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THE CANAL AND DRAINAGE (AMENDMENT) ACT 2016

(XII OF 2016)

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TEXT

¹THE CANAL AND DRAINAGE (AMENDMENT) ACT 2016

(XII of 2016)

[23 February 2016]

An

Act

further to amend the Canal and Drainage Act, 1873.

It is necessary to encourage participatory development of canals; to have an effective recovery of charges mechanism; to oust the jurisdiction of civil courts in proceedings under the Act; to make certain grave offences cognizable and non-bailable; to confer revisional jurisdiction upon the Superintending Canal Officer; and, to deal with other matters;

Be it enacted by the Provincial Assembly of the Punjab as follows:

1. Short title and commencement.—(1) This Act may be cited as the Canal and Drainage (Amendment) Act 2016.

(2) It shall come into force at once.

2. Insertion of section 14-B in Act VIII of 1873.— In the Canal and Drainage Act, 1873 (*VIII of 1873*), for brevity cited as the said Act, after section 14-A, the following section 14-B shall be inserted:

“14-B. Development schemes.— (1) The Provincial Government may plan and implement a scheme for development, rehabilitation or improvement of a canal.

(2) The Provincial Government may levy special charges on the irrigators and other water users of the canal to meet the whole or part of the expense incurred on a scheme under subsection (1).”

3. Insertion of section 20-C in Act VIII of 1873.— In the said Act, after section 20-B, the following section 20-C shall be inserted:

“20-C. Revision.—(1) The Government shall constitute a Board consisting of two or more Superintending Canal Officers to hear and decide revision under this section.

(2) The Board may, on an application by an aggrieved person or on his own, revise any decision of a Canal Officer under section 20, 20-A or 20-B if:

(a) evidence or material of illegality, negligence or fraud is available on record; or

¹This Act was passed by the Provincial Assembly of the Punjab on 17 February 2016; assented to by the Governor of the Punjab on 22 February 2016; and, was published in the Punjab Gazette (Extraordinary), dated: 23 February 2016, pp. 3971-3973.

(b) any error in controlling factors effecting supply of water is noticed.

(3) If there is sufficient evidence or material available on record that the decision of the Canal Officer or the report, on the basis of which the decision is made, is based on bad intention or motive or gross negligence, the Board may refer the matter to the competent authority for disciplinary or other action against the responsible officer.”

4. Insertion of section 32-A in Act VIII of 1873.– In the said Act, after section 32, the following section 32-A shall be inserted:

“32-A. Non-payment of charges.– (1) If a person fails to pay charges under section 31, 33, 34, 36 or 45 within the prescribed period, the Divisional Canal Officer may, after prior notice to the person, exclude the person from warabandi or cancel the agreement of filling of tanks and ponds with that person.

(2) Any person aggrieved of the order of the Divisional Canal Officer under subsection (1) may, within thirty days from the date of the order, file an appeal before the Superintending Canal Officer who shall decide the appeal within thirty days from the date of filing the appeal.”

5. Amendment in section 67 of Act VIII of 1873.– In the said Act, for section 67, the following shall be substituted:

“67. Jurisdiction.–(1) Subject to subsection (2), all claims against the Provincial Government in respect of anything done under this Act may be tried by the civil court of competent jurisdiction.

(2) A court shall not assume jurisdiction in any matter in respect of anything done, being done or purported to be done under sections 20, 20-A, 20-B, 20-C, 31, 32, 32-A, 33, 34, 35, 36 and 45 of the Act and shall not pass any order interrupting any proceedings under the Act.”

6. Amendment in section 68-A of Act VIII of 1873.– In the said Act, in section 68-A, after subsection (2), the following subsection (3) shall be inserted:

“(3) The Sub Divisional Canal Officer shall not entertain an application under this section unless it is accompanied with an application in writing under section 68 of the Act, in case the water course is not sanctioned.

Explanation: For purposes of the section, a sanctioned water course or internal khal shall mean a water course or internal khal sanctioned under section 68.”

7. Amendment in section 70 of Act VIII of 1873.– In the said Act, in section 70, in subsection (1), after clause (15), the following clause (15-A) shall be inserted:

“(15-A) fails to pay water rate or charges imposed under section 31, 33, 34, 36 or 45 within the prescribed period even after a due notice;”

8. Insertion of section 73-A in Act VIII of 1873.– In the said Act, after section 73, the following section 73-A shall be inserted:

“73-A. Cognizance.—Notwithstanding anything contained in any other law, the offences under clauses (1) to (4) of section 70 shall be cognizable and non-bailable.”