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Rajasthan Lake Development Authority Bill, 2012

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THE RAJASTHAN LAKE DEVELOPMENT AUTHORITY BILL, 2012

A

Bill

to provide for the establishment of an Authority for the purposes of protection, conservation, restoration, regeneration and integrated development of lakes situated in urban areas and peri-urban areas of the State and to provide for the matters connected therewith and ancillary thereto.

Be it enacted by the Rajasthan State Legislature in the Sixty-third Year of the Republic of India, as follows:-

CHAPTER- I

Preliminary

1. Short title, extent and commencement.-(1) This Act may be called the Rajasthan Lake Development Authority Act, 2012.

(2) It shall extend to all urban and peri-urban areas of the State.

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

2. Definitions.-In this Act, unless the context otherwise requires,-

(i) "Authority" means the Rajasthan Lake Development Authority established under section 3;

(ii) "Chairman" means the Chairman of the Authority;

(iii) "Chief Executive Officer" means the Chief Executive Officer of the Authority appointed as such by the State Government under section 8;

(iv) "Committee" means the Committee constituted under section 9;

(v) "Fund" means the Rajasthan Lake Development Authority Fund constituted under section 16;

(vi) "lake" means a water body, whether natural or man made, having submerged area at Full Tank Level not less than ten hectares and maximum depth not less than three meters and in exceptional cases of socio-cultural and religious importance water bodies having submerged area at Full tank Level not less than three hectares;

(vii) "peri-urban area" means an area adjacent to the urban area which may be notified by the State Government as peri urban area for the purposes of this Act;

(viii) "prescribed" means prescribed by rules made under this Act;

(ix) "regulations" means the regulations made by the Authority under this Act;

(x) "rules" means the rules made by the State Government under this Act;

(xi) "State" means the State of Rajasthan;

(xii) "urban area" means an area falling within Jaipur region as defined in clause (8) of section 2 of the Jaipur Development Authority Act, 1982 (Act No. 25 of 1982), Jodhpur region as defined in clause (8) of section 2 of the Jodhpur Development

Authority Act, 2009 (Act No. 2 of 2009), a municipal area as defined in clause (xxxix) of section 2 of the Rajasthan Municipalities Act, 2009 (Act No. 18 of 2009) or an area specified in a notification issued under section 3 of the Rajasthan Urban Improvement Act, 1959 (Act No. 35 of 1959);

(xiii) "Urban Local Authorities" means the Jaipur Development Authority constituted under the Jaipur Development Authority Act, 1982 (Act No.25 of 1982), the Jodhpur Development Authority constituted under the Jodhpur Development Authority Act, 2009 (Act No. 2 of 2009), any Urban Improvement Trust constituted under the Rajasthan Urban Improvement Act, 1959 (Act No.35 of 1959), any Municipality constituted under the Rajasthan Municipalities Act, 2009 (Act No. 18 of 2009);

(xiv) "Voluntary Agencies" means Non-profit making Organizations, Institutions, Public Trusts or Companies registered under any law for the time being in force.

CHAPTER- II

Establishment and Constitution of the Authority

3. Establishment of the Rajasthan Lake Development Authority.-(1) As soon as may be, after the commencement of this Act, the State Government shall, by notification in the *Official Gazette*, establish for the purposes of this Act, an Authority to be known as "the Rajasthan Lake Development Authority ".

(2) The Authority shall be a body corporate by the name aforesaid 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 may sue or be sued by its corporate name aforesaid.

4. Constitution of the Rajasthan Lake Development Authority.-(1) The Authority shall consist of the following members, namely:-

- (i) Chairman, who shall be the Minister, Local Self Government Department, Government of Rajasthan
- (ii) Vice-Chairman, who shall be the Chief Secretary, Government of Rajasthan
- (iii) Secretary-In-charge, Local Self Government Department, GoR
- (iv) Secretary-In-charge, Urban Development and Housing Department, GoR
- (v) Secretary-In-charge, Environment Department, GoR
- (vi) Secretary-In-charge, Finance Department, GoR
- (vii) Secretary-In-charge, Forest Department, GoR

- (viii) Secretary-In-charge, Planning Department, GoR
- (ix) Secretary-In-charge, Art and Culture Department, GoR
- (x) Secretary-In-charge, Tourism Department, GoR
- (xi) Secretary-In-charge, Water Resources Department, GoR
- (xii) Secretary-In-charge, Fisheries Department, GoR
- (xiii) Secretary-In-charge, Rural Development Department, GoR
- (xiv) Six members from amongst the Chairpersons of the Urban Local Authorities to be nominated by the State Government
- (xv) Three persons being expert in related fields to be nominated by the State Government
- (xvi) Chief Executive Officer- As appointed by Government of Rajasthan as Member Secretary
- (xvii) An officer of Accounts Services of selection/ super time scale, appointed by Government of Rajasthan

(2) The Chairman of the Authority shall supervise and control all the activities on behalf of the Authority and shall exercise such powers and perform such duties as are conferred on him under this Act and exercise such other powers and perform such other duties as the Authority may, by regulations, from time to time determine.

(3) The Vice-chairman shall exercise such powers and perform such duties as the Chairman of the Authority may, by order, delegate to him and shall, during the absence of the Chairman, perform the functions and exercise the powers of the Chairman.

(4) The quorum for the meeting of the Authority shall be of minimum of fourteen members.

(5) The non-official members shall receive such allowances for meeting the personal expenditure in attending the meetings of the Authority or any committee or body thereof or in performing any other functions as members, as may be prescribed.

(6) Where a person becomes or is nominated as a member of the Authority by virtue of holding any office of any urban local authority or any other authority, Corporation, Council, Board or body, whether incorporated or not, he shall cease to be a member of the Authority as soon as he ceases to be holder of that office.

(7) A member of the Authority, other than *ex officio* members, may, at any time by writing under his hand addressed to the Chairman, resign his office but shall continue as member until his resignation is accepted by the Chairman.

(8) The term of the non-official members of the Authority shall be for a period of

two years:

Provided that in the event of the office of any aforesaid member becoming vacant by reason of death, removal, resignation or otherwise, the vacancy shall be filled up by fresh nomination

5. Functions of the Authority.-(1) The Authority shall discharge the following functions, namely:-

(i) to prepare plans, projects or schemes for protection, conservation, restoration, regeneration and integrated development of such lakes situated in urban areas or peri-urban areas, as may be notified by the State Government from time to time;

(ii) to implement plans, projects or scheme;

(iii) to advise the State Government on issues relating to protection, conservation restoration, regeneration and integrated development of the lakes situated in urban areas or peri-urban areas.

(2) The Authority shall also discharge such other functions as may be assigned to it by the State Government from time to time or which are essential for carrying out the purposes of this Act.

6. Meetings of the Authority.-(1) The Authority shall meet at least once in six months at such place and at such time as the Chairman may decide, and shall observe such rules of procedure in regard to the transaction of business at its meeting, including the quorum thereat, as may prescribed.

(2) The Chairman or in his absence, the Vice-chairman shall preside at every meeting of the Authority. If for any reason both the Chairman and the Vice-chairman are unable to attend any meeting, any other member of the Authority, elected by the members thereof, present at the meeting, shall preside.

7. Cessation of membership.-(1) A member of the Authority, who has or has acquired, directly or indirectly, any share or pecuniary or other interest in any contract, loan, arrangement or proposal entered into, or proposed to be entered into, by or on behalf of the Authority shall cease to be a member of the Authority:

Provided that a member shall not be deemed to have any such share or interest, by reason only of his being a share holder of a public limited company in any such contract, loan, arrangement or proposal or that he himself or any relation of his, is employed by or on behalf of the Authority or he has such share or interest in his capacity as a member of the Authority, or his property, or any property in which he has a share or interest, is or is being acquired or taken on lease by or on behalf of the Authority by agreement or according to any law for the time being in force.

(2) If any question arises whether a member of the Authority has become subject to the disqualifications mentioned in sub-section (1), the question shall be referred for the decision of the State Government and its decision thereon shall be final.

8. Staff of the Authority.-(1) The State Government may appoint two suitable persons respectively as the Chief Executive Officer and the Chief Accounts Officer of the

Authority who shall exercise such powers and perform such duties as may be prescribed or delegated to them by the Authority.

(2) Subject to such control and restrictions as may be prescribed by rules, the Authority may appoint such number of other officers and employees (including experts for technical work) as may be necessary for the efficient performance of its functions and may determine their designations and grades. The strength of the cadre and other facilities of the staff will regulate with the concurrence of the State Government.

(3) The Chief Executive Officer, Chief Accounts Officer and other officers and employees of the Authority shall be entitled to receive from the Fund such salaries and such allowances and shall be governed by such conditions of service as may be determined by regulations made in this behalf.

9. Constitution of Committees.-(1) The Authority may constitute Committees consisting wholly of members of such Authority or partly of members of such Authority and partly of other persons in such manner and for such purposes and functions as may be specified by the Authority by regulations.

(2) The Committees constituted under this section shall meet at such place and at such time, and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations.

(3) The members of a Committee (other than the members of the Authority) shall be paid such fees and allowances for attending its meetings and for attending to any other work of the Authority, as may be determined by regulations made in this behalf.

10 Act not be invalidated by vacancy, infirmity, etc.- No act done or proceedings taken under this Act by the Authority or a Committee appointed by the Authority, shall be invalidated merely on the grounds of ,-

(a) any vacancy of a member or any defect in the constitution or reconstitution of the Authority or a Committee thereof ; or

(b) any defect or irregularity in the appointment of a person as member of the Authority or of a Committee thereof ; or

(c) any defect or irregularity in such act or proceedings, not affecting the substance.

11. Authentication of orders, etc.-All proceedings of the Authority and Committees shall be authenticated by the signatures of the Chairman of the Authority or, as the case may be, the Committee or of any member thereof authorized by the Chairman in this behalf and all other orders and instruments of the Authority shall be authenticated any other officer of the Authority authorized by regulations made in this behalf.

12. Provision for inviting Government and Local Authority Officers to assist or advice.- The Authority may invite any officer of the State Government or urban local authority or other authority or any person to attend its meeting or meetings as a special or permanent invitee for the purpose of assisting or advising it on any matter or matters. The officers or the persons so invited may take part in the proceedings but shall not have right

to vote.

13. Powers of the Authority to give directions.- (1) Notwithstanding anything contained in any other law for the time being in force, the Authority may give such directions to any urban local authority or other authority or any person, with regard to the implementation of any plan or project or scheme to be implemented under section 16, as it thinks fit and any such urban local authority or other authority or any person shall be bound to comply with such directions.

(2) Where any direction is given to any urban local authority, other authority or person under sub-section (1), such authority or person may, within fifteen days from the date of receipt of such direction, appeal to the State Government against such direction, and the decision of the State Government thereon shall be final.

CHAPTER- III

Plans, Projects or Schemes

14. Preparation of plans, projects or schemes.- The Authority may, with a view to carrying out its functions under section 5, prepare plans, projects or schemes which may *inter alia* provide for -

(i) restoration of surface water by promoting and undertaking efforts for integrated interventions and operational convergence in related sectors;

(ii) assessment of pollution level of the lakes and to incorporate remedial measures;

(iii) diverting or treating sewage to generate alternative sources of raw water and prevent contamination of lake water including underground aquifers from waste water;

(iv) environmental planning and Global Information System mapping of lakes and surrounding areas to prepare Database and Atlas of lakes including their catchment and prepare master plan for the integrated development of lakes;

(v) improving and creating habitat (wet lands) for aquatic biodiversity including water birds and wild plants and to reduce sillage and non point water impacts;

(vi) improving urban sanitation and health conditions especially of the weaker section living close to the lakes;

(vii) impounding run-off water through rain water harvesting to reduce siltation of lakes through appropriate soil and water conservation measures including afforestation and to augment recharge of ground water aquifers;

(viii) monitoring and managing water quality and lake ecology by protecting them against environmental degradation due to domestic and industrial pollution;

(ix) utilizing the lakes for the purpose of education and tourism;

(x) launching public awareness programme for lake conservation and encouraging participation of communities and voluntary agencies therein; ;

(xi) promoting integrated and coordinated applied research on all the relevant issues pertaining to the lakes;

(xii) such other things as may be determined by the Authority.

15. Implementation of plans, projects or schemes.- After preparation of the plans, projects or schemes under section 14, the Authority may seek funding from Government of India or State Government or any other agency on such terms and condition as it may determine. The Authority may proceed further to implement them itself or through or in collaboration with any urban local authority or any department or any voluntary agency on such terms and conditions as it may determine.

CHAPTER-IV

Finance, Budget and Accounts

16. Funds of the Authority.-(1) The State Government shall constitute a fund to be known as the Rajasthan Lake Development Fund to which shall be credited all moneys received by the Authority, including -

- (a) such amount of contribution to be made by the State Government yearly or in such installments in each year as it may determine in accordance with the schemes included in the State Plan and under appropriation duly made in this behalf, which contribution shall be utilized by the Authority for the development of Lakes;
- (b) contribution to be made by the State Government in the first instance of a sum equivalent to rupees ten crore;
- (c) such other moneys as may be paid to the Authority by the State Government, Central Government or any other authority or agency by way of grants, loans, advances or otherwise;
- (d) all moneys borrowed by the Authority including loans to be raised from the financing institutions;
- (e) all moneys received by the Authority by way of rents and profits or in any other manner or from any other source ; and
- (f) all donations received by the Authority.

(2) The Authority may keep in saving or deposit account with any Scheduled Bank or any Co-operative or other Bank approved by the State Government in this behalf, such sum of money out of its Fund as may be determined by the Authority and any money in excess of the said sum shall be invested in such manner as may be determined by regulations.

(3) Such accounts shall be operated by the Chief Accounts Officer of the

Authority or by such other officer of the Authority as may be authorized by it by regulations.

17. Application of Funds etc.- All property, funds and other assets vesting in the Authority shall be held and applied by it for the purposes and subject to the provisions of this Act and not otherwise.

18. Power of the Authority to borrow.- The Authority may, with the previous approval of the State Government, borrow any money for carrying out the purpose of this Act or for servicing any loan obtained by it, at such rates and on such conditions as the State Government may determine at the time money is borrowed.

19. Accounts and Audit.- (1) The Authority shall keep accounts in such form and in such manner, as may be prescribed.

(2) The accounts of the Authority shall be subject to audit by the Examiner, Local Fund Audit in accordance with the provisions of the Rajasthan Local Fund Audit Act, 1954 (Act No. XXVIII of 1954).

(3) The Authority shall pay from the Fund such charges for the audit, as may be prescribed.

20. Budget.- (1) The Chief Accounts Officer of the Authority shall prepare, every year, in such form and at such time as may be prescribed, an annual budget estimate in respect of the financial year next ensuing, showing the estimated receipts and disbursements of the Authority and put up before the Chief Executive Officer who shall after making such modifications as he deems fit, submit it to the Authority for approval.

(2) The Chief Executive Officer shall forward to the State Government copies of the budget approved by the Authority.

21. Annual Report.- The Authority shall prepare after the end of each financial year, a report of its activities during the previous year and submit it to the State Government before the 30th day of September. The State Government shall cause such annual report including the statement of accounts to be laid before the State Legislature.

CHAPTER – V

Miscellaneous

22. Notice of suit against Authority.- (1) No suit shall be instituted against the Authority or any member thereof or any of its officers or other employees or any person acting under the directions of the Authority or any member or any officer or other employee of any Committee in respect of any act done or purporting to have been done in pursuance of this Act or any order, rule or regulation made thereunder till the expiration of two months from the date on which notice in writing has been left at the office or place of abode of the persons to be sued and unless such notice states explicitly the cause of action, the nature of relief sought, the amount of compensation claimed and the name and place of residence of the intending plaintiff and unless the plaint contains a statement that such notice has been left or delivered.

(2) No suit such as is described in sub-section (1) shall, unless it is a suit for recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of one year from the date on which the cause of action arises.

(3) Nothing contained in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by giving of the notice or the postponement of the institution of the suit.

23. Power of entry.- It shall be lawful for the Chairman and members of Authority and any Committee thereof, the Chief Executive Officer and other officers and employees of the Authority authorized by him in this behalf to enter, for any purpose of this Act or any rule or regulations made thereunder between sunrise and sunset with such assistants as he may deem necessary, into and upon any building or land:

Provided that no building or land which may be occupied at the time shall be entered, except with the consent of the occupier thereof, twenty-four hours written notice having been given to the occupier:

Provided further that, in the case of buildings used as human dwellings, due regard shall be had to the social and religious customs of the occupiers.

24. Officers and other employees of the Authority to be public servants.— Every officer and other employees of the Authority and every member of the Authority and Committees thereof constituted under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. XLV of 1860).

25. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall be maintainable against the Authority or any person acting under the direction of the Authority or the Chairman, member or any officer or servant of the Authority and committees thereof in respect of anything lawfully and in good faith and with due care and attention done under this Act.

26. Control by State Government.-(1) The Authority shall exercise its powers and perform its duties under this Act in accordance with the policy framed and the guidelines laid down, from time to time by the State Government for development of the areas of lakes specified by the State Government.

(2) The Authority shall be bound to comply with such directions which may be issued, from time to time, by the State Government for efficient administration of this Act.

(3) If, in connection with the exercise of the powers and the performance of the duties of the Authority under this Act, any dispute, arises between the Authority and the State Government, the matter shall be decided by the State Government and its decision shall be final.

27. Power of Authority to call for information.-The Authority shall have power to call for any information from any urban local authority or other authority, or from any person which is required by it in the exercise of its powers and the performance of its duties under this Act or under any other law for the time being in force, and such authority or person shall be bound to furnish such information.

28. Delegation of powers .-(1) The State Government may, by notification in the *Official Gazette*, delegate to any officer subordinate to it all or any powers conferred on it by or under this Act, other than the power to make rules.

(2) The Authority may, by a resolution, delegate any of its powers and functions exercisable by it under this Act or regulations thereunder, except the power to make regulations, to any officer of the Government, any urban local authority or other authority or body functioning in areas of lakes or any officer subordinate to it, subject to such conditions and restrictions as may be specified in the resolution:

Provided that the delegation of powers and functions under this sub-section to any officer of the State Government, urban local authority or other authority or body shall be made with the consent of the State Government or authority or body.

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

(2) All rules made under this section shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days, which may comprise in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

30. Power to make regulations.-(1) Subject to the other provisions of this Act and the rules made thereunder, the Authority may, from time to time, make regulations for all or any of the matters to be provided under this Act by regulations and generally for all other matters for which provision is, in the opinion of the Authority, necessary for the exercise of its powers and the discharge of its functions and duties under this Act.

(2) No regulation made by the Authority under sub-section (1) shall take effect unless it is published in the *Official Gazette*.

(3) The State Government may, at any time by notification in the *Official Gazette* repeal wholly or in part or modify any regulation made by the Authority provided that, before taking any action under this sub-section, the State Government shall communicate to the Authority the grounds on which it proposes to do so, fix a reasonable period for the Authority to show cause against the proposal and consider the explanation and objections, if any, of the Authority.

(4) The repeal or modification of any regulation shall take effect from the date of publication of the notification in the *Official Gazette*, if no date is therein specified, and shall not affect anything done or omitted or suffered before such date.

31. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for removing the difficulty:

Provided that no order under this section shall be made after expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is so made, before the House of the State Legislature.

32. Dissolution of the Authority.— (1) Where the State Government is satisfied that the purpose for which the Authority was established under this Act have been substantially achieved so as to render the continued existence of the Authority in the opinion of the State Government unnecessary, the Government may, by notification in the Official Gazette, declare that the Authority shall be dissolved with effect from such date as may be specified in the notification; and the Authority shall be deemed to be dissolved accordingly.

(2) From the said date -

- (a) all assets, properties, funds and dues which are vested in, or realisable by the Authority shall vest in, or be realisable by the State Government ;
- (b) all land vesting in, belonging to or placed at the disposal of the Authority shall revert to the State Government ;
- (c) all liabilities which are enforceable against the Authority shall be enforceable against the State Government ; and
- (d) for the purpose of carrying out any development which has not been fully carried out by the Authority and for the purpose of realising assets, properties, funds and dues referred to in clause (a) the functions of the Authority shall be discharged by the State Government.

33. Application of other laws. - The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

Whereas, for lakes situated in urban / peri-urban areas of Rajasthan the necessity is being increasingly felt for forming and for setting up of an Authority for the purposes of protection, conservation, restoration, regeneration and integrated development of lakes whether natural or man-made and supervising the proper, orderly development and conservation and of executing plans, projects and schemes for such development, in which several government departments, local authorities and other organizations are at present engaged within their own jurisdictions; to provide also that such Authority be enabled either itself or through other authority to formulate and execute plans, projects and schemes for protection, conservation, reclamation, restoration, regeneration and integrated development of lakes. The proposed bill, *interalia*, provides for constitution of the Rajasthan State Lake Development Authority, its functions, fund, schemes, projects and plans to be prepared and implemented by the Authority and control by the State Government.

The Bill seeks to achieve the aforesaid objects.

Hence the Bill.

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Minister Incharge.