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SIND ORDINANCE NO.X OF 1982

THE SIND IRRIGATION WATER USERS ASSOCIATIONS ORDINANCE, 1982

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SIND ORDINANCE NO.X OF 1982

THE SIND IRRIGATION WATER USERS ASSOCIATIONS ORDINANCE, 1982

[10th July, 1982]

An Ordinance to provide for the formation and operation of irrigation water users associations.

Preamble.

WHEREAS it is expedient to improve the productivity of the irrigated agricultural Land by better use of surface and ground water through irrigation water users associations;

NOW, THEREFORE, in pursuance of the Proclamation of fifth day of July 1977 and the Provisional Constitution Order, 1981, the Governor of Sind is pleased to make and promulgate the following Ordinance:-

Short title, extend and commencement.

1. (1) This Ordinance may be called the Sind Irrigation Water Users Associations Ordinance, 1982.

(2) It shall come into force at once.

(3) It shall apply to such water course or water courses in any areas (hereinafter referred to as project area) as Government may, from time to time, specify by notification.

Ordinance to over-ride other laws.

2. The provisions of this Ordinance and the rules framed thereunder shall have effect notwithstanding anything contained in any other law or rules for the time being in force; provided that for the purpose of any other law relating to irrigation water, an individual water user shall include association.

Definitions.

3. (1) In this Ordinance, unless there is anything repugnant in the subject or context—

(a) "association" means a water course association, distributory association or canal association;

(b) "Board" means the Board of water course association;

(c) "bye-laws" means the bye-laws of an association;

(d) "canal association" means the canal association formed under section 10;

(e) "Director" means the Director On Farm Water management appointed or designated as such under this Ordinance and includes any officer authorized by him in this behalf;

(f) "distributory association" means a distributory association formed under section 9;

(g) "general body" means the total membership of an association;

(h) "Government" means the Government of Sind;

(i) "prescribed" means prescribed by rules or bye-laws;

(j) "rules" means the rules made under this Ordinance;

(k) "water course association" means an association of water users registered under section 4; and

(l) "water user" means a person who enjoys facility of irrigation water from a water course for the agricultural land owned or possessed by him, and, in case more than one person jointly own or posses the land, any one of them authorized by the others to act on their behalf.

(2) The words and expressions used but not defined in this Ordinance shall respectively have the meanings assigned to them in the Sind Irrigation Act, 1879.

Water course associations.

4. (1) Where not less than fifty-one percent of water users on a water course agree to form an association, they shall make such application to the Director.

(2) The Director shall, within sixty days of the receipt of the application under sub-section (1), call a meeting of all the water users of the water course and, if sixty-six percent thereof consent to the formation of the association by a resolution in the meeting, all water users shall become members of the association, notwithstanding the want of consent of the remaining water users.

(3) The Director shall register the association in the name of the water course by entering, in the register to be maintained for this purpose, the particulars such as the name of water course, full details of the water users forming the association under sub-section (1) or, in the case of resolution passed under sub-section (2), the details of all consenting and non-consenting water users, the area of agricultural land owned or possessed by each water user on the water course and such other particulars as, from time to time, be called for by the Director.

(4) The list of member of the association shall, in the prescribed manner, be revised annually and kept upto date.

(5) Where a member of the association has permanently transferred the agricultural and owned or possessed by him, the transferee shall, on application made by him in this behalf to the Director through the association, be registered as new member in place of the transferor.

(6) if there is any objection to the registering of any person as member of the association, appeal may be filed before the Collector whose decision shall be final:

(7) The Director shall issue a certificate of registration to the association registered under this section and such certificate shall be the proof of the legal existence of the association.

Board.

5. (1) The Board shall consist of not less than five members elected by secret ballot from amongst the members of the association and not more than three official members as may be appointed by Government.

(2) The non-official members of the Board shall be elected for a terms of two years:

Provided that one half or thereabout of non-official members elected in the first election, whose names are drawn by lot, shall hold office for one year, and an equal number of the members shall be elected in their place:

Provided further that no non-official member of the Board shall serve for more than two consecutive terms on the Board.

(3) The Board shall annually elect Chairman, Secretary and Treasurer from amongst its non-official members; provided that the same member may be elected both as Secretary and Treasurer.

(4) A matter shall be deemed to have been approved by the Board if it is supported by not less than two-third number of the total membership of the Board excluding the official members who shall not have right of voting.

(5) Every member of the Board shall make oath in the prescribed form before he participates in the meeting of the Board as such member.

(6) The Board shall be responsible to—

(a) carry out such duties as are entrusted to it by the general body;

(b) act as executive authority of the association;

(c) supervise the construction and maintenance of the water course and other improvement works undertaken by the association;

(d) prepare plan for operation, maintenance, improvement and rehabilitation of the water course;

(e) exercise emergency powers to repair water course breakages;

(f) Employ ditch tenders and construction personnel;

(g) Enter into contracts on behalf of the association;

(h) Serve as communication link between Government agencies and members of the association individually and collectively;

(i) Maintain financial and organization records of the association.

Meeting of the Board.

6. (1) The Chairman of the Board shall call and preside over the meeting of the Board;

Provided that in his absence a non-official member of the Board nominated by the Chairman shall preside over the meeting.

(2) The Secretary of the Board of an association shall be responsible for recording minutes of the meetings of the Board and maintaining record of the association.

(3) The Treasurer of the Board shall collect assessments referred to in sub-section (2) of section 14 and maintain accounts of the association.

(4) All contracts and other similar obligations of the association shall, on its behalf, be signed by the Chairman and the Secretary.

(5) All withdrawals of money from the account of the association shall be signed by the Chairman and the Treasurer.

Powers of Water course association.

7. Subject to rules, the water course association shall have the power to—

(a) operate, maintain, improve and rehabilitate the water course;
(b) Improve the water supply from surface or sub-soil water sources;
(c) sanction upgrading and maintenance of farm ditches and field outlets;
(d) locate, own, operate and maintain tubewells lifts pumps;
(e) adopt practices of improved on-farm water use and management and agricultural in put practices;
(f) establish Schedules of water delivery and supervise water allocation and distribution;
(g) ensure that each member gets his fair share of water at appropriate time;
(h) locate, install and maintain drains for fields;
(i) remove obstructions in the water course during re-alignment, operation and maintenance;

(j) employ labour for general or emergency repairs of the water course or other allied purposes;

(k) determine and collect general and special assessment;

(l) ensure that all members of the association contribute in the prescribed manner their share of labour or money for improvement, maintenance and operation of the water course;

(m) enter into contracts for obtaining loans and grants and setting a repayment schedule; and

(n) participate in programmes to improve water course, land leveling and agronomic practices, and lease, own, operate and maintain equipment, structures and other material associated with improvement efforts.

Manner and guide lines for maintenance of water course.

8. (1) Where any water course in the project area has been improved, it shall be the responsibility of the association to maintain it in such manner and in accordance with such guide lines as the Director may lay down in this behalf.

(2) Where the Director is satisfied that the water course has not been maintained as mentioned in sub-section (1), he may order the water course to be repaired and maintained as aforesaid and the expenditure incurred in this connection to be recovered from the association as arrears of land revenue.

Distributory associations.

9. (1) Where more than half of the water course associations within the project area of a distributory, agree to form a distributory association, they shall make such application to the Director and thereupon all provisions relating to registration of a water course association shall, mutatis mutandis, apply to registration of the distributory association.

(2) The water course associations formed subsequent to the registration of the distributory association within the project area of the distributory under sub-section (1), shall on formation thereof become the members of the distributory association.

Canal association.

10. (1) Where more than half of the distributory associations within the project area of a canal, agree to form a canal association, they shall make such application to the Director and thereupon all provisions relating to registration of water course association shall, mutatis mutandis, apply to registration of the canal association.

(2) The distributory associations formed subsequent to the registration of the canal association under sub-section (1) within the project area of the canal shall, on formation thereof, become members of the canal association.

General body and officers of distributory and canal associations.

11. (1) The Chairman of the Boards of the water course associations forming a distributory association shall be the general body of the distributory association.

(2) The Chairman of the distributory associations forming a canal association, shall be the general body of the canal association.

(3) The general body of a distributory association or, as the case may be, a canal association shall elect from its members, a Chairman, a Secretary and a Treasurer annually.

(4) The Chairman of a distributory association or, as the case may be, of canal association shall be the chief executive of the association, and the office bearers of the distributory association or canal association shall exercise such powers and perform such functions as are entrusted to them by the respective general body.

Duties and powers of distributory and canal associations.

12. A distributory association or, as he case may be, a canal association shall—

(a) serve a channel of communication between its members and any Government Department in matters relating to the distributory or the canal, as the case may be;

(b) represent its members in the cases before nay Government Department involving issues or problems relating to the distributory or the canal, as the case may be;

(c) associate actively with the Irrigation Department for improvement, maintenance, or operation of the distributaries or canals, as the case may be;

(d) make recommendations or requests to the irrigation Department for distribution of water into a minor or distributory on a demand, or fixed delivery basis;

(e) make recommendations or requests to the irrigation Department for construction of bridges, regulators, drop structures, new minor channels, or other such works at the cost of the association or cost shared by the association and Government;

(f) keep minutes of the meetings of the general body, maintain account books, determine and collect from member associations dues payable under this Ordinance and, in the case of default, certify the amount in arrears for recovery by the Collector as arrears of land revenue.

Meeting of the general body.

13. (1) The convener named in the application made under sub-section (1) of section 4 or, if no one has been so named, a member of the association appointed by the Director or authorized officer as convener, shall, within thirty days of the receipt of the certificate of registration, call a meeting of the general body of the association, and the general body shall adopt the bye-laws, if any, elect members to the Board of the association, open a bank account and dispose any other business.

(2) After its first meeting, the general body shall meet at least once in a year:

Provided that a special meeting of the general body shall be called at any time on requisition made by not less than one-fifth of the members of the association.

(3) A matter shall be deemed to have been approved by the general body if it has been supported by not less than two-third members of the total membership.

(4) The general body of the association shall have power—

(a) to elect members of the Board;
(b) to appoint a Jury for deciding cases between the members of the association;
(c) make bye-laws;
(d) delegate powers to the Board, the Jury or office bearers of the association;
(e) make and approve policy of the association;
(f) approve assessment, budget or any other financial transaction;
(g) approve a programme of expansion and improvement including purchasing or otherwise obtaining equipment, pumps, seeks, fertilizers, chemicals and such other material;
(h) to perform such duties and functions as are necessary for the purpose of this Ordinance.

Associations to be bodies corporate.

14. (1) An association shall be a body corporate, having a common seal with power to acquire, hold and alienate property, both movable and immovable, and shall by its name sue and be sued.

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

(a) the membership fee collected from the members of the association at the prescribed rats;
(b) contribution to be assessed at the prescribe rates, for water supplied from the source of the association;
(c) Loans obtained for carrying out the purposes of this Ordinance;
(d) The fines imposed on the members contravening the provisions of this Ordinance and the rules and bye-laws;
(e) any other moneys that may accrue to the association under this Ordinance, rules or bye-laws.

Settlement of disputes.

15. (1) A dispute between the members of the association arising under this Ordinance shall be referred to the general body for settlement and the general body may settle it itself or appoint a Jury consisting of not more than three members for settlement of the dispute or, in the case of a water course association, require the Board to settle it:

Provided that where such dispute is covered by any law relating to irrigation for the time being in force, the Board shall refer such dispute to Government in the Irrigation Department.

(2) The general body or, as the case may be, the Jury or the Board may impose on the defaulting member a fine which may extend to the amount equivalent to the loss suffered by the aggrieved member or five thousand rupees whichever is greater.

(3) Where the general body has provided in the bye-laws a Schedule of fines, in keeping with the damage caused, or benefit obtained, in contravention of this Ordinance, rules or bye-laws, the fines shall be imposed in accordance with the Schedule.

(4) Where a dispute has arisen between the members of the association in respect of matter to which any law relating to irrigation for the time being in force applies, the association shall refer such dispute to the Irrigation Department of Government for settlement.

Recovery of dues as arrears of land revenue.

16. Where any fine, fee or any other amount due under this Ordinance is not recovered within the time fixed therefor or if no such time limit is fixed, within six month of the amoun becoming due for payment, the association may issue certificate in this behalf and the Collector shall, on receipt of such certificate, recover the said amount as arrears of land revenue and pass it on to the association.

Improvement of Distributory.

17. An association desiring to improve the distributory or the canal or participate in the improvement thereof shall first move the canal officer to have his approval and secure his services for supervision of the improvement work.

Acquisition of lands.

18. An association may acquire any land for the purpose of location or relocation of water course or installation of tube-wells and such purpose shall be deemed to be public purpose within the meaning of the Land Acquisition Act, 1894.

Inquiry.

19. (1) The Director may, on his own motion, or on the request of the Collector or on the application of not less than one-third members of an association, order an inquiry to be held by him or by a person authorized by the Director in this behalf, into the affairs of the association, and after such inquiry, the Director may make any order as he deems fit.

(2) A person aggrieved by the order made under sub-section (1) may, within thirty days of the order, file appeal before Government, and the order made by Government in appeal shall be final and shall not be called in question in any court.

(3) The officer holding an inquiry under sub-section (1) shall have powers of a Civil Court—

(a) to summon any person;
(b) to call for any record or documents;
(c) to inspect any premises.

Power to make rules.

20. Government may make rules for carrying out the purpose of this Ordinance.

Approved of bye-laws.

21. (1) An association may, with the approval of the Director, make bye-laws; provided that the first bye-laws shall be made within sixty days of its registration.

(2) The Director may prepare model bye-laws for the convenience of the associations.