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PART-V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 4th March, 2010 by Shri Sabirbhai Khedavala M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 8 OF 2010.

THE GUJARAT EMPLOYMENT GUARANTEE Bill, 2010.

A BILL

to make effective provision for securing the right to work by guaranteeing employment to all persons who volunteer to do skill or unskilled work in the State of Gujarat.

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

1. (1) This Act may be called the Gujarat Employment Guarantee Act, 2010.

Short title,
extent and
commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force from the 1st of April, 2010,

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

(a) "adult person" means a person who has attained the age of eighteen years ;

(b) "the Committee" means the District Employment Guarantee Committee constituted under section 5;

(c) "the Controller" means the Controller of Unemployment appointed under section 6;

(d) "the Council" means the Gujarat State Employment Guarantee Council constituted under section 4;

(e) "implementing agency" includes any department of the State Government, local body or the State Government undertaking which is entrusted by the State Government with the task of implementing any works taken up under the scheme.

(f) "implementing officer" means the officer appointed by the implementing agency in consultation with the Controller to perform any of the powers or the duties of the implementing agency;

(g) "local areas" means the area falling within the jurisdiction of a local body;

(h) "local body" means a municipal corporation, a municipality, a panchayat or a cantonment established under any law for the time being in force;

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

(j) "scheme" means the Employment Guarantee Scheme prepared and published under section 7 for the time being in force.

Guarantee of employment to adult persons.

3. Every adult person in the State of Gujarat shall have a right to work, that is, a right to get guaranteed employment for doing skilled or unskilled work, as the case may be, and to receive wages therefore in accordance with provisions of this Act and the scheme made thereunder.

Explanation.—A work shall be regarded as unskilled, if any adult person, without any special training, can normally be expected to do it and which, is so classified in the Scheme.

State Council and its functions.

4. (1) For the purposes of having a periodical review and supervision of the implementation of this Act, there shall be a Council to be called the Gujarat State Employment Guarantee Council. The State Government shall appoint the Chairman and other members of the Council. The number of other members of the Council shall not exceed thirtyone, of whom at least, three members shall be appointed from members belonging to the Scheduled Castes, three members from the Scheduled Tribes and three members from women.

(2) The other function of the Council shall be to advise the State Government on all matters concerning this Act and the scheme and their implementation.

(3) The Council shall be competent to undertake an evaluation of the scheme and for this purpose collect or cause to be collected statistics pertaining to the economy of Gujarat in general and the socio-economic conditions of the people, and the implementation of the scheme in particular.

(4) It shall also be competent for the Council to recommend to the State Government the appointment of one or more Study Groups for undertaking a study of specific questions and problems connected with the implementation of this Act and the scheme.

(5) The Council shall co-ordinate the working of the district employment guarantee committees.

5. (1) The State Government shall constitute a District Employment Guarantee Committee in every district. Each Committee shall consist of *ex-officio* and nominated members by the State Government as under :—

Committees
and their
functions.

(A) *Ex-officio members*

- (i) A Commissioner of Municipal Corporation, if any, in the district;
- (ii) Presidents of municipalities in the district;
- (iii) President and Vice-President of the District Panchayat;
- (iv) Presidents of Taluka Panchayats in the district;
- (v) Collector of the district.

(B) *Nominated members*

- (i) Three members to be nominated from persons associated with Small Scale Industries in the district;
- (ii) two members to be nominated who, in the opinion of the State Government are expert in industrial management;
- (iii) two members from the labour leaders;
- (iv) two members from any registered union of the agricultural labourers;
- (v) two members from Adivasis, if the area is predominantly the area of Adivasi;
- (vi) two members from the persons belonging to backward classes;
- (vii) two members from the women.

(2) The term of nominated members shall be of three years.

(3) The Chairman of every such Committee shall be appointed from the non-official members thereof.

(4) This Committee shall, within their respective jurisdiction supervise and review the implementation of the scheme from time to time and shall suggest to the State Government and the Council such steps as in their opinion, are necessary for the more effective implementation of this Act.

(5) The Committee shall co-ordinate the working of the implementing agencies in the district.

Controller of
employment
and his
functions.

6. (1) The Government shall appoint a Controller of Employment for every district.

(2) The Controller shall be responsible for the implementation of the provisions of this Act and for this purpose all other officers of the State Government and the local bodies in the district shall be responsible to the Controller.

Preparation
and publi-
cation of
scheme.

7. (1) For the purpose of giving effect to the Employment Guarantee scheme as mentioned in section 3, the State Government shall prepare and publish scheme for providing employment to all adult persons who volunteer to do skilled or unskilled work, subject to the conditions laid down by or under this Act or in the scheme.

(2) Every Controller shall be asked to prepare blue print of the works to be taken up under the scheme in the district.

(3) The Controller shall place the blue print for approval before the Committee which shall give its approval after taking into consideration the views of the implementing agencies in the district.

(4) The scheme shall be prepared and published in such manner and contain such details as may be prescribed.

Registration,

8. The Controller shall constitute Registering Authorities in the district for registration of names and addresses of unemployed persons who volunteer to work. The places of registration of names shall be within the proximity of 10 Kms. of every person. The registering authorities shall function in such manner as may be prescribed.

Conditions
applicable
for guaran-
teed emp-
loyment to
able bodied
persons.

9. (1) Every unemployed adult person who is residing in any local area within the State and willing to do any skilled or unskilled work may get his name and address registered with an authority constituted under Section 8. The registering authority shall register the name and address of such persons after making such inquiry as it deems fit. The registration shall be for such period as may be fixed by the State Government and may be renewed from time to time. The registering authority, if satisfied, that any person has got himself registered by making a false declaration of his age, may after giving reasonable opportunity to the person concerned of being heard, delete his name from the register.

(2) Where there is no able bodied adult member in a family, a minor member of such family who has attained the age of 15 years shall be deemed to be an adult person for the purposes of this Act and shall be entitled to get registered his name and address with the registering authority and shall be entitled to get work or unemployment allowance in lieu thereof.

Explanation.—For the purpose of this sub-section the expression 'family' means a husband, wife, father, mother, brother, sister, son and daughter residing together.

(3) Every registered person shall be entitled to be provided with employment within fifteen days from the date of registration. The employment to be provided shall be, as far as possible, within the local area in which he resides, and it shall be suitable to him looking to his educational qualifications, experience and physical condition.

(4) If within fifteen days from the date of registration of a person the State Government is unable to provide employment to him, he shall be entitled to receive from the Employment Guarantee Fund an unemployment allowance from the date of expiry of 15 days, at the rate of Rs. 45/- per day. The unemployment allowance shall be paid until any work is provided to him or till he refuses to do any work offered to him.

(5) The unemployment allowance to be paid to an unemployed person duly registered under sub-section (1) or (2) shall be sanctioned and paid by the authority empowered by the State Government in this behalf and for this purpose the State Government may prescribe such procedure as it deems fit.

(6) No person shall be entitled to any unemployment allowance under this Act if he does not accept employment provided to him or does not report for work within 7 days of being asked to do so or continuously remains absent from work without permission of the implementing officer for a continuous period of more than a week or remains absent from work for a total period of one week in any month.

10. (1) The State Government shall fix implementing agencies in every district in such manner as may be prescribed.

Implemen-
tation of the
scheme.

(2) The works sanctioned by the State Government under the scheme, prepared and published in accordance with section 7 for the district shall be distributed by the Controller among different implementing agencies in the district.

(3) Each implementing agency shall appoint implementing officers in consultation with the Controller for carrying out works entrusted to it and for performing such other functions as may be assigned to him by the implementing agency.

(4) The implementing officer shall, from time to time, obtain list of persons from the nearby registering authority for engaging them on the works to be carried out by the implementing agency.

(5) It shall be open for the implementing officer to direct, any unskilled person who volunteers for employment to do any type of manual work and to transfer him from one work to another.

Wages.

11. (1) The wages shall be paid according to the schedule of rates as may be prescribed from time to time.

(2) The rate shall be directly linked with the quality and quantity of work and as far as possible shall be equal to the rates of Wages given to similar workers in other industry or employment.

(3) For unskilled workers the rates shall be so fixed that a person working diligently for eight hours a day would normally get a total wage equal to the minimum wage prescribed, for agricultural labourer in the State, from time to time.

Penalty.

12. Any person,—

(a) who is in employment but gets his name registered under sub-section (1) or (2) of section 9 and draws unemployment allowance under sub-section (4) of that section, or

(b) who is in receipt of unemployment allowance under sub-section (4) of section 9 and accepts employment elsewhere but does not bring this fact to the notice of the registering authority concerned, and continues to draw unemployment allowance, shall on conviction, be punished with fine, upto twice the amount of unemployment allowance drawn in contravention of the provision of this Act.

Establishment of employment guarantee fund.

13. (1) On the date of commencement of this Act, the State Government shall constitute Fund to be called the Employment Guarantee Fund.

(2) There shall be credited in the Employment Guarantee Fund constituted under sub-section (1),—

(a) the entire amount of tax on professions, trades, callings and employments received during the previous financial year ;

(b) any contributions or grants made by the State Government, Central Government or any local body ;

(c) any sums received from other bodies or individuals whether incorporated or not.

(3) The amount standing to the credit of the Fund shall be expended in such manner and subject to such condition as may be prescribed for the purpose of implementing the scheme.

Delegation of powers.

14. The State Government may, by notification in the *Official Gazette*, direct that the powers exercisable by it under this Act except the power to make the scheme and the rules, shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by such, officer or officers subordinate to it as may be, specified in the notification.

15. (1) No suit, prosecution or other legal proceeding shall lie against the State Government or any authority or officer or body or person for anything which is in good faith done or omitted to be done in pursuance of this Act or the scheme or the rules made thereunder.

Protection
of action
taken in
good faith.

16. (1) The State Government may, by notification, in the *Official Gazette*, make rules to carry out all or any of the purposes of this Act.

Power to
make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

STATEMENT OF OBJECTS AND REASONS

The Government of West Bengal and Kerala have enacted legislations entitling unemployed persons to get unemployment allowance. The Government of Maharashtra has also taken steps in this direction. Even countries like U.S.A. and Britain have made provisions for giving unemployment allowance to unemployed persons. In socialist countries, the right to work has been recognised as one of the Fundamental Rights. In our Constitution, under Article 41 it has been *inter alia*, directed to make effective provision for securing the right to work in cases of unemployment. In the preamble of the Constitution also the word "Socialist" has been given place. Even Sixty one years after Independence the army of unemployed skilled and unskilled persons is over increasing. This situation spreads unrest in the minds of unemployed person like fire, and also mars the development of a person.

It is now high time that in the interest of social justice, the Government should take some positive and effective steps immediately to end this monstrous situation of unemployment. It is the need of the hour that no person should remain without food at the end of the day. No ornamental schemes are going to pacify the hungry person.

The demand of the hour is "Give employment to all adult persons or if unable to give employment, give unemployment allowance". Hence this Bill.

Dated the 15th February, 2010.

SABIRBHAI KHEDAVALA,

M. L. A.

FINANCIAL MEMORANDUM

Clause 13.—Sub-clause (1) provides for establishment and maintenance of Employment Guarantee Fund.

Sub-clause (2) provides for payment of an amount from the tax on professions, trades, callings and employments received during the previous financial year and any contribution or grants made by the State Government in the Employment Guarantee Fund.

These provisions involve expenditure from the Consolidated Fund of the State. As the exact involvement of the expenditure to be incurred by the State Government is difficult to assess, an estimate of recurring or non-recurring expenditure is not possible.

Dated the 15th February, 2010

SABIRBHAI KHEDAVALA

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of powers of legislative nature in the following respects, namely :—

Clause 4.—Sub-clause (1) of this clause empowers the State Government to appoint Chairman and members of the State Employment Guarantee Council.

Clause 5.—Sub-clause (1) of this clause empowers the State Government to constitute a District Employment Guarantee Committee in every District.

Clause 6.—Sub-clause (1) of this clause empowers the State Government to appoint a Controller of Employment.

Clause 7.—(i) Sub-clause (1) of this clause empowers the State Government to prepare and publish a scheme providing employment to all adult persons;

(ii) Sub-clause (4) of this clause empowers the State Government to prescribe the manner in which the scheme shall be prepared ;

Clause 8.—This clause empowers the State Government to prescribe the manners in which the Registering Authority shall function.

Sub-clause (5) of clause 9 empowers the State Government to prescribe the authority and the procedure for sanctioning and payment of unemployment allowance.

Clause 10.—Sub-clause (1) of this clause empowers the State Government to fix the implementing agencies and to prescribe the manner in which such agencies shall be fixed.

Clause 11.—Sub-clause (1) of this clause empowers the State Government to prescribe the rates of wages.

Clause 13.—Sub-clause (3) empowers the State Government to prescribe the manners and conditions in which the amount standing to the credit of the fund shall be expended.

Clause 14.—This clause empowers the State Government to delegate its powers to the officers subordinate to it.

Clause 16.—This clause empowers the State Government to make rules to carry out the purposes of the Act.

The delegation of power as aforesaid is necessary and of normal character.

Dated the 15th February, 2010

SABIRBHAI KHEDAVALA

M. L. A.

Gandhinagar.

Dated the 4th March, 2010.

D. M. PATEL,

Secretary,

Gujarat Legislative Assembly.

Government Central Press, Gandhinagar.