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अधिसूचना

नई दिल्ली, 17 नवम्बर, 2014

सा.का.नि. 812(अ).—केंद्रीय सरकार, पेंशन निधि विनियामक और विकास प्राधिकरण अधिनियम, 2013 (2013 का 23) की धारा 17 की उपधारा (10) के साथ पठित धारा 51 की उपधारा (2) के खंड (इ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित नियम बनाती है, अर्थात् :—

1. संक्षिप्त नाम और प्रारंभ.—(1) इन नियमों का संक्षिप्त नाम पेंशन निधि विनियामक और विकास प्राधिकरण (प्राधिकृत अधिकारी द्वारा तलाशी अभिग्रहण की प्रक्रिया) नियम, 2014 है।

(2) ये राजपत्र में इनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएं—(1) इन नियमों में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो—

- (क) “अधिनियम” से पेंशन निधि विनियामक और विकास प्राधिकरण अधिनियम, 2013 (2013 का 23) अभिप्रेत है;
- (ख) “प्राधिकार” से इन नियमों में संलग्न प्ररूप में प्राधिकारी द्वारा जारी प्राधिकार का वारंट अभिप्रेत है;
- (ग) “प्राधिकृत कार्यालय” से अधिनियम की धारा 17 की उपधारा (1) के अधीन तलाशी और अभिग्रहण की शक्तियों का प्रयोग करने के लिए उक्त धारा के अधीन प्राधिकृत अधिकारी अभिप्रेत है;
- (घ) “धारा” से अधिनियम की धारा अभिप्रेत है;
- (ङ) इन नियमों में उन शब्दों और पदों के, जो इन नियमों में प्रयुक्त हैं और परिभाषित नहीं हैं किंतु अधिनियम में परिभाषित हैं वही अर्थ होंगे जो उक्त अधिनियम में उनके हैं।

3. तलाशी और अभिग्रहण के प्राधिकार जारी करने के लिए सक्षम प्राधिकारी.—(1) प्राधिकरण, धारा 17 की उपधारा (1) के अधीन उस धारा के प्रयोजन के लिए प्राधिकार जारी करेगा।

(2) उप नियम (1) में अंतर्दिष्ट उपबंधों पर बिना किसी प्रतिकूल प्रभाव डाले, अध्यक्ष, धारा 17 की उपधारा (1) के अधीन प्राधिकार जारी कर सकता है यदि उसे धारा 49 की उपधारा (1) के अधीन प्राधिकरण द्वारा लिखित आदेश द्वारा प्रत्यायोजित किया गया है;

परंतु प्राधिकरण, धारा 49 की उपधारा (1) के अधीन, अध्यक्ष की अनुपस्थिति उसके लिखित आदेश द्वारा किसी भी पूर्ण कालिक सदस्य को प्राधिकार जारी करने के लिए प्राधिकृत कर सकता है।

(3) अध्यक्ष या पूर्ण कालिक सदस्य, उपनियम (2) के अधीन प्राधिकार जारी करने के तुरंत पश्चात् ऐसे प्राधिकार को उसके कारणों सहित, प्राधिकरण को उस प्राधिकार के जारी होने के पश्चात् होने वाली उसकी पहली बैठक में सूचित करेगा।

(4) अधिकारी जिसे प्राधिकार जारी किया जा सकेगा - प्राधिकरण धारा 17 के अधीन तलाशी और अभिग्रहण के प्रयोजन के लिए प्राधिकरण के किसी अधिकारी जो महाप्रबंधक की पंक्ति से कम न हो, को प्राधिकार जारी करेगा।

(5) प्राधिकार जारी करने के प्ररूप और रीति - (1) इन नियमों के अधीन, इन नियमों में संलग्न प्ररूप में, प्राधिकार जारी किया जाएगा।

(2) प्रत्येक प्राधिकार लिखित में निम्नलिखित के अधीन होगा - (क) प्राधिकरण द्वारा नियम 3 के उपनियम (1) के अधीन जारी प्राधिकार में हस्ताक्षर करने के लिए उसके द्वारा निदेशित अधिकारी के हस्ताक्षर और प्राधिकरण की मुहर लगी होगी।

(ख) नियम 3 के उपनियम (2) के अधीन, प्राधिकार जारी करने वाले यथास्थिति, अध्यक्ष या पूर्ण कालिक सदस्य के हस्ताक्षर और उसकी मुहर लगी होगी।

6. किसी भवन या स्थान की तलाशी के लिए उचित सुविधाएं प्रदान करने की उसके भारसाधक की बाध्यता - किसी भवन या स्थान जो कि तलाशी कराने के लिए प्राधिकृत है, का भारसाधक प्राधिकृत अधिकारी के मांग और प्राधिकार पत्र प्रस्तुत करने पर, उसे उस स्थान पर अबाध प्रवेश अनुज्ञात करेगा और उस स्थान की तलाशी के लिए सभी उचित सुविधाएं प्रदान करेगा।

7. परिस्थितियां जिनके अधीन पुलिस बल का उपयोग किया जाएगा - यदि नियम 6 में विनिर्दिष्ट यथा किसी भवन या स्थान में प्रवेश अभिप्राप्त नहीं होता है, तो प्राधिकार को निष्पादित करने वाले प्राधिकृत अधिकारी को, यथाअपेक्षित पुलिस अधिकारियों या केंद्रीय सरकार के अधिकारियों या दोनों की सहायता से ऐसे भवन या स्थान में प्रवेश करना और वहां की तलाशी करना और यदि प्राधिकार और प्रयोजन प्रकट करने पर और सम्यक रूप से प्रवेश की मांग करने पर उसे प्रवेश नहीं प्रदान होता है तो ऐसे में भवन या स्थान में प्रवेश को प्रभावी बनाने के लिए भवन या स्थान के बाहरी या आंतरिक खिड़की या दरवाजे तोड़ना विधि मान्य होगा।

परंतु यदि ऐसा भवन या स्थान एक ऐसा खंड है जो वास्तविक रूप से किसी ऐसी स्त्री के अधिभोग में है जो, प्रथा के अनुसार लोगों के सामने नहीं आती, ऐसे खंड में प्रवेश से पहले, उस स्त्री को सूचित करें कि वह प्रत्याहृत करने के लिए स्वतंत्र है और उसे प्रत्याहृत करने के लिए उचित सुविधाएं प्रदान करेगा और उसके बाद खंड तोड़ कर उसमें प्रवेश किया जा सकेगा।

8. कतिपय मामलों में बक्स, संदूक, तिजोरी, अलमारी या अन्य पात्र तोड़कर खोलना - प्राधिकृत अधिकारी किसी व्यक्ति से जिसके पास भवन या उस स्थान पर बक्स, संदूक, तिजोरी, अलमारी या अन्य पात्र का कब्जा या नियंत्रण है, उसे खोलने तथा उसकी अंतर्वस्तुओं का निरीक्षण या परीक्षण अनुज्ञात करने की अपेक्षा कर सकेगा और जहां उसकी चाबियां उपलब्ध नहीं हैं या जहां ऐसा व्यक्ति ऐसी किसी अपेक्षा का अनुपालन करने में असफल रहता है तो प्राधिकृत अधिकारी कोई कार्यवाही करवाएगा जो वह नियम 3 के अधीन जारी प्राधिकार में विनिर्दिष्ट सभी या किन्हीं प्रयोजनों को कार्यान्वित करने के लिए आवश्यक समझे, जिसके अंतर्गत बक्स, संदूक, तिजोरी, अलमारी या अन्य पात्र को तोड़कर खोलना भी है।

9. कतिपय मामलों में प्राधिकृत अधिकारी, पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों को हटाने के लिए प्राधिकृत अधिकारी की पूर्व अनुज्ञा की अपेक्षा- प्राधिकृत अधिकारी, जहां पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों का अभिग्रहण व्यवहार्य नहीं है, स्वामी या अन्य व्यक्ति जिसका उन पर कब्जा या नियंत्रण है, को एक आदेश तामील करेगा कि वह प्राधिकृत अधिकारी की पूर्व अनुज्ञा के सिवाय, उनको नहीं हटाएगा, अलग नहीं करेगा या अन्यथा व्यवहार नहीं करेगा, प्राधिकृत अधिकारी इस नियम के अनुपालन सुनिश्चित करने के लिए ऐसे कदम उठा सकेगा जो आवश्यक हैं।

10. तलाशी और अभिग्रहण की साक्षी के लिए दो या अधिक सम्मानित व्यक्ति की उपस्थिति प्राधिकृत अधिकारी, जहां किसी भवन या स्थान की तलाशी ली जानी है, तलाशी और अभिग्रहण से पूर्व उस परिक्षेत्र के दो या अधिक सम्मानित निवासियों को जिसमें तलाशी लिए जाने वाला भवन या स्थान अवस्थित है, तलाशी और अभिग्रहण में उपस्थित और गवाही के लिए बुलाएगा, और ऐसा करने के लिए उन्हें या उनमें से किसी व्यक्ति को लिखित में आदेश कर सकेगा।

11. तलाशी के दौरान अभिग्रहण की गई वस्तुओं की सूची तैयार करना - तलाशी साक्षियों की उपस्थिति में की जाएगी तथा प्राधिकृत अधिकारी द्वारा ऐसी तलाशी के दौरान अभिग्रहण की गई सभी पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों तथा उन स्थानों जिन पर क्रमशः उन्हें पाया गया, तैयार किया जाएगा और ऐसे साक्षियों द्वारा हस्ताक्षरित किया जाएगा।

12. तलाशी किए गए भवन या स्थान के भारसाधक व्यक्ति समेत अधिभोगियों के अधिकार - (1) तलाशी किए गए भवन या स्थान के दौरान अधिभोगी या उसके निमित्त किसी व्यक्ति को तलाशी के दौरान उपस्थित होने के लिए अनुज्ञात किया जाएगा और नियम 11 के अधीन तैयार सूची की एक प्रति ऐसे अधिभोगी या व्यक्ति को परिदत्त की जाएगी।

(2) नियम 11 के अधीन तैयार सूची की एक प्रति प्राधिकारी को अग्रेषित की जाएगी।

13. तलाशी के दौरान अभिग्रहण की गई पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों को पैकेज या पैकेजों में रखा जाएगा -

(1) तलाशी के दौरान, अभिग्रहण की गई पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों को प्राधिकृत अधिकारी ऐसे पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों के ब्यौरे सहित पैकेज में या पैकेजों में रखेगा या रखा जाएगा।

(2) उप-नियम (1) में निर्दिष्ट प्रत्येक पैकेज पर प्राधिकृत अधिकारी का एक पहचान चिन्ह और मुहर धारित करेगा और तलाशी की जाने वाले भवन या स्थान के अधिभोगी या उसकी ओर से कोई अन्य व्यक्ति को उन पर अपनी मुहर लगाने के लिए अनुज्ञात किया जाएगा।

(3) तैयार की गई सूची की एक प्रति अधिभोगी या उपनियम (2) में निर्दिष्ट व्यक्ति को भेजी जाएगी और उसकी एक प्रति प्राधिकरण को भी अग्रेषित की जाएगी।

14. तलाशी में अभिगृहीत पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों अभिरक्षक अधिकारी के पास जमा होंगे प्राधिकृत अधिकारी तलाशी के दौरान अभिग्रहण पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों को, एक पैकेज या पैकेजों में, यदि कोई है, नियम 13 में निर्दिष्ट, प्राधिकरण के अधिकारी जो उसके द्वारा इन नियमों के प्रयोजनों के लिए (इसके पश्चात् अभिरक्षक अधिकारी निर्दिष्ट हैं), को पहुंचाएगा और उपरोक्त में निर्दिष्ट तलाशी में अभिग्रहण की गई पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों का अभिरक्षक अधिकारी के पास वर्तमान में जमा किया जा सकता है।

15. अभिरक्षक अधिकारी के कर्तव्य - (1) अभिरक्षक अधिकारी, नियम 13 में निर्दिष्ट और उसके पास जमा पैकेज या पैकेजों की सुरक्षित अभिरक्षा के लिए जो आवश्यक हो, ऐसे कदम उठाएगा।

(2) अभिरक्षक अधिकारी, सभी या किसी पैकेज की सुरक्षित अभिरक्षा के लिए, प्राधिकरण द्वारा विनिर्दिष्ट आदेश द्वारा, किसी पब्लिक सैक्टर बैंक की शाखा या ऐसे अधिकारी या प्राधिकरण के पास जमा कर सकता है।

16. पैकेज या पैकेजों को खोलना - (1) जब कभी अधिनियम के किन्हीं प्रयोजनों के लिए जब कभी किसी मुहरबंद पैकेज या पैकेजों को खोलने की अपेक्षा होती है, तो प्राधिकरण द्वारा निदेशित प्राधिकृत अधिकारी, नियम 15 में निर्दिष्ट अभिरक्षक अधिकारी या पब्लिक सैक्टर बैंक की शाखा या अधिकारी या प्राधिकरण से वही अपेक्षा कर सकता है और अपेक्षा प्राप्त होने पर, यथास्थिति, ऐसे पैकेज या पैकेजों को अभिरक्षक अधिकारी या पब्लिक सैक्टर की शाखा या ऐसे प्राधिकरण के अधिकारी द्वारा उसे दे दिया जाएगा और ऐसे पैकेज या पैकेजों को, दो सम्मानीय साक्षियों की उपस्थिति में, जिस व्यक्ति की अभिरक्षा से सामान अभिग्रहण किया गया था उसे उपस्थित होने की उचित सूचना के पश्चात् प्राधिकृत अधिकारी मुहरबंद तोड़कर खोल सकेगा।

(2) उप नियम (1) में निर्दिष्ट गवाहों को तब तक उपस्थित रहने के लिए अनुज्ञा दी जाएगी जब तक पैकेज या पैकेजों का सामान, यथास्थिति, नए पैकेज या पैकेजों में नियम 13 में विनिर्दिष्ट रीति में रखा जाए और मुहरबंद किया जाए या नियम 15 में निर्दिष्ट ऐसे यथास्थिति व्यक्ति या अभिरक्षक अधिकारी या पब्लिक सैक्टर बैंक की शाखा या प्राधिकरण के अधिकारी को सौंप दिया जाए।

[फा. सं. 11/10/2014 - पे. सु.]

अनुप बधावन, संयुक्त सचिव

**प्ररूप
(नियम 5 देखें)**

पेंशन निधि विनियामक और विकास प्राधिकरण अधिनियम, 2013 (2013 का 23) की धारा 17 और पेंशन निधि विनियामक और विकास प्राधिकरण (प्राधिकृत अधिकारी द्वारा तलाशी और अभिग्रहण प्रक्रिया) नियम, 2014 के नियम 5 के अधीन प्राधिकार का वारंट

अध्यक्ष/प्राधिकरण का पूर्ण कालिक सदस्य होते हुए (प्राधिकरण/अध्यक्ष/पूर्ण कालिक सदस्य द्वारा प्राधिकृत व्यक्ति का नाम वर्णित करें) प्राधिकरण/मेरे समक्ष जानकारी रखी गई है और उस पर विचार करने पर प्राधिकरण/मेरे विश्वास करने का कारण है कि

- * (क) श्री....., निवासी..... अधिनियम की धारा 16 की उप-धारा (3) के अधीन उसकी अभिरक्षा या शक्ति में पुस्तकों, या अन्य दस्तावेजों या अभिलेखों को प्रस्तुत करना या कराना अपेक्षित होते हुए या ऐसे पुस्तक या दस्तावेज या अभिलेख को प्रस्तुत करने या प्रस्तुत कराने का लोप किया हो उसमें विफल रहे हो ; या
- * (ख) श्री....., निवासी..... जिससे उसकी अभिरक्षा या शक्ति में किन्हीं पुस्तकों या अन्य दस्तावेजों या अभिलेखों को प्रस्तुत करने की अपेक्षा की जाती है, या ऐसी पुस्तकों या अन्य दस्तावेजों या अभिलेखों को प्रस्तुत नहीं करेगा या नहीं करवाएगा जो अधिनियम की धारा 16 की उप-धारा (1) के अधीन किसी अनुवेषण में उपयोगी या सुसंगत होंगे ; या
- * (ग) (मध्यवर्ती का नाम वर्णित करें) इस अधिनियम के किसी उपबंध का उल्लंघन किया गया है या किये जाने की संभावना है ; या
- * (घ) कोई दावा जिसका..... (मध्यवर्ती का नाम वर्णित करें) द्वारा परिनिर्धारण होना है, या, खारिज हो गया है या खारिज होने की संभावना है या जो एक उचित रकम से अधिक रकम पर निर्धारित किया गया हो ; या
- * (ङ) कोई..... द्वारा खारिज..... संभावना है या जो उचित रकम से कम रकम पर परिनिर्धारित किया गया हो ; या
- (च) (मध्यवर्ती का नाम वर्णित करें) द्वारा कोई अवैध फीस या प्रभार जो संव्यवहार की गई या संव्यवहार होने की संभावना हो ; या
- * (छ) (मध्यवर्ती का नाम वर्णित करें) की किन्हीं पुस्तकों, लेखाओं, कागजपत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों जिनके साथ छेड़छाड़ हाने, मिथ्याकरण होने या विनिर्मित होने की संभावना हो और जहां प्राधिकरण /मेरे पास संदेह का कारण हो कि ऐसी पुस्तकों, लेखाओं, कागजों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों को रखा गया हो और पाया जाना है ; या

(भवन/स्थान या ऐसे ब्यौरे जिनसे ऐसे भवन/स्थान का पता लग सके की विशिष्टियां विनिर्दिष्ट करें) ; या

3. और अतः, यह वारंट या प्राधिकार निम्नलिखित को जारी किया जाएगा --

- 1 (प्राधिकृत अधिकारी का नाम और पदनाम)
- 2 (प्राधिकृत अधिकारी का नाम और पदनाम)
- 3 (प्राधिकृत अधिकारी का नाम और पदनाम)
- 4 (प्राधिकृत अधिकारी का नाम और पदनाम)

(क) उक्त भवन/स्थान में प्रवेश और तलाशी करना,

(ख) ऐसे किसी व्यक्ति की तलाश करना जो भवन/स्थान से बाहर गया हो, या प्रवेश करने वाला हो, या अंदर हो, जिस पर आपके पास संदेह का कारण हो कि ऐसे व्यक्ति ने अपने बारे में और ऐसी किन्हीं पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों को छुपाया हो;

(ग) तलाशी के दौरान पाए गए लेखा, पुस्तकों और दस्तावेजों पर पहचान चिन्ह और जैसा आप उपरोक्त प्रक्रियाओं के लिए सुसंगत या उपयोगी समझे, पहचान चिन्हों के विशिष्टियों के साथ उनकी सूची तैयार करना;

- (घ) ऐसी पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्टों या अन्य दस्तावेजों की परीक्षा करना और ऐसी पुस्तकों, दस्तावेजों, प्रविष्टियों, वाउचरों रिपोर्टों या अन्य दस्तावेजों की प्रतियां या निष्कर्ष बनाना, या बनवाना;
- (ङ.) ऐसी तलाशी के परिणामस्वरूप पाए गए ऐसे पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों का अभिग्रहण करना और उनका कब्जा लेना;
- (च) पेंशन निधि विनियामक और विकास प्राधिकरण (प्राधिकृत अधिकारी द्वारा तलाशी और अभिकरण की प्रक्रिया) नियम, 2014 के नियम 15 में निर्दिष्ट अभिरक्षा अधिकारी या पब्लिक सेक्टर बैंक की शाखा या अधिकारी या प्राधिकरण के पास ऐसी पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों को जमा कराना;
- (छ) पेंशन निधि विनियामक और विकास प्राधिकरण (प्राधिकृत अधिकारी द्वारा तलाशी और अभिकरण की प्रक्रिया) नियम, 2014 में विनिर्दिष्ट सभी या किन्हीं प्रयोजनों के लिए, उपर्युक्त प्राधिकृत अधिकारी की सहायता करने के लिए किसी पुलिस अधिकारी या केंद्रीय सरकार के किसी अधिकारी की सेवाओं की अपेक्षा करना और यह प्रत्येक पुलिस अधिकारी का कर्तव्य होगा कि ऐसी अपेक्षा का अनुपालन करे;
- (ज) जहां किसी व्यक्ति को आदेश तामील करने के लिए ऐसी किन्हीं पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेजों को अभिगृहीत करना व्यवहार्य नहीं है, वहां जिसका उन पर तात्कालिक कब्जा या नियंत्रण हो, वह ऐसे अधिकारी की पूर्ण अनुज्ञा के सिवाय, उन्हें नहीं हटाएगा, अलग नहीं करेगा या अन्यथा व्यवहार नहीं करेगा और ऐसा अधिकारी अधिनियम की धारा 17 की उपधारा (3) के उपबंधों का अनुपालन सुनिश्चित करने के लिए ऐसे कदम उठा सकेगा, जो आवश्यक हो;
- (झ) तलाशी और अभिग्रहण के दौरान, किसी व्यक्ति जिसके पास किन्हीं ऐसी पुस्तकों, लेखाओं, कागज-पत्रों, प्राप्तियों, वाउचरों, सर्वेक्षण रिपोर्ट या अन्य दस्तावेज का कब्जा और नियंत्रण पाया गया हो, का शपथ पर जांच करना और ऐसे जांच के दौरान ऐसे व्यक्ति द्वारा दिए गए कथन को तत्पश्चात् अधिनियम के अधीन किसी कार्यवाही में साक्ष्य में किया जा सकता है;

प्राधिकरण/अध्यक्ष/पूर्ण कालिक सदस्य द्वारा हस्ताक्षर करने के लिए प्राधिकृत अधिकारी

(सुहर)

(जो लागू न हो उसे काट दें)

(अधिकारी का नाम)

अधिकारी का पदनाम

(फाइल सं.....)

MINISTRY OF FINANCE.

(Department of Financial Services)

NOTIFICATION

New Delhi, the 17th November, 2014

G.S.R. 812(E).—In exercise of the powers conferred by clause (e) of sub-section (2) of Section 51, read with sub-section (10) of Section 17 of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013), the Central Government hereby makes the following rules, namely:—

1. **Short title and commencement.**—(1) These rules may be called the Pension Fund Regulatory and Development Authority (Procedure for Search and Seizure by Authorised Officer) Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.**—In these rules, unless the context otherwise requires,—

(a) “Act” means the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013);

(b) “authorisation” means warrant of authorisation issued by the Authority in Form appended to these rules;

(c) “authorised office” means the officer authorised under sub-section (1) of Section 17 of the Act to exercise powers of search and seizure under the said section;

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(d) "section" means section of the Act;

(e) words and expressions used herein and not defined but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Competent authority to issue authorisation for search and seizure.—(1) The Authority shall issue authorisation under sub-section (1) of Section 17 for the purpose of that section.

(2) Without prejudice to the provisions contained in sub-rule (1), the Chairperson may issue authorisation under sub-section (1) of section 17 if he has been delegated by an order made in writing by the Authority under sub-section (1) of Section 49:

Provided that the Authority may, by order made by it in writing under sub-section (1) of section 49, authorise any of the whole-time members to issue the authorisation, in the temporary absence of the Chairperson.

(3) The Chairperson or the whole-time member shall, immediately after issuing the authorisation under sub-rule (2), report such authorisation along with reasons therefor, to the Authority in its first meeting held immediately after the issue of such authorisation.

4. Officer to whom authorisation may be issued.—The Authority shall issue authorisation to an officer not below the rank of General Manager of the Authority for the purpose of search and seizure under Section 17.

5. Form and manner of issuing authorization.—(1) The authorisation issued under these rules shall be in the Form of appended to these rules.

(2) Every authorisation shall be in writing under—

(a) the signature of the officer directed by the Authority to sign the authorisation to be issued by it under sub-rule (1) of rule 3 and shall bear the seal of the Authority; or

(b) the signature of the Chairperson or the whole-time member, as the case may be, issuing the authorisation under sub-rule (2) of rule 3 and shall bear his seal.

6. Obligation of person in charge of any building or place, to afford all reasonable facilities for search.—Any person in-charge of or in any building or place, authorised to be searched, shall, on demand by the authorised officer and on production of the authorisation, allow him free ingress thereto and afford all reasonable facilities for a search therein.

7. Circumstances under which police force may be used.—If ingress into a building or place cannot be obtained as specified in rule 6, it shall be lawful for the authorised officer executing the authorisation, with such assistance of police officers or of officers of the Central Government, or of both, as may be required, to enter such building or place and search therein, and in order to effect an entrance into such building or place, to break open any outer or inner door or window of the building or place, if after the disclosure of authorisation and the purpose and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that, if any such building or place is an apartment in actual occupancy of a woman, who according to custom does not appear in public, the authorised officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it.

8. Breaking open of box, locker, safe, almirah or other receptacle in certain cases.—The authorised officer may require any person who is the owner, or has the immediate possession, or control, of any box, locker, safe, almirah or any other receptacle in building or place, to open the same and allow access to inspect or examine its contents, and, where the keys thereof are not available or where such person fails to comply with any such requirement, may cause any action to be taken including the breaking open of such box, locker, safe, almirah or other receptacle which the authorised officer may deem necessary for carrying out all or any of the purposes specified in the authorisation issued under rule 3.

9. Previous permission of authorised officer required for removal of books, accounts, papers, receipts, vouchers, survey reports or other documents in certain cases.—The authorised officer may, where it is not practicable to seize the books, accounts, papers, receipts, vouchers, survey reports or other documents, serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with them except with the previous permission of the authorised officer who may take such steps as may be necessary for ensuring compliance with this rule.

10. Two or more respectable persons to attend and witness search and seizure.—Before making a search and seizure, the authorised officer shall, where any building or place is to be searched, call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situated, to attend and witness the search and seizure, and may issue an order in writing to them or any of them so to do.

11. Preparation of list of all things seized in course of search.—The search shall be made in the presence of the witnesses and a list of all the books, accounts, papers, receipts, vouchers, survey reports or other documents seized in the course of such search and of the places in which they were respectively found shall be prepared by the authorised officer and signed by such witnesses.

12. Rights of occupants including person in charge of building or place, searched.—(1) The occupant of the building or place, searched, or some person on his behalf, shall be permitted to attend during the search and a copy of the list prepared under rule 11 shall be delivered to such occupant or person.

(2) A copy of the list prepared under rule 11 shall be forwarded to the Authority.

13. Books, accounts, papers, receipts, vouchers, survey reports or other documents seized during search to be placed in package or packages.—(1) The authorised officer shall place or cause to be placed the books, accounts, papers, receipts, vouchers, survey reports or other documents seized during the search in a package or packages which shall be listed with details of such books, accounts, papers, receipts, vouchers, survey reports or other documents placed therein.

(2) Every package referred to in sub-rule (1) shall bear an identification mark and the seal of the authorised officer and the occupants of the building or place, searched or any other person on his behalf shall also be permitted to put his seal on them.

(3) A copy of the list prepared shall be delivered to the occupant or person referred to in sub-rule (2) and a copy thereof shall also be forwarded to the Authority.

14. Deposit of books, accounts, papers, receipts, vouchers, survey reports or other documents seized in search with the Custodian Officer.—The authorised officer shall convey the books, accounts, papers, receipts, vouchers, survey reports or other documents seized during the search, in a package or packages, if any, referred to in rule 13, to an officer of the Authority designated by it as Custodian Officer (hereinafter referred to as the Custodian Officer) for the purposes of these rules and any books, accounts, papers, receipts, vouchers, survey reports or other documents seized in the search referred to above may also be deposited with the Custodian Officer.

15. Duties of Custodian Officer.—(1) The Custodian Officer shall take such steps as he may consider necessary for the safe custody of the package or packages referred to in rule 13 and deposited with him.

(2) The Custodian Officer may deposit for safe custody all or any of the packages with any branch of a public sector bank or with such officer or authority as may, by order, be specified by the Authority.

16. Opening of package or packages.—(1) Whenever any sealed package or packages are required to be opened for any of the purposes of the Act, the authorised officer, on being so directed by the Authority, may requisition the same from the Custodian Officer or the branch of public sector bank or the officer or authority referred to in rule 15 and on receipt of the requisition, such package or packages, as the case may be, shall be delivered to him by such Custodian Officer or branch or public sector bank or such officer or authority and the authorised officer may break any seal and open such package or packages in the presence of two respectable witnesses giving a reasonable notice to the person from whose custody the contents were seized to be present.

(2) The witnesses referred to in sub-rule (1) shall be permitted to be present till the contents of the package or packages are placed in a fresh package or packages and sealed in the manner specified in rule 13 or delivered to such person or the Custodian Officer, or the branch of public sector bank or the officer of authority referred to in rule 15, as the case may be.

[F. No. 11/10/2014-PR]

ANUP WADHAWAN, Jt. Secy.

FORM

[See rule 5]

Warrant of authorisation under section 17 of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) and rule 5 of the Pension Fund Regulatory and Development Authority (Procedure for Search and Seizure by Authorised Officer) Rules, 2014.

Whereas information has been laid before the *Authority/*me, being the Chairperson / whole-time member of the Authority (mention the name of the person authorised by the Authority / Chairperson / whole-time member) and on the consideration thereof *Authority / I have reason of believe that-

- *(a) Shri-----, resident of -----, being required under sub-section (3) of section 16 of the Act to produce, or cause to be produced, any books, or other documents or record in his custody or power has omitted or failed to produce, or cause to be produced, such books, or other documents or record; or
- *(b) Shri-----, resident of -----to whom a requisition to produce any books, or other documents or record in his custody or power has been or might be issued will not, or would not, produce or cause to be produced, such books, or other documents or record which will be useful for, or relevant to, an investigation under sub-section (1) of section 16 of the Act; or
- *(c) a contravention of any provision of this Act has been committed or is likely to be committed by ----- (mention name of intermediary); or

- * (d) any claim which is due to be settled by the ----- (mention name of intermediary), or, has been or is likely to be rejected or settled at a figure higher than a reasonable amount; or
- * (e) any claim which is due to be settled by ----- (mention name of intermediary); or, has been or is likely to be rejected or settled at a figure lower than a reasonable amount; or
- * (f) any illegal fees and charges have been transacted or are likely to be transacted by (mention name of intermediary); or
- * (g) any books, accounts, papers, receipts, vouchers, survey reports or other documents, belonging to ----- (mention name of intermediary) are likely to be tampered with, falsified or manufactured.

And whereas *Authority/*I has / have reason to suspect that any such books, accounts, papers, receipts, vouchers, survey reports or other documents, belonging to an intermediary have been kept and are to be found—

(specify particulars of the building / place or such details which shall locate such building / place).

3. And therefore, this warrant or authorisation is issued to,—

1. ----- (name and designation of Authorised Officer)
 2. ----- (name and designation of Authorised Officer)
 3. ----- (name and designation of Authorised Officer)
 4. ----- (name and designation of Authorised Officer)
- (a) to enter and search the said building / place;
 - (b) to search any person who has got out of, or is about to get into, or is in the building / place if you have reason to suspect that such person has secreted about his person any such books, accounts, papers, receipts, vouchers, survey reports or other documents;
 - (c) to place identification marks on such books of account and documents as may be found in the course of the search and as you may consider relevant to or useful for the proceedings aforesaid and to make a list thereof together with particulars of the identification marks;
 - (d) to examine such books, accounts, papers, receipts, vouchers, survey reports or other documents and make, or cause to be made, copies or extracts from such books, accounts, papers, receipts, vouchers, reports or other documents;
 - (e) to seize any such books, accounts, papers, receipts, vouchers, survey reports or other documents found as a result of such search and take possession thereof;
 - (f) to deposit such books, accounts, papers, receipts, vouchers, survey reports or other documents with the Custodian Officer or the branch of public sector bank or with the officer or authority referred to in rule 15 of the Pension Fund Regulatory and Development Authority (Procedure for Search and Seizure by Authorised Officer) Rules, 2014;
 - (g) requisition the services of any police officer or any officer of the Central Government, or of both, to assist the aforesaid authorised officer for all or any of the purposes specified in the Pension Fund Regulatory and Development Authority (Procedure for Search and Seizure by Authorised Officer) Rules, 2014 and it shall be the duty of every such police officer or officer to comply with such requisition;
 - (h) where it is not practicable to seize any such books, accounts, papers, receipts, vouchers, survey reports or other documents to serve an order on the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with them except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with the provisions of sub-section (3) of section 17 of the Act;
 - (i) to examine during the course of the search or seizure on oath any person who is found to be in possession or control of any such books, accounts, papers, receipts, vouchers, survey reports or other documents, and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Act;

Officer authorised to sign by the Authority / Chairperson / Whole-time member

(SEAL)

(*Strike out whichever is not applicable)

(Name of officer)

Designation of officer

(File No. -----)

CP-96
Kerala Gazette No. 29 dated 22nd July 2014.

PART I

Section i



GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 9612/Leg.Pbn.2/2014/Law.

Dated, Thiruvananthapuram, 16th May 2014.

The following Act of Parliament published in the Gazette of India Extraordinary, Part II, Section I dated the 19th day of September, 2013 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President of India on the 18th day of September, 2013.

By order of the Governor,

C. P. RAMARAJA PREMA PRASAD,
Law Secretary.

**THE PROHIBITION OF EMPLOYMENT AS MANUAL
SCAVENGERS AND THEIR REHABILITATION**

ACT, 2013

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THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS
AND THEIR REHABILITATION ACT, 2013

(ACT No. 25 OF 2013)

AN

ACT

to provide for the prohibition of employment as manual scavengers, rehabilitation of manual scavengers and their families, and for matters connected therewith or incidental thereto.

WHEREAS promoting among the citizens fraternity assuring the dignity of the individual is enshrined as one of the goals in the Preamble to the Constitution;

AND WHEREAS the right to live with dignity is also implicit in the Fundamental Rights guaranteed in Part III of the Constitution;

AND WHEREAS article 46 of the Constitution, *inter alia*, provides that the State shall protect the weaker sections, and, particularly, the Scheduled Castes and the Scheduled Tribes from social injustice and all forms of exploitation;

AND WHEREAS the dehumanising practice of manual scavenging, arising from the continuing existence of insanitary latrines and a highly iniquitous caste system, still persists in various parts of the country, and the existing laws have not proved adequate in eliminating the twin evils of insanitary latrines and manual scavenging;

AND WHEREAS it is necessary to correct the historical injustice and indignity suffered by the manual scavengers, and to rehabilitate them to a life of dignity.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

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

Provided that the date so notified shall not be earlier than sixty days after the date of publication of the notification in the Official Gazette.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,—

(a) “agency” means any agency, other than a local authority, which may undertake sanitation facilities in an area and includes a contractor or a firm or a company which engages in development and maintenance of real estate;

(b) “appropriate government”, in relation to Cantonment Boards, railway lands, and lands and buildings owned by the Central Government, a Central Public Sector Undertaking or an autonomous body wholly or substantially funded by the Central Government, means the Central Government and in all other cases, the State Government;

(c) “Chief Executive Officer”, in relation to a Municipality or Panchayat, means, its senior-most executive officer, by whatever name called;

(d) “hazardous cleaning” by an employee, in relation to a sewer or septic tank, means its manual cleaning by such employee without the employer fulfilling his obligations to provide protective gear and other cleaning devices and ensuring observance of safety precautions, as may be prescribed or provided in any other law, for the time being in force or rules made thereunder;

(e) “insanitary latrine” means a latrine which requires human excreta to be cleaned or otherwise handled manually, either *in situ*, or in an open drain or pit into which the excreta is discharged or flushed out, before the excreta fully decomposes in such manner as may be prescribed:

Provided that a water flush latrine in a railway passenger coach, when cleaned by an employee with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be deemed to be an insanitary latrine.

(f) "local authority" means,—

(i) a Municipality or a Panchayat, as defined in clause (e) and clause (f) of article 243P of the Constitution, which is responsible for sanitation in its area of jurisdiction;

(ii) a Cantonment Board constituted under section 10 of the Cantonments Act, 2006 (41 of 2006); and

(iii) a railway authority;

(g) "manual scavenger" means a person engaged or employed, at the commencement of this Act or at any time thereafter, by an individual or a local authority or an agency or a contractor, for manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines is disposed of, or on a railway track or in such other spaces or premises, as the Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed, and the expression "manual scavenging" shall be construed accordingly.

Explanation.—For the purpose of this clause,—

(a) "engaged or employed" means being engaged or employed on a regular or contract basis;

(b) a person engaged or employed to clean excreta with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be deemed to be a 'manual scavenger';

(h) "National Commission for Safai Karmacharis" means the National Commission for Safai Karmacharis constituted under section 3 of the National Commission for Safai Karmacharis Act, 1993 (64 of 1993) and continued by Resolution of the Government of India in the Ministry of Social Justice and Empowerment *vide* No. 17015/18/2003-SCD-VI, dated 24th February, 2004 and as amended from time to time;

(i) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(j) "occupier", in relation to the premises where an insanitary latrine exists, or someone is employed as a manual scavenger, means the person who, for the time being, is in occupation of such premises;

(k) "owner", in relation to the premises where an insanitary latrine exists or someone is employed as a manual scavenger, means, the person who, for the time being has legal title to such premises;

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

(m) "railway authority" means an authority administering railway land, as may be notified by the Central Government in this behalf;

(n) "railway land" shall have the meaning assigned to it in clause (32A) of section 2 of the Railways Act, 1989 (24 of 1989);

(o) "sanitary latrine" means a latrine which is not an 'insanitary latrine';

(p) "septic tank" means a water-tight settling tank or chamber, normally located underground, which is used to receive and hold human excreta, allowing it to decompose through bacterial activity;

(q) "sewer" means an underground conduit or pipe for carrying off human excreta, besides other waste matter and drainage wastes;

(r) "State Government", in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution;

(s) "survey" means a survey of manual scavengers undertaken in pursuance of section 11 or section 14.

(2) Words and expressions used and not defined in this Act, but defined in the Cantonments Act, 2006 (41 of 2006), shall have the same meanings respectively assigned to them in that Act.

(3) The reference to a Municipality under Chapters IV to VIII of this Act shall include a reference to, as the case may be, the Cantonment Board or the railway authority, in respect of areas included within the jurisdiction of the Cantonment Board and the railway land, respectively.

3. *Act to have overriding effect.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, (46 of 1993) or in any other law, or in any instrument having effect by virtue of any other law.

CHAPTER II

IDENTIFICATION OF INSANITARY LATRINES

4. *Local authorities to survey insanitary latrines and provide sanitary community latrines.*—(1) Every local authority shall,—

(a) carry out a survey of insanitary latrines existing within its jurisdiction, and publish a list of such insanitary latrines, in such manner as may be prescribed, within a period of two months from the date of commencement of this Act;

(b) give a notice to the occupier, within fifteen days from the date of publication of the list under clause (a), to either demolish the insanitary latrine or convert it into a sanitary latrine, within a period of six months from the date of commencement of this Act:

Provided that the local authority may for sufficient reasons to be recorded in writing extend the said period not exceeding three months;

(c) construct, within a period not exceeding nine months from the date of commencement of this Act, such number of sanitary community latrines as it considers necessary, in the areas where insanitary latrines have been found.

(2) Without prejudice to the provisions contained in sub-section (1), Municipalities, Cantonment Boards and railway authorities shall also construct adequate number of sanitary community latrines, within such period not exceeding three years from the date of commencement of this Act, as the appropriate Government may, by notification, specify, so as to eliminate the practice of open defecation in their jurisdiction.

(3) It shall be the responsibility of local authorities to construct community sanitary latrines as specified in sub-sections (1) and (2), and also to make arrangements for their hygienic upkeep at all times.

Explanation.—For the purposes of this section, “community” in relation to railway authorities means passengers, staff and other authorised users of railways.

CHAPTER III

PROHIBITION OF INSANITARY LATRINES AND EMPLOYMENT AND
ENGAGEMENT AS MANUAL SCAVENGER

5. *Prohibition of insanitary latrines and employment and engagement of manual scavenger.*—(1) Notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (46 of 1993), no person, local authority or any agency shall, after the date of commencement of this Act,—

(a) construct an insanitary latrine; or

(b) engage or employ, either directly or indirectly, a manual scavenger, and every person so engaged or employed shall stand discharged immediately from any obligation, express or implied, to do manual scavenging.

(2) Every insanitary latrine existing on the date of commencement of this Act, shall either be demolished or be converted into a sanitary latrine, by the occupier at his own cost, before the expiry of the period so specified in clause (b) of sub-section (1) of section 4:

Provided that where there are several occupiers in relation to an insanitary latrine, the liability to demolish or convert it shall lie with,—

(a) the owner of the premises, in case one of the occupiers happens to be the owner; and

(b) all the occupiers, jointly and severally, in all other cases:

Provided that the State Government may give assistance for conversion of insanitary latrines into sanitary latrines to occupiers from such categories of persons and on such scale, as it may, by notification, specify:

Provided further that non-receipt of State assistance shall not be a valid ground to maintain or use an insanitary latrine, beyond the said period of nine months.

(3) If any occupier fails to demolish an insanitary latrine or convert it into a sanitary latrine within the period specified in sub-section (2), the local authority having jurisdiction over the area in which such insanitary latrine is situated, shall, after giving notice of not less than twenty one days to the occupier, either convert such latrine into a sanitary latrine, or demolish such insanitary latrine, and shall be entitled to recover the cost of such conversion or, as the case may be, of demolition, from such occupier in such manner as may be prescribed.

6. *Contract, agreement, etc., to be void.*—(1) Any contract, agreement or other instrument entered into or executed before the date of commencement of this Act, engaging or employing a person for the purpose of manual scavenging shall, on the date of commencement of this Act, be terminated and such contract, agreement or other instrument shall be void and inoperative and no compensation shall be payable therefor.

(2) Notwithstanding anything contained in sub-section (1), no person employed or engaged as a manual scavenger on a full-time basis shall be retrenched by his employer, but shall be retained, subject to his willingness, in employment on at least the same emoluments, and shall be assigned work other than manual scavenging.

7. *Prohibition of persons from engagement or employment for hazardous cleaning of sewers and septic tanks.*—No person, local authority or any agency shall, from such date as the State Government may notify, which shall not be later than one year from the date of commencement of this Act, engage or employ, either directly or indirectly, any person for hazardous cleaning of a sewer or a septic tank.

8. *Penalty for contravention of sections 5 or Section 6.*—Whoever contravenes the provisions of section 5 or section 6 shall for the first contravention be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both, and for any subsequent contravention with imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both.

9. *Penalty for contravention of section 7.*—Whoever contravenes the provisions of section 7 shall for the first contravention be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both, and for any subsequent contravention with imprisonment which may extend to five years or with fine which may extend to five lakh rupees, or with both.

10. *Limitation of prosecution.*—No court shall take cognizance of any offence punishable under this Act except upon a complaint thereof is made by a person in this behalf within three months from the date of the occurrence of the alleged commission of the offence.

CHAPTER IV

IDENTIFICATION OF MANUAL SCAVENGERS IN URBAN AND
RURAL AREAS AND THEIR REHABILITATION

11. *Survey of manual scavengers in urban areas by Municipalities.*—(1) If any Municipality has reason to believe that some persons are engaged or employed in manual scavenging within its jurisdiction, the Chief Executive Officer of such Municipality shall cause a survey to be undertaken to identify such persons.

(2) The content and methodology of the survey referred to in sub-section (1) shall be such as may be prescribed, and it shall be completed within a period of two months from its commencement in the case of Municipal Corporations, and within a period of one month in the case of other Municipalities.

(3) The Chief Executive Officer of the Municipality, in whose jurisdiction the survey is undertaken, shall be responsible for accurate and timely completion of the survey.

(4) After completion of the survey, the Chief Executive Officer shall cause to be drawn up a provisional list of persons found to be working as manual scavengers within the jurisdiction of his Municipality and fulfilling the eligibility conditions as may be prescribed, shall cause such provisional list to be published for general information in such manner, as may be prescribed, and shall invite objections to the list from the general public.

(5) Any person having any objection, either to the inclusion or exclusion of any name in the provisional list published in pursuance of sub-section (4), shall, within a period of fifteen days from such publication, file an objection, in such form as the Municipality may notify, to the Chief Executive Officer.

(6) All objections received in pursuance of sub-section (5), shall be enquired into, and thereafter a final list of persons found to be working as manual scavengers within the local limits of the municipality, shall be published by it in such manner, as may be prescribed.

(7) As soon as the final list of manual scavengers, referred to in sub-section (6) is published, the persons included in the said list shall, subject to the provisions of sub-section (2) of section 6, stand discharged from any obligation to work as manual scavengers.

12. *Application by an urban manual scavenger for identification.*—

(1) Any person working as a manual scavenger in an urban area, may, either during the survey undertaken by the Municipality in pursuance of section 11, within whose jurisdiction he works, or at any time thereafter, apply, in such manner, as may be prescribed, to the Chief Executive Officer of the Municipality, or to any other officer authorised by him in this behalf, for being identified as a manual scavenger.

(2) On receipt of an application under sub-section (i), the Chief Executive Officer shall cause it to be enquired into, either as part of the survey undertaken under section 11, or, when no such survey is in progress, within fifteen days of receipt of such application, to ascertain whether the applicant is a manual scavenger.

(3) If an application is received under sub-section (1) when a survey under section 11 is not in progress, and is found to be true after enquiry in accordance with sub-section (2), action shall be taken to add the name of such a person to the final list published under sub-section (6) of section 11, and the consequences mentioned in sub-section (7) thereof shall follow.

13. *Rehabilitation of persons identified as manual scavengers by a Municipality.*—(1) Any person included in the final list of manual scavengers published in pursuance of sub-section (6) of section 11 or added thereto in pursuance of sub-section (3) of section 12, shall be rehabilitated in the following manner, namely:—

(a) he shall be given, within one month,—

(i) a photo identity card, containing, *inter alia*, details of all members of his family dependent on him, and

(ii) such initial, one time, cash assistance, as may be prescribed;

(b) his children shall be entitled to scholarship as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

(c) he shall be allotted a residential plot and financial assistance for house construction, or a ready-built house, with financial assistance, subject to eligibility and willingness of the manual scavenger, and the provisions of the relevant scheme of the Central Government or the State Government or the concerned local authority;

(d) he, or at least one adult member of his family, shall be given, subject to eligibility and willingness, training in a livelihood skill, and shall be paid a monthly stipend of not less than three thousand rupees, during the period of such training;

(e) he, or at least one adult member of his family, shall be given, subject to eligibility and willingness, subsidy and concessional loan for taking up an alternative occupation on a sustainable basis, in such manner as may be stipulated in the relevant scheme of the Central Government or the State Government or the concerned local authority;

(f) he shall be provided such other legal and programmatic assistance, as the Central Government or State Government may notify in this behalf.

(2) The District Magistrate of the district concerned shall be responsible for rehabilitation of each manual scavenger in accordance with the provisions of sub-section (1) and the State Government or the District Magistrate concerned may, in addition, assign responsibilities in his behalf to officers subordinate to the District Magistrate and to officers of the concerned Municipality.

14. Survey of manual scavengers in rural areas by Panchayats.—If any Panchayat has reason to believe that some persons are engaged in manual scavenging within its jurisdiction, the Chief Executive Officer of such Panchayat shall cause a survey of such manual scavengers to be undertaken, *mutatis mutandis*, in accordance with the provisions of section 11 and section 12, to identify such person.

15. Application by a rural manual scavenger for identification.—
(1) Any person working as a manual scavenger, in a rural area, may, either during the survey undertaken by the Panchayat within whose jurisdiction he works, in pursuance of section 14 or at any time thereafter, apply, in such manner, as may be prescribed, to the Chief Executive Officer of the concerned Panchayat, or to any other officer authorised by him in this behalf, for being identified as a manual scavenger.

(2) On receipt of an application under sub-section (1), the Chief Executive Officer shall cause it to be enquired into, either as part of the survey undertaken under section 14 or when no such survey is in progress, within fifteen days of receipt of such application, so as to ascertain whether the applicant is a manual scavenger.

16. *Rehabilitation of persons identified as manual scavengers by a Panchayat.*—Any person included in the final list of manual scavengers, published in pursuance of section 14 or added thereto in pursuance of sub-section (2) of section 15 shall be rehabilitated, *mutatis mutandis*, in the manner laid down for urban manual scavengers in section 13.

CHAPTER V

IMPLEMENTING AUTHORITIES

17. *Responsibility of local authorities to ensure elimination of insanitary latrines.*—Notwithstanding anything contained in any other law for the time being in force, it shall be the responsibility of every local authority to ensure, through awareness campaign or in such other manner that after the expiry of a period of nine months, from the date of commencement of this Act,—

(i) no insanitary latrine is constructed, maintained or used within its jurisdiction; and

(ii) in case of contravention of clause (i), action is taken against the occupier under sub-section (3) of section 5.

18. *Authorities who may be specified for implementing provisions of this Act.*—The appropriate Government may confer such powers and impose such duties on local authority and District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out, and a local authority and the District Magistrate may, specify the subordinate officers, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed, and the local limits within which such powers or duties shall be carried out by the officer or officers so specified.

19. *Duty of District Magistrate and authorised officers.*—The District Magistrate and the authority authorised under section 18 or any other subordinate officers specified by them under that section shall ensure that, after the expiry of such period as specified for the purpose of this Act,—

(a) no person is engaged or employed as manual scavenger within their jurisdiction;

(b) no one constructs, maintains, uses or makes available for use, an insanitary latrine;

(c) manual scavengers identified under this Act are rehabilitated in accordance with section 13, or as the case may be, section 16;

(d) persons contravening the provisions of section 5 or section 6 or section 7 are investigated and prosecuted under the provisions of this Act; and

(e) all provisions of this Act applicable within his jurisdiction are duly complied with.

20. Appointment of inspectors and their powers.—(1) The appropriate Government may, by notification, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf, an inspector may, within the local limits of his jurisdiction, enter, at all reasonable times, with such assistance as he considers necessary, any premises or place for the purpose of,—

(a) examining and testing any latrine, open drain or pit or for conducting an inspection of any premises or place, where he has reason to believe that an offence under this Act has been or is being or is about to be committed, and to prevent employment of any person as manual scavenger;

(b) examine any person whom he finds in such premises or place and who, he has reasonable cause to believe, is employed as a manual scavenger therein, or is otherwise in a position to furnish information about compliance or non-compliance with the provisions of this Act and the rules made thereunder;

(c) require any person whom he finds on such premises, to give information which is in his power to give, with respect to the names and addresses of persons employed on such premises as manual scavenger, and of the persons or agency or contractor employing or engaging them;

(d) seize or take copies of such registers, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the principal employer or agency; an

(e) exercise such other powers as may be prescribed.

(3) Any person required to produce any document or thing or to give any information required by an inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any such search or seizure under sub-section (2) as they apply to such search or seizure made under the authority of a warrant issued under section 94 of the said Code.

CHAPTER VI

PROCEDURE FOR TRIAL

21. *Offences to be tried by Executive Magistrate.*—(1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the first class.

(2) An offence under this Act may be tried summarily.

22. *Offence to be cognizable and non-bailable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under this Act shall be cognizable and non-bailable.

23. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

CHAPTER VII

VIGILANCE COMMITTEES

24. Vigilance Committees.—(1) Every State Government shall, by notification, constitute a Vigilance Committee for each district and each Sub-Division.

(2) Each Vigilance Committee constituted for a district shall consist of the following members, namely:—

(a) the District Magistrate—Chairperson, *ex officio*;

(b) all members of the State Legislature belonging to the Scheduled Castes elected from the district—members:

Provided that if a district has no member of the State Legislature belonging to the Scheduled Castes, the State Government may nominate such number of other members of the State Legislature from the district, not exceeding two, as it may deem appropriate.

(c) the district Superintendent of Police— member, *ex officio*;

(d) the Chief Executive Officer of,—

(i) the Panchayat at the district level—member, *ex officio*;

(ii) the Municipality of the district headquarters— member, *ex officio*;

(iii) any other Municipal Corporation constituted in the district—member, *ex officio*;

(iv) Cantonment Board, if any, situated in the district—member, *ex officio*;

(e) one representative be nominated by the railway authority located in the district;

(f) not more than four social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the district, to be nominated by the District Magistrate, two of whom shall be women;

(g) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate;

(h) the district—level officer in—charge of the Scheduled Castes Welfare-Member-Secretary, *ex officio*;

(i) district—level officers of Departments and agencies who, in the opinion of the District Magistrate, subject to general orders, if any, of the State Government, have a significant role to play in the implementation of this Act.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely:—

(a) the Sub-Divisional Magistrate—Chairperson, *ex officio*;

(b) the Chairpersons and the Chief Executive Officers of Panchayats at intermediate level of the Sub-Division, and where Panchayats at intermediate level, do not exist, Chairpersons from two Panchayats at Village level to be nominated by the Sub-Divisional Magistrate-member, *ex officio*;

(c) the Sub-Divisional Officer of Police—member, *ex officio*;

(d) Chief Executive Officer of—

(i) the Municipality of the Sub-Divisional headquarters—member, *ex officio*; and

(ii) Cantonment Board, if any, situated in the Sub Division—member, *ex officio*;

(e) one representative to be nominated by the railway authority located in the Sub-Division—member, *ex officio*;

(f) two social workers belonging to the organisation working for the prohibition of manual scavenging and rehabilitation of the manual scavengers, or representing the scavenger community resident in the Sub-Division, to be nominated by the District Magistrate, one of whom shall be a woman;

(g) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(h) the Sub-Divisional level officer in-charge of Scheduled Castes welfare—Member-Secretary, *ex officio*;

(i) Sub-Divisional level officers of Department and agencies who in the opinion of the Sub-Divisional Magistrate, subject to any general orders of the State Government or the District Magistrate, have a significant role to play in the implementation of this Act—member, *ex officio*.

(4) Each Vigilance Committee constituted at district and Sub-Divisional level shall meet at least once in every three months.

(5) No proceeding of a Vigilance Committees shall be invalid merely by reason of any defect in its constitution.

25. Functions of Vigilance Committee.—The functions of Vigilance Committee shall be—

(a) to advise the District Magistrate or, as the case may be, the Sub-Divisional Magistrate, on the action which needs to be taken, to ensure that the provisions of this Act or of any rule made thereunder are properly implemented;

(b) to oversee the economic and social rehabilitation of manual scavengers;

(c) to co-ordinate the functions of all concerned agencies with a view to channelise adequate credit for the rehabilitation of manual scavengers;

(d) to monitor the registration of offences under this Act and their investigation and prosecution.

26. State Monitoring Committee.—(1) Every State Government shall, by notification, constitute a State Monitoring Committee, consisting of the following members, namely:—

(a) the Chief Minister of State or a Minister nominated by him—Chairperson, *ex officio*;

(b) the Minister-in-charge of the Scheduled Castes Welfare, and such other Department, as the State Government may notify;

(c) Chairperson of the State Commissions for Safai Karamcharis, and Scheduled Castes, if any—member, *ex officio*;

(d) representatives of the National Commission for Scheduled Castes, and Safai Karamcharis—member, *ex officio*;

(e) not less than two members of the State Legislature belonging to the Scheduled Castes, nominated by the State Government:

Provided that if any State Legislature has no member belonging to the Scheduled Castes, the State Government may nominate the members belonging to the Scheduled Tribes;

(f) the Director-General of Police—member, *ex officio*;

(g) Secretaries to the State Government in the Departments of Home, Panchayati Raj, Urban Local Bodies, and such other Departments, as the State Government may notify;

(h) Chief Executive Officer of at least one Municipal Corporation, Panchayat at the district-level, Cantonment Board and railway authority as the State Government may notify;

(i) not more than four social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the State, to be nominated by the State Government, two of whom shall be women;

(j) State-level head of the convener Bank of the State Level Bankers' Committee—member, *ex officio*;

(k) Secretary of the Department of the State Government dealing with development of the Scheduled Castes—Member-Secretary, *ex officio*;

(l) such other representative of Departments of the State Government and such other agencies which, in the opinion of the State Government, are concerned with the implementation of this Act.

(2) The State Monitoring Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

27. Functions of the State Monitoring Committee.—The functions of the State Monitoring Committee shall be—

(a) to monitor and advise the State Government and local authorities for effective implementation of this Act;

(b) to co-ordinate the functions of all concerned agencies;

(c) to look into any other matter incidental thereto or connected therewith for implementation of this Act.

28. Duty of States or Union territories to send periodic reports to the Central Government.—Every State or Union territory Government and Union territory administration shall send such periodic reports to the Central Government about progress of implementation of this Act, as the Central Government may require.

29. Central Monitoring Committee.—(1) The Central Government shall, by notification, constitute a Central Monitoring Committee in accordance with the provisions of this section.

(2) The Central Monitoring Committee shall consist of the following members, namely:—

(a) The Union Minister for Social Justice and Empowerment—Chairperson, *ex officio*;

(b) Chairperson of the National Commission for Scheduled Castes—member, *ex officio*;

(c) Minister of State in the Ministry of Social Justice and Empowerment—member, *ex officio*;

(d) Chairperson, National Commission for Safai Karamcharis—member, *ex officio*;

(e) the Member of the Planning Commission dealing with development of the Scheduled Castes—member, *ex officio*;

(f) three elected members of Parliament belonging to Scheduled Castes, two from the Lok Sabha and one from the Rajya Sabha;

(g) Secretaries of the Ministries of,—

(i) Social Justice and Empowerment, Department of Social Justice and Empowerment;

(ii) Urban Development;

(iii) Housing and Urban Poverty Alleviation;

(iv) Drinking Water and Sanitation;

(v) Panchayati Raj;

(vi) Finance, Department of Financial Services; and

(vii) Defence,

members, *ex officio*;

(h) Chairman, Railway Board—member, *ex officio*;

(i) Director-General, Defence Estates—member, *ex officio*;

(j) representatives of not less than six State Governments and one Union territory, as the Central Government may, notify;

(k) not more than six social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the country, to be nominated by the Chairperson, two of whom shall be women;

(l) Joint Secretary, Department of Social Justice and Empowerment in the Ministry of Social Justice and Empowerment, looking after development of Scheduled Castes—Member-Secretary, *ex officio*;

(m) such other representatives of Central Ministries or Departments and agencies which, in the opinion of the Chairperson, are concerned with the implementation of this Act.

(3) The Central Monitoring Committee shall meet at least once in every six months.

30. *Functions of the Central Monitoring Committee.*—The functions of the Central Monitoring Committee shall be,—

(a) to monitor and advise the Central Government and State Government for effective implementation of this Act and related laws and programmes;

(b) to co-ordinate the functions of all concerned agencies;

(c) to look into any other matter incidental to or connected with implementation of this Act.

31. Functions of National Commission for Safai Karamcharis.—(1) The National Commission for Safai Karamcharis shall perform the following functions, namely:—

(a) to monitor the implementation of this Act;

(b) to enquire into complaints regarding contravention of the provisions of this Act, and to convey its findings to the concerned authorities with recommendations requiring further action; and

(c) to advise the Central and the State Governments for effective implementation of the provisions of this Act.

(d) to take *suo motu* notice of matter relating to non-implementation of this Act.

(2) In the discharge of its functions under sub-section (1), the National Commission shall have the power to call for information with respect to any matter specified in that sub-section from any Government or local or other authority.

32. Power of State Government to designate an appropriate authority to monitor the implementation of this Act.—(1) The State Government may, by notification, designate a State Commission for Safai Karamcharis or a State Commission for the Scheduled Castes or such other statutory or other authority, as it deems fit, to perform, within the State, *mutatis mutandis*, the functions specified in sub-section (1) of section 31.

(2) An authority designated under sub-section (1) shall, within the State, have, *mutatis mutandis*, the powers of the National Commission for Safai Karamcharis as specified in sub-section (2) of section 31.

CHAPTER VIII

MISCELLANEOUS

33. *Duty of local authorities and other agencies to use modern technology for cleaning of sewers, etc.*—(1) It shall be the duty of every local authority and other agency to use appropriate technological appliances for cleaning of sewers, septic tanks and other spaces within their control with a view to eliminating the need for the manual handling of excreta in the process of their cleaning.

(2) It shall be the duty of the appropriate Government to promote, through financial assistance, incentives and otherwise, the use of modern technology, as mentioned in sub-section (1).

34. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against an appropriate Government or any officer of the appropriate Government or any member of the Committee for anything which is in good faith done or intended to be done under this Act.

35. *Jurisdiction of civil courts barred.*—No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything, which is done or intended to be done, by or under this Act.

36. *Power of appropriate Government to make rules.*—(1) The appropriate Government shall, by notification, make rules for carrying out the provisions of this Act, within a period not exceeding three months from the date of commencement 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 obligation of an employer, under clause (d) of sub-section (1) of section 2;

(b) the manner in which the excreta fully decomposes under clauses (e) and (g) of sub-section (1) of section 2;

(c) the manner of carrying out survey of insanitary latrine and publishing list thereof under clause (a) of sub-section (1) of section 4;

(d) procedure of giving notice and recovering cost of demolition of an insanitary latrine under sub-section (3) of section 5;

(e) content and methodology of the survey under sub-section (2) of section 11;

(f) the eligibility conditions for identification of manual scavengers and publication of provisional list of persons found to be working as manual scavengers under sub-section (4) of section 11;

(g) publication of final list of persons found to be working as manual scavengers under sub-section (6) of section 11;

(h) manner of application to be made to the Chief Executive Officer of the municipality, or to an officer authorised by him in this behalf, under sub-section (1) of section 12 or, as the case may be, sub-section (1) of section 15;

(i) provision of initial, one time, cash assistance under subclause (ii) of clause (a) of sub-section (1) of section 13;

(j) such other powers of Inspectors under clause (e) of sub-section (2) of section 20; and

(k) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree 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.

(4) Every rule made under this Act by the State Government shall, as soon as may be after it is made, be laid before each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

37. Power of Central Government to make model rules.—(1) Notwithstanding anything contained in section 36 of this Act:—

(a) the Central Government shall, by notification, publish model rules for the guidance and use of State Governments; and

(b) in case the State Government fails to notify the rules under section 36 of this Act within the period of three months specified therein, then the model rules as notified by the Central Government shall be deemed to have come into effect, *mutatis mutandis*, in such State, till such time as the State Government notifies its rules.

(2) The model rules made by the Central Government under this Act shall be laid, as soon as may be after they are made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses make any modification in the rule, the rule shall thereafter have effect only in such modified form ; so, however, that any such modification shall be without prejudice to the validity of anything previously done under that rule.

38. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made in relation to a State after the expiration of three years from the commencement of this Act in that State.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

39. *Power to exempt.*—(1) The appropriate Government may, by a general or special order published in the Official Gazette, for reasons to be recorded, and subject to such conditions as it may impose, exempt any area, category of buildings or class of persons from any provisions of this Act or from any specified requirement contained in this Act or any rule, order, notification, bye-laws or scheme made thereunder or dispense with the observance of any such requirement in a class or classes of cases, for a period not exceeding six months at a time.

(2) Every general or special order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament or each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

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असाधारण.

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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रेल मंत्रालय

(रेलवे बोर्ड)

अधिसूचना

नई दिल्ली, 13 अक्टूबर, 2014

सा.का.नि. 726(अ).—केंद्रीय सरकार, हाथ से मैला उठाने वाले कर्मियों के नियोजन का प्रतिषेध और उनका पुनर्वास अधिनियम, 2013 (2013 का 25) की धारा (2) की उपधारा (1) के खंड (ड) के परंतुक और खंड (छ) के स्पष्टीकरण के खंड (ख) के अनुसरण में भारत सरकार के रेल मंत्रालय (रेलवे बोर्ड) की अधिसूचना संख्यांक सा.का.नि. 376(अ), तारीख 4 जून, 2014 में निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में, शब्दों, कोष्ठकों, अक्षरों और अंकों "धारा 2 की उपधारा (1) के खंड (ड) के साथ पठित धारा 36 की उपधारा (2) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए के स्थान पर धारा 2 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए" के स्थान पर "धारा 2 की उपधारा (1) के खंड (ड) के परंतुक और खंड (छ) के स्पष्टीकरण के खंड (ख) के अनुसरण में" शब्द, कोष्ठक, अक्षर और अंक रखे जाएंगे।

[फा. सं. 2014/ई (एल एल)/एस सी ए/1]

रागिनी येचुरी, कार्यकारी निदेशक (आई आर) रेलवे बोर्ड

पाद टिप्पण मूल अधिसूचना सा.का.नि. संख्यांक 376(अ), तारीख 4 जून, 2014 द्वारा प्रकाशित की गई थी।

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

NOTIFICATION

New Delhi, the 13th October 2014

G.S.R. 726(E).—In pursuance of the proviso to clause (e), and clause (b) of the Explanation to clause (g) of sub-section (1) of Section 2 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (25 of 2013), the Central Government hereby makes the following amendments in the Government of India in the Ministry of Railways (Railway Board) notification number G.S.R. 376 (E), dated the 4th June 2014, namely:—

In the said notification, for the words, brackets, letters and figures, “In exercise of the powers conferred by clause (b) of sub-section (2) of Section 36 read with clause (e) of the sub-section (1) of Section 2”, the words, brackets, letters and figures, “In pursuance of the proviso to clause (e), and clause (b) of the Explanation to clause (g) of sub-section (1) of section 2”, shall be substituted.

[F. No. 2014/E(LL)/SCA/1]

RAGINI YECHURY, Exe. Director (IR) Railway Board

Foot Note : The principal notification was published *vide* number G.S.R. 376(E), dated the 4th June 2014.



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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

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NEW DELHI, WEDNESDAY, OCTOBER 2, 2013/ASVINA 10, 1935

सामाजिक न्याय और अधिकारिता मंत्रालय

(सामाजिक न्याय और अधिकारिता विभाग)

अधिसूचना

नई दिल्ली, 1 अक्टूबर, 2013

का.आ. 2989(अ).—केन्द्रीय सरकार, हाथ से मैला उठाने वाले कर्मियों के नियोजन का प्रतिषेध और उनका पुनर्वास अधिनियम, 2013 (2013 का 25) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 6 दिसम्बर, 2013 को उस तारीख के रूप में नियत करती है जिसको उक्त अधिनियम प्रवृत्त होगा ।

[फा. सं. 12015/3/2008-एससीडी-IV]

संजीव कुमार, संयुक्त सचिव

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

(Department of Social Justice and Empowerment)

NOTIFICATION

New Delhi, the 1st October, 2013

S.O. 2989(E).—In exercise of the powers conferred by sub-section (3) of Section 1 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (25 of 2013), the Central Government hereby appoints the 6th day of December, 2013 as the date on which the said Act shall come into force.

[F. No. 12015/3/2008-SCD-IV]

SANJEEV KUMAR, Jt. Secy.

THE PROHIBITION OF EMPLOYMENT AS MANUAL
SCAVENGERS AND THEIR REHABILITATION BILL, 2013

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~~Bill~~ No. 96-F of 2012

THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS
AND THEIR REHABILITATION ~~BILL~~, 2013

(AS PASSED BY THE ~~HOUSES~~ OF PARLIAMENT) ^{ACT}

^{AN}
~~BILL~~ ^{ACT}

to provide for the prohibition of employment as manual scavengers, rehabilitation of manual scavengers and their families, and for matters connected therewith or incidental thereto.

WHEREAS promoting among the citizens fraternity assuring the dignity of the individual is enshrined as one of the goals in the Preamble to the Constitution;

AND WHEREAS the right to live with dignity is also implicit in the Fundamental Rights guaranteed in Part III of the Constitution;

AND WHEREAS article 46 of the Constitution, *inter alia*, provides that the State shall protect the weaker sections, and, particularly, the Scheduled Castes and the Scheduled Tribes from social injustice and all forms of exploitation;

AND WHEREAS the dehumanising practice of manual scavenging, arising from the continuing existence of insanitary latrines and a highly iniquitous caste system, still persists in various parts of the country, and the existing laws have not proved adequate in eliminating the twin evils of insanitary latrines and manual scavenging;

AND WHEREAS it is necessary to correct the historical injustice and indignity suffered by the manual scavengers, and to rehabilitate them to a life of dignity.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

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

Provided that the date so notified shall not be earlier than sixty days after the date of publication of the notification in the Official Gazette.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “agency” means any agency, other than a local authority, which may undertake sanitation facilities in an area and includes a contractor or a firm or a company which engages in development and maintenance of real estate;

(b) “appropriate government”, in relation to Cantonment Boards, railway lands, and lands and buildings owned by the Central Government, a Central Public Sector Undertaking or an autonomous body wholly or substantially funded by the Central Government, means the Central Government and in all other cases, the State Government;

(c) “Chief Executive Officer”, in relation to a Municipality or Panchayat, means, its senior-most executive officer, by whatever name called;

(d) “hazardous cleaning” by an employee, in relation to a sewer or septic tank, means its manual cleaning by such employee without the employer fulfilling his obligations to provide protective gear and other cleaning devices and ensuring observance of safety precautions, as may be prescribed or provided in any other law, for the time being in force or rules made thereunder;

(e) “insanitary latrine” means a latrine which requires human excreta to be cleaned or otherwise handled manually, either *in situ*, or in an open drain or pit into which the excreta is discharged or flushed out, before the excreta fully decomposes in such manner as may be prescribed:

Provided that a water flush latrine in a railway passenger coach, when cleaned by an employee with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be deemed to be an insanitary latrine.

(f) “local authority” means,—

(i) a Municipality or a Panchayat, as defined in clause (e) and clause (f) of article 243P of the Constitution, which is responsible for sanitation in its area of jurisdiction;

(ii) a Cantonment Board constituted under section 10 of the Cantonments Act, 2006; and

(iii) a railway authority;

(g) “manual scavenger” means a person engaged or employed, at the commencement of this Act or at any time thereafter, by an individual or a local authority or an agency or a contractor, for manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines is disposed of, or on a

railway track or in such other spaces or premises, as the Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed, and the expression "manual scavenging" shall be construed accordingly.

Explanation.—For the purpose of this clause,—

(a) "engaged or employed" means being engaged or employed on a regular or contract basis;

(b) a person engaged or employed to clean excreta with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be deemed to be a 'manual scavenger';

64 of 1993.

(h) "National Commission for Safai Karmacharis" means the National Commission for Safai Karmacharis constituted under section 3 of the National Commission for Safai Karmacharis Act, 1993 and continued by Resolution of the Government of India in the Ministry of Social Justice and Empowerment *vide* No. 17015/18/2003-SCD-VI, dated 24th February, 2004 and as amended from time to time;

(i) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(j) "occupier", in relation to the premises where an insanitary latrine exists, or someone is employed as a manual scavenger, means the person who, for the time being, is in occupation of such premises;

(k) "owner", in relation to the premises where an insanitary latrine exists or someone is employed as a manual scavenger, means, the person who, for the time being has legal title to such premises;

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

(m) "railway authority" means an authority administering railway land, as may be notified by the Central Government in this behalf;

24 of 1989.

(n) "railway land" shall have the meaning assigned to it in clause (32A) of section 2 of the Railways Act, 1989;

(o) "sanitary latrine" means a latrine which is not an 'insanitary latrine';

(p) "septic tank" means a water-tight settling tank or chamber, normally located underground, which is used to receive and hold human excreta, allowing it to decompose through bacterial activity;

(q) "sewer" means an underground conduit or pipe for carrying off human excreta, besides other waste matter and drainage wastes;

(r) "State Government", in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution;

(s) "survey" means a survey of manual scavengers undertaken in pursuance of section 11 or section 14.

41 of 2006.

(2) Words and expressions used and not defined in this Act, but defined in the Cantonments Act, 2006, shall have the same meanings respectively assigned to them in that Act.

(3) The reference to a Municipality under Chapters IV to VIII of this Act shall include a reference to, as the case may be, the Cantonment Board or the railway authority, in respect of areas included within the jurisdiction of the Cantonment Board and the railway land, respectively.

Act to have
overriding
effect.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 or in any other law, or in any instrument having effect by virtue of any other law. 46 of 1993.

CHAPTER II

IDENTIFICATION OF INSANITARY LATRINES

Local
authorities to
survey
insanitary
latrines and
provide
sanitary
community
latrines.

4. (1) Every local authority shall,—

(a) carry out a survey of insanitary latrines existing within its jurisdiction, and publish a list of such insanitary latrines, in such manner as may be prescribed, within a period of two months from the date of commencement of this Act;

(b) give a notice to the occupier, within fifteen days from the date of publication of the list under clause (a), to either demolish the insanitary latrine or convert it into a sanitary latrine, within a period of six months from the date of commencement of this Act:

Provided that the local authority may for sufficient reasons to be recorded in writing extend the said period not exceeding three months;

(c) construct, within a period not exceeding nine months from the date of commencement of this Act, such number of sanitary community latrines as it considers necessary, in the areas where insanitary latrines have been found.

(2) Without prejudice to the provisions contained in sub-section (1), Municipalities, Cantonment Boards and railway authorities shall also construct adequate number of sanitary community latrines, within such period not exceeding three years from the date of commencement of this Act, as the appropriate Government may, by notification, specify, so as to eliminate the practice of open defecation in their jurisdiction.

(3) It shall be the responsibility of local authorities to construct community sanitary latrines as specified in sub-sections (1) and (2), and also to make arrangements for their hygienic upkeep at all times.

Explanation.—For the purposes of this section, “community” in relation to railway authorities means passengers, staff and other authorised users of railways.

CHAPTER III

PROHIBITION OF INSANITARY LATRINES AND EMPLOYMENT AND ENGAGEMENT AS MANUAL SCAVENGER

Prohibition of
insanitary
latrines and
employment
and engage-
ment of
manual
scavenger.

5. (1) Notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, no person, local authority or any agency shall, after the date of commencement of this Act,— 46 of 1993.

(a) construct an insanitary latrine; or

(b) engage or employ, either directly or indirectly, a manual scavenger, and every person so engaged or employed shall stand discharged immediately from any obligation, express or implied, to do manual scavenging.

(2) Every insanitary latrine existing on the date of commencement of this Act, shall either be demolished or be converted into a sanitary latrine, by the occupier at his own cost, before the expiry of the period so specified in clause (b) of sub-section (1) of section 4:

Provided that where there are several occupiers in relation to an insanitary latrine, the liability to demolish or convert it shall lie with,—

(a) the owner of the premises, in case one of the occupiers happens to be the owner; and

(b) all the occupiers, jointly and severally, in all other cases:

Provided that the State Government may give assistance for conversion of insanitary latrines into sanitary latrines to occupiers from such categories of persons and on such scale, as it may, by notification, specify:

Provided further that non-receipt of State assistance shall not be a valid ground to maintain or use an insanitary latrine, beyond the said period of nine months.

(3) If any occupier fails to demolish an insanitary latrine or convert it into a sanitary latrine within the period specified in sub-section (2), the local authority having jurisdiction over the area in which such insanitary latrine is situated, shall, after giving notice of not less than twenty one days to the occupier, either convert such latrine into a sanitary latrine, or demolish such insanitary latrine, and shall be entitled to recover the cost of such conversion or, as the case may be, of demolition, from such occupier in such manner as may be prescribed.

6. (1) Any contract, agreement or other instrument entered into or executed before the date of commencement of this Act, engaging or employing a person for the purpose of manual scavenging shall, on the date of commencement of this Act, be terminated and such contract, agreement or other instrument shall be void and inoperative and no compensation shall be payable therefor.

Contract, agreement, etc., to be void.

(2) Notwithstanding anything contained in sub-section (1), no person employed or engaged as a manual scavenger on a full-time basis shall be retrenched by his employer, but shall be retained, subject to his willingness, in employment on at least the same emoluments, and shall be assigned work other than manual scavenging.

7. No person, local authority or any agency shall, from such date as the State Government may notify, which shall not be later than one year from the date of commencement of this Act, engage or employ, either directly or indirectly, any person for hazardous cleaning of a sewer or a septic tank.

Prohibition of persons from engagement or employment for hazardous cleaning of sewers and septic tanks.

8. Whoever contravenes the provisions of section 5 or section 6 shall for the first contravention be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both, and for any subsequent contravention with imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both.

Penalty for contravention of section 5 or section 6.

9. Whoever contravenes the provisions of section 7 shall for the first contravention be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both, and for any subsequent contravention with imprisonment which may extend to five years or with fine which may extend to five lakh rupees, or with both.

Penalty for contravention of section 7.

10. No court shall take cognizance of any offence punishable under this Act except upon a complaint thereof is made by a person in this behalf within three months from the date of the occurrence of the alleged commission of the offence.

Limitation of prosecution.

CHAPTER IV

IDENTIFICATION OF MANUAL SCAVENGERS IN URBAN AND RURAL AREAS AND THEIR REHABILITATION

11. (1) If any Municipality has reason to believe that some persons are engaged or employed in manual scavenging within its jurisdiction, the Chief Executive Officer of such Municipality shall cause a survey to be undertaken to identify such persons.

Survey of manual scavengers in urban areas by Municipalities.

(2) The content and methodology of the survey referred to in sub-section (1) shall be such as may be prescribed, and it shall be completed within a period of two months from its commencement in the case of Municipal Corporations, and within a period of one month in the case of other Municipalities.

(3) The Chief Executive Officer of the Municipality, in whose jurisdiction the survey is undertaken, shall be responsible for accurate and timely completion of the survey.

(4) After completion of the survey, the Chief Executive Officer shall cause to be drawn up a provisional list of persons found to be working as manual scavengers within the jurisdiction of his Municipality and fulfilling the eligibility conditions as may be prescribed, shall cause such provisional list to be published for general information in such manner, as may be prescribed, and shall invite objections to the list from the general public.

(5) Any person having any objection, either to the inclusion or exclusion of any name in the provisional list published in pursuance of sub-section (4), shall, within a period of fifteen days from such publication, file an objection, in such form as the Municipality may notify, to the Chief Executive Officer.

(6) All objections received in pursuance of sub-section (5), shall be enquired into, and thereafter a final list of persons found to be working as manual scavengers within the local limits of the municipality, shall be published by it in such manner, as may be prescribed.

(7) As soon as the final list of manual scavengers, referred to in sub-section (6) is published, the persons included in the said list shall, subject to the provisions of sub-section (2) of section 6, stand discharged from any obligation to work as manual scavengers.

Application
by an urban
manual
scavenger for
identification.

12. (1) Any person working as a manual scavenger in an urban area, may, either during the survey undertaken by the Municipality in pursuance of section 11, within whose jurisdiction he works, or at any time thereafter, apply, in such manner, as may be prescribed, to the Chief Executive Officer of the Municipality, or to any other officer authorised by him in this behalf, for being identified as a manual scavenger.

(2) On receipt of an application under sub-section (1), the Chief Executive Officer shall cause it to be enquired into, either as part of the survey undertaken under section 11, or, when no such survey is in progress, within fifteen days of receipt of such application, to ascertain whether the applicant is a manual scavenger.

(3) If an application is received under sub-section (1) when a survey under section 11 is not in progress, and is found to be true after enquiry in accordance with sub-section (2), action shall be taken to add the name of such a person to the final list published under sub-section (6) of section 11, and the consequences mentioned in sub-section (7) thereof shall follow.

Rehabilita-
tion of
persons
identified as
manual
scavengers
by a Muni-
cipality.

13. (1) Any person included in the final list of manual scavengers published in pursuance of sub-section (6) of section 11 or added thereto in pursuance of sub-section (3) of section 12, shall be rehabilitated in the following manner, namely:—

(a) he shall be given, within one month,—

(i) a photo identity card, containing, *inter alia*, details of all members of his family dependent on him, and

(ii) such initial, one time, cash assistance, as may be prescribed;

(b) his children shall be entitled to scholarship as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

(c) he shall be allotted a residential plot and financial assistance for house construction, or a ready-built house, with financial assistance, subject to eligibility and willingness of the manual scavenger, and the provisions of the relevant scheme of the Central Government or the State Government or the concerned local authority;

(d) he, or at least one adult member of his family, shall be given, subject to eligibility and willingness, training in a livelihood skill, and shall be paid a monthly stipend of not less than three thousand rupees, during the period of such training;

(e) he, or at least one adult member of his family, shall be given, subject to

eligibility and willingness, subsidy and concessional loan for taking up an alternative occupation on a sustainable basis, in such manner as may be stipulated in the relevant scheme of the Central Government or the State Government or the concerned local authority;

(f) he shall be provided such other legal and programmatic assistance, as the Central Government or State Government may notify in this behalf.

(2) The District Magistrate of the district concerned shall be responsible for rehabilitation of each manual scavenger in accordance with the provisions of sub-section (1) and the State Government or the District Magistrate concerned may, in addition, assign responsibilities in his behalf to officers subordinate to the District Magistrate and to officers of the concerned Municipality.

14. If any Panchayat has reason to believe that some persons are engaged in manual scavenging within its jurisdiction, the Chief Executive Officer of such Panchayat shall cause a survey of such manual scavengers to be undertaken, *mutatis mutandis*, in accordance with the provisions of section 11 and section 12, to identify such person.

Survey of manual scavengers in rural areas by Panchayats.

15. (1) Any person working as a manual scavenger, in a rural area, may, either during the survey undertaken by the Panchayat within whose jurisdiction he works, in pursuance of section 14 or at any time thereafter, apply, in such manner, as may be prescribed, to the Chief Executive Officer of the concerned Panchayat, or to any other officer authorised by him in this behalf, for being identified as a manual scavenger.

Application by a rural manual scavenger for identification.

(2) On receipt of an application under sub-section (1), the Chief Executive Officer shall cause it to be enquired into, either as part of the survey undertaken under section 14 or when no such survey is in progress, within fifteen days of receipt of such application, so as to ascertain whether the applicant is a manual scavenger.

16. Any person included in the final list of manual scavengers, published in pursuance of section 14 or added thereto in pursuance of sub-section (2) of section 15 shall be rehabilitated, *mutatis mutandis*, in the manner laid down for urban manual scavengers in section 13.

Rehabilitation of persons identified as manual scavengers by a Panchayat.

CHAPTER V

IMPLEMENTING AUTHORITIES

17. Notwithstanding anything contained in any other law for the time being in force, it shall be the responsibility of every local authority to ensure, through awareness campaign or in such other manner that after the expiry of a period of nine months, from the date of commencement of this Act,—

Responsibility of local authorities to ensure elimination of insanitary latrines.

(i) no insanitary latrine is constructed, maintained or used within its jurisdiction; and

(ii) in case of contravention of clause (i), action is taken against the occupier under sub-section (3) of section 5.

18. The appropriate Government may confer such powers and impose such duties on local authority and District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out, and a local authority and the District Magistrate may, specify the subordinate officers, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed, and the local limits within which such powers or duties shall be carried out by the officer or officers so specified.

Authorities who may be specified for implementing provisions of this Act.

19. The District Magistrate and the authority authorised under section 18 or any other subordinate officers specified by them under that section shall ensure that, after the expiry of such period as specified for the purpose of this Act,—

Duty of District Magistrate and authorised officers.

(a) no person is engaged or employed as manual scavenger within their jurisdiction;

(b) no one constructs, maintains, uses or makes available for use, an insanitary latrine;

(c) manual scavengers identified under this Act are rehabilitated in accordance with section 13, or as the case may be, section 16;

(d) persons contravening the provisions of section 5 or section 6 or section 7 are investigated and prosecuted under the provisions of this Act; and

(e) all provisions of this Act applicable within his jurisdiction are duly complied with.

Appointment
of inspectors
and their
powers.

20. (1) The appropriate Government may, by notification, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf, an inspector may, within the local limits of his jurisdiction, enter, at all reasonable times, with such assistance as he considers necessary, any premises or place for the purpose of,—

(a) examining and testing any latrine, open drain or pit or for conducting an inspection of any premises or place, where he has reason to believe that an offence under this Act has been or is being or is about to be committed, and to prevent employment of any person as manual scavenger;

(b) examine any person whom he finds in such premises or place and who, he has reasonable cause to believe, is employed as a manual scavenger therein, or is otherwise in a position to furnish information about compliance or non-compliance with the provisions of this Act and the rules made thereunder;

(c) require any person whom he finds on such premises, to give information which is in his power to give, with respect to the names and addresses of persons employed on such premises as manual scavenger and of the persons or agency or contractor employing or engaging them;

(d) seize or take copies of such registers, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the principal employer or agency; and

(e) exercise such other powers as may be prescribed.

(3) Any person required to produce any document or thing or to give any information required by an inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

45 of 1860.

(4) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any such search or seizure under sub-section (2) as they apply to such search or seizure made under the authority of a warrant issued under section 94 of the said Code.

2 of 1974.

CHAPTER VI

PROCEDURE FOR TRIAL

Offences to
be tried by
Executive
Magistrate.

21. (1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973, to be a Judicial Magistrate of the first class.

2 of 1974.

(2) An offence under this Act may be tried summarily.

Offence to be
cognizable
and non-
bailable.

22. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable and non-bailable.

2 of 1974.

23. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences by
companies.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

CHAPTER VII

VIGILANCE COMMITTEES

24. (1) Every State Government shall, by notification, constitute a Vigilance Committee for each district and each Sub-Division.

Vigilance
Committees.

(2) Each Vigilance Committee constituted for a district shall consist of the following members, namely:—

(a) the District Magistrate—Chairperson, *ex officio*;

(b) all members of the State Legislature belonging to the Scheduled Castes elected from the district—members:

Provided that if a district has no member of the State Legislature belonging to the Scheduled Castes, the State Government may nominate such number of other members of the State Legislature from the district, not exceeding two, as it may deem appropriate.

(c) the district Superintendent of Police— member, *ex officio*;

(d) the Chief Executive Officer of,—

(i) the Panchayat at the district level—member, *ex officio*;

(ii) the Municipality of the district headquarters—member, *ex officio*;

(iii) any other Municipal Corporation constituted in the district—member, *ex officio*;

(iv) Cantonment Board, if any, situated in the district—member, *ex officio*;

(e) one representative be nominated by the railway authority located in the district;

(f) not more than four social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the district, to be nominated by the District Magistrate, two of whom shall be women;

(g) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate;

(h) the district-level officer in-charge of the Scheduled Castes Welfare—Member-Secretary, *ex officio*;

(i) district-level officers of Departments and agencies who, in the opinion of the District Magistrate, subject to general orders, if any, of the State Government, have a significant role to play in the implementation of this Act.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely:—

(a) the Sub-Divisional Magistrate—Chairperson, *ex officio*;

(b) the Chairpersons and the Chief Executive Officers of Panchayats at intermediate level of the Sub-Division, and where Panchayats at intermediate level, do not exist, Chairpersons from two Panchayats at Village level to be nominated by the Sub-Divisional Magistrate—member, *ex officio*;

(c) the Sub-Divisional Officer of Police—member, *ex officio*;

(d) Chief Executive Officer of—

(i) the Municipality of the Sub-Divisional headquarters—member, *ex officio*; and

(ii) Cantonment Board, if any, situated in the Sub-Division—member, *ex officio*;

(e) one representative to be nominated by the railway authority located in the Sub-Division—member, *ex officio*;

(f) two social workers belonging to the organisation working for the prohibition of manual scavenging and rehabilitation of the manual scavengers, or representing the scavenger community resident in the Sub-Division, to be nominated by the District Magistrate, one of whom shall be a woman;

(g) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(h) the Sub-Divisional level officer in-charge of Scheduled Castes welfare—Member-Secretary, *ex officio*;

(i) Sub-Divisional level officers of Department and agencies who in the opinion of the Sub-Divisional Magistrate, subject to any general orders of the State Government or the District Magistrate, have a significant role to play in the implementation of this Act—member, *ex officio*.

(4) Each Vigilance Committee constituted at district and Sub-Divisional level shall meet at least once in every three months.

(5) No proceeding of a Vigilance Committees shall be invalid merely by reason of any defect in its constitution.

Functions of
Vigilance
Committee.

25. The functions of Vigilance Committee shall be—

(a) to advise the District Magistrate or, as the case may be, the Sub-Divisional Magistrate, on the action which needs to be taken, to ensure that the provisions of this Act or of any rule made thereunder are properly implemented;

(b) to oversee the economic and social rehabilitation of manual scavengers;

(c) to co-ordinate the functions of all concerned agencies with a view to channelise adequate credit for the rehabilitation of manual scavengers;

(d) to monitor the registration of offences under this Act and their investigation and prosecution.

26. (1) Every State Government shall, by notification, constitute a State Monitoring Committee, consisting of the following members, namely:—

State
Monitoring
Committee.

(a) the Chief Minister of State or a Minister nominated by him—Chairperson, *ex officio*;

(b) the Minister-in-charge of the Scheduled Castes Welfare, and such other Department, as the State Government may notify;

(c) Chairperson of the State Commissions for Safai Karamcharis, and Scheduled Castes, if any— member, *ex officio*;

(d) representatives of the National Commission for Scheduled Castes, and Safai Karamcharis—member, *ex officio*;

(e) not less than two members of the State Legislature belonging to the Scheduled Castes, nominated by the State Government:

Provided that if any State Legislature has no member belonging to the Scheduled Castes, the State Government may nominate the members belonging to the Scheduled Tribes;

(f) the Director-General of Police— member, *ex officio*;

(g) Secretaries to the State Government in the Departments of Home, Panchayati Raj, Urban Local Bodies, and such other Departments, as the State Government may notify;

(h) Chief Executive Officer of at least one Municipal Corporation, Panchayat at the district-level, Cantonment Board and railway authority as the State Government may notify;

(i) not more than four social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the State, to be nominated by the State Government, two of whom shall be women;

(j) State-level head of the convener Bank of the State Level Bankers' Committee— member, *ex officio*;

(k) Secretary of the Department of the State Government dealing with development of the Scheduled Castes—Member-Secretary, *ex officio*;

(l) such other representative of Departments of the State Government and such other agencies which, in the opinion of the State Government, are concerned with the implementation of this Act.

(2) The State Monitoring Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

27. The functions of the State Monitoring Committee shall be—

Functions of
the State
Monitoring
Committee.

(a) to monitor and advise the State Government and local authorities for effective implementation of this Act;

(b) to co-ordinate the functions of all concerned agencies;

(c) to look into any other matter incidental thereto or connected therewith for implementation of this Act.

28. Every State or Union territory Government and Union territory administration shall send such periodic reports to the Central Government about progress of implementation of this Act, as the Central Government may require.

Duty of
States or
Union
territories to
send periodic
reports to the
Central
Government

29. (1) The Central Government shall, by notification, constitute a Central Monitoring Committee in accordance with the provisions of this section.

Central
Monitoring
Committee.

(2) The Central Monitoring Committee shall consist of the following members, namely:—

(a) The Union Minister for Social Justice and Empowerment—Chairperson, *ex officio*;

(b) Chairperson of the National Commission for Scheduled Castes—member, *ex officio*;

(c) Minister of State in the Ministry of Social Justice and Empowerment—member, *ex officio*;

(d) Chairperson, National Commission for Safai Karamcharis—member, *ex officio*;

(e) the Member of the Planning Commission dealing with development of the Scheduled Castes—member, *ex officio*;

(f) three elected members of Parliament belonging to Scheduled Castes, two from the Lok Sabha and one from the Rajya Sabha;

(g) Secretaries of the Ministries of,—

(i) Social Justice and Empowerment, Department of Social Justice and Empowerment;

(ii) Urban Development;

(iii) Housing and Urban Poverty Alleviation;

(iv) Drinking Water and Sanitation;

(v) Panchayati Raj;

(vi) Finance, Department of Financial Services; and

(vii) Defence,

members, *ex officio*;

(h) Chairman, Railway Board—member, *ex officio*;

(i) Director-General, Defence Estates—member, *ex officio*;

(j) representatives of not less than six State Governments and one Union territory, as the Central Government may, notify;

(k) not more than six social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the country, to be nominated by the Chairperson, two of whom shall be women;

(l) Joint Secretary, Department of Social Justice and Empowerment in the Ministry of Social Justice and Empowerment, looking after development of Scheduled Castes—Member-Secretary, *ex officio*;

(m) such other representatives of Central Ministries or Departments and agencies which, in the opinion of the Chairperson, are concerned with the implementation of this Act.

(3) The Central Monitoring Committee shall meet at least once in every six months.

30. The functions of the Central Monitoring Committee shall be,—

(a) to monitor and advise the Central Government and State Government for effective implementation of this Act and related laws and programmes;

(b) to co-ordinate the functions of all concerned agencies;

(c) to look into any other matter incidental to or connected with implementation of this Act.

31. (1) The National Commission for Safai Karamcharis shall perform the following functions, namely:—

Functions of
National
Commission
for Safai
Karamcharis.

(a) to monitor the implementation of this Act;

(b) to enquire into complaints regarding contravention of the provisions of this Act, and to convey its findings to the concerned authorities with recommendations requiring further action; and

(c) to advise the Central and the State Governments for effective implementation of the provisions of this Act.

(d) to take *suo motu* notice of matter relating to non-implementation of this Act.

(2) In the discharge of its functions under sub-section (1), the National Commission shall have the power to call for information with respect to any matter specified in that sub-section from any Government or local or other authority.

32. (1) The State Government may, by notification, designate a State Commission for Safai Karamcharis or a State Commission for the Scheduled Castes or such other statutory or other authority, as it deems fit, to perform, within the State, *mutatis mutandis*, the functions specified in sub-section (1) of section 31.

Power of
State
Government
to designate
an appropri-
ate authority
to monitor
the imple-
mentation of
this Act.

(2) An authority designated under sub-section (1) shall, within the State, have, *mutatis mutandis*, the powers of the National Commission for Safai Karamcharis as specified in sub-section (2) of section 31.

CHAPTER VIII

MISCELLANEOUS

33. (1) It shall be the duty of every local authority and other agency to use appropriate technological appliances for cleaning of sewers, septic tanks and other spaces within their control with a view to eliminating the need for the manual handling of excreta in the process of their cleaning.

Duty of local
authorities
and other
agencies to
use modern
technology
for cleaning
of sewers, etc.

(2) It shall be the duty of the appropriate Government to promote, through financial assistance, incentives and otherwise, the use of modern technology, as mentioned in sub-section (1).

34. No suit, prosecution or other legal proceeding shall lie against an appropriate Government or any officer of the appropriate Government or any member of the Committee for anything which is in good faith done or intended to be done under this Act.

Protection of
action taken
in good faith.

35. No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything, which is done or intended to be done, by or under this Act.

Jurisdiction of
civil courts
barred.

36. (1) The appropriate Government shall, by notification, make rules for carrying out the provisions of this Act, within a period not exceeding three months from the date of commencement of this Act.

Power of
appropriate
Government
to make rules.

(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 obligation of an employer, under clause (d) of sub-section (1) of section 2;

(b) the manner in which the excreta fully decomposes under clauses (e) and (g) of sub-section (1) of section 2;

(c) the manner of carrying out survey of insanitary latrine and publishing list thereof under clause (a) of sub-section (1) of section 4;

(d) procedure of giving notice and recovering cost of demolition of an insanitary latrine under sub-section (3) of section 5;

(e) content and methodology of the survey under sub-section (2) of section 11;

(f) the eligibility conditions for identification of manual scavengers and publication of provisional list of persons found to be working as manual scavengers under sub-section (4) of section 11;

(g) publication of final list of persons found to be working as manual scavengers under sub-section (6) of section 11;

(h) manner of application to be made to the Chief Executive Officer of the municipality, or to an officer authorised by him in this behalf, under sub-section (1) of section 12 or, as the case may be, sub-section (1) of section 15;

(i) provision of initial, one time, cash assistance under sub-clause (ii) of clause (a) of sub-section (1) of section 13;

(j) such other powers of Inspectors under clause (e) of sub-section (2) of section 20; and

(k) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree 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.

(4) Every rule made under this Act by the State Government shall, as soon as may be after it is made, be laid before each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

Power of
Central
Government
to make model
rules.

37. (1) Notwithstanding anything contained in section 36 of this Act:—

(a) the Central Government shall, by notification, publish model rules for the guidance and use of State Governments; and

(b) in case the State Government fails to notify the rules under section 36 of this Act within the period of three months specified therein, then the model rules as notified by the Central Government shall be deemed to have come into effect, *mutatis mutandis*, in such State, till such time as the State Government notifies its rules.

(2) The model rules made by the Central Government under this Act shall be laid, as soon as may be after they are made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses make any modification in the rule, the rule shall thereafter have effect only in such modified form; so, however, that any such modification shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties.

38. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made in relation to a State after the expiration of three years from the commencement of this Act in that State.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

39. (1) The appropriate Government may, by a general or special order published in the Official Gazette, for reasons to be recorded, and subject to such conditions as it may impose, exempt any area, category of buildings or class of persons from any provisions of this Act or from any specified requirement contained in this Act or any rule, order, notification, bye-laws or scheme made thereunder or dispense with the observance of any such requirement in a class or classes of cases, for a period not exceeding six months at a time.

Power to
exempt.

(2) Every general or special order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament or each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

~~BILL~~

to provide for the prohibition of employment as manual scavengers, rehabilitation of manual scavengers and their families, and for matters connected therewith or incidental thereto.

(As passed by the Houses of Parliament)