The Bhavani Reservoir Irrigation Cess Act, 1933

Act 16 of 1933

Keyword(s):
Levy, Water Cess, Irrigable Land, Bhavani Reservoir

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THE BHAVANI RESERVOIR IRRIGATION CESS ACT, 1933.

TABLE OF CONTENTS.

SECTIONS.

1. Short title, extent and commencement.

2. Levy of water-cess on lands allowed to be irrigated from the Bhavani Reservoir.

3. Permits.

4. Sections 1-A and 2 of the Tamil Nadu Irrigation Cess Act, 1865, to apply.

5. Exclusion of jurisdiction of civil courts.

6. Rules.

7. Saving as to water-cess leviable under the Tamil Nadu Irrigation Cess Act, 1865.

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[1][TAMIL NADU] ACT No. XVI OF 1933.[2].

(THE BHAVANI RESERVOIR IRRIGATION CESS ACT, 1933.)

(*Received the assent of the Governor on the 25th April* 1933, *and that of the Governor-General on the 15th May* 1933; *the assent of the Governor-General was first published in the* Fort St. George Gazette *on the 23rd May* 1933.)

An Act to provide for the levy of water-cess on lands irrigable from the Bhavani Reservoir.

WHEREAS the Government propose to construct a reservoir on the Bhavani river near its junction with the Moyar river in order to provide water to supplement rainfall for the irrigation of [3][ ] crops;

AND WHEREAS it is necessary in order to safeguard the Government revenue that the payment of water-cess in respect of all lands the irrigation of which from the reservoir is permitted should be made obligatory whether the water is taken or not;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:—

hort title, xtent and ommence-ent.

1. (1) This Act may be called the Bhavani Reservoir Irrigation Cess Act, 1933.

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[1] These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

[2] For Statement of Objects and Reasons, *see* Part IV of the *Fort St. George Gazette*, dated the 24th January 1933, pages 9-10; for Report of Select Committee, *see* Proceedings of the Madras Legislative Council, Volume LXVI, pages 776-780; for Proceedings in Council, *see ibid*, Volume LXIV, pages 418-419 and Volume LXVI, pages 742-746.

The provisions of sections 2 to 7 of this Act shall apply in respect of all lands to which the Mettur Canal Irrigation Cess Act, 1953 (Tamil Nadu Act XVII of 1953) extends by virtue of section 2 of the latter Act.

[3] The word "dry" was omitted by section 2 of the Bhavani Reservoir Irrigation Cess (Amendment) Act, 1952 (Madras Act V of 1952).

(2) It extends to all lands the irrigation of which from the Bhavani Reservoir (hereinafter called the reservoir) is allowed by or under the orders of the [1][State Government] but does not extend to any land which on the date this Act comes into force is entitled to irrigation with water of the Bhavani river, or any other source belonging to or constructed [2][by, or on behalf of, the [3](Government)].

(3) It shall come into force on such* date as the [1][State Government] may by notification in the [4][Official Gazette] appoint.

[5][Tamil Nadu] Act VII of 1865.

Levy of water-cess on lands allowed to be irrigated from the Bhavani.

2. Notwithstanding anything contained in the [5][Tamil Nadu] Irrigation Cess Act, 1865, it shall be lawful for the [1][State Government] to levy every fasli water-cess on all lands the irrigation of which from the reservoir is allowed by or under the orders of the [1][State Government], whether such lands are actually irrigated with water from the reservoir or not; and the [1][State Government] may by rule prescribe the conditions under which and the rates at which such water-cess shall be levied:

Provided that the water-cess shall not be levied under this Act on any land unless a permit has been

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "by the Local Government" by the Adaptation Order of 1937.

[3] This word was substituted for the word "Crown" by the Adaptation Order of 1950.

[4] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[5] These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

*Came into force on the 23rd May 1933.

issued in respect thereof under section 3 and unless such permit is in force:

Provided further that the rate of water-cess charged under this Act [1][shall not exceed twenty rupees per acre in the case of cotton, fifteen rupees per acre in the case of paddy, seven rupees and eight annas per acre in the case of millets, and such rate as may, from time to time, be notified by the [2][State Government] in the case of any other crop permitted under section 3].

...its.

3. (1) Permit shall be issued in respect of all lands the irrigation of which from the reservoir is allowed by or under the orders of the [2][State Government].

(2) Every such permit shall be issued by such authority and shall be in such form as the [2][State Government] may by rule prescribe and shall specify the conditions under which the land in respect of which it is issued may be irrigated, [3][and such conditions may relate to the period in every fasli during which the land may be irrigated, the crop or crops which may be grown on the land, and the source through which water may be taken for irrigation]:

Provided that where the [2][State Government] by notification in the district gazette so direct a permit shall not be issued under this sub-section in respect of any land after the date specified in such notification in that behalf except on payment of such fee and on such other terms and by such authority as the [2][State Government] may by rule prescribe.

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[1] These words were substituted for the words "shall in no case exceed nine rupees per acre", by section 3 of the Bhavani Reservoir Irrigation Cess (Amendment) Act, 1952 (Madras Act V of 1952).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words were substituted for the words "and in particular the period in every fasli during which such land may be irrigated and the source through which water may be taken for such irrigation", by section 4 of the Bhavani Reservoir Irrigation Cess (Amendment) Act, 1952 (Madras Act V of 1952).

(3) Every permit issued under sub-section (2) shall be served on, or tendered to, the registered holder of the land in respect of which it is issued, in such manner as the [1][State Government] may by rule prescribe.

(4) The registered holder may, within three months from the date on which the permit is so served on, or tendered to, him, apply to the Collector of the district for the cancellation or modification of the permit on the ground that it is not advantageous to irrigate such land or any specified portion thereof either on account of the rate of water-cess prescribed by the [1][State Government] or for any other reason such as the unsuitability of the water for the soil or for the crop usually grown on the land. Against the order of the Collector on such application, the registered holder may, within three months from the date of the order, appeal to the Board of Revenue which may pass such order on the appeal as it thinks fit. The registered holder shall not be entitled to call such permit in question except in the manner provided in this sub-section.

(5) Any permit issued under this Act, may, by order, be cancelled or modified at any time by such authority as the [1][State Government] may by rule prescribe.

(6) Every permit issued under this Act with such modifications, if any, as may be made therein under sub-section (4) or sub-section (5) shall—

(*a*) remain in force until it is cancelled under either of the said sub-sections ; and

(*b*) be binding on the registered holder as well as the owner of the land, for the time being.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Sections 1-A and 2 of the [1][Tamil Nadu] Irrigation Cess Act, 1865, to apply.

4. The provisions of sections 1-A and 2 of the [1][Tamil Nadu] Irrigation Cess Act, 1865, shall apply to the levy of water-cess under this Act as if it were a cess levied under the [1][Tamil Nadu] Irrigation cess Act, 1865. [1][Tamil Nadu] Act V of 1985

Exclusion of jurisdiction of civil courts.

5. No Civil Court shall take cognizance of any suit or proceeding brought by any person questioning the rate of water-cess levied under this Act or the liability of any person to pay such cess or any order passed under section 3:

Provided that nothing in this section shall prevent any person from obtaining in the Civil Court any relief to which he may be entitled on the ground that he is not liable to pay any such cess because he is neither the registered holder nor the owner of the land in respect of which the levy has been made or on the ground that the land in respect of which the levy has been made is entitled on the date on which this Act comes into force to irrigation with water of the Bhavani river, or any other source belonging to or constructed [2][by, or on behalf of, the [3](Government)].

Rules.

6. The [4][State Government] may, by notification in the [5][Official Gazette] make rules consistent with this Act to carry into effect the purposes thereof.

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[1] These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

[2] These words were substituted for the words "by the Government" by the Adaptation Order of 1937.

[3] This word was substituted for the word "Crown" by the Adaptation Order of 1950.

[4] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] These words were substituted for the words "*Fort St. George Gazett*" by the Adaptation Order of 1937.

Saving as to water-cess leviable under the [1][Tamil Nadu] Irrigation Cess Act, 1865.

7. Nothing in this Act shall operate as a bar to the levy of water-cess under the [1][Tamil Nadu] Irrigation Cess Act, 1865, for any water taken or used otherwise than under and in accordance with the terms of a permit in force issued under this Act.

N adu] Act VII of 1865.

[1] These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

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