session, in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Saving

22. Nothing contained in this Regulation shall apply to the levy, determination, payment or recovery of contribution from the land-holders of lands which are benefited, or are capable of being benefited, by the construction, expansion or alteration of any irrigation or drainage work, if provision in the behalf is contained in any other law relating thereto and for the time being in force.