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THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 7th September, 2010

No. LGL. 174/2008/13.-- The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XXVI OF 2010

(Received the assent of the Governor on 31st August, 2010)

**THE ASSAM MOBILE THEATRE (REGULATION AND ARTISTS'
WELFARE FUND) ACT, 2010**

AN

ACT

to provide for a better regulation of Mobile Theatres to check haphazard growth of Mobile Theatres and constitution of Artists' Welfare Fund, for the purpose of maintenance of cultural standards and welfare of the Artists in the State of Assam including the Hills Districts and matters connected therewith and incidental thereto.

Preamble

Whereas it is expedient to provide for a better regulation of Mobile Theatres to check haphazard growth of Mobile Theatres and constitution of Artists' Welfare Fund for the purpose of maintenance of cultural standards and welfare of the Artists in the State of Assam including the Hills Districts and matters connected therewith and incidental thereto.

It is hereby enacted in the Sixty-first Year of the Republic of India as follows :-

Short title, extent and commencement

1. (1) This Act may be called the Assam Mobile Theatre (Regulation and Artists' Welfare Fund) Act, 2010.
- (2) It extends to the whole of Assam including the hills Districts.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas.

Definitions

2. In this Act, unless there is anything repugnant to the subject or context,-
 - (a) "Artists" means any actor, singer, painter, musician, dancer, choreographer, costume designer, dramatist, script writer and other technical and non technical staff of the Mobile Theatre who are directly involved in the live performance or facilitate the live performance by the Mobile Theatre which term shall also include the directors in different performing areas or branches of the Mobile Theatre ;
 - (b) "Committee" means the Artists' Welfare Fund Committee constituted under section 13 ;
 - (c) "Director" means the Director of Cultural Affairs, Assam ;
 - (d) "equipment" means electrical items for lighting, generator set, sound system, musical instruments, laser instruments, projector and other items having mechanical process involved in it ;
 - (e) "existing Mobile Theatre" means a Mobile Theatre which is in existence and has been engaged in making live dramatic and cultural performance in the State of Assam on the date of coming into force of this Act ;
 - (f) "Fund" means the Artists' Welfare Fund constituted under section 11 ;
 - (g) "Government" means the Government of Assam in the Cultural Affairs Department ;
 - (h) "infrastructure" means the stages, settings, pandel, tents, sheds, screens, chairs, gallery and other items which are essential for live performance by a Mobile Theatre ;

- (i) "Mobile Theatre" means a theatre group engaged in the business of live dramatic and other cultural performances in the State of Assam in consideration of monetary payment to them, performing such activities in different places on a temporary basis, having at least two stages with light and sound system erected temporarily inside a temporary pandel with sitting arrangement for audience in front of the stages, having adequate number of artists and other staff, both technical and non technical, either casual or regular, in its pay roll and having fixed land and property for the use by the Mobile Theatre in the name of the Mobile Theatre or the producer as the case may be, and the words "Mobile Theatre Groups" shall be construed accordingly ;
- (j) "prescribed" means prescribed by rules made under this Act ;
- (k) "producer" means any person, group of persons, body or firm who produces, establishes, runs, operates, or sets up a Mobile Theatre and is solely responsible for its finance, maintenance, management and payment to the artists and other staff including other ancillary matters connected with the running of the Mobile Theatre group concerned;
- (l) "Registered Mobile Theatre" means a Mobile Theatre group registered under section 3;
- (m) "section" means a section of this Act ;
- (n) "year" means the year commencing on the first day of April of a year ending with the 31st day of March of the succeeding year.

**Registration of
Mobile Theatre**

- 3.(1) No person shall carry on the business of Mobile Theatre in the State of Assam including the Hills Districts without being Registered as a Mobile Theatre Group or renewal thereof, before the Director under the provisions of this Act.
- (2) Every person desirous of setting up of a new Mobile Theatre shall make an application in such form and accompanied by such fee as may be prescribed, before the Director for obtaining a provisional registration of the Theatre Group on furnishing of an undertaking in the prescribed form to fulfill all the requirements under section 6 and to complete the setting up of the Mobile Theatre within a period of two months from the date of such undertaking. The application shall accompany the documents relating to the land and property available in the name of the producer or the Mobile Theatre Group as the case may be, a plan and estimate for one year in respect of establishment and running of the proposed Mobile Theatre showing the recurring and non-recurring expenditure involved for the purpose, and a Bank Guarantee to prove the financial soundness of the proprietor or the Theatre Group as the case may be, depending upon which, the Director shall issues a provisional registration certificate with the condition that the proprietor or the Theatre Group shall be required to complete the setting up of the Mobile Theatre with all required infrastructure, equipment, artists and other staff within the stipulated period of two months and on such completion, the provisional registration shall be made final for the concerned year after following the procedure as provided under section 4. In the event of failure on the part of the proprietor or the Mobile Theatre group to complete the requirements within the stipulated period, the provisional registration shall automatically stand cancelled after the expiry of two months from the date of signing of the undertaking and the concerned proprietor or the Mobile Theatre group shall not be entitled to carry on the business of the proposed Mobile Theatre.

- (3) The existing Theatre groups who do not already possess the requirements as provided under section 6, shall also apply before the Director for provisional registration in the same manner as stipulated under sub-section (2) within thirty days from the date of commencement of this Act and on fulfillment of all the requirements under section 6 they shall be finally registered by the Director as a Mobile Theatre group after completing necessary formalities under this Act. In the event of failure by the existing Theatre groups to fulfil all the requirements under section 6, the existing Theatre groups shall not be entitled to carry on the business of Mobile Theatre any further.
- (4) The existing Mobile Theatre groups already possessing all the requirements under section 6 and having all the infrastructure equipments, requisite number of artists and other staff as required under this Act shall make an application on the prescribed form accompanied by such fees as may be prescribed before the Director within thirty days from the date of coming into force of this Act. The application shall also accompany the documents relating to land and property, infrastructure, equipments, artists and other staff for getting the Mobile Theatre registered and obtaining a final registration certificate in their favour to run the Mobile Theatre. On receipt of such application, the Director shall cause an enquiry to be made by the concerned Officer-in-Charge of the Cultural Centres of the respective District within thirty days from the date of receipt of the application by the Director. The concerned Officer-in-Charge of the Cultural Centres shall after making such enquiry and inspection as may be required, furnish a report to the Director within fifteen days of receipt of the order for enquiry, on the basis of which final registration to the concerned Mobile Theatre may be granted for rest of the period of the year subject to payment of prescribed registration fee and a Certificate of Registration shall be issued in favour of the registered Mobile Theatre in the form as may be prescribed.
- (5) If the report of the Officer-in-Charge of Cultural Centres of the concerned districts indicates that any Theatre group seeking registration under sub-section (4) is lacking of the required infrastructure, equipments, requisite number of artists and other staff and other requirements under this Act, the Director shall refuse to grant final registration to such Theatre group and the ground for such refusal shall be duly communicated to the concerned producer. Such Theatre groups to whom registration is refused by the Director, shall not carry on their performance any further and immediately stop the business:

Provided that as soon as the Theatre group acquires the required infrastructure, equipments, requisite number of artists and other staff and other requirements under this Act, it shall be intimated to the Director and the Director after an enquiry caused to be made, if satisfied that the Theatre group has fulfilled all the requirements under this Act, may grant final registration and issue a Certificate of Registration for the remaining period of the year to the said Mobile Theatre group, subject to payment of the prescribed registration fees.

Finalisation of provisional registration

- 4.(1) Before expiry of the term of the provisional registration granted to a Theatre group under sub-section (2) and (3) of section 3, the producer of the Theatre group shall complete the requirements for setting up of the Mobile Theatre and make an application in the prescribed form furnishing such fees as may be prescribed, before the Director for granting final registration and issuing final Certificate of Registration in favour of the concerned Mobile Theatre.
- (2) On receipt of the application, the Director shall cause an enquiry to be made by the Officer-in-Charge of the concerned Cultural Centre of the district within fifteen days of receipt of the application. The Office-in-Charge of the concerned Cultural Centre of the District shall make such enquiry and such inspection as may be required and furnish a report to the Director within fifteen days of receipt of order of the Director, on the basis of which the Director may grant final registration and issue a Certificate of Registration for one year or rest of the year as the case may be, to the concerned Mobile Theatre, subject to payment of necessary registration fee as may be prescribed.
- (3) If the report of the Officer-in-Charge of the Cultural Centre of the concerned District indicates that any Theatre group seeking final registration under sub-section (1), is lacking of the required infrastructure, equipments, requisite number of artists and other staff and other requirements under the Act, the Director shall refuse to grant final registration to such Theatre group and the ground for such refusal shall be duly communicated to the concerned producer :

Provided that as soon as the Theatre group acquires the required infrastructure equipments, requisite number of artists and staff and other requirements under this Act, it shall be intimated to the Director and the Director after an enquiry caused to be made, if satisfied that the Theatre group has fulfilled all the requirements under this Act, may grant final registration and issue a Certificate of Registration for remaining period of the year to the said Mobile Theatre, subject to the payment of the prescribed registration fee.

Renewal of Registration

5. (1) Any producer of registered Mobile Theatre desirous of continuing the Mobile Theatre in the succeeding years also, shall make an application before 31st of day of March every year before the Director for renewal of the registration of the Mobile Theatre, in the prescribed form, on payment of such fees, as may be prescribed. The application shall be accompanied by an Income Tax Clearance Certificate and Entertainment Tax Clearance Certificate in respect of the previous year.
- (2) On receipt of an application for renewal of registration, the Director shall after an enquiry caused to be made, if satisfied that the Mobile Theatre group has successfully completed their performance during the preceding year, and has been maintaining the required infrastructure, equipments, requisite number of artists and other staff and other requirements under this Act, may grant renewal of registration and issue a Renewal Certificate of Registration to the Mobile Theatre for the relevant year before 30th day of April every year.

- Requirements to be fulfilled for Registration as a Mobile Theatre and renewal thereof**
6. A Theatre group shall be required to fulfil the following requirements to be eligible for registration as a Mobile Theatre and renewal thereof :-
- (i) The Theatre group shall possess at least two stages and adequate light and sound system ;
 - (ii) It shall have at least one hundred artists and other staff both technical and non-technical in its pay roll, either casual or regular as the case may be or such number of artists and other staff both technical and non-technical as may be specified by the Government by notification from time to time ;
 - (iii) It shall have fixed land and property in the name of the producer or the Mobile Theatre as the case may be, which are exclusively used for the Mobile Theatre group ;
 - (iv) It shall possess requisite infrastructure and equipments without which the performance by the Mobile Theatre is considered to be impossible;
 - (v) It shall provide necessary fire fighting arrangements including equipments for fire fighting ;
 - (vi) It shall engage adequate number of security personnel of its own as may be considered necessary;
 - (vii) It shall produce the latest Income Tax clearance certificate for entire funds by which the theatre would be promoted ;
 - (viii) It shall possess such other things, items, facilities and maintain such standards as may be prescribed in the rules.

- Effect of non registration**
- 7.(1) Any Mobile Theatre group having no valid registration or renewal thereof as required under this Act, shall not be entitled to carry on the business of Mobile Theatre.
- (2) If it comes to the notice of the Director that a Mobile Theatre group has been running the business and engaged in live dramatic and other cultural performances in any place without having any valid registration required under this Act, he may issue notice to the concerned Mobile Theatre group or to its producer to immediately stop the performance.
 - (3) Any Mobile Theatre group which runs a Mobile Theatre and carry on their performances without a valid registration under this Act shall be liable to pay a fine of Rupees one thousand (Rs.1,000/-) per day for every day of such performance made without registration, which shall be charged from the date from which the Mobile Theatre group has been running the Mobile Theatre and making performance without a valid registration.
 - (4) The amount of fine shall be deposited by the producer on demand made by the Director within the period as stipulated in the Demand Notice, which shall be credited to the Artists' Welfare Fund :

Provided that necessary receipt in respect of payment of fine shall be issued to the producer by the Director.
 - (5) No benefit of tax of any kind shall be admissible to those Mobile Theatre Groups who fail to produce a valid registration certificate while claiming any exemption of tax from the Government.

Realisation of fine as an arrear of Land Revenue

8. (1) Any amount of fine under sub-section (3) and (4) of section 7, remaining unpaid shall be treated as an arrear of Land Revenue and shall be recovered under the provisions of the Bengal Public Demand Recovery Act, 1913 (Act No. III of 1913)

Obligation of the Mobile Theatre

9. (1) Every Mobile Theatre Groups shall endeavor to protect and preserve the cultural heritage of Assam and all programmes produced by the Mobile Theatre Group shall be devoid of vulgarity and obscenity. An undertaking to this effect shall have to be given by the producer before the Director in the prescribed form at the time of final registration of the Mobile Theatre

- (2) If any public opinion is created or any complaint or other information is received by the Director, against any Mobile Theatre group that the Mobile Theatres group has violated the provisions made in the undertaking given under sub-section(1), the Director may get the complaint or information as the case may be, verified by a group of experts as he may appoint for the purpose and on receipt of the report from the expert group, if the Director is satisfied that the Mobile Theatre group has actually produced a programme or scene containing vulgarity or obscenity, he may issue a notice to the Mobile Theatre group furnishing a copy of the report of the expert group to desist from showing such a programme or scene as the case may be, which shall be binding on the Mobile Theatre group. Non-compliance of such direction of the Director may be a point for refusal of renewal of registration to the concerned Mobile Theatre group in the next year. Moreover the concerned producer of such Mobile Theatre group defying such direction may also be treated as disqualified for producing a Mobile Theatre in future:

Provided that refusal of renewal of registration or registration on the ground of non-compliance of the direction of the Director under this section, shall be communicated in writing to the concerned Mobile Theatre group or to the concerned producer as the case may be.

Power of inspection and enquiry

10. Nothing in this Act or any other law for the time being in force, shall prevent the Director or the Government or any person or authority as may be authorized by the Director or the Government as the case may be, to make any inspection or carry on any enquiry in any matter pertaining to the Mobile Theatre group for the purpose of smooth implementation of this Act.

Establishment of Artists' Welfare Fund

- 11.(1) The State Government shall, by Notification in the Official Gazette constitute a Fund to be called the Artists' Welfare Fund, for the welfare of the artists of Mobile Theatre in Assam, with effect from the commencement of this Act.

- (2) There shall be credited to the Fund,-

- (a) All sums of money collected by way of registration fees and renewal fees of the Mobile Theatres under sections 3, 4 and 5;

- (b) The amount of Government subscription made annually, against registration and renewal of the Mobile Theatres in a year, which shall in no case be less than the amount collected under clause (a) of this sub-section ;
- (c) All sums of money collected/deposited by way of fine under sub-section (3) and (4) of section 7 and section 8, as the case may be ;
- (d) Any other donation, contribution or subscription made by any person, body, authority or committee, or grant, if any, made by the Government.

Utilization of the Artists' Welfare Fund 12. The Artists' Welfare Fund shall be utilized for giving periodical or one time financial assistance to the artists of the registered Mobile Theatre in Assam in case of urgent need of money on the following reasons :-

- (i) For the purpose of his own or his family member's medical treatment due to illness of serious nature;
- (ii) If the artist becomes incapable of performing in the Mobile Theatre due to his illness, old age or other physical disability or mental incapacity ;
- (iii) Any other cause for which urgent financial assistance to the concerned artist, is considered to be necessary by the Artists' Welfare Fund Committee.

Explanation :- For the purposes of this section the words "family member" shall mean an include the wife or husband, dependent parents and non earning sons and daughters of the artists and the word "parent" shall include the step parents also.

Constitution of the Artists' Welfare Fund Committee 13.(1) The State Government shall constitute, by notification in the Official Gazette, with effect from such date as may be specified therein, a Committee to be called the Artists' Welfare Fund Committee.

- (2) The Committee shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and shall by the said name, sue and be sued.
- (3) The Committee shall consist of, -

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|--|---------------------|
| (a) Seniormost Secretary to the Government of Assam,
Cultural Affairs Department. | Ex-officio Chairman |
| (b) Director, Cultural Affairs, Assam | Member-Secretary |
| (c) Two representatives of the All Assam Mobile
Theatre Producers Association. | - Members |
| (d) Two eminent Theatre personalities. | - Members |
| (e) One representative of the Finance Deptt./or
Director of Accounts, Assam. | - Member |
| (f) One representative of the Deptt. of
Public Enterprises. | - Member |

- (4) The term of the non-official members shall be for a period of three years from the date of notification :

Provided that any member completing the three years term may be renominated by the State Government for another period of three years.

Disqualification and renewal of nominated members 14. No person shall be nominated and continue as a member of the Committee if he, --

- (a) is of unsound mind and stands so declared by a competent Court ; or
- (b) is, or at any time has been, adjudicated insolvent ; or
- (c) is or has been convicted by a Criminal Court for an offence involving moral turpitude, unless such conviction has been set aside ; or
- (d) is a defaulter to the Fund.

Resignation and Casual Vacancy 15.(1) Any non official member of the Committee may resign his office by giving two months notice in writing to the Chairman of the Committee and on such resignation being accepted by the Chairman, the said member shall be deemed to have vacated his office.

- (2) If any member of the Committee becomes subject to disqualification under section 14 or is absent without leave from three consecutive meetings of the Committee, his seat shall thereupon become vacant.
- (3) A vacancy of non official member arising under sub-section (1) and (2) shall be filled as soon as possible in the same manner and for the same term or duration as in sub-section (4) of section 13.

Act of Committee not to be invalidated by vacancy, defect, irregularity 16. No act done or proceedings taken, under this Act or the rules made there under, by the Committee shall be invalid merely by reason of, --

- (a) any vacancy or defect in the constitution of the Committee; or
- (b) any defect or irregularity in the nomination of any person as a member thereof ; or
- (c) any defect or irregularity in such proceedings not affecting the merit of the case.

Vesting and application of the Fund 17. The Fund shall vest in and be held and applied by the Committee subject to the provisions and for the purposes of this Act.

Functions of the Committee 18. (1) The Committee shall administer the fund.
(2) In the administration of the Fund, the Committee shall, subject to the provisions of this Act and the rules made there under, -

- (a) collect, preserve, manage and utilize the fund ;
- (b) hold the amount in an account to be opened and operated jointly by the Chairman and the Member-Secretary in a Nationalized Bank.
- (c) receive application from any artist of the registered Mobile Theatre claiming financial assistance from the fund and to dispose of such claims periodically. For the purpose of disposal of such claims the Committee may conduct such enquiry as may be deemed necessary ;

- (d) communicate to the applicant by registered post with acknowledgement due its decision on the application ;
- (e) sit once in the first week of every quarter for disposal of various business of the Committee or at such earlier times as may be required, which shall be determined by the Member-Secretary with the approval of the Chairman;
- (f) pay out of the Fund all amounts due and payable under this Act and incur all expenditure relating to the management and administration of the Fund ;
- (g) send periodicals, annual reports, annual audited statements of accounts to the Government from time to time;
- (h) make payment of sitting allowance and conveyance allowance from out of the Fund, to the non-official members of the Committee in connection with its meetings, at such rates as may be prescribed;
- (i) determine its own procedure in conducting its meetings.

**Functions of
the Member-
Secretary**

19. The Member-Secretary of the Committee shall,--

- (a) be the Chief Executive of the Committee ;
- (b) represent the Committee in suits and proceedings ;
- (c) authenticate by his signatures all the decision of the Committee ;
- (d) convene meetings of the Committee and issue notices thereof at least before fifteen days of the meeting;
- (e) attend the meeting of the Committee with all necessary records and information and record its minutes ;
- (f) maintain such forms, registers and other records and do all correspondence relating to the Committee ;
- (g) prepare an annual statement of accounts and other business during each financial year and place before the Committee ;
- (h) do all other things as may be directed by the Committee.

**Accounts
and Audit**

20. (1) The Committee shall keep and maintain books of accounts and other books in such form and in such manner as may be prescribed.
- (2) The accounts of the Committee shall be got audited by the Committee annually by a registered Chartered Accountant.
- (3) The Committee shall pay from the fund the charges for the audit.

**Manner of
holding
Meetings
of the
Committee**

21. (1) The Committee shall determine the manners and procedures in conducting its meeting.
- (2) One third of the members of the Committee shall form a quorum.
- (3) The Chairman and in his absence any member of the Committee shall preside over the meeting.
- (4) Any matter coming before the Committee for its decision shall be decided by a majority of votes of the members present and voting.
- (5) The Member-Secretary of the Committee shall have no voting right in the meeting.

Appeal

22. (1) Any person aggrieved by any decision or order of the Director or the Committee as the case may be, under this Act, may prefer an appeal against that decision or order before the Government within thirty days of receipt of such decision or order.

- (2) The appeal shall be in prescribed form accompanied by a copy of the order appealed against.
- (3) The Government may call for such records and after hearing the parties shall dispose of the appeal within thirty days of receipt of the same.
- (4) The decision of the Government in appeal shall be final and binding on the parties.

Protection of action taken in good faith 23.(1) No suit, presentation or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance with the provisions of this Act or any rules made thereunder.

- (2) No suit or other legal proceeding shall lie against the Director or the Committee for any damage caused or likely to be caused by anything which is done in good faith or intended to be done in pursuance of the provisions of this Act or any rules made thereunder.

Bar of jurisdiction of Civil Court 24. No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which, by or under this Act, require to be settled, decided or dealt with or to be determined by the Director or the Committee, as the case may be.

Power to make rules 25.(1) The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) All rules made by the Government under this Act shall, as soon as may be after they are made, be laid before the State Legislature, while it is in session, for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions, and shall, unless some later date is appointed take effect from the date of their publication in the Official Gazette, subject to such modifications or annulments as the Legislature may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

MOHD. A. HAQUE,
Secretary to the Government of Assam,
Legislative Department, Dispur.