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THE ASSAM STATE HOUSING BOARD ACT, 1972

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THE ASSAM STATE HOUSING BOARD ACT, 1972

An

Act

to provided for measures to be taken to deal with and satisfy the need of housing accommodation

Preamble

Whereas it is expedient to take such measures, to make such schemes and to carry out such works as are necessary for the purpose of dealing with and satisfying the need of housing accommodation and whereas with that object in view, it is necessary to establish a Board and to make certain other provisions hereinafter appearing;

It is hereby enacted in the Twenty-third Year of the Republic of India, as follows, namely:—

CHAPTER I

Preliminary

Short title
extent and
commence-
ment.

1. (1) This Act may be called the Assam State Housing Board Act, 1972.
- (2) It extends to the whole of the State of Assam.

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

2. In this Act, unless the context otherwise requires—

- (1) "betterment charge" means the charge declared to be payable under Section 42 in respect of an increase in the value of land resulting from the execution of a housing or improvement scheme ;

"Board" means the Assam State Housing Board constituted under Section 3 ;

- (3) "Board Premises" means any premises belonging to, or vesting in the Board, or taken on lease by the Board or any premises which is entrusted to or in the possession or control of the Board for the purposes of this Act ;

- (4) "Building materials" means such commodities or articles as are specified to be building materials for the purposes of this Act by the State Government by notification in the official Gazette ;

- (5) "Committee" means any committee appointed under Section 16 ;

- (6) "Competent Authority" means any person or authority authorised by the Government, by notification, to perform the functions of the Competent Authority under Chapter VI for such area as may be specified in the notification ;

- (7) "Government" means the State Government ;

- (8) "Chairman" means the Chairman of the Board ;

- (9) "Housing Scheme" means Housing Scheme made under this Act ;

- (10) "Land" includes benefits to arise out of land, and things attached to the earth or permanently fasten to anything attached to the earth ;

- (11) "Member" means Chairman and other members of Board ;
- (12) "Prescribed" means prescribed by rules made under this Act ;
- (13) "Premises" means any land or building or part of a building and includes—
- (i) the garden, grounds and out houses if any, appertaining to such building or part of building ; and
 - (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof ;
- (14) "Regulations" means the regulations made under this Act ;
- (15) "Rules" means the rules made under this Act ;
- (16) "Tribunal" means the Tribunal constituted under Section 48 ;
- (17) "Year" means the financial year ;

CHAPTER II

ESTABLISHMENT OF THE BOARD

Incorporation.

3. (1) The State Government shall, by notification in the official Gazette, establish for the purposes of this Act a Board by the name of the Assam State Housing Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both movable and immovable and to contract and do all things necessary for the purpose of this Act.

(3) For the purposes of this Act and the Land Acquisition Act, 1894, the Board shall be deemed to be a local authority.

Constitution of the Board.

4. (1) The Board shall consist of a Chairman, appointed by the Government, and the following members, namely :—

- (a) Secretary, Town and Country Planning Department.

- (b) Secretary, Finance or his representative.
- (c) Chief Engineer, Public Works Department (Roads and Buildings) or his representative.
- (d) Chief Public Health Engineer.
- (e) Town Planner and *Ex-officio* Director of Town and Country Planning Organisation, Assam.
- (f) Director of Panchayat and Director of Municipal Administration.
- (g) Three members to be elected by the Assam Legislative Assembly from amongst its members.

(2) The State Government may, by notification in the official Gazette, remove from office the Chairman, or any other member who in the opinion of the State Government, has been guilty of any misconduct or negligence or has so abused his position as to render his continuance as member detrimental to the interest of the Board or of the general public :

Provided that no person shall be so removed from office unless he has been given an opportunity to show cause against his removal.

Leave of
absence of
Chairman

5. The State Government may from time to time grant to the Chairman such leave as may be admissible under the rules and any person whom the State Government appoints to act for the Chairman during such absence or leave shall, while so acting, be deemed for all purposes of this Act to be the Chairman.

Disquali-
fication for
appointment
on Board.

6. (1) A person shall be disqualified for being appointed or continuing as the Chairman or member of the Board, if he—

- (a) holds any office of profit under the Board,
- (b) is of unsound mind,
- (c) in an uncertificated bankrupt or an undischarged insolvent,
- (d) has directly or indirectly by himself or by any partner, any share or interest in any contract with, by or on behalf of the Board.

(e) is a Director or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract with, by or on behalf of the Board, or

(f) has been or is convicted of any offence involving moral turpitude.

(2) A person shall not, however, be disqualified under clause (d) or (e) of sub-section (1) or be deemed to have any share or interest in any contract within the meaning of these clauses, by reason only of his or the incorporated company of which he is a Director, Secretary, Manager or other salaried officer having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

(3) A person shall not also be disqualified under clause (d) or (e) of sub-section (1) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with by or on behalf of the Board, by reason only of his being a share-holder of such company :

Provided that such person discloses to the State Government the nature and extent of the shares held by him.

Term of office and conditions of service of Chairman and member.

7. (1). The Chairman and every other member (not being an *ex-officio member*) shall hold office for a period of three years from the date of his appointment as Chairman or other member, as the case may be :

Provided that the State Government may extend the said period by a further period not exceeding one year :

Provided further that after the expiry of the period of his appointment a person shall be eligible for re-appointment as Chairman or member :

Provided further that no person shall be appointed as Chairman for more than three consecutive terms.

(2) Every member shall receive such allowances as may be prescribed.

(3) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any

remuneration is to be paid to the Chairman, such remuneration and other conditions of service shall be such as may be prescribed.

(4) The allowances to the members and the remuneration, if any, to the Chairman shall be paid from the fund of the Board.

8. If a member :—

Vecancy of a member.

(a) becomes subject to any of the disqualifications mentioned in section 6 ;

(b) tenders his resignation in writing to the State Government, or

(c) is absent without the permission of the Board,

he shall cease to be a member.

Vecancy to be filled as early as practicable.

9. Any vacancy in the membership of the Board shall be filled in as early as practicable :

Provided that during any such vacancy the continuing members may act as if no vacancy had occurred.

Proceedings presumed to be valid.

10. No disqualification of, or defect in the appointment, of any person acting as Chairman or a member of the Board shall be deemed to vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

Temporary absence of members,

11. If any member of the Board other than the Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise not involving the vacation of his appointment, the State Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

Appointment of officers and employees and creation of posts.

12. (1) The Board shall have such officers and employees as the Board may consider necessary for the efficient performance of its functions :

Provided that the Board shall not appoint any officer in the scale of pay the maximum of which exceeds one thousand and two hundred rupees a month without obtaining the previous sanction of the State Government.

(2) The Board shall have power to create any post on its establishment :

Provided that no new post the scale of pay of which exceeds one thousand and two hundred rupees per month shall be created by the Board without the previous sanction of the State Government.

Conditions of service of officers and employees.

13. The remuneration and other conditions of service of the officers and employees of the Board shall be such as may be determined by regulations.

Preparation and maintenance of Schedule of establishment.

14. Before the first day of May of every year, the Board shall prepare and maintain a schedule of establishment as on the first day of April of that year showing,—

- (i) the number, designations and grades and scales of pay of the officers and employees (other than the employees who are paid by the day or whose pay is charged to temporary work), whom it considers necessary and proper to employ for the purposes of this Act ;
- (ii) the amount and nature of the salary, fees and allowances to be paid by the Board to each such officer or employee ;
- (iii) the amount to be paid by the Board towards leave salary pension, provident fund or any other purpose in respect of each such officer or employee.

General disqualification of all officers and employees.

15. No person who has directly or indirectly by himself or his partner or agent any shares or interest in any contract, by or on behalf of the Board, otherwise than as an officer or employee thereof, shall become or remain an officer or employee of the Board.

Appointment of Committee.

16. (1) Subject to any rules made in this behalf, the Board may from time to time appoint one or more Committees for the purpose of securing the efficient discharge of its functions, and in particular for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of particular local areas.

(2) Any Committee appointed under sub-section (1) shall meet to discharge the functions assigned to it in such manner as may be directed by the Board.

Conduct of Business

Meetings of Board.

17. The Board shall meet from time to time and shall make such arrangements with respect to the day, time, notice, management and adjournment of its meetings as it thinks fit, subject to the following provisions, namely :—

- (a) an ordinary meeting shall be held once at least every two months and five members shall form the quorum ;
- (b) the Chairman, may whenever he thinks fit, call special meetings ;
- (c) every meeting shall be presided over by the Chairman and in his absence, by any member chosen by the meeting to preside for the occasion ;
- (d) all questions at any meeting shall be decided by a majority of the votes of the members present and in case of equality of votes, the person presiding shall have the right to exercise a second or casting vote ;
- (e) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

Temporary association of persons with Board for particular purpose.

18. (1) The Board may associate with itself, any person whose assistance or advice it may desire for carrying into effect any of the provisions of this Act :

Provided that the number of persons so associated shall not be more than three.

(2) A person associated with the Board under subsection (1) for any purpose shall have the right to take part in the deliberations of the Board relevant to that purpose, but shall not have the right to vote.

(3) The State Government may, by order, depute its representatives to attend any meeting of the Board and to take part in the deliberations of the Board, on such items or subjects as the State Government may specify but such representatives shall not have the right to vote.

Contracts

Power to make contracts. 19. The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

Execution of Contract. 20. (1) Every contract shall be made on behalf of the Board by the Chairman :

Provided that—

(a) no contract involving an expenditure of rupees twenty lacs and more shall be made without the previous sanction of the State Government ;

(b) no contract involving an expenditure of five thousand rupees and more shall, subject to clause (a) above, be made without the previous sanction of the Board.

(2) Sub-section (1) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

Delegation of Board's power to sanction contracts. 21. Subject to any rule which the State Government may, make in this behalf, the Board may, by order direct that the power conferred on it under section 20 to sanction a contract shall be exercised by the Chairman or any other officer specified by it in the order.

Further provisions as to execution of contracts, 22. (1) Every contract by the Chairman on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and form as may be prescribed.

(2) A contract not executed as provided in this section and the rules made thereunder shall not be binding on the Board.

CHAPTER III

Housing Schemes

Power and duties of Board to under take Housing Schemes, 23. (1) Subject to the provisions of this Act and subject to the control of the State Government, the Board may, from time to time incur expenditure and undertake works in any area in which this Act is in force for the framing and execution of such housing schemes as it may consider necessary.

(2) The State Government may, on such terms and conditions as it may think fit to impose, entrust to the Board the framing and execution of any housing scheme whether provided for by this Act or not, and the Board shall thereupon undertake the framing and execution of such scheme as if it had been provided for by this Act.

(3) The Board, on such terms and conditions as may be agreed upon and with the previous approval of the State Government, take over for executing any housing scheme on behalf of a local authority or co-operative society or on behalf of an employer when the houses are to be built mainly for the residence of his employees, and the Board shall execute such scheme as if it had been provided for by this Act.

Matters to be provided for by Housing Scheme.

24. Notwithstanding anything contained in any other law for the time being in force, a Housing Scheme may provide for all or any of the following matters, namely:—

- (a) the acquisition by purchase, exchange or otherwise of any property for necessary or affected by the execution of the scheme ;
- (b) the laying or relaying out of any land comprised in the Scheme ;
- (c) the distribution or redistribution of site belonging to owners or property comprised in the Scheme ;
- (d) the closure or demolition of dwellings or portions of dwellings unfit for human habitation ;
- (e) the demolition of obstructive buildings or portions of buildings;
- (f) the construction and reconstruction of buildings;
- (g) the sale, letting out or exchange of any property comprised in the Scheme;
- (h) the construction and alteration of streets and back lanes;
- (i) provision of the draining, water supply and lighting of the area included in the Scheme ;

- (j) the provision of parks, playing fields and open space for the benefit of any area comprised in the Scheme or any adjoining areas and the enlargement and improvement of existing parks, playing-fields, open spaces and approaches ;
- (k) the reclamation or reservation of lands for markets, gardens, playing-fields, schools, dispensaries, hospitals and other amenities in the Scheme;
- (l) the letting out, management and use of the Board premises;
- (m) the provision of sanitary arrangements required for the area comprised in the Scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply;
- (n) the provision of accommodation for any class of inhabitants;
- (o) the advance of money for the purpose of the Scheme;
- (p) the provision of facilities for communication and transport;
- (q) the collection of such information and statistics as may be necessary for the purposes of this Act;
- (r) any other matter for which, in the opinion of the State Government, it is expedient to make provision with a view to provide housing accommodation and to the improvement on development of any area comprised in the Scheme or any adjoining area or the general efficiency of the Scheme ;

Explanation:—For the purposes of this section the State Government may, on the recommendation of the Board, by notification in the official Gazette, specify such areas surrounding or adjoining the area included in a housing scheme to be the adjoining area.

No Housing Scheme to be made for area included in an improvement Scheme or be inconsistent with Town Planning Schemes,

25. (1) No housing scheme shall be made under this Act for any area for which an improvement Scheme has been sanctioned by the State Government under any enactment for the time being in force for the constitution of a municipal corporation for any area in the State to which this Act extends, nor any

Housing Scheme made under this Act contain anything which is inconsistent with any of the matters included in a Town Planning Scheme sanctioned by the State Government under the Assam Town and Country Planning Act, 1959 or in any town planning scheme duly made by or under any corresponding law for the time being in force.

(2) If any dispute arises whether a housing scheme made under this Act includes any area included in an improvement scheme sanctioned under any such enactment as aforesaid or contains anything inconsistent with any matter included in Town planning Scheme sanctioned under the Assam Town and Country Planning Act, 1959 or in any Town Planning Scheme duly made by or under any corresponding law for the time being in force, the decision of the State Government shall be final.

Submission of budget to Board.

26. (1) The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board, a budget of the Board for the next year.

(2) Every such budget shall be prepared in such form as may be prescribed and shall make provision for—

- (i) the housing schemes which the Board proposes to execute whether in part or whole during the next year,
- (ii) the due fulfilment of all the liabilities of the Board, and
- (iii) the efficient administration of this Act, and shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year and such other particulars as may be prescribed.

Board's sanction to Budget.

27. The Board shall consider the budget laid before it under the last preceding section and sanction it with or without modification.

Submission of sanctioned budget to State Government for approval.

28. (1) Every budget sanctioned by the Board shall be submitted to the State Government for approval. At any time after the receipt of the Budget, the State Government may approve the budget as sanctioned by the Board or return it to the Board for making such modifications therein as the State Government may deem fit.

(2) Where a budget is returned to the Board by the State Government for making any modification therein, the Board shall forthwith make such modifications and submit the budget as so modified to the State Government, which may then approve it.

Supplementary budget.

29. The Chairman may, at any time during the year for which a budget has been approved by the State Government, lay before the board a supplementary budget and the provisions of sections 26, 27 and 28 shall apply to such supplementary budget.

Publication and execution of housing schemes.

30. After the budget is approved by the State Government, the Board shall cause the housing schemes, in respect of which provision is made in the budget, to be published in the official Gazette in such manner as may be prescribed, and proceed to execute the new schemes.

Variation of housing schemes.

31. The Board may at any time vary any housing scheme or any part thereof included in the budget approved by the State Government :

Provided that no such variation shall be made if it involves an expenditure in excess of 10 per cent of the amount as included in the budget approved by the State Government for the execution of any housing scheme or if it affects the scope or purpose of such scheme.

Transfer on the Board for purposes of housing scheme of land vested in a Corporation, Municipality or Mohkuma Parishad

32. (1) Whenever any street, square or other land, or any part thereof, situated in any area of a Corporation, Municipality or Mohkuma Parishad and vested in the Corporation, Municipality or Mohkuma Parishad constituted therefor, is required for the purpose of any housing scheme included in the budget approved by the State Government, the Board shall give notice accordingly to the Corporation, Municipality or Mohkuma Parishad as the case may be.

(2) Where the Corporation, Municipality or Mohkuma Parishad concurs, such street, square or other land, or part thereof, shall vest in the Board.

(3) Where there is any dispute, the matter shall be referred to the State Government. The State Government shall, after hearing the Corporation, Municipality or Mohkuma Parishad concerned, decide the matter and the decision of the State Government shall be final. If the State Government decides that such street, square or land, or part thereof, shall vest in the Board, it shall vest accordingly.

(4) Nothing in this section shall affect the rights or powers of the Corporation, Municipality or Mohkuma Parishad in or over any drain or water works in such streets, square or land.

Compensation in respect of land vested in the Board.

33. (1) Where any land vests in the Board under the provisions of section 32 and the Board makes a declaration that such land shall be retained by the Board only until it reverts in the Corporation, the Municipality or the Mohkuma Parishad, as part of a street or open space under section 36, no compensation shall be payable by the Board to the Corporation, the Municipality or the Mohkuma Parishad, as the case may be, in respect of that land.

(2) Where any land vests in the Board under section 32 and no declaration is made under sub-section (1) in respect of the land, the Board shall pay to the Corporation, the Municipality or the Mohkuma parishad, as the case may be, as compensation a sum equal to the value of such land.

(3) If, in any case where the Board has made a declaration in respect of any land under sub-section (1), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revert in the Corporation, the Municipality or the Mohkuma Parishad, as the case may be, the Board shall pay to the Corporation, the Municipality or the Mohkuma Parishad, compensation in respect of such land in accordance with the provisions of sub-section (2).

Power of Board to turn or close public street vested in it.

34. (1) The Board may turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof.

(2) Whenever the Board discontinues the public use of, or permanently closes, any public street vested in it or any part thereof, it shall, as far as practicable, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as mere member of the public, to use such street or part as a mean of access and has suffered damage from such discontinuance or closing.

(3) In determining the compensation payable to any person under sub-section (2) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other

public street at or about the same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed.

(4) When any public street vested in the Board is permanently closed under sub-section (1), the Board may sell or lease so much of the said street as is no longer required.

Reference to Tribunal in case of dispute under section 33 or 34.

35. If there is any dispute as to whether any compensation is payable under section 33 or as to the amount of compensation payable under section 33 or section 34, as the case may be, the matter shall be referred to the Tribunal.

Vesting in Corporation, Municipality or Mohkuma Parishad, of street laid out or altered and open space provided by the Board under Housing Scheme.

36.(1) Whenever the State Government is satisfied—

- (a) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained as required for any housing scheme included in the Budget approved by the State Government under section 28, and
- (b) that such lamps, lamp-posts and other apparatus as the Corporation, the Municipality or Mohkuma Parishad, as the case may be, considers necessary for the lighting of such street and as ought to be provided by the Board have been so provided, and
- (c) that water and other sanitary conveniences have been duly provided in such street, the State Government may declare the street to be a public street and the street shall thereupon vest in the Corporation, Municipality or Mohkuma Parishad as the case may be, and shall thenceforth be maintained, kept in repair, lighted and cleaned by the Corporation, Municipality or Mohkuma Parishad.

(2) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, the Board may at its option by resolution transfer such open space to the local authority concerned on completion of the scheme and thereupon such open space shall vest in, and be maintained at the expense of the local authority:

Provided that the local authority may require the Board before any such open space is so transferred to enclose, level, turf, drain and lay-out such space and provide footpaths therein and if necessary to provide lamps and other apparatus for lighting it.

(3) If any difference of opinion arises between the Board and the Corporation, Municipality or Mohkuma Parishad in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the State Government whose decision shall be final.

Other duties of the Board.

37. (1) It shall be the duty of the Board to take necessary measures to maintain, allot, lease or otherwise use the Board premises and to collect rents, compensation and damages in respect thereof.

(2) The Board may,—

(i) provide technical advice to the State Government and scrutinize projects under housing schemes in the area to which this Act extends when required by the State Government to do so;

(ii) undertake research on various problems connected with housing in general and find out in particular the economical methods of constructing houses suited to local conditions ;

(iii) undertake comprehensive surveys of problems of housing ;

(iv) grant loans to individuals or body of individuals for building houses under different schemes either at their own instance or under the direction of the State Government and recover the loans in such manner and in such procedure as may be prescribed ;

(v) do all things for—

(a) unification, simplification and standardisation of building materials ;

(b) encouraging pre-fabrication and mass production of house components ;

(c) organising or undertaking the production of building materials for residential or non-residential house ;

(d) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

Board to assume management of requisitioned lands.

38. The Board shall, subject to the general control of the State Government, assume management of all such lands requisitioned or continued to be subject to requisition, by or under the authority of the State Government under the Assam Requisition and Acquisition Act, 1964 or by or under any corresponding law for the time being in force, as the State Government may direct.

Reconstitution of plots.

39. A housing scheme may provide—

- (a) for the formation of a reconstituted plot by the alterations of the boundaries of an original plot ;
- (b) with the consent of the owners that two or more original plots each of which is held in ownership in severally or in joint ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot ;
- (c) for the allotment of a plot to any owner dispossessed of land in furtherance of the housing scheme ; and
- (d) for the transfer of ownership of a plot from one person to another with the consent of such persons.

Power to exempt Schemes from provisions of sections 26 to 31.

40. The State Government may, by general or special order published in the official Gazette, exempt any housing scheme undertaken by the Board from all or any of the provisions of sections 26 to 31 subject to such conditions, if any, as it may impose or may direct that any such provision shall apply to such scheme with such modifications as may be specified in the order.

CHAPTER IV

Acquisition and Disposal of Land

Power to purchase or lease by agreement.

41. (1) The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.