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The Andhra Pradesh Irrigation Utilisation and Command Area Development Act, 1984

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Case note: An Act to provide for an accelerated increase in agriculture and allied production in the State of Andhra Pradesh through a programme of comprehensive and systematic development on scientific and modern lines of command areas, comprising measures, for optimum, use of lands and water, prevention of land erosion and water logging, improvement of soil fertility and regulation of cropping pattern, and for proper maintenance and upkeep of irrigation systems in the State for ensuring maximum benefits to the cultivators under the command areas and for the matters connected therewith.

The AP irrigation & CAD Act

THE ANDHRA PRADESH IRRIGATION UTILISATION AND COMMAND AREA DEVELOPMENT ACT, 1984

(Act No. 15 of 1984)

Reserved by the Governor on the 14th March, 1984 for the consideration and assent of the President, received the assent of the President on the 21st March, 1984 and the said assent is hereby first published on the 22nd March, 1984 in the Andhra Pradesh Gazette, Part IV-B (Ext.) at page 1.

An Act to provide for an accelerated increase in agriculture and allied production in the State of Andhra Pradesh through a programme of comprehensive and systematic development on scientific and modern lines of command areas, comprising measures, for optimum, use of lands and water, prevention of land erosion and water logging, improvement of soil fertility and regulation of cropping pattern, and for proper maintenance and upkeep of irrigation systems in the State for ensuring maximum benefits to the cultivators under the command areas and for the matters connected therewith.

Be it enacted by the Legislature of the State of Andhra Pradesh in Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title, extent and Commencement:—

(1) This Act may be called the Andhra Pradesh Irrigation Utilisation and Command Area Development Act, 1984.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) All the provisions of this Act shall be deemed to have come into force on the 14th January, 1984 in respect of the following command areas namely:—

- (1) the Nagarjunasagar Project Left Canal;
- (2) the Nagarjunasagar Project Right Canal;
- (3) the Sriramsagar Project;
- (4) the Tungabhadra Project; and

they shall come into force in respect of other areas on such date as the Government may by notification appoint; and they may appoint different dates for different areas and for different provisions of this Act.

2. Definitions:—

In this Act, unless the context otherwise requires:—

(1) "Command area" means an area irrigated or capable of being irrigated either by gravitational flow or by lift irrigation or by any other method, under an irrigation system, project or source and includes every such area whether it is called "ayacut" or by any other local name in any law in force in the State.

(2) "Command Area Development Authority" means an authority constituted under Section 3.

(3) "Command area development work" means any work undertaken under this Act;

(4) "Commissioner: means the Commissioner of Command Area Development for the State appointed under Section 4 and includes such other person in whom all or any of the powers of the Commissioner under this Act are conferred by the Government in respect of one or more command areas;

(5) "Comprehensive command area development" includes—

(a) systematic land development for conservation of land and water;

(b)

water use management for optimum use of water, including irrigation by turns, volumetric measurement of water and other enabling measures to avoid waste, water logging, salinity, alkalinity and the like;

(c)

(d)

(e)

(6)

(7)

conjunctive use of surface and ground water for multiple cropping and proper utilisation of available water resources; modernisation and remodelling of existing irrigation systems for optimum use of water and land resources; and regulation, maintenance and repairs of irrigation systems; "credit officer" means an officer of the Co-operative Department appointed as such by the Government for the purpose of securing finance for the systematic land development, agricultural operations and other allied activities; "distribution system: includes—

(a)

all main canals, branch canals, distributories and minor canals constructed for the supply and distribution of water for irrigation;

(b)

all works, structures and appliances connected with the distribution of water for irrigation;

(8)

(9)

(c)

all field channels and farm channels and related structures under a pipe outlet;

"District Collector" means the Collector of a district in which the command area is situated and includes the Administrator of a Command Area Development Authority, if any, and any officer specially appointed by the Government for performing all or any of the functions of the District Collector under this Act; "drainage system" includes—

(a) channels either natural or artificial, for the discharge of waste or surplus water and all works connected therewith or ancillary thereto;

(b) escape channels from an irrigation or distribution system and other works connected therewith but does not include work for removal of sewage;

(c) all collecting drains and main drains to drain off surplus water from field drains;

(d) all field drains and related structures under pipe outlet;

(10) "field channel" includes a channel constructed or to be constructed by the Government or by the land holder or by any other agency to receive and distribute water from a pipe outlet;

(11) "field drain" includes a channel excavated and maintained by the land holder or by other agency on his behalf to discharge waste or surplus water from the land holding under a pipe outlet; and includes drains, escape channels and other similar works constructed or to be constructed and maintained by the owners or occupiers or by the Government on their behalf and at the cost of the owners or occupiers;

(12) "field road" means a road serving lands under a pipe outlet and built at the cost of the land holders;

(13) "financing agency" means any commercial bank or any co-operative society, including a Co-operative Agricultural Development Bank, the main object of which is to lend money, or any regional rural bank established under the Regional Rural Banks Act, 1976; and includes any other agency selected for providing credit facility for comprehensive command area development;

(14) "Government" means the State Government of Andhra Pradesh;

(15) "irrigated dry land" or "irrigated" means land localised for light irrigation of crops, other than paddy, sugarcane and banana;

(16) "irrigation Officer" in relation to a command area means an officer of the Revenue Department, not below the rank of a Revenue Divisional Officer, having jurisdiction over such area or an Officer of the irrigation Department not below the rank of a Deputy Executive Engineer, exercising control over the irrigation system in the command area and includes any other officer appointed by the Government to perform the functions of an Irrigation Officer under this Act;

(17) "irrigation system" includes—

(a) the distribution system;

(b) the drainage system;

(18) "irrigation system under a pipe outlet" includes the field channels and filed drains, with all the related structures thereto;

(19) "Land Development Officer" means an Officer of the Agriculture Department not below the rank; of an Assistant Director' Agriculture or an officer of the Irrigation Department not below the rank of a Deputy Executive Engineer or any other officer, appointed as such by the Government, to have jurisdiction, and to exercise control over the whole or part of a command area for the purpose of systematic land development;

(20) "land holder" means a person in actual possession of the land whether as an owner or as a tenant or sub-tenant or as a mortgagee in possession or as a licensee, or otherwise and includes a person who is likely to be benefited by the command area development work, and the expression "land holding" shall be construed as land held by a land holder;

(21) "notification" means a notification published in the Andhra Pradesh Gazette, and the expression "notified" shall be construed accordingly;

(22) "pipe outlet" means an opening or contrivance constructed by the Government in an irrigation system through which water is delivered for irrigation at the periphery of the localised area ordinarily not exceeding forty hectares:

(23) "prescribed" means prescribed by rules made by the Government under this Act;

(24) "systematic land development" includes all or any of the following works;

(a) construction of field channels with related structures;

(b) construction of field drains with related structures;

(c) land shaping, including grading, levelling, bunding and the like;

(d) realignment of field boundaries and rectangularisation of plots and consolidation of land holdings under a pipe outlet or under an adjacent pipe outlet, wherever necessary, for efficient farm management;

(e) lining of field channels, wherever necessary with suitable material to prevent seepage of water;

(f) construction of field road with related structures;

(25) "warabandi" means the system of equitable distribution of water by turns according to a schedule prepared by the prescribed authority specifying the day, time and duration of supply of water to each landholder in proportion to his landholdings in the pipe outlet command:

(26) "wetland" means land localised for heavy irrigation crops like paddy, sugarcane and banana.

CHAPTER II

Constitution of Command Area Development Authority, appointment of Commissioner, Pipe Committee and other Agencies, etc. 3. Constitution of the Command Area Development Authority and its functions:—

(1) As soon as may be after the commencement of this Act, the Government may, by notification, constitute a Command Area Development Authority for the development of each command

area or two or more command areas or any parts thereof, which shall consist of such members as may be specified therein.

(2) The Command Area Development Authority shall be a body corporate by the name "Command Area Development Authority" of (the name of the area to be specified), having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue and be sued.

(3) The Command Area Development Authority shall have the following functions, namely:—

(a) to formulate and implement schemes for the comprehensive development of the command area or command areas;

(b) to ensure integrated utilisation of water flows;

(c) to co-ordinate work relating to command area development;

(d) to arrange systematic land development, including planning, construction and maintenance of field channels, field drains, farm roads and ayacut roads;

(e) to ensure propagation, demonstration and implementation of improved water management techniques and the education and training of farmers in irrigated agriculture;

(f) to enforce a proper system of rotational water supply as specified in warabandi and fair distribution of water to individual fields;

(g) to formulate conjunctive use of surface and ground water;

(h) to prevent land erosion and water logging;

(i) to select and introduce a suitable cropping pattern;

(j) to strengthen agricultural extension activities;

(k) to arrange agricultural credit facilities for systematic land development and agricultural production in the select command areas;

(l) to improve the supply of other agricultural inputs;

(m) to ensure creation and development of marketing, processing and warehousing facilities;

(n) to diversify agriculture and to develop activities, like animal husbandry and protein production;

(o) to lay out schemes for town-planning and development of growth centres;

(p) to receive, borrow and lend moneys by or on behalf of it, which are necessary for the due discharge of its functions, and also to recover moneys due to it or on its behalf;

(q) to determine the payment of amount as provided in sub-section (8) of Section 13; and

(r) to do such other acts, not inconsistent with the provisions of this Act, as may be prescribed.

(4) The Command Area Development Authority shall exercise such powers and control as it deems necessary, over the officers and authorities functioning within its jurisdiction, including the power to give directions for the purpose of carrying out the provisions of this Act, and every such officer or authority shall comply with all such directions.

4. Appointment of a Commissioner:—

(1) There shall be appointed by the Government, by notification, a Commissioner of Command Area Development for the State of Andhra Pradesh to be in-charge of Command Area Development in the whole of the State. The Government may, by notification, also appoint as many persons as they consider necessary to exercise the powers and perform the functions of the Commissioner under this Act in relation to such command areas as may be specified in the said notification.

(2) The powers to be exercised and the functions to be performed by the Commissioner shall be such as may be prescribed.

(3) The Commissioner shall exercise general control and superintendence over the Credit Officer, Irrigation Officer and Land Development Officer in the performance of their functions under this Act or the rules made thereunder.

5. Constitution of a Pipe Committee and its functions:—

(1) There shall be a Pipe Committee for each pipe outlet consisting of a President, who shall be the Chief Executive Authority of the Pipe Committee, and such number of members as may be prescribed. The President and the members of each Pipe Committee shall be elected by the landholders under the pipe outlet from among themselves in such manner as may be prescribed. The term of office of the members including the President of the Pipe Committee shall be ¹three years] from the date of assumption of their respective offices.

²[Provided that the number including the President of the Pipe Committee shall continue to hold office up to the date of next reconstitution of the Pipe Committee in accordance with the provisions of this sub-section.]

(2) The procedure to be followed at the meetings of the Pipe Committee, the powers and duties of the President and the disqualifications and removal of the President and members thereof, shall be such as may be prescribed;

(3) The Pipe Committee in which the power to administer and supervise the irrigation system under the pipe outlet concerned

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1. Subs. for 'one year'-by Act 1 of 1993.

2. Proviso inserted by Act 1 of 1993.

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vests, shall be responsible to perform the following, among other functions namely:—

- (a) the construction, maintenance, repair and upkeep of the irrigation system under the pipe outlet at the cost and expenses of the landholders;
- (b) to carry out obligations on behalf of the landholders, if the landholders fail to do so, and recover costs thereof from them in such manner as may be prescribed;
- (c) to enforce warabandi and to regulate supply of water for irrigation to each land holding by turns or rotation according to the time schedule approved by the Irrigation Officer.
- (d) to regulate and control water supply for irrigation by volumetric measurement in the manner specified by the Irrigation Officer;
- (e) to prevent unauthorised and unlawful use of water for irrigation;
- (f) to supervise the irrigation system with a view to preventing waste of water and damage to the system;
- (g) to perform such other functions as may be prescribed.

6. Irrigation Officer to carry out works on failure of Pipe Committee:—

If the pipe committee fails to carry out obligations on behalf of the landholders as required by or under this Act, the Irrigation Officer may, after giving notice to the Pipe Committee, carry out the said obligations and recover costs thereof from the landholders in the manner provided in Section 5.

7. Power to constitute Boards, Committees etc.:—

The Government may, in order to carry out the purposes of this Act, by notification constitute such Board, Committee or other body for one or more command areas or any parts thereof as maybe specified therein, and invest the Board, Committee or body so constituted with such powers and functions as they may deem fit.

CHAPTER III

Obligations of landholders

8. Obligation of a landholder:—

Every landholder under a pipe outlet shall be responsible,—

- (i) to carry out systematic land development at his cost, according to the scheme formulated by the Land Development Officer;
- (ii) to maintain the irrigation system under pipe outlet in good repair, at his cost; proportionately as prescribed;
- (iii) to use water for irrigation economically and without waste by adopting such techniques and regime as may be prescribed.

9. Farm management:—

It shall be the duty of a landholder to take steps to maximise production from his land by adopting such scientific and modern techniques of farm management as may be notified, from time to time, by such authority, as may be prescribed.

10. Safeguarding adjacent holding:—

Every landholder shall take such precautionary and preventive measures as maybe necessary so as not to cause damage to the adjacent land holdings.

CHAPTER IV

Systematic Land Development

11. Formation of units:—

All lands comprising the command area under a pipe outlet shall form into a single unit for purposes of— (i) systematic land development; (ii) maintenance of and upkeep of irrigation system.

12. Power of Commissioner to specify command areas for systematic land development:—

The Commissioner may, by notification, specify the command areas under his jurisdiction in which all or any of the works under systematic land development shall be taken up in one or more instalments and also specify the officers for command area development works in such command areas.

13. Construction of field channels:—

(1) Whenever it appears to the Government that the construction of field channels is expedient for the supply of water to the lands immediately after or simultaneously with the availability of water in the main irrigation system, the Government may, by notification, declare the command area under an irrigation system, or project or source for the purpose of applying the provisions of this section.

(2) On the issue of the notification, the Land Development Officer shall have power to enter upon any land and make survey of such land to determine the most suitable alignment for the field channel so as to convey water to every land under a pipe outlet and mark out the land which, in his opinion, is necessary for the construction of the field channel.

(3) The Land Development Officer shall thereupon publish a scheme in the prescribed manner giving details of the lands through which the field channel is proposed to be taken and specifying the areas and the names of persons likely to be affected.

(4) Every person likely to be affected may submit a petition to the Land Development Officer stating his objections, if any, to the proposed construction of the field channel within fifteen days of publication of the scheme. The Land Development Officer shall finalise the scheme after considering the objections, if any, and publish it in the manner prescribed. An appeal against an order of the Land Development Officer may be filed before the District Collector within fifteen days of the publication of the scheme.

(5) The Land Development Officer shall, after the expiry of the period of appeal, or where an appeal is filed before the District Collector, subject to the result of appeal, cause the field channel to be constructed so as to convey water to every land under a pipe outlet.

(6) Notwithstanding anything in the Land Acquisition Act, 1894, it shall be lawful for the Land Development Officer to enter upon lands required for the construction of field channel and to cause construction of the field channel as if a declaration had been made by the State Government for the acquisition thereof under Section 6 of that Act and as if the State Government had thereupon directed the Collector to take order for the acquisition of such land

under Section 7 of the said Act and as if the State Government had issued orders for immediate possession being taken under Section 17 of the said Act.

(7) The Land Development Officer shall, after the construction of the field channel, fix the boundary marks in the prescribed manner and thereupon the ownership of such land shall vest in the Government.

(8) When the land through which the field channel passes, is not benefited therefrom, the owner of such land shall be paid an amount calculated at the rate at which the land required for construction of field channel at the nearest point from which the pipe outlet has been taken, has been acquired.

Provided that where question arises as to whether the amount payable under this sub-section corresponds to the market value of the land, it shall be referred to the District Collector, whose decision thereon shall be final.

(9) Notwithstanding that the cost of construction of the field channel is met by the Government, the responsibility for maintenance of the field channel shall vest with the pipe committee, and the beneficiaries of the field channel shall not acquire any right other than that of user only.

(10) Any person, resisting the exercise of the powers, or having control over the property fails to give all facilities for their being exercised, shall be deemed to have committed an offence under Section 188 of the Indian Penal Code, 1860.

14. Power to enter and survey etc.:—

(1) The Land Development Officer, or any person authorised by him in this behalf may,—

(a) enter upon any land in the command area of an irrigation system or lands adjacent thereto and undertake survey or take levels thereon for preparing a scheme for systematic and development.

(b) dig and bore into top-soil or sub-soil and collect soil samples for technical investigation:

(c) make and set up suitable land marks, and level marks for the said purpose:

(d) do all other acts necessary for the proper conduct of any inquiry or investigation relating to any existing or proposed scheme for comprehensive command area development.

(e) enter upon any land or building and cut down and clear away jungle, fence or any part of standing crop, or other obstruction for the purpose of regulating of the use of water supplied or inspection or measurement of the lands irrigated thereby and of doing all things necessary for the proper regulation and management of land and water;

Provided that if the Land Development Officer or other person authorised, proposes to enter into any building or any enclosed courtyard attached to a dwelling house, he shall give the occupier of such building or Court yard atleast a day's notice in writing of his intention to do so, if the occupier denies entry on oral request.

(2) Save as otherwise provided by rules made in this behalf, no person shall be entitled to any compensation for loss or damage sustained by him by reason of any action taken by the Land Development Officer or other person authorised in pursuance of his powers under this section.

15. Preparation of scheme for systematic land development:—

(1) The Land Development Officer shall, as soon as may be after the issue of notification under Section 12, hold a meeting of landholders in the unit and after hearing their views, cause the preparation of a suitable scheme for systematic land development.

(2) Any scheme so prepared shall amongst other matters, set out the estimated cost of the scheme a sketch plan of the area proposed to be covered under the scheme and the particulars of the site of the pipe outlet realignment of the existing irrigation system, survey numbers covered, field boundaries as existing and as proposed, the extent required for the irrigation system and the landholders to be benefited and other persons affected thereby.

(3) Every scheme shall, immediately after its preparation, be published in such form and manner as may be prescribed inviting objections and suggestions with respect thereof within fifteen days of such publication.

(4) The Land Development Officer shall consider the objections and suggestions received, if any, from the landholders and finalise the scheme either as originally proposed by him or with such modifications as he may consider fit and publish the scheme as finalised in such form and manner as may be prescribed (hereinafter in this chapter referred to as the approved scheme).

16. Implementation of systematic land development scheme:—

(1) After the approved scheme has been published by the Land Development Officer or where proceeding is pending before the District Collector under sub-section (4) of Section 13 after it has been disposed of, the Land Development Officer shall give notice in such manner as may be prescribed that the works in the approved scheme shall be executed within such time and through such agency appointed by him, *as* may be specified therein.

(2) As soon as may be after the notice is given under sub-section (1), the Land Development Officer shall call upon every landholder whose land is likely to be benefited by the approved scheme, by an order made in this behalf, to deposit, within one month from the date of the order, his share of the estimated cost of the work in the approved scheme with the Land Development Officer for executing the scheme; and every such landholder shall deposit the same within the period specified therefor. The Land Development Officer shall thereupon take up the work according to the approved scheme.

(3) On completion of the work, the Land Development Officer shall give to the landholder notice of completion of the work and the cost of execution of the work according to the approved scheme, and demand the deposit of such further sum, if any, as may be payable by the landholder with the Land Development Officer.

17. Acquisition of land for irrigation system under a pipe outlet:—

(1) Notwithstanding anything to the contrary in any law for the time being in force, it shall be lawful for the landholders under a pipe outlet to agree—

(i) to establish an irrigation system on their lands without payment of compensation for the land occupied by such a system; or

(ii) to bear a cut in their holdings in proportion to the extent of their holdings in lieu of the amount fixed for the land occupied by the irrigation system, by readjustment of field boundaries.

(2) Where the landholders under a pipe outlet do not so agree to part with their lands required for the irrigation system without payment in cash, the Land Development Officer may fix the amount payable for such lands, in the same manner as provided

in sub-section (8) of Section 13, and the amount so fixed shall form part of the estimated cost of the approved scheme and be paid to the affected landholders according to the area occupied by the irrigation system.

(3) Any person aggrieved by the amount fixed by the Land Development Officer under sub-section (2) may prefer an appeal within fifteen days from the date of communication of an order in that behalf, to the District Collector. A second appeal against an order of the District Collector may be filed before the Commissioner within fifteen days from the date of such order.

18. Preparation of records after systematic land development:—

(1) The Land Development Officer shall prepare in the prescribed manner a record containing particulars as to the irrigation system and the adjusted boundaries of land holdings under pipe outlet after execution of the systematic land development scheme and cause the same to be published in such manner as may be prescribed.

(2) The District Collector shall have the power to correct any error, or rectify any mistake in the particulars contained in the said record.

(3) Every particular in the said records shall be the evidence of the matter referred to therein and shall be presumed to be correct until the contrary is proved or until a new particular matter is entered in the said record in accordance with the provisions of this Act or any other law for the time being in force.

CHAPTER V

Regulation of Irrigation and equitable water use management

19. Power of Irrigation Officer to regulate irrigation system:—

(1) The Irrigation Officer shall, having regard to the availability of water and other factors, have power to regulate the supply of water from an irrigation system upto and below a pipe outlet and specify;

(a) the time for letting out water for irrigation;

(b) the duration of supply;

(c) the quantity of supply; and

(d) the different areas to be supplied at different times.

Explanation:—Water shall be deemed to have been supplied if it is made available, whether or not it is used for irrigation of land under a pipe outlet.

(2) An appeal against an order passed by the Irrigation Officer under sub-section (1) shall lie to the District Collector within fifteen days from the date of making of such order.

20. Liability for unlawful use water or when water runs to waste:—

(1) If water supplied from an irrigation system is put to unauthorised or unlawful use, the person by whose act of negligence such use has occurred, or if such a person cannot be identified, the person or all the persons on whose land water has flowed and the land is benefited therefrom, or

the person or all the persons chargeable in respect of the water supplied from such irrigation system, shall be liable, severally or jointly as the case may be, for the imposition of such charge as may be levied by the competent authority therefor under the relevant law for the time being in force.

Explanation:— For the purpose of this section, the use of water for irrigating an area in the following manner shall constitute unauthorised or unlawful use, namely:—

(i) when an area is not localised under an irrigation system; (ii) when an area which is localised as irrigated dry, is irrigated

as wet; (iii) when an area localised for a single crop is irrigated for a double crop; (iv) when an area which is localised for one particular season is irrigated in the season for which it is not so localised; (v) when an area is irrigated unauthorisedly by breaching or cross bunding an irrigation system; (vi) when an area is irrigated by pumping water without prior permission of the Irrigation Officer; (vii) when an area is irrigated with a crop in contravention of cropping pattern specified under Section 26; (viii) when an area is irrigated otherwise than in accordance with the schedule of water distribution as specified in warabandi.

(2) Where water supplied through a field channel is allowed by any person to run to waste, the person by whose act of negligence such water was allowed to run to waste, or if, after inquiry such person cannot be found, the person or all the persons chargeable in respect of the water supplied from such irrigation system, shall be liable, severally or jointly, as the case may be, for the imposition of a charge which shall be made in the prescribed manner in respect of the water so wasted.

(3) The levy of charges for unauthorised or unlawful use of or wastage of water shall not be a bar for launching prosecution for any offence connected with such use or waste.

(4) All charges for the unauthorised or unlawful use or for waste of water may be recovered as water rates in addition to any penalties imposed on account of such use or for waste of water.

(5) Any question arising under this section shall be decided by the Irrigation Officer and any person aggrieved by the order of the Irrigation Officer may prefer an appeal to the District Collector within fifteen days from the date of making of the order. A second appeal against an order of the District Collector may be filed before the Commissioner within fifteen days from the date of such order.

21. Stoppage of water supply:—

(1) It shall be lawful for the Government or any officer authorised by them in this behalf to stop the supply of water to any land holding or field channel or to any person who is entitled to such supply under all or any of the following circumstances, namely:—

(a) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by the competent authority;

(b) whenever and so long as any field channel by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water thereof;

(c) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(d) during the periods fixed, from time to time, by the Irrigation Officer of which due notice has been given;

(e) whenever there is diminution in the supply of water in the irrigation system due to any natural or seasonal causes and thereby so long as it is necessary to do so;

(f) whenever there are floods or heavy rains in the command area and thereby so long as it is necessary to do so.

(2) No claim shall be allowed against the Government for compensation in respect of any damage arising out of:—

(a) deterioration in climate or soil; or

(b) stoppage or diminution of the supply of water where such stoppage or diminution is due to—

(i) any cause beyond the control of the authority in-charge of the irrigation system; (ii) the execution of any repairs, alterations or additions to the irrigation system;

(iii) any measures considered necessary by the Irrigation Officer for regulating the proper flow of water in the field channel or for maintaining the established course of irrigation, or (iv) circumstances mentioned in clauses (a) to (f) of sub-section (1).

22. Supply of water for irrigation of one or more crops:—

Where water from an irrigation system is supplied for the irrigation of one or more crops specified by the Irrigation Officer, the right to use such water shall be deemed to continue only until such crop or crops shall come into maturity, and to be lawful only in respect of such crop or crops.

CASE LAW

Principles of localisation - water supply:— Supply of water for irrigation of one or more crops - Principles of localisation. No unfettered enforceable right conferred on any ayacutdar to insist on Government for supply of water till the crop in his land matures. Government issuing an order to supply water to Rabi crop of the petitioners who are the ayacutdars at the tail end of P.T. channel and immediately thereafter withdrawing the said decision to release water on the letter of Engineer-in-Chief (Irrigation) cannot be said to be baseless. Earlier decision taken by Government in great haste based on an unsigned letter of Engineer-in-chief (Irrigation) emanated from his office and without properly understanding it. Later decision (impugned order) taken not to release water on the letter of the said Engineer-in-chief sent by him immediately after receipt of earlier order giving reasons for such decision. Neither illegal nor arbitrary nor irrational. *Perali Water Users Association vs. Government of A.P., 2002 (3) ALT 636.*

23. Settlement of disputes regarding distribution of water:—

(1) Whenever a dispute arises between two or more landholders in regard to their natural rights or liabilities in respect of the use or maintenance of a field channel, any such landholder may apply in writing to the Pipe Committee stating the matter in dispute.

(2) On receipt of an application under sub-section (1), the Pipe Committee shall give notice to the other persons interested to appear before it on a day to be specified in such notice, and shall proceed to enquire into such matter, and after the enquiry, the Pipe Committee may try to bring

about a compromise between the parties and if such compromise could not be brought, it shall, after hearing the parties concerned pass such order as it deems fit:

Provided that if any dispute arises between the landholders and the Pipe Committee regarding the sharing of costs to be borne by one or more landholders, any such landholder may, after paying the costs apportioned to him by the pipe committee, prefer an appeal to the Irrigation Officer within seven days of such payment, and the Irrigation Officer shall after giving an opportunity to the aggrieved landholders, decide the prorate sharing of expenses between the landholders and his decision thereon shall be final and binding on all the landholders.

(3) The Irrigation Officer within whose jurisdiction the pipe outlet is situated, may *suo motu* or on an application made in this behalf by an aggrieved person within fifteen days from the date of the order passed by the pipe committee under sub-section (2) revise such order.

Provided that where the pipe committee does not pass an order within fifteen days from the date of receipt of an application under sub-section (1), the Irrigation Officer may himself pass an order on the matter in dispute.

CHAPTER VI

Localisation of command areas and regulation of cropping pattern therein, etc.

24. Power to specify principles of localisation:—

(1) Subject to such rules as may be made in this behalf, the Government may, having regard to resources of land and water, nature of soil, climate and other technical considerations, by an order, specify for each command area principles of localisation for the purpose of irrigation.

(2) The Government may, having regard to the advancement in technology of land and water management and other agronomic practices, alter, from time to time by an order, the principles of localisation so specified for any command area.

Explanation:— The term "principles of localisation" shall include the prescription of seasons of the irrigation, the type of irrigation, such as wet, irrigated dry, double crop, or single crop, or perennial irrigation.

25. Classification of lands for raising different crops according to availability of water:—

Subject to such directions as may be issued from time to time by the Government, the District Collector, may, in any year, having regard to the quantity of water available in any irrigation system within his jurisdiction, classify, by an order, within such time and in such manner as may be prescribed, lands under the said irrigation system for the purpose of raising such kind of crops on each class of land as may be specified in the order, and regulate the supply of water for irrigation accordingly.

26. Power to prohibit growing of certain kinds of crops and to regulate the period of sowing and duration, of crops:—

(1) Whenever the Government are satisfied that for the better cultivation of land and the optimum utilisation of water resources of an irrigation system or for accelerated land development or for any other reasons, it is expedient in public interest to regulate the cropping pattern the period of sowing and the duration of crop, they may, by notification, make a declaration to that effect:

Provided that such person may grow any crop other than the crop prohibited under this section with the utilisation of water from his own source subject to such conditions and restrictions as maybe prescribed.

(2) On the making of a declaration under sub-section (1), the Director of Agriculture may specify by notification published in such manner as may be prescribed, the kinds of crops that shall not be grown on any land under such irrigation system and the periods of sowing and duration in respect of non-prohibited crops thereof.

(3) On the publication of a notification under sub-section (2), no person shall grow any such crop as is prohibited by the notification on any land under such irrigation system and no person shall sow or plant any other crop at any period or allow such crop to remain beyond the duration specified in respect thereof in such notification.

27. Power to levy and collect road cess:—

(1) For the purpose of laying out the roads within the command area and their proper upkeep and maintenance, it shall be lawful for

the Government to levy and collect road cess in the form of a tax on lands in the command area from the landholders who, in their opinion, are benefited or are capable of being benefited by any scheme undertaken under this Act.

(2) The rate at which the road cess shall be levied, the manner of assessment and realisation of road cess and the utilisation of such road cess shall be such as may be prescribed; Provided that such rate of road cess shall not exceed rupees twelve and thirty-five paise per hectare of land in the command area.

CHAPTER VII

Credit facilities

28. Power to select financing agency:—

Any landholder included in the scheme for systematic land development may apply to a financing agency selected by the Credit Officer to provide credit facility to the landholder and the said financing agency may advance loans to the landholder through the Command Area Development Authority or its nominee, for executing the scheme for systematic land development.

29. Loans to ineligible and recalcitrant landholders:—

(1) Where a landholder is ineligible to obtain credit under the normal rules of the financing agency relating to advancing of loans, the Credit Officer shall arrange for the grant of special loan to such ineligible landholders by such agency as may be selected by him.

(2) The said agency shall advance special loans to the ineligible land holders through the Command Area Development Authority or its nominee, for executing the scheme for systematic land development, from out of the fund created by the Government for the purpose.

(3) Where any landholder included, in the scheme for systematic land development is unwilling either to deposit the money as required under sub-section (2) of Section 16 or to incur the expenditure by himself or to obtain credit facility under Section 28 or sub-section (1) of this section, for the systematic development of his land, the Credit Officer shall select a financing

agency, or any other agency, for the purpose of advancing such amount as may be required towards the cost thereof to the Command Area Development Authority which shall be treated as the borrower. The Land Development Officer or the nominee of the Command Area Development Authority shall receive the said amount on its behalf for the development of the lands of such landholder, and the said amount shall notwithstanding anything in any other law for the time being in force, be deemed to have been advanced as a loan or special loan by the aforesaid agency to the landholder concerned, as if he had applied for such loan:

Provided that where the aforesaid agency is the Co-operative Agricultural Development Bank, the said amount shall be deemed to have been advanced as a loan by the said bank to the landholder concerned, as if he were a member eligible for such loan:

30. Creation of charge on land:—

Notwithstanding anything in any other law for the time being in force, where a financing agency or other selected agency, as the case may be, advances a loan or special loan or such loan is deemed to have been *so* advanced, such loan or special loan shall, subject to any claim of the Government in respect of land revenue have a first charge on the land included in the scheme for systematic land development for the purpose of recovery of such loan and where the aforesaid agency is the Co-operative Agricultural Development Bank the loan amount may be recoverable in the manner provided by Sections 101 to 105 of the Andhra Pradesh Co-operative Societies Act, 1964.

31. Alterations of extent of boundaries of mortgaged land under the scheme for systematic land development:—

Where on the implementation of the scheme for systematic land development, the extent or the boundaries of the land under any mortgage gets altered, such altered land shall alone form the substituted security for the land mortgaged.

32. Exemption from certain duties and fees:—

If, in the opinion of the Government, it is necessary in the public interest so to do, they may, by notification and subject to such restrictions and conditions as may be specified in such notification, reduce or exempt in respect of any financing agency or of such institution or person as may be notified by the Government in this behalf:—

(a) stamp duty with which under any law for the time being in force, instruments executed by or on behalf of a financing agency or the institution or person aforesaid pertaining to the business of such financing agency, institution or person in so far as it relates to matters provided under this Act or any clause of such instruments, are respectively chargeable; and

(b) any fee payable under the law relating to registration for the time being in force or Court fees.

33. Registration of document executed on behalf of a financing agency, etc.:—

(1) Notwithstanding anything in the Registration Act, 1908, it shall not be necessary for any officer of a financing agency or any institution or person referred to in Section 32 to appear in person or by agent at any registration office in any proceedings connected

with the registration of any instrument executed by him in his official capacity pertaining to the business of such financing agency, institution or person in so far as it relates to matters provided under this Act, or to sign as provided in Section 58 of that Act.

(2) Where any instrument is so executed, the Registering Officer to whom such instrument is presented for registration, may, if he thinks fit, refer to such officer as is referred to in sub-section (1), for information in regard thereto, and on being satisfied of the execution thereof, shall register the instrument.

(3) Notwithstanding anything in the Registration Act, 1908 it shall not be necessary to register mortgages or instruments executed in favour of a financing agency or any institution or person referred to in Section 32, in respect of transactions made under this Act; where the financing agency or institution or person aforesaid sends within fourteen days from the date of execution of such instrument requiring registration, a copy thereof to the registering officer having jurisdiction who shall file such a copy in the book maintained under Section 51 of that Act.

CHAPTER VIII

Offences and Penalties

34. Penalties:—

(1) Whoever, voluntarily and without proper authority, does any of the following acts, that is to say:—

(a) damages, alters, enlarges, or obstructs any irrigation system:

(b) interferes with, increases, or diminishes the water supply in, or the flow of water from, through, over or under any irrigation system;

(c) being responsible for the maintenance of the irrigation system under a pipe outlet neglects to take proper precautions for the prevention of wastage of the water thereof or interferes with the authorised distribution of water therefrom or uses water in an unauthorised manner, or in such manner *as* to cause damage to the adjacent land holdings;

(d) corrupts or fouls, water of any irrigation system so as to render it less fit for the purposes for which it is ordinarily used;

(e) obstructs or removes any level marks or water guage or any other marks or sign fixed by the authority or public servant;

(f) opens, shuts, or obstructs or attempts to open, shut or obstruct any sluice or outlet or any other similar contrivance in any irrigation system; (g) uses water unlawfully or unauthorisedly or agrees or allows to grow any crop in contravention of any notification under this Act; shall be liable for conviction before a Magistrate.

(2) Any person who is convicted for the offences under sub-sec (1) shall—

(i) for the first offence, be punished with fine which may extend to five hundred rupees;

(ii) for a second or subsequent offence, be punished with imprisonment for a term which may extend to three months or with fine which shall not be less than two hundred rupees, but may extend to one thousand rupees or with both.

(3) Whoever contravenes any of the provisions of Section 8 or Section 9 or Section 10 shall be liable for conviction before a Magistrate and shall be punished with a fine which may extend to five hundred rupees.

(4) In case of continuing offence, a fine not exceeding fifty rupees per day shall be imposed during the period of continuance of the offence.

35. Abetment of offences:—

Whoever abets any offence punishable by or under this Act or attempts to commit any such offence, shall be punished with the penalty provided by or under this Act for committing such offence.

36. Punishment under other laws not barred:—

Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act or omission made punishable by or under this Act;

Provided that no person shall be prosecuted and punished for the same offence more than once.

37. Summary disposal of cases:—

(1) Notwithstanding anything in the Code of Criminal Procedure, 1973, an offence punishable under this Act may also be tried summarily under the provisions of Chapter XXI of the said Code;

Provided that no sentence of imprisonment for a term exceeding three months shall be passed in any such case tried summarily.

(2) All offences under this Act shall be cognizable but bailable in the manner provided by the Code of Criminal Procedure, 1973.

38. Power to remove and take into custody person obstructing:— Any officer or authority in-charge of, or employed on any irrigation system may, remove from the land or any building thereon, or take into custody without a warrant and forthwith hand-over to a police officer in-charge of the nearest police station, any person who within his view-

(a) wilfully damages, alters, enlarges, or obstructs any irrigation system; or

(b) without proper authority, interferes with the supply or flow of water, in or from any irrigation system so as to endanger, damage or render less useful such irrigation system:

Provided that every such person taken into custody shall be produced before the nearest Magistrate within a period of twenty-four hours of such custody excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

39. Payment of rewards to informants:—

(1) Whenever any fine is imposed for an offence under this Act, the Court which imposes such fine or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of reward to any person who gave information leading to the detection of such offence or to the conviction of the offender.

(2) If any such fine is ordered to be paid as reward by a Court whose decision is subject to appeal the amount ordered to be so paid, shall not be paid until the period prescribed for presentation of the appeal has elapsed, or if an appeal is preferred, until after the disposal of the appeal.

40. Composition of offences:—

(1) Any Irrigation Officer may accept from any person 'who committed or in respect of whom a reasonable belief can be inferred that he has committed an offence punishable under this Act or the rules made thereunder, a sum of money not exceeding two hundred rupees, by way of composition for such offence.

(2) On payment of such sum of money, the said person, if in custody, shall be discharged and no further proceedings shall be taken against him in regard to the offence, so compounded.

CHAPTER IX

Miscellaneous

41. Obligation of landholders of land adjacent to notified command area:—

Where, for safety of an irrigation system in the notified command area and for other technical reasons, it is considered necessary to take any soil conservation measures, like contour bunding and trenching, in lands adjacent to the lands under the notified command area, the Land Development Officer shall have and exercise all the powers under the Andhra Pradesh (Andhra Area) Land Improvement Schemes (Contour Bunding and Contour Trenching) Act, 1949 and the Andhra Pradesh (Telangana Area) Land Improvement Act, 1953, or any other similar law for the time being in force in respect of soil conservation measures required to be taken therein.

42. Recovery of dues as arrears of land revenue:—

(1) Whenever any sum is due to be paid by any person under this Act and the sum has not been paid within the time specified for such payment, it shall be recoverable with interest at such rate as may be prescribed, as an areas of land revenue.

43. Bar of jurisdiction of Civil Courts:—

No order passed or proceeding taken by an officer or authority under this Act shall be called in question in any Court, in any suit or application and no injunction shall be granted by any Court in respect of any action taken or about to be taken by such officer or authority in pursuance of any power conferred by or under this Act.

(2) No suit prosecution or other proceedings shall lie against any officer or servant of the Government for any act done or purported to be done under this Act, without the previous sanction of the Government.

(3) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of execution of duties or the discharge of the functions imposed by or under this Act.

(4) Save as otherwise provided in this Act no suit shall be instituted against the Government in respect of any act done unless the suit is instituted within six months from the date of the act complained of.

44. Power to summon and examine witnesses:—

Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with summoning and examining of the witnesses and the production of documents as are conferred on a Civil Court under the Code of Civil Procedure, 1908 and any such inquiry shall be deemed to be a judicial proceeding.

45. Revision by the Commissioner:—

The Commissioner may either *suo motu* at any time or on an application made to him within the prescribed period by any person interested, shall call for an examine the record relating to any decision or order passed or proceeding taken by any authority, or officer subordinate to him under this Act for the purpose of satisfying himself as to the legality or propriety of such decision or order or as to the regularity of such proceeding and if, in any case, it appears to him that any decision, order or proceeding should be modified, annulled, reversed or remitted for reconsideration, he may pass order accordingly:

Provided that no order adversely affecting any person shall be passed under this sub-section unless such person has been given an opportunity of making a representation.

(2) The Commissioner may stay the execution of any such decision, order or proceeding pending the exercise of his powers under sub-section (1) in respect thereof.

46. Power of revision by Government:—

(1) The Government may either *suomotu* or on an application made to them, call for and examine the record relating to any decision or order passed by the Commissioner under this Act, for the purpose of satisfying themselves as to the legality, regularity or propriety of such decision or order and if in any case, it appears to them that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass order accordingly :

Provided that no application for the revision of any such decision or order shall be entertained after the expiry of sixty days from the date of such decision or order:

Provided further that the Government shall not pass any order adversely affecting any person unless such person has had an opportunity of making a representation.

(2) The Government may stay the execution of such decision or order pending the exercise of their power under sub-section (1) in respect thereof.

47. Power to make rules:—

(1) The Government may, by notification, make rules to carry out all or any of the purposes of this Act.

(2) Every rules made under this Act, shall immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if,

before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled, 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.

(3) Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees or with both:

Provided that no prosecution under this sub-section shall be instituted without the previous sanction of the District Collector.

48. Act to override other laws:—

the provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom, usage or contract or decree or order of a Court or other authority.

49. Power to remove difficulties:—

(1) If any difficulty arises in giving effect to any provision of this Act, the Government may, by notification, make such provisions not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such notification shall be issued under this section after the expiry of two years from the date of commencement of this Act.

(2) Every notification issued under this section shall be laid before each House of the State Legislature and the provisions of sub-section (2) of Section 47 shall apply in respect of such notification as it applies in respect of a rule made under this Act.

50. Savings in respect of Ad hoc Command Area Development Authority:—

(1) A Command Area Development Authority constituted for any command area or command areas, before the commencement of this Act, under ¹[any law for the time being in force] (hereinafter in this section referred to as "Ad hoc Command Area Development Authority") shall cease to exist on the date on which a Command Area Development Authority is duly constituted for such command area or command areas in accordance with the provisions of this Act.

(2) All things done or other action taken by an Ad hoc Command Area Development Authority shall be deemed to have been done or taken by the Command Area Development Authority constituted in its place under this Act and all assets vested in-, and all liabilities subsisting against an Ad hoc Command Area Development Authority on that date, shall devolve on the Command Area Development Authority constituted in its place under this Act.

51. Repeal of Ordinance 32 of 1983:—

The Andhra Pradesh Irrigation Utilisation and Command Area Development Ordinance, 1983 is hereby repealed.

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1. Subs. by Act 1 of 1993 (w.e.f. 14-1-1984).

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