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PART-V

GOVERNMENT OF MEGHALAYA

MEGHALAYA LEGISLATIVE ASSEMBLY SECRETARIAT

NOTIFICATION

The 5th March, 2021.

No.LB.43/LA/2021/2.— The Meghalaya Local Fund (Audit) Bill, 2021 introduced in the Meghalaya Legislative Assembly on the 5th March, 2021 together with the Statement of Objects and Reasons is published under Rule 71 of the Rules of Procedure and Conduct of Business in the Meghalaya Legislative Assembly for general information.

MEGHALAYA LOCAL FUND (AUDIT) BILL, 2021
A
BILL

to provide for and to regulate the Audit of the Local Funds under the management or control of certain Local authorities in the State of Meghalaya.

Whereas it is expedient to provide for and to regulate the Audit of the Local Funds under the management or control of certain Local Authorities in the State of Meghalaya and for matters connected therein or incidental thereto;

Be it enacted by the Legislature of the State of Meghalaya in the Seventy Second Year of the Republic of India as follows:-

- Short title and commencement** 1. (1) This Act may be called the Meghalaya Local Fund (Audit) Act, 2021.
 (2) It extends to the whole of the State of Meghalaya.
 (3) It shall come into force from the date the State Government may by Notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:-
- (a) **"Audit"** includes Cent-per-cent Audit, Concurrent Audit, Post Audit, Pre-Audit, Special Audit and Test Audit;
- (i) **"Cent-per-cent Audit"** means an audit of accounts of the entire transactions for the whole year or for the period specified by the Director;
- (ii) **"Concurrent Audit"** means audit on the spot either simultaneously with or soon after the making of payment, withdrawal or adjustment out of a Local Fund;
- (iii) **"Post Audit"** means audit after making of payment, withdrawal or adjustment out of a Local Fund which is not Concurrent Audit but includes Cent-per-cent and Test Audit;
- (iv) **"Pre-Audit"** means audit before payment, withdrawal or adjustment out of a Local Fund;
- (v) **"Special Audit"** means an audit of accounts pertaining to a specified item or series of items requiring through examination;
- (vi) **"Test Audit"** means an audit of a certain period selected at random by the Director or any other authority empowered by him;
- (b) **"Auditor"** means the Director of Local Fund Audit and includes any other Officer of the Directorate of Local Fund Audit empowered by the Director to perform the functions of an Auditor under this Act;

- (c) **"Audit Report"** means the report sent under Section 10 of this Act and includes reports sent by the Auditor on conduct of Cent-per-cent Audit, Concurrent Audit, Special Audit, Test Audit of accounts of any institution for a specified period, included in the Schedule;
- (d) **"Director"** means the Director of Local Fund Audit and includes any person empowered by the Government to perform the functions of the Director of Local Fund Audit;
- (e) **"Executive Authority"** means the Principal Executive Officer of a Local Authority;
- (f) **"Local Authority"** shall mean a Municipal Board, Council, Corporation, Town Committee, Local Boards or any other authority legally entitled to or entrusted by the State Government with the control or management of a Municipal or Local Fund, and such other institutions, boards, agencies or bodies as also subsidiaries thereof constituted under any State Law which are in receipt of financial grant, subsidy, funds or financial assistance in any form from the Government;
- (g) **"Local Fund"** means-
- (i) a fund administered by a Local Authority which, though not part of a Government Department, has been established by or under a law or orders of the Government, and
- (ii) any other fund which the Government may, by Notification in the Gazette, declare to be a Local Fund for the purpose of this Act;
- (h) **"Prescribed"** means prescribed by rules made under this Act;
- (i) **"Schedule"** means the Schedule appended to the Meghalaya Local Fund Audit Rules;
- (j) **"State"** means the State of Meghalaya;
- (k) **"Surcharge"** means an amount for which the Auditor, in exercise of the powers vested in him under this Act, makes a person liable for loss, waste, misapplication or misappropriation of any money or other property belonging to any Local Authority.

Appointment of Director.

3. (1) The Government shall, by Notification in the Gazette, appoint a person, having such qualifications as may be prescribed to be the Director of Local Fund Audit in charge of the audit of accounts of a Local Authority or a Local Fund included in the Schedule.
- (2) The Government may appoint such other officers in the Directorate of Local Fund Audit to assist the Director in the exercise of his powers vested in him and to discharge his functions and duties under this Act.
- (3) All Officers and staff of the Directorate of Local Fund Audit shall be subordinate to the Director who shall have general superintendence and control over them in the performance of their functions under this Act or the Rules or Manual made there under.

Audit of Accounts.

4. (1) Notwithstanding anything contained in any other law for the time being in force but subject to the provisions of the Controller and Auditor General (Duties, Powers and Conditions of Service) Act, 1971 (Central Act 56 of 1971) the Director shall, in the manner provided by or under this Act, conduct the audit of accounts of a Local Authority or Local Fund as prescribed.

(2) Government may, by Notification in the Gazette and for reason to be specified therein, add any other authority, body, institution or Local Fund to the Schedule referred to in the Meghalaya Local Fund Audit Rules and on publication of the Notification, such authority, body, institution or Local Fund shall be deemed to be added to the Schedule.

(3) No authority, body, institution or Local Fund included in the Schedule referred to in the Rules shall be omitted there from except by the authority of a law made by the State Legislature.

Power of audit of accounts of certain authorities, bodies, institutions or funds not included in the Schedule.

5. The Director may, with the previous sanction of the Government and without prejudice to the provisions of sub-section (1) of Section 4, audit the accounts of any authority, body, institution or fund not included in the Schedule subject to such terms and conditions as may be agreed upon between the Director and the person responsible for the administration of such authority, body, institution or fund.

Audit of accounts of stock/ stores and verification of cash balance.

6. (1) The Auditor shall have authority to Audit and report on the accounts of stores/stock kept by a Local Authority as specified in the Schedule.
- (2) An Officer not below the rank of a Deputy Director shall have authority to make surprise inspection of the stock/stores kept by a Local Authority as specified in the Schedule.
- (3) The Director shall have authority to verify the cash balance of the fund at the time of audit and inspection.

Manner in which Audit is to be conducted.

7. The Auditor shall conduct the audit at such intervals as may be decided by the Director or, may conduct audit of such local authorities as are found necessary under the provisions of any law governing them or as may be decided by the Director in consultation with the State Government.

Auditor to be deemed to be public servant.

8. An Auditor when acting in pursuance to any of the provisions of this act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code 1860.

Liability of local authorities to prepare and present accounts for Audit.

9. (1) The accounts of a Local Authority or Local Fund included in the Schedule relating to a financial year shall be prepared or caused to be prepared by the Executive Authority, in such form and in such manner as may be prescribed, and presented for audit within four months after the close of that financial year.

(2) Where an Executive Authority makes default in the preparation and presentation of accounts for audit within the period specified

under sub-section (1), the Executive Authority shall be punishable, on conviction, with fine which may extend to ten thousand rupees but which shall not be less than five thousand rupees.

(3) No proceedings under sub-section (2) shall be taken by the Director without giving the person affected thereby an opportunity to show cause, within fifteen days as to why such proceedings should not be taken against him.

Issue of Audit Report.

10. Issue of Audit Report shall be made by the Auditor within six months from the date of completion of audit, failing which the officer responsible for the delay shall be liable to be proceeded against under the provisions of the Meghalaya Services (Discipline & Appeal) Rules, 2011.

Power of auditor to require production of accounts and attendance of persons.

11. (1) For the purpose of an Audit under this Act, an Auditor may:-
- (a) require in writing, the production at the place of audit such vouchers, statements, returns, correspondence, notes or any other documents for the perusal or examination of which he believes to be necessary for the elucidation of the accounts;
- (b) require in writing any employee of the Local Authority accountable for or having the custody or control of such vouchers, statements, returns, correspondences, notes or other documents or any person having directly or indirectly, any share or interest in any contract with or under the Local Authority to appear in person before him at the head office of that Local Authority or at the place of audit and answer any question and require any person so appearing to make and sign a declaration with respect to such document or to prepare and furnish any statement relating thereto; and
- (c) in the event of any explanation being required from any officer or member of a Local Authority, in writing invite such person and shall in writing, specify the points on which his explanation is required.
- (2) The Auditor may, in any requisition made under sub-section (1), fix a reasonable period of not less than three days within which the said requisition shall be complied with.
- (3) The Auditor shall give notice in writing to the Executive Authority of the institution concerned at least two weeks before the date on which he propose to commence the audit;
- Provided that the Auditor may, for special reasons to be recorded in writing, give notice shorter than two weeks or commence a special or detailed audit without notice, on the order of the Director.
- (4) The Auditor shall, in suitable cases, and if so required by Government, give public notice of the date and time of audit by publication in the notice board of the local authority to be audited and also in a newspaper in the local language having wide circulation in the area where it is situated and shall consider the objections, if any, made in writing by any person.

Penalty for disobeying requisition under Section 11.

12. Any person who willfully neglects or refuses to comply with any requisition lawfully made upon him under clause (a) or clause (b) of sub-section (1) Section 11 shall be punishable, on conviction, with a fine which may extend to one thousand rupees:

Provided that before proceedings are taken, the Director shall call upon the person against whom the proceeding are contemplated to show cause, within fifteen days as to why such proceeding should not be taken.

Audit Reports to be sent to certain officers and bodies as Government may direct.

13. As soon as practicable after the completion of the Audit, but not later than six months thereafter, the Auditor shall send to the Local Authority concerned a report on the accounts audited and examined by him and the copies of the report shall also be sent to such officers and such bodies as the Government may direct or as may be specified under the law governing that Local Authority.

Contents of Audit Report.

14. The Auditor shall include in the Audit Report a statement of-
- every payment which appears to him to be contrary to law;
 - the amount of any deficiency or loss which appears to have been caused by the negligence or misconduct of any person;
 - the cases of misappropriation or misutilisation of the Local Fund;
 - the amount, if any, received which is required to be brought into account but has not been brought into account by any person; and
 - any other material impropriety or irregularity which he observes in the accounts.

Procedure to be followed after getting the report of the Director under section 13.

15. (1) On receipt of a report under Section 13, the Executive Authority concerned shall either remedy the defects or irregularities which may have been pointed out in the report and send to the Director within three months of the receipt of the report or within such period as may be specified under the law governing the Local Authority, intimation of his having done so, or shall within the said period, supply to the Director any further explanation as he may wish to make in regard to the defects or irregularities.
- (2) On receipt of such intimation or explanation, the Auditor may, in respect of all or any of the matters discussed in his report:-
- accept the intimation or explanation and drop the objection;
 - or
 - hold that the defects or irregularities pointed out in the report or any of them have not been removed or remedied.
- (3) (a) The Auditor shall send a report of his decision to the Executive Authority concerned within two months from the date of receipt by him of the intimation or explanation referred in sub section (1) or if no such intimation or explanation is received, on the expiry of the period of two months mentioned in that sub-section.
- (b) If the Auditor holds that any defects or irregularities have not been removed or remedied he shall state in the report:-

(i) whether, in his opinion, the defects or irregularities can be regularised and, if so, by what method;

(ii) if they do not admit of being regularised, whether they can be condoned and, if so, by what authority; and

(iii) whether the amounts to which the defects or irregularities relate should, in his opinion, be charged and, if so, against whom.

(4) The Local Authority concerned shall publish in its next Annual Report such portions of the report under Section 13, dealing with defects and irregularities falling under clause (b) of sub-section (2) together with the explanation thereof, if any, given under sub-section (1) and the final report of the Auditor thereon under sub-section (3). The report of defects and irregularities, the explanation thereon and the final report shall be open to inspection by the public at the office of the Local Authority for a period of one month from the date of their receipt.

(5) Nothing in this Section or in Section 13 shall preclude the Auditor, at any time, from bringing to the notice of the Government or of any officer of Government for such action as may be necessary, any information which appears to the Auditor to support a presumption of criminal misappropriation or fraud or which, in Auditor's opinion, deserves special attention or immediate investigation.

Auditor to surcharge illegal payments and loss caused by negligence or misconduct.

16. (1) The Auditor may disallow any item which appears to him to be contrary to law and surcharge the same against the person making or person or body of persons authorizing the making of the illegal payment and may charge against any person responsible thereof, the amount of any deficiency or loss caused by the negligence or misconduct of that person or any sum received which ought to have been, but has not been brought into account by that person and shall, in every such case, certify the amount due from such person.
- (2) The Auditor shall state, in writing, the reasons for his decision in respect of every disallowance, surcharge or charge and shall communicate the same by registered post to the person against whom it is made together with an extract of the relevant objection in the Audit Report.
- (3) Any person aggrieved by disallowance, surcharge or charge made may, within one month after he has received or been served with the decision of the Auditor, apply to the District Court, to set aside such disallowance, surcharge or charge and the court, after taking such evidence as is necessary, may confirm, modify or remit such disallowance, surcharge or charge.
- (4) Every sum certified to be due from any person by the Auditor under this Act shall be paid by such person to the Executive Authority within one month after the intimation to him of the decision of the Director unless, within that time, such person has

- filed an application before the District Court against the decision under sub-section (3) and such amount, if not so paid, or such amount as the District Court shall declare to be due as if it were an arrear of public revenue due on land.
- Powers and duties of the Director.** 17. (1) The Director shall exercise general supervision and control over the discharge by the subordinates of their duties under this Act.
- (2) The Director may seek technical advice and services of any expert if, in his opinion, it is necessary to do so.
- (3) He may condone a payment made from a Local Fund, which appears to him to be contrary to law, if:-
- (i) in his opinion there was no negligence or misconduct on the part of the person making or authorizing such payment, and
- (ii) such payment does not exceed rupees five thousand in each case.
- (4) If any Audit Report already issued but genuine errors were later detected, such audit report(s) may be reviewed and re-opened by the Director as a special case.
- Delegation of powers and functions.** 18. The Director may, delegate all or any of the powers to be exercised or functions to be performed by him under this Act to any officer of the Directorate of Local Fund Audit and may in like manner withdraw such powers or functions so delegated.
- Payment of charges for Audit.-** 19. (1) The cost of Audit of accounts shall be paid by the authority concerned at such rates as may be fixed by the Government, from time to time.
- (2) The Government may, by general or special order, exempt, either wholly or in part, any authority from the liability to pay the cost of Audit under sub-section (1).
- Power to dispense with Cent-per-cent Audit:-** 20. The Director may, when circumstances so warrant, dispense with Cent-per-cent Audit of any account or class or transactions and apply such limited check in relation to such accounts or transactions as may deem fit.
- Defalcation or loss in money or stores to be reported by the Executive Authority.** 21. Whenever any defalcation or loss in money or stores of local authority is discovered the fact shall be promptly reported by the Executive Authority to the Director and to the Controlling authority or the Government, as the case may be, giving in detail the circumstances which led to such defalcation or loss.
- Explanation: -**
- (1) In this sub-section Controlling Authority means the Head of the Department concerned or the Officer empowered to countersign the Grant-in-aid Bill.

- (2) On receipt of a report under sub-section (1), the Director shall immediately conduct or cause to be conducted a special audit of the accounts of that Local Authority:
- Provided that nothing in this section shall prevent the Local Authority from taking criminal proceedings against any person suspected of, involved in, any defalcation or loss of money or stores, where such a course is considered expedient.
- Act to override other enactment.** 22. If any provision contained in any other law for the time being in force relating to the audit of accounts of a Local Authority or a Local Fund included in the Schedule is repugnant to the provisions of this Act, the latter shall prevail and the former shall be void to the extent of such repugnancy.
- Laying of audit report.** 23. The Director shall send to the Government annually a consolidated report of the accounts audited by him containing such particulars which he intends to bring to their notice and the Government shall, within a period of three months after the receipt of the same, cause it to be laid before the Legislative Assembly.
- Protection of action taken in good faith.** 24. No suit, prosecution or other legal proceedings shall lie against the Director or any officer acting under the provisions of this Act for anything which is in good faith done or intended to be done under this Act or the Rules made thereunder.
- Bar of jurisdiction of Civil Courts.** 25. Save as otherwise provided in sub-section (3) of section 16, no Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any action taken or to be taken by the Government or the Director or any Officer in pursuance of any power conferred by or under this Act.
- Special provision for pending audit.** 26. All audit of accounts pending at the commencement of this Act in respect of any Local Authority or Local Fund included in the Schedule shall, notwithstanding anything contained in this Act, be continued and completed by the Director, within such time as may be prescribed, in the same manner in which such accounts were being audited by him, as if this Act had not been enacted.
- Cognizance of offence.** 27. No court shall take cognizance of any offence punishable under this Act except on a complaint in writing of the facts constituting such offence, made by the Director or any Officer authorized by him in this behalf.
- Power of Government to make rules.** 28. (1) The Government may, by Notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the manner and the form in which the accounts of a Local Authority whose accounts are subject to audit under this Act, shall be kept and presented:

(b) the powers and duties of Auditors and procedure to be followed by them for conducting an audit and period at which such audit may be conducted;

(c) the manner in which the matters required to be published under this Act shall be published; and

(d) all other matters, which may be or are required to be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, 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.

Power to remove difficulties. 29. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, as occasion may require, do anything not inconsistent with the provisions of this Act which appears to them to be necessary or expedient for the purpose of removing the difficulty:

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

Savings. 30. Notwithstanding anything contained in this Act, the provisions of this Act shall not apply to any case, suit, appeal, revision petition or any other proceedings that may be pending before an Auditor, Civil Court or the Government and the law in force immediately before the commencement of this Act.

STATEMENT OF OBJECT AND REASONS

The State of Meghalaya does not have its own Local Fund (Account and Audit) Law.

The Audit on the Accounts of the Local Bodies, Grand-in-aid Institutions in the State of Meghalaya was governed by the Assam Local Fund (Account and Audit) Act, 1930 which was duly adapted by the State of Meghalaya. Subsequent amendments were made to the Act in 1988. Since the Act is a very old Act, its provisions have become inadequate, for it does not cover most of the aspects of the present Audit scenario thereby making this Law redundant. It has become necessary to make a new and better auditing standard for safeguarding of Local Fund in Meghalaya due to changing circumstances.

Therefore, it is proposed to have a new Law namely, the Meghalaya Local Fund (Audit) Act, 2021 to be implemented in the State.

Hence, the Bill.

CONRAD K. SANGMA,
Chief Minister,
I/c. Finance Department

ANDREW SIMONS,
Commissioner & Secretary,
Meghalaya Legislative Assembly

FINANCIAL MEMORANDUM

There will be no additional expenditure from the Consolidated Fund of the State of Meghalaya for implementation of the provisions of the Bill.