

**THE ANDHRA PRADESH HOUSING BOARD ACT, 1956**  
**Act No.XLVI of 1956**

**{5<sup>th</sup> October 1956}**

An Act to provide for measures to be taken to deal with and satisfy the need of housing accommodation.

**Preamble :** - Where as it is expedient to take such measures, to make such schemes and to carry out such works as are necessary for the purpose of dealing with and satisfying the need of housing accommodation and with the object in view it is necessary to establish a Board and to make certain other provisions hereinafter appearing.

Be it enacted in the seventh year of our **republic** as follows:

**CHAPTER – I**  
**Preliminary.**

- 1. Short title extent and commencement:** - (1) This Act may be called the Andhra Pradesh Housing Board Act, 1956.
- 2.** It extends to the whole of the State of Andhra Pradesh.
- 3.** It shall come into force on such date and in such areas as the State Government may, by notification in the Andhra Pradesh gazette, appoint and different dates may appointed for different areas.

**2. Definitions:-** In this Act, unless there is anything repugnant in the subject or context :-

- (1)** “Board” means the Housing Board constituted under Section 3;
- (2)** “Board premises” means any premises belonging to or vesting in the Board or taken on lease by the Board or entrusted to the Board under this Act for management and use for the purposes of this Act;
- (3)** “Building materials” means such commodities or articles as are specified to be building materials for the purpose of this Act by the Government by notification in the Andhra Pradesh Gazette;

---

1. Received the assent of the President on 29<sup>th</sup> September, 1956 published in the Gazette Extraordinary on the 5<sup>th</sup> October, 1956.

- Extended to the whole of the State of **Andhra Pradesh by A.P**
- 

**(4)** :Bye-laws means bye-laws made under Section 72;

**(5)** “Chairman” means the Chairman of the Board.

- (6) “Competent Authority” means any person authorised by the Government by notification in the Andhra Pradesh gazette to perform the function of the competent authority under Chapter VI for such areas as may be specified in the Notification;
- (7) “Corporation” means a Municipal Corporation constituted under the Hyderabad Municipal Corporations Act, 1955 (11 of 1956) for the cities of Hyderabad and Secunderabad;
- (7-A) “Government” means the State Government.
- (8) “Housing scheme” means a housing scheme made under this Act;
- (9) “Land” includes benefits arising out of land and things attached to the earth or permanently fastened to any thing attached to the earth;
- (10) “Local authority” includes Municipal Corporation Municipal and Town Committees, District Municipalities, Zilla Parsishads, Panchayat Samithis and Village Panchayats;
- (11) “Member” means a member of the Board.
- (12) “Premises” means any land or building or part of a building and includes:
- (i) gardens, grounds and outhouses, if any, appertaining to such building or part of a building, and
  - (ii) any things affixed to such building or part of a building for the more beneficial enjoyment thereof;
- (13) “Prescribed” means prescribed by rules made under this Act;
- (14) “Programme” means the annual housing programme prepared by the Board under section 24;
- (15) “Regulations” means regulations made under Section 71;
- (16) “Rules” means rules made under Section 70;
- (17) “Secretary” means the Secretary of the Board;
- (18) “Tribunal” means any Tribunal constituted under Section 47; and
- (19) “year” means the year commencing on the 1<sup>st</sup> day of April and ending on the 31<sup>st</sup> March.

**A.P. Housing Board Act – Competent Authority – whether he is a “Court”**

:- In Smt. Syeda Ahmed Jehan Vs A.P. Housing Board, reported in 1978 (1) A.L.T.P 150. The question has come up for consideration whether the competent authority within the meaning of A.P. Housing Board Act, 1956 is a “Court” such to the Appellate Jurisdiction of the High Court. “Competent Authority” is defined by section 2, Clause (6) of the Act as meaning any person authorised by the Government, by notification in the Official Gazette, to perform the functions of the Competent Authority under Chapter VI for such area as may be specified in the notification. This definition itself makes it clear that he is not a Court. Chapter VI enumerates the provisions relating to the powers to evict persons

from Board's premises. Under Section 55 which is in Chapter VI, any person aggrieved by an order of the Competent Authority can prefer an appeal to the appellate authority. For the purpose of that Chapter, the appellate authority shall be the Chief Judge of the City Civil Court, Hyderabad, if the Board's premises in respect of which the appeal is to be preferred are situated in the Cities of Hyderabad and Secunderabad and, if such premises are situated elsewhere, the District Judge within whose jurisdiction such premises are situated. Under Section 56 of the Act, the Competent Authority and the appellate authority shall follow such procedures as may be prescribed, and subject thereto, the provisions of the Code of Civil Procedure, shall, so far as they are not inconsistent with the Act or the Rules or orders made thereunder, apply to all proceedings before the Competent Authority and the appellate authority.

In proceedings under that Chapter, the competent authority shall have the same powers as are vested in a Civil Court when trying a suit; and the appellate authority shall have the same powers as are vested in a Civil Court when hearing an appeal, under the Code of Civil Procedure. The competent authority and appellate authority shall be deemed to be a Civil Court for the purposes of Sections 480 and 482 or the Code of Criminal Procedure, 1898, and any proceeding before the competent authority and the appellate authority shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code, 1860. Section 57 deals with the jurisdiction of a Civil Court. It says that save as provided in Section 55, no order made by the competent authority or the appellate authority in exercise of any power conferred by or under that chapter shall be called in question in any court. In view of these provisions, I am of the opinion that the Competent Authority is not a Court subject to the appellate jurisdiction of the High Court.

Appointment of a Company by Chairman of the Board to supply furniture and crockery for use in the Community halls owned by it without calling for tenders – Not valid.

The appointment of the second respondent as the sole supplier in the impugned order cannot be sustained for the Chairman or the Board under the Act 46 of 1956 do not have the power to create a monopoly. In common law transactions creating monopolies are not considered legal. *M/s Navrang and Co., another Vs. Chairman Housing Board and another* (Raghuvtr J.) 1979 (2) ALT 245 – 1979 (2) APLJ 319 – 1979 APHN 110.

**CHAPTER – II**  
**Establishment of the Board**

**2. INCORPORATION: ]**

- (1) With effect from such date as the Government may by notification in the Andhra Pradesh Gazette appoint may by notification in the Andhra Pradesh Gazette appoint in this behalf, there shall be established for the purposes of this Act, a Board by the name of the Hyderabad Housing Board.
- (2) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immovable and to contract and do all things necessary for the purposes of this Act.
- (3) For the purposes of this Act, the Land Acquisition Act, 1894 (Central Act.I of 1894), and the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960, (Andhra Pradesh Act XV of 1960), the Board shall be deemed to be a local authority;

**Explanation:-** The purposes of this Act referred to in sub-section (3) includes the management and use of the lands and buildings belonging to or vesting in the board under or for the purposes of this Act and the exercise of its rights over and with respect of such lands and buildings for the purposes of this Act.

**(4) Constitution of the Board : -** (1) The Board shall consist of the following members namely:-

- (a) A Chairman to be appointed by the Government;
- (b) The Vice-Chairman and Housing Commissioner, Ex-Officio. Inserted as per Amendment Act IV of 84;
- (c) The Commissioner for Weaker Sections Housing Programmes and Ex-Officio Secretary, Social Welfare Department, Ex-Officio;
- (d) One Officer of the Housing, Municipal Administration and Urban Development Department, to be nominated by the Government;
- (e) One Officer of the Finance and Planning (Finance Wing) Department to be nominated by the Government;
- (f) The Chief Engineer (Public Health), Ex-Officio;
- (g) The Chief Engineer (Buildings), Ex-Officio;
- (h) The Director of Town Planning Ex-Officio;
- (i) The Director of Municipal Administration, Ex-Officio;
- (j) The Secretary, Andhra Pradesh State Electricity Board, Ex-Officio;
- (k) The Commissioner of Municipal Corporation of Hyderabad, Ex-Officio;
- (l) One person, to be nominated by the Government from among the Vice-Chairman of the Urban Development Authorities in the State;  
(As amended by Act nO.4 of 1984)

- (m) One representative of the financial institutions providing financial assistance to the Board, to be nominated by the Government;
- (n) Three members, to be nominated by the Government each to represent the Coastal Andhra, the Rayala Seema and Telangana regions of the State;]
- (o) One member, to be nominated by the Government; to represent the cities of Hyderabad and Secunderabad.

Sub-Section (1) of section 4 is substituted as per Amendment Act No.25 of 1981.

**(2) Any member of the Board may at any time resign his Office by submitting his resignation to the Government.**

**(2-A) (a)** Notwithstanding anything in the principal Act, with effect on and from the commencement of this Act, all the members of the Board including its Chairman and Vice-Chairman and Housing Commissioner who are holding offices at such commencement shall cease to hold their offices as such and the Government may appoint a person to manage the affairs of the Board until the Board is reconstituted in accordance with the provisions of sub-section (1) of Section 4 of the Principal Act, as amended by this Act.

(b) The person appointed under clause (a) shall, until the Board is reconstituted, exercise the powers and perform the functions of the Board and of its Chairman.

(Sub-Section (2) (a) and (b) of Section 4 are substituted as per Amending Act No.6 of 1983)

**Explanation :-** Any provision relating to a member contained in sub-sec. (2) of this section, sub-sections (1) (2) of Sec.7 and Sections 8 & 9 shall, except where the context otherwise requires be deemed to apply also to the Chairman. ( Sec.4 is further amended by Act No.4 of 1984).

4-A: This section shall be omitted as per A.P. Housing Board (Amendment) Act No.4 of 1984.

**5. Leave, absence of Chairman:** - The Government may from time to time grant to the Chairman such leave as may be admissible under the rules and any person whom the Government appoints to act for the Chairman during such absence on leave shall, while so acting be deemed for all purposes of this Act to be the Chairman.

**6. Disqualification for appointment on Board:** - (1) A person shall be disqualified for being appointed or continuing as the Chairman or member of the Board, if he;

- (a) holds any Office or place of profit under the Board;
- (b) is of unsound mind and stands so declared by a competent court;
- (c) is an undischarged insolvent;
- (d) subject to the provisions of sub-section (2) has directly or indirectly by himself or his partner or if he belongs to joint Hindu family by any member of such family any share or interest in any contract (except as a share holder other than a Director in a company) or employment with by or on behalf of the Board.

(2) A person shall not be deemed to have incurred disqualification under clause (d) of sub-section (1) by reasons only of his :-

- (a) receiving pension from the Board;
- (b) having any share or interest in-
  - (i) any lease, sale, exchange or purchase of land or any agreement for the same;
  - (ii) any agreement for the loan of money or any security for the payment of money only.
- (iii) Any newspaper in which any advertisement relating to the affairs of the Board is inserted.
- (iv) Any joint stock board or any society registered or deemed to be registered under the Andhra Pradesh (Andhra area) Co-operative Societies Act, 1932 (Act VI of 1932) or under the Hyderabad Co-operative Societies Act, 1952 (XVI of 1952) which shall contract with or be employed by the Chairman or any Officer on behalf of the Board;
- (v) The occasional sale to the Chairman or any Officer on behalf of the Board of any article in which the regularly trades, of a value not exceeding in the aggregate in any financial year one thousand rupees;

Clause (v) is inserted as per Act No.4 of 1984.

- (vi) The occasional letting out on hire to the Board or hiring from the Board of any article for an amount not exceeding in the aggregate in any one financial year five hundred rupees.

© Occupying as a tenant for the purpose of residence any premises belonging to the Board;

**Section 7 Term of office and conditions of service:-** (1) Save as otherwise provided, the term of every member including the Chairman shall be such as may be prescribed.

(2) Every member shall receive such allowance as may be prescribed which shall be paid from the fund of Board.

(3) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration and other conditions of service shall be such as may be prescribed. The remuneration shall be paid from the fund of the Board.

Sec. 7 is as completely amended by the A.P. Housing Board (Amendment Act) 1984, Act No.4 of 1984 and published in A.P. Gazette Part-IV-B at page 7 on dated 19<sup>th</sup> March, 1984.

**8. Vacancy of a member :-** If a member.

- (a) becomes subject to any of the disqualifications mentioned in Section 6, or
- (b) tenders his registration in writing to the Government; or
- (c) is absent without the permission of the Board from three successive ordinary meetings of the Board, he shall cease to be a member.

**9. Vacancy to be filled:** - Any vacancy in the Office of a member due to death, resignation or removal or becoming incapable of acting as such shall be filled by the Government, by appointment of a person thereto, who shall hold Office so long only as the member in whose place he is appointed would have held it if the vacancy had not occurred.

**10. Vacancy of irregularities not to invalidate the proceedings:** - (1) No act of the Board or any person acting as Chairman or member thereof shall be deemed to be invalid by reason only of some defect in the appointment of such Board or appointment of such Chairman or member, or on the ground that they or any of them were disqualified for such Office or that formal notice of the intention to hold a meeting of the Board was not duly given or for any informality.

(As amended by Act No.4 of 1984)

(2) Any thing done or any proceeding taken under this Act shall not be questioned on account of any vacancy in the Board.

**11. Appointment of Committees:** Subject to such rules as may be made in this behalf the Board may, from time to time, and for any particular local area appoint one or more committees for the purpose of discharging such duties or performing such functions as it may delegate to them and any such committee may discharge such duties or perform such functions with due regard to the circumstances and requirements of that particular area.

**12. Meetings of the Board :-** The Board shall meet from time to time make such arrangements with respect to the day, time notice management and adjournment of its meetings as it thinks fit subject to the following provisions, namely:-

- (a) an ordinary meeting shall be held once at least every month;
- (b) The Chairman may whenever he thinks fit, call for special meetings;
- (c) The quorum for a meeting shall be half the whole number of the members;
- (d) Every meeting shall be presided over by the Chairman and in his absence, by any member chosen by the members present at the meeting to preside for the occasion;
- (e) If less than one-half of the whole number of members is present at a meeting, the Chairman shall adjourn the meeting to such time on the following day or some other future day as he may fix. A notice of the meeting so fixed shall be posted in the Board's Office. The business which could not be considered at the meeting so postponed for want of quorum shall be brought before and disposed of at the meeting so fixed or at any subsequent adjourned meeting irrespective of whether there be any quorum or not;
- (f) All questions at any meeting shall be decided by a majority of votes of the members present and voting and in case of equality of votes the person presiding shall have and exercise a second or casting vote.
- (g) The minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

**13. Power to make contract :** - The Board may enter into and perform or require the performance of all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

**13-A. Appointment of Vice-Chairman and Housing Commissioner:** - (1) The Government may appoint a Vice-Chairman and Housing Commissioner to the Board, who shall be the Chief Executive Officer of the Board and he shall be responsible for implementing the resolutions of the Board or any committee thereof. The Vice-Chairman shall also exercise such powers and perform such functions as may be entrusted to him by the Government. The staff borne on the establishment of the Board shall be under the administrative control and supervision of the Vice-Chairman and Housing Commissioner.

(2) The Government shall pay in the first instance out of the Consolidated Fund of the State, the salary, allowances, leave allowances, pension and contributions, if any, towards the provident fund or provident-cum-pension fund of the Vice-Chairman and Housing Commissioner appointed by them for the Board, and it shall be subsequently reimbursed from the fund of the Board, in such manner as may be prescribed.

(3) The Government shall have power to make rules to regulate the classification and methods of recruitment, conditions of service, pay and allowance and discipline and conduct of the Vice-Chairman and Housing Commissioner”.

Sec. 13 –A is newly inserted as per A.P. Housing Board (Amendment) Act, 1984. Act No.4 of 1984 and published in the A,.P. Gazette – IV – B at page 7 dated 20<sup>th</sup> March, 1984.

**14. Execution of contract :** - (1) Every Contract shall be made on behalf of the Board by the Vice-Chairman and Housing Commissioner.

Provided that :-

“Amendment by Act No.25 of 1981” Amendment by Act No.6 of 1983 & 4 of 1984.

(a) No contract involving an expenditure of rupees fifteen lakhs and more shall be made without the previous sanction of the Government.

(b) (i) No contract involving an expenditure of rupees three thousand and more shall, subject to clause (a), be made without the previous sanction of the Board.

(ii) No estimate or tender involving an expenditure of rupees three thousand and more shall subject to clause (a), be sanctioned or accepted without the previous sanction of the Board.

(2) Sub-Section (1) shall apply to every variation abandonment of a contract or estimate as well as to an original contract or estimate.

**15. Further Provision as to execution of contracts:** -

(1) Every contract made by the Vice-Chairman and Housing Commissioner on behalf of the Board, shall subject to the provision of this section, be entered in to in such manner and form as may be prescribed.



Amended by Act No. 25 of 1981 Amendment Act No. 6 of 1983 & Act No.4 of 84.

- (2) A contract not executed as provided in this section and the rules made thereunder shall not be binding on the Board.

**16. Application of Services Rules and Certain other rules: -**

Unless otherwise provided in this Act or prescribed thereunder the provisions of the Service Rules for the time being in force in the State relating to salaries, leave, pensions, traveling allowance, retirements and all conditions of service and the rules for the time being in force relating to the conduct of Government servants and enquiries in to the conduct and punishment of Government servants, shall apply to the Officers and servants of the Board appointed under Section 17.

**17. Appointment of Officers & Servants:** - (1) Subject to the provisions of this Act the Board may have a Secretary, one or more Assistant Housing Commissioners and such other engineers, architects, Officers and servants as it shall deem necessary and proper for the efficient execution of its duties and shall from time to time prepare, for the sanction of Government, a schedule of the staff to be so maintained setting forth their designations, grades, salaries, fees and allowances, and their respective duties and may also determine which of the staff is to be maintained permanently and which temporarily;

Amended by Act no.25 of 1981.

Provided that the Board shall set forth the designations and determine the grades, salaries, fees and allowances and inconformity with the arrangements prevailing and the schedule of rates in vogue in the establishment of the Government;

Provided further that the power of appointing such Officers and servants whose minimum monthly salary exclusive of allowances exceeds rupees two hundred and fifty shall vest in the Government;

(2) Notwithstanding anything in sub-section (1), the Government may transfer any Officer or servant of the Board taken over by it from the Hyderabad City improvement Board or the Secunderabad Town, Improvement Trust under Section 19 or from any Department of the Government, to the service of the Government and transfer any Officer of the Government to the service of the Board.

(3) The Board shall have the power to create with the previous approval of the Government, such posts of Officers and servants whose minimum monthly salary exclusive of allowances not exceed rupees two hundred and fifty, as it may consider necessary for carrying out the purpose of this Act.

**18. Condition of service of Officers and servants Delegation: -**

The remuneration and other condition of service of the Secretary, and other Officers and servants of the Board shall be such as may be prescribed.

Amended by Act NO.25 of 1981.

18-A. Subject to any rule that may be made in this behalf the Board may be order delegate any of its powers to the Vice-Chairman and Housing Commissioner or to any other Officer of the Board. The exercise of any powers delegated under this section shall be subject to such restrictions, limitations and conditions and to such control by the Board as may be specified in the order.

Amended by Act No.25 of 1981 Amendment Act no.6 of 1983 & Act No.4 of 1984.

**19. Absorption of the existing staff of the Hyderabad City Improvement Board and the Secunderabad Town Improvement Trust by the Board** : - The Board shall take over and employ such of the existing staff serving for the purposes of the Hyderabad City Improvement Board and the Secunderabad Town Improvement Trust as the Government may direct, and every person so absorbed shall be governed by the provisions of this Act and the rules and regulations made thereunder.

**20. General disqualification of all Officers and Servants** : - No person who has directly or indirectly by himself or his partner or agent any share or interest in any contract by or on behalf of the Board or in any employment under by or on behalf of the Board otherwise than as an Officer or servant thereof, shall become or remain an Officer or servant of the Board.

### CHAPTER – III HOUSING SCHEMES

**21. Duty of Board to undertake Housing Schemes:** - Subject to the provisions of this Act and subject to the control of the Government, the Board may incur expenditure and undertake works for the framing and execution of such housing schemes as it may consider necessary from time to time, or as may be entrusted to it by the Government.

**22. Matters to be provided for by housing schemes** : - Notwithstanding anything contained in any other law for the time being in force, a Housing Scheme may provide for all or any of the following matters, namely:

- (a) the acquisition by purchase, exchange or otherwise of any property necessary for or effected by the execution of the scheme;
- (b) the laying or relaying out of any land comprised in the scheme;
- (c) the distribution or redistribution of sites belonging to owners of property comprised in the scheme;
- (cc) the improvement and clearance of slums in the area included in the scheme.
- (d) the closure or demolition of dwellings or portions of dwelling unfit for human habitation;
- (e) the demolition of obstructive buildings or portions of buildings;
- (f) the construction and reconstruction of buildings their maintenance and preservation;

- (g) the sale (including on hire purchase system), letting or exchange of any property comprised in the scheme;
- (h) the construction and alteration of streets and back lanes;
- (i) provision of the draining, water supply and lighting of the area included in the scheme;
- (j) the provision of parks, play-fields and open space for the benefit of any area comprised in the scheme or any adjoining area and the enlargement of existing parks, play-fields, open spaces and approaches;
- (k) the provision of sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply;
- (l) the provision of accommodation for any class of inhabitants;
- (m) the advance of money for the purposes of the scheme;
- (n) the provision of facilities for communication and transport;
- (o) the collection of such information and statistics as may be necessary for the purposes of this Act;
- (p) any other matter for which, in the opinion of the Government, it is expedient to make provision with a view to provide housing accommodation and to the improvement or development of any area comprised in the scheme or any adjoining area or for the general efficiency of the scheme.

**22-A. Declaration of intention to make Housing Scheme :** - The Board may, from time to time, by notification in the Andhra Pradesh Gazette declare its intention to make a Housing Scheme for any area setting forth the extent of land proposed to be included in the scheme and such other particulars as may be prescribed.

**23. No housing scheme to be made for area included in improvement scheme or be inconsistent with town planning scheme :** - (1) Unless the Government by general or special order otherwise direct;

- (a) be made for any area for which an improvement scheme, under any law for the time being in force regulating the duties and powers of a Municipal Corporation, Municipal or Town Committee, a District Municipality, a Zilla Parishad, a Panchayat Samithi or village Panchayat has been sanctioned.
- (b) Contain any thing which is inconsistent with any matter included in a town planning scheme sanctioned by the Government under any Law for the time being in force.

**(2) should a dispute arise, whether or not a Housing Scheme: -**

- (a) includes any area for which an improvement scheme mentioned in clause (a) of sub-section (1) has been sanctioned;
- (b) contains anything inconsistent with any matter included in a town planning scheme mentioned in clause (b) of sub-section (1); the dispute shall be referred to Government whose decision shall be final.

**24. Preparation and submission of annual housing programme, budget and establishment schedule:** - (a) Before the first day of December in each year the Board shall prepare and forward:-

- (i) a programme,

(ii) a budget for the next year.

(iii) a schedule of the staff of Officers and servants already employed and to be employed during the next year, to the Government in such form as may be prescribed.

(2) The programme shall contain:

- (a) Such particulars of housing schemes as may be prescribed and which the Board proposes to execute whether in part or whole during the next year;
- (b) The particulars of any undertaking which the Board proposed to organize or execute during the next year for the purpose of the production of building materials; and
- (c) Such other particulars as may be prescribed.

(3) The budget shall contain a statement showing the estimated receipts and expenditure on capital and revenue acc units for the next year.

**25. Programme to be published for inviting suggestion and objections: -**

The Board shall, before forwarding the programme to the Government under Section 24 publish a draft of the programme in the Andhra Pradesh Gazette and in such other manner as may be prescribed.

(2) If within three weeks from the date of such application any person communicates in writing to the Board any suggestion or objection relating to such programme the Board shall consider such suggestion or objection and may modify such programme as it thinks fit.

(3) The Board shall then forward the programme, the Budget and schedule of the staff of Officers and servants to the Government for sanction as required under Section 24.

**26. Sanction to Programme, budget and Establishment Schedule: -**

The Government may sanction the programme the Budget and schedule of the staff of Officers and servants forwarded to it with such modifications as it deems fit. The programme, the budget and the schedule so sanctioned shall be laid before the Legislative Assembly as soon as may be after the programme is published.

**27. Publication of sanctioned programme : -**

The Government shall publish the programme sanctioned by it under Section 26, in the Andhra Pradesh Gazette.

**28. Supplementary programme, budget and establishment schedule: -**

The Board may, at any time, during the year, in respect of which a programme has been sanctioned under Section 26 submit a supplementary programme and budget and the additional schedule of the staff, if any, to the Government and the provisions of

Section 26 shall apply to such supplementary programme, budget and schedule. The provisions of Section 27 shall also apply to such programme.

**29. Variation of programme by Board after it is sanctioned : -**

The Board may, at any time, vary programme or any part thereof included in the programme sanctioned by the Government.

**30. Sanctioned Housing Schemes to be executed : -**

After the programme has been sanctioned and published by the Government under Sections 26 and 27, the Board shall, subject to the provisions of Section 29 proceed to execute the housing schemes included in the programme.

**31. Publication of housing scheme in Andhra Pradesh Gazette: -**

- (1) Before proceeding to execute any housing scheme under Section 30 the Board shall, by notification in the Andhra Pradesh Gazette, publish the scheme. The notification shall specify that the plan, showing the area which it is proposed to include in the housing scheme and the surrounding lands, shall be open to inspection of the public at all reasonable hours at the Office of the Board.
- (2) If within two weeks from the date of the publication of the Housing Scheme any person communicates in writing to the Board any suggestion or objection relating to the scheme, the Board shall consider such suggestion or objection and may modify the scheme as it thinks fit.
- (3) The Board shall then by notification in the Andhra Pradesh Gazette publish the final scheme. The notification shall specify that the plan, showing the area included in the final scheme and the surrounding lands and other particulars as may be prescribed shall be open to inspection of the public at all reasonable hours at the Office of the Board.
- (4) The publication of a notification in the Andhra Pradesh Gazette under sub-section (3) shall be conclusive evidence that the said scheme has been duly framed.

**32. Transfer to the Board for purposes of housing scheme of land vested in local authority :-**

- (1) Whenever any street, square or other land, or any part thereof which is situated within the Jurisdiction of a local authority and is vested in the said local authority, is within the area included in the programme sanctioned by the Government and is required for the purpose of such housing scheme, the Board shall give notice accordingly to the local authority in which it vests.
- (2) Where the said local authority concurs, such street, square or other land or part thereof shall vest in the Board.
- (3) Where there is any dispute the matter shall be referred to the Government. The Government shall, after hearing the local authority concerned, decide the

matter and the decision of the Government shall be final. If the Government decides that such street, square or land, shall vest in the Board, it shall vest accordingly.

- (4) Nothing in this section shall effect the rights or powers of the local authority in or over any drain or water works in such street, square or land.

**33. Compensation in respect of land vested in the Board :-**

- (1) Where any land vests in the Board under the provisions of Section 32 and the Board makes declaration that such land shall be retained by the Board only until it reverts in the local authority as part of a street or an open space under Section 26 no compensation shall be payable by the Board to the local authority in respect of that land.
- (2) Where any land vests in the Board under Section 32 and no declaration is made under sub-section (1) in respect of the land, the Board shall pay to the local authority as compensation a sum equal to the value of such land.
- (3) If, in any case where the Board has made a declaration in respect of any land under sub-section (1), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revert in the local authority the Board shall pay to the local authority compensation in respect of such land in accordance with the provisions of sub-section (2).

**(34) Power of Board to turn or close public street vested in it :-**

- (1) The Board may turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof.
- (2) Whenever the Board discontinues the public use of, a permanently closes any public street vested in it or any part thereof, it shall, as far as practicable, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, or the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as a mere member of the public, to use such street or part as means of access and has suffered damage from such discontinuance or closing.
- (3) In determining the compensation payable to any person under sub-section (2) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time that the public street part thereof on account which the compensation is paid, is discontinued or closed.
- (4) When any public street vested in the Board is permanently closed under sub-section (1), the Board may sell or lessee so much of the same as is no longer required.

**35. Reference to tribunal in case of dispute under Section 33 or 34: -**

If there is any dispute as to whether any compensation is payable under Section 33 or as to the amount of compensation payable under Section 33 or Section 34, as the case may be, the matter shall be referred to the Tribunal.

**36. Vesting in local authority of street laid out or altered and open space provided by the Board under housing scheme : -**

(1) Whenever the Government is satisfied: -

- (a) that any street laid out or altered by the Board has been duly leveled, paved, metaled, Flagged, channeled, sewerred and drained in the manner provided in the programme sanctioned by the Government under Section 26; and
  - (b) that such lamps, lamp-posts and other apparatus as the local authority considers necessary for the lighting of such street and as out to be provided by the Board have been so provided; and
  - (c) that water and other sanitary conveniences have been duly provided in such street; the Government may declare the street to be a public street and the street shall thereupon vest in the concerned local authority and shall thenceforth be maintained, kept in repair, lighted and cleaned by the said local authority;
- (2) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, it shall on completion be transferred to the local authority concerned, by resolution of the Board, and shall thereupon vest in, and be maintain at the expense of, the local authority.

Provided that the local authority may require the Board before any such open space is so transferred to enclose, level, turf, drain and layout such space and provide foot-paths therein, and if necessary, to provide lamps and other apparatus for lighting it.

- (3) If any difference of opinion arising between the Board and the local authority in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the Government whose decision shall be final.

**37. Other duties of the Board : -**

It shall be the duty of the Board to take measure with a view to expediting and cheapening construction of Buildings and the Board may for that purpose do all things for.

- (a) Unification, simplification and standardization of building materials;
- (b) Encouraging prefabrication and mass production of house components;

- (c) Organizing or undertaking the production of building materials required for the housing schemes;
- (d) Encouraging research for discovering cheap building materials and evolving new methods of economic construction;
- (e) Securing a study and sufficient supply of workmen trained in the work of construction of buildings.

**38. Reconstitution of plots : -**

A housing scheme may provide:-

- (a) for the formation of a reconstituted plot by the alteration of the boundaries of an original plot;
- (b) with the consent of the owner that two or more original plots each of which is held in ownership in severally or in joining ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot;
- (c) for the allotment of a plot to any owner dispossessed of a land in furtherance of the housing scheme; and
- (d) for the transfer of ownership of a plot from the person to another.

**39. Power to exempt schemes from provisions of Section 24 to 31 :-**

The Government may, by general or special order published in the Andhra Pradesh gazette exempt any housing scheme entrusted by it to the Board from all or any of the provisions of Sections 24 to 31 (both inclusive) subject to such conditions if any, as it may impose or may direct that any such provision shall apply to such scheme with such modifications as may be specified in the order.

**CHAPTER – IV**  
**Acquisition and Disposal of Land.**

**40. Power to purchase or lease by agreement : -**

- (1) The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.
- (2) The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the Land Acquisition Act, 1894 (Central Act 1 of 1894), as modified by this Act and the acquisition of any land or any interest therein for the purposes of this Act shall be deemed to be acquisition for public purpose



within the meaning of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

**40. A. Modification of the Land Acquisition Act, 1894 :-**

For the purpose of acquiring land for the Board under the land Acquisition Act, 1894 (Central Act 1 of 1894), the said Act shall be subject to the following modifications, namely:-

- (a) the publication of a draft notification under Section 22-A shall be substituted for and have the same effect as publication in the Andhra Pradesh Gazette and in the locality of a notification under sub-section (2) of Section 4 of the said Act, except when notification under sub-section (1) of Section 4 of a declaration under Section 6 of the said Act has been previously made and is in force;
- (b) Section 7 of the said Act as in force in the State of Andhra Pradesh shall have effect as if, after sub-clause (iii) of clause (b) of sub-section (2) of that section, the following had been added, namely:-
  - (iv) for the execution of any Housing Scheme under the APHB Act, 1956.

**40-B payment of compensation : -**

- (1) Notwithstanding anything in the Land Acquisition Act, 1894 (Central Act 1 of 1894), the amount payable as compensation in respect of land acquired under this Act shall be an amount equal to twenty times the net average annual income actually derived from such land during the period of five consecutive years immediately proceeding the date of notification under Section 22 -A.
- (2) The net average annual income referred to in sub-section (1) shall be calculated in the manner and in accordance with the principles set out in the succeeding sub-sections.
- (3) The net average annual income shall be one-fifth of the gross rent actually derived by the owner from the land acquired and buildings if any, thereon, during the period of five consecutive years after deducting municipal taxes, revenue charges and cost of repairs for the said period of five years from such gross rent.
- (4) The gross rent shall be determined by the Land Acquisition Officer by local enquiry, and, if necessary, by obtaining certified copies of extracts from the property tax assessment books of the local authority concerned showing the rental values of such lands or buildings.
- (5) Where there are trees on the land acquired, the Land Acquisition Officer shall take in to account the income, if any, actually derived by the owner from such trees during the said period of five years.

- (6) If the land or buildings thereon remained unoccupied, or the owner has not been in receipt of any rent for the occupation of such land or buildings during the whole or any part of the said period of five years, the gross rent shall be taken to be the income which the owner would in fact have derived if the land or buildings had been leased out or given for rent during the relevant period, and, for this purpose, the income actually derived from similar lands or buildings in the vicinity shall be taken into account.

Explanation: - In this section, 'building' includes a house, out-house, shed, hut and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever.

#### **40-C Power of Government to transfer Government land to the Board :-**

The Government may, either suo moto or on the request of the Board and after consulting the Collector of the district, by order transfer any land belonging to them to the control of the Board, for the purpose of providing housing accommodation. Every such order shall be published in the Andhra Pradesh Gazette and shall be subject to such terms, conditions and restrictions as may be specified in such order any rules made in this behalf.

- (2) The Collector of the district shall, on a request being made by the Board, furnish to the Board the particulars of all un-occupied lands belonging to the Government in any area specified by the Board.

#### **41. Betterment charges :-**

- (1) When by the making of a housing scheme and land in the area comprised in the scheme will in the opinion of the Board be increased in value, the Board in framing the scheme may declare that betterment charges shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land from the execution of the scheme.
- (2) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner and the betterment charges shall not exceed one-half of such increase in value.
- (3) Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but adjacent to the area comprised in the scheme.

#### **42. Notice to persons liable for betterment charges :-**

- (1) The Board shall give notice in the prescribed form to any person who is the owner of or has interest in the land in respect of which the betterment charges are to be levied and shall give such person an opportunity to be heard.

- (2) After hearing such person or if such fails to appear after the expiry of the period within which such person is required to appear before the Board, the Board shall proceed to assess the amount of betterment charges.
- (3) Where the assessment of betterment charges proposed by the Board is accepted by the person concerned within the period specified, the assessment shall be final.
- (4) If the person concerned does not accept the assessment proposed by the Board, the matter shall be referred to the Tribunal.
- (5) The Tribunal shall, after holding an inquiry and after hearing the person concerned, assess the amount of the betterment charges payable by the person.

Provided that the amount of the betterment charges assessed by the Board shall not be questioned in the Tribunal merely on the ground that the increase in the value of the land from the execution of the scheme as determined by the Board was in part due to reason unconnected with the scheme.

#### **43. Agreement for payment of betterment charge :-**

- (1) Any person liable to pay betterment charges in respect of any land may at his option, instead of paying the said charges in lump-sum to the Board, execute an agreement with the Board to pay the same in such number of instalments as may be determined by the Board at such interest as may be prescribed.
- (2) Every payment due from any person in respect of betterment charges and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the execution of any mortgage or charge, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

#### **44. Recovery of betterment charges :-**

All sums payable in respect of any land by any person in respect of betterment charges under Section 41 or by any person under an agreement under Section 53 shall be recoverable on behalf of the Board as an arrear of land revenue.

#### **45. Power to dispose of land :-**

Subject to any rules made by the Government under this Act., the Board may retain, sell, exchange, mortgage or otherwise dispose of, any land, building or other property vesting in it and situated in the area comprised in any housing scheme sanctioned under this Act.

Section 45 and Rule 29 of A.P. Housing Board Rules, 1959 and A.P. (Agricultural Produce and Livestock) Markets, Rules, Rule 143 – Land acquired by Government for the Housing Board for construction of Quarters – Order of Government sanctioning transfer of acquired land on permanent lease for 99 years for the Agricultural Market Committee – Market Committee subleasing the plots to traders on the direction of the Government – Not legal – Section 45 is not ultra virus the power of State Legislature or Art.14 of Constitution of India.

The purpose of Section 45 appears to be to enable the Housing Board to lease or sell any land or building comprised in a housing scheme sanctioned under the Act. The preamble recites the purpose to be to prepare Housing Schemes and to carry out such works as are necessary for satisfying the housing accommodation. The purpose is not to acquire and sell the land compulsorily acquired. Indeed it could never be the legislative intent. The Housing Board has absolutely no power to dispose of or lease or sell the land vested in it and not comprised in a Housing Scheme sanctioned under the Act. The discretionary power conferred by Section 45 and guided by Rule 29 is permissible to be used to further the object of the Act and not to defeat. If the power is invoked for a purpose different from the one for which it is granted, then the act done in the exercise of that power is invalid. If the discretion is exercised to lease out the land to the rich wholesale merchants and not to agricultural Market Committee then it is vitiated by misuse or abuse of power.

The Market Committee has power only to construct shops and Godowns and lease them on annual rental basis under Rule 143 and where it is not possible to construct shops-cum-godowns the Market Committee has only power under the Rule to lease out the plots to traders at the rent fixed by the Competent Authority for a period not exceeding five years for erecting temporary structures as per the approved plan. There was absolutely no power under Rule 143 to permit the sublease to the traders for a period of 99 years. Therefore, the directions given in the Memoranda of the Government dated 2-5-1980 are invalid and in excess of the power conferred by Rule 143 of the Andhra Pradesh (Agricultural Produce and Livestock) Markets Rules, 1969.

Section 45 of the A.P. Housing Board Act is not ultra vires the powers of the State Legislature. Section 45 of the Act does not defeat the scheme and object of the Act and is intra vires. The discretionary power conferred by section 45 is not unguided and unbridled and is not violative of Art. 14 of the Constitution of India. *Malakpet Citizen's Forum Vs. Chief Secretary to Government of A.P. and Others (Chennakesav Reddi. & Kodandaramayya.JJ) 1983 (1) ALT 70 (NRC).*

#### **46. Dispute regarding Re-constitution of Plots:-**

- (1) Where by the making of a housing scheme, any plots comprised in the area included in the scheme are reconstituted or any person is dispossessed, any person affected by such reconstitution or dispossession may apply to the Board for compensation. The Board may after making such inquiry as it thinks fit decide whether the applicant is entitled to any compensation and if so to what extent. If the person is dissatisfied with the decision of the Board in the matter, he may inform the Board accordingly. The Board shall thereupon refer the matter to the Tribunal.
- (2) The tribunal shall then after making an inquiry determine the amount of compensation and direct the Board to pay the same to the person entitled.

## **CHAPTER – V**

### **Tribunal**

#### **47. Constitution of the Tribunal :-**

The Tribunal shall consist of a single member who shall be a judicial Officer of the status of District Judge.

#### **48. Duties of Tribunal : -** The Tribunal shall -

- (a) Decide whether any compensation is payable under Section 33 ;
- (b) Decide the amount of compensation in the matters referred to it under Section 35;
- (c) Decide disputes relating to betterment charges referred to it under Section 42;
- (d) Decide disputes relating to the reconstitution of plots referred to it under Section 46 and the amount of compensation to be awarded in consequence thereof;
- (e) Decide such other matters as may be prescribed.

#### **49. Powers of President : (Omitted) :**

#### **50. Powers of and procedure before Tribunal : -**

- (1) In making inquiries under Section 33, 35, 42 and 46 of the Act, the Tribunal shall have and exercise the same powers as are vested in a Civil Court in respect of –
  - (a) Proof of facts by affidavits;
  - (b) Summoning and enforcing the attendance of any person and examining him on oath;

- (c) Compelling the production of documents; and
- (d) Issuing commissions for the examination of witnesses;

- (2) In all proceedings before the Tribunal the Tribunal shall follow such procedure as may be prescribed;
- (3) Every order made by the Tribunal for the payment of money except that for the recovery of which provision has been made in Section 44 and for the delivery of the possession or removal of any structure shall be enforced by the City Civil Court, Hyderabad in the cities of Hyderabad and Secunderabad and elsewhere by the District Court in the jurisdiction of which the land comprised in the housing scheme is situated as if it was the decree of the said Court.
- (4) The proceeding before the Tribunal shall be deemed to be judicial proceedings within the meaning of Section 193 and 228 of the Indian Penal Code.

**51. Decision of Tribunal to be final :-**

The decision of the Tribunal on any matter referred to it under this Act shall be final and shall not be questioned in any court of law.

**CHAPTER – VI**  
**Power to evict persons from Board premises**

**52. Power to evict certain persons from Board premises:-**

- (1) If the Competent Authority is satisfied –
  - (a) that the person authorised to occupy any Board premises has whether before or after the commencement of this Act.
    - (i) not paid rent lawfully due from him in respect of such premises for a period of more than two months; or
    - (ii) sublet, without the permission of the Board, the whole or any part of such premises; or
  - (iii) otherwise acted in contravention of the terms, express or implied, under which he is authorised to occupy such premises; or
- (b) that any person is in authorised occupation of any Board premises, the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises or (iii) in such other manner as may be prescribed, order that such person, as well as

- (2) If any person refuses or fails to comply with an order made under sub-section (1), the Competent Authority may after giving such person a reasonable opportunity of being heard confirm such orders and evict that person from, and take possession of the premises and may for that purpose use such force as may be necessary.

2-A) Where the Board premises are required by the Board for its use, the competent authority may, notwithstanding anything in any other law for the time being in force in this regard, by notice served in the manner laid down in sub-section (1) order that every person who is in occupation of the said premises shall vacate the said premises and shall deliver possession thereof to the Board, within the time specified in the notice. If any person refuses or fails to comply with any such order of the competent authority, the person in occupation of the premises shall be deemed to be in unauthorized occupation an opportunity of making his representation confirm the said order and evict him from, and take possession of, the premises and may for that purpose use such force as may be necessary.

(3) If a person, who has been ordered to vacate any premises under sub-clause (i) or (iii) of sub-clause (a) of sub-section (1), within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority as the case may be, the competent authority, shall, in lieu of evicting such person under sub-section (2) cancel its order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

Section 52 (2-A) – Board requiring its premises in unauthorized occupation for construction of multistoried building complex – Board has power to order eviction of the unauthorized occupier of the premises.

The expression ‘for its use’ is wide enough and includes all legitimate use by the Board. The Housing Board, if it desires to construct a multistoreyed building complex, certainly it can be regarded as requiring the premises for its use because providing housing facilities for the public in the twin cities is a legitimate purpose of the Housing Board. Notwithstanding the fact that the building complex is intended to be leased out for commercial purposes, it is required for the use of the Board within the meaning of Section 52 (2-A) of the Act.

In the present case at the time when the petition was filed, the petitioner was not in unauthorized occupation as he was the representative of the tenant. But subsequently a notice was given by the Competent Authority under Section 52 (2-A) asking him to vacate the premises as it was required for use of the Housing Board. He refused to do so. Thereupon he became a person in unauthorized occupation by reason of Section 52 (2-A) of the Act. Hence the representation could rightly be treated as one under Section 52 (2-A) of the act. *Gulam Dastagir Khan (died by L.R) Vs A.P. Housing Board & another (Kuppuswami.J) 1978 (2) ALT 199 – 1978 (2) An. W.R. 598 – 1978 APHB 285.*

**53 Power to recover rent or damages** (1) Subject to any rules made by the Government in this behalf and without prejudice to the provisions of Section 52 where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other

conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person to pay the same together with such other amounts as may be due by him under the contract agreement lease, indemnity bond, damages or otherwise, within such time not less than thirty days as may be specified in the notice.

(2) Where any person is in unauthorized occupation of any Board premises the competent authority, may, in the prescribed manner, assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises (iii) in such other manner as may be prescribed, order that person to pay the damages within such time as may be specified in the notice.

(3) If any person refuses or fails to pay the amount specified in sub-section (1) or (2), as the case may be, within the time specified in the notice, the competent authority may, after giving such person a reasonable opportunity of being heard, recover the amount due by him on account of arrears of rent together with such other amount as may be due by him under the contract agreement, lease, indemnity bond, damages or otherwise, by attachment and sale of the movable property of such person in the manner prescribed. Without prejudice to the aforesaid mode of recovery, such amount shall also be recoverable as if it were arrears of land revenue.

**54 Rent to be recovered by deduction from salary or wages in certain cases:** - Without prejudice to the provisions of Section 52 or 53 any person who is an employee of the Government or a local authority or is a worker within the meaning of the Factories Act, 1948 (LXIII of 1948) or the Mines Act 1952 (XXXV of 1952) and who has been allotted any Board premises may execute an agreement in favour of the Board providing that the Government or the local authority or the owner of factory or mine as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him.

(2) On the execution of such agreement, the Government or local authority or the owner of factory or mine, as the case may be, shall, if so required by the Board by requisition in writing, make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

**55. Appeal** (1) Any person aggrieved by an order of the competent authority under sub-section (2) of Section 52 or Section 53 may, within one month from the date of the confirmation of the order under Section 52, or the date of the service of the notice under Section 53, as the case may be prefer an appeal to the appellate authority.

Provided that the appellate authority may entertain the appeal after the expiry of the said period of one month if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority, may after calling for a report from the competent authority and giving the aggrieved person a



reasonable opportunity of being heard, pass such order as it thinks fit and such order of the appellate authority shall be final.

(3) Where an appeal is preferred under sub-section (1) or sub-section (2-A) of Section 52, the appellate authority may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

(4) For the purposes of this Chapter, the appellate authority shall be the Chief Judge of the City Civil Court Hyderabad if the Board premises in respect of which the appeal is to be preferred are situated in the Cities of Hyderabad and Secunderabad and, if such premises are situated elsewhere, the District Judge within whose jurisdiction such premises are situated.

#### **56. Procedure and powers of competent authority and appellate authority :-**

- (1) The competent authority and appellate authority shall follow such procedure as may be prescribed, and subject thereto, the provisions of the Code of Civil Procedure, 1908 (V of 1908), shall so far as they are not inconsistent with this Act or the rules or orders made thereunder, apply to all proceedings before the competent authority and the appellate authority.
- (2) In proceedings under this Chapter, the competent authority shall have the same power as are vested in a Civil Court when trying a suit, and the appellate authority shall have the same power as are vested in a Civil Court when hearing an appeal, under the Code of Civil Procedure, 1908 (V of 1908).
- (3) The competent authority and appellate authority shall be deemed to be a Civil Court for a purpose of Section 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898) and any proceeding before the competent authority and the appellate authority shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code, 1860 (XLV of 1860).

#### **57. Bar of Jurisdiction of Civil Courts :-**

Save as provided in Section 55, no order made by the competent authority or the appellate authority, in exercise of any power conferred by or under this Chapter shall be called in question in any Court and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

### **CHAPTER – VII Finance Accounts and Audit.**

#### **58. Board's Fund :-**

- (1) The Board shall have its own fund.

- (2) The Board may accept grants, subventions, donations and gifts from the Central Government or State Government or a local authority or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.
- (3) The Government shall, every year, make a grant to the Board of a sum equivalent to the administrative expenses of the Board.
- (4) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents, betterment charges and all interest, profits and other moneys accruing to the Board shall constitute the fund of the Board.
- (5) Except as otherwise directed by the Government all moneys and receipts, specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Hyderabad state Bank or in any scheduled Bank or invested in such securities as may be approved by the Government.
- (6) Such account shall be operated upon by such Officers as may be authorised by the Board.

**59. Application of the fund : -**

All property, the Board fund and all other assets vesting in the Board shall be held and applied by it, subject to the provisions and for the purposes of this Act.

**60. Expenditure in case of urgency :-**

- (1) Where in the opinion of the Board circumstances of extreme urgency have arisen it shall be lawful for the Board to make for the purpose of this Act in any year, expenditure not exceeding rupees ten thousand, notwithstanding the fact that such expenditure has not been included in its annual programme or supplementary programme sanctioned by the Government or the variation of the programme made under section 29;
- (2) Where any sum is expended under circumstances of extreme urgency as provided in sub-section (1), a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the Government.

**61. Subventions and loans to the Board :-**

- (1) The Government may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions not inconsistent with the provisions of this Act as the Government may determine.
- (2) The Government may from time to time, advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the Government may determine.

**62. Power of Board to borrow:-** (1) The Board may from time to time, with the previous sanction of the Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf, borrow any sum required for the purposes of this Act.

(2) The rules made by the Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to enter in to financial arrangements with Banks and other financial institutions including the Life Insurance Corporation of India.

(3) All debentures issued by the Board, shall be in such form as the Board with the sanction of the Government may, from time to time, determine.

(4) Every debenture, shall be signed by the Chairman and one other member of the Board.

(5) Loans borrowed and debentures issued under this section may be guaranteed by the Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Government.

**63. Accounts and Audit : -**

(1) The Board shall cause to be maintained proper books of accounts and such other books as the rules under this Act may require and shall prepare in accordance with such rules and annual statement of accounts.

(2) The Board shall cause its accounts to be audited annually by such person as the Government may direct.

(3) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the Government and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

(4) The Board shall comply with such directions as the Government may after perusal of the report of the auditor think fit to issue.

**64. Concurrent and special audits of accounts : -**

(1) Notwithstanding anything contained in Section 63, the Government may order that there shall be concurrent audit of the accounts of the Board by such person as it thinks fit. The Government may also direct a special audit to be made by a Chartered Accountant appointed by it of the accounts of the Board relating to any particular transaction or a class or series of transaction or to a particular period.

(2) When an order is made under sub-section (1), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

## **CHAPTER – VIII**

### **Miscellaneous**

#### **65. Reports :-**

The Board shall, before such date and in such form and at such interval as may be prescribed, submit to the Government a report on such matters as may be prescribed, and the Government shall cause report to be published in the Andhra Pradesh Gazette. Every such report, shall be laid before the Legislative Assembly as soon as may be after it is published.

#### **66. Other statements and returns :-**

The Board shall also submit to the Government such statistics returns, particulars or statements in regard to any proposed or existing housing schemes at such times and in such form and manner as may be prescribed or as the Government may from time to time direct.

#### **67. Power of entry :-**

Vice-Chairman and Housing Commissioner or any person either generally or specially authorised by the Vice-Chairman and Housing Commissioner in this behalf may, with or without assistants or workmen, enter in to or upon any land, in order :-

Amendment Act No.6 of 1983; Act No.4 of 1984

Amended by Act No.25 of 1981.

- (a) to make any inspection, survey, measurement, valuation or inquiry;
- (b) to take levels;
- (c) to dig or bore into the sub-soil;
- (d) to set boundaries and intended lines of works;
- (e) to make such level, boundaries and lines of works and cut trenches; or
- (f) to do any other things;

Whenever it is necessary to do so, for any of the purposes of this Act or any rules made or scheme sanctioned thereunder;

Provided as follows:-

- (i) No such entry shall be made between sunset and sunrise;
- (ii) No dwelling house and no public building, which is used as a dwelling place, shall be so entered except with the consent of the occupier thereof, and without giving the said occupier at least 'twenty-four hours' previous written notice of the intention to make such entry.
- (iii) sufficient notice shall in every instance be given even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to female to remove themselves to some part of the premises where their privacy will not be disturbed.

- (iv) Due regard shall always be had, as far as may be compatible with the exigencies of the purposes for which the entry is made to the social and religious usages of the occupants of the premises entered.

**68. Notice of suit against Board : -**

No person shall commence any suit against the Board or against any Officer or servant of the Board or any person acting under the orders of the Board, for anything done or purporting to be done in pursuance of this Act, without giving to the Board, officer or servant or person two month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of.

**69. Triennial valuation of assets and liabilities of the Board :-**

The Board shall triennially have a valuation of its assets and liabilities made by a valuer appointed by the Government.

Provided that it shall be open to the Government to direct a valuation to be made at any time it may consider necessary.

**70. Power to make Rules : -**

- (1) The Government may, by notification in the Andhra Pradesh gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the Generality of the foregoing power such rules may be made for all or any of the following purposes, namely:-
- (a) The allowances of members and remuneration and conditions of service of the Chairman under Section 7;  
  
Amendment Act No.6 of 1983 and Further.  
Amendment Act No.4 of 1984.
  - (b) the manner and form in which contracts shall be entered into under Section 15;
  - (c) the form of annual housing programme, budget and schedule of staff of officers and servants, particulars of housing schemes and other particulars to be contained in the programme under section 24;
  - (d) the other manner of publication of the draft the programme under Section 25;
  - (e) the form of notice under Section 42;
  - (f) the form of interest under Section 43;
  - (g) the other matters to be decided by the tribunal under Section 48;
  - (h) the procedure to be followed by the Tribunal under section 50;
  - (i) the forms of notices under Section 52 and 53 and any other manner in which they may be served;
  - (j) the manner in which damages under section 53 may be assessed;

- (k) the manner in which attachment and sale of movable property shall be made under Section 53;
  - (l) the procedure to be followed by the competent authority and the appellate authority in proceedings under Chapter VI;
  - (m) the conditions subject to which the Board may borrow any sum under Section 62;
  - (n) the manner of preparation, maintenance and publication of accounts under Section 63;
  - (o) the date before which the form in which the interval at which and the matters on which reports shall be submitted under section 65;
  - (p) the time at which and the form and manner in which statistics, returns, particulars and statements shall be submitted under Section 66;
  - (q) the manner in which the Board shall be superseded reconstituted under Section 81; and
  - (r) any other matter which has to be or may be prescribed under this Act.
- (3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the state Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both the Houses agree in making any modification in the rule or both the houses agree that the rule should not be made, the rule shall 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.

#### **71. Regulations: -**

The Board may from time to time, with the previous sanction of the Government make regulations consistent with this act and with any rules made under this Act –

- (a) for the management and use of buildings constructed under any housing schemes;
- (b) the principles and procedure to be followed in allotment of tenements and premises;
- (c) for regulating the Board's procedure and the disposal of its business;

#### **72. Power to make bye-laws :-**

- (1) The Board may make bye-laws, not inconsistent with this Act, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act.
- (2) A bye-law made under this section may provide that a contravention thereof shall be an offence.
- (3) No bye-law made by the Board shall come into force until it has been confirmed by the Government with or without modification;

(4) All bye-laws made under this section shall be published in the Andhra Pradesh Gazette.

**73. Penalty for contravention of bye-laws:-**

Whoever contravenes a bye-law made under Section 72 shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees or with both.

**74. Penalty for obstructing; etc., :-** If any person :-

- (a) obstructs or molests any person with whom the Board has entered into a contract, in the performance or execution by such person or his duty or of anything which he is empowered to require to do under this Act; or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act; he shall on conviction, be punishable with imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees or with both;

**75. Penalty for contravention of any provisions of Chapter VI and for obstructing lawful exercise of power thereunder:-**

Any person who contravenes any provisions of Chapter VI or rule or order made thereunder or obstructs the lawful exercise of any power conferred by or under that Chapter shall on conviction, be punished with fine which may extend to one thousand rupees.

**76. Authority for prosecution: -**

Unless otherwise provided, no Court shall take cognizance of any offence punishable under this Act except on the complaint, or upon information received from the Board or some person authorised by the Board by General or special order in this behalf.

**77. Certain persons to be public servants:**

The Tribunal, the appellate authority, the competent authority and all members, Officers and servants of the Board shall be deemed when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

**78. Protection of action taken under this Act :**

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or purported to be done under this Act.

**79. Government's powers of supervision: -**

(1) The Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act, after giving an

opportunity to the Board to state its objections, if any, to such directions and after considering the said objections. It shall be the duty of the Board to comply with such directions.

- (2) The Government may at any time for the purposes of satisfying itself as to the legality or propriety of any order passed by, or as to the regularity of the proceedings of the Board or officer subordinate to the Government or the Board acting in exercise of any power or authority conferred by this Act or the rules, regulations made thereunder, call for and bye-laws and examine the record of any case pending before or disposed of by the Board or such officer and may pass such order with reference thereto as it thinks fit;

Provided that no order shall be reversed unless notice has been given to the parties interested to appear and be heard in support of such order.

Section 79 (1) – Scope of – Acquisition of land by Government for the Housing Board for construction of houses – Government cannot direct the Housing Board later to sell a part of the acquired land to a Co-operative House Building Society.

When Section 79 says that the Government can give directions to the Board which are necessary or expedient for carrying out the purposes of the Act, it means, the purposes of the Act which are mentioned in the Act, purposes not mentioned in the Act are not purposes of the Act. The construction of houses by a Private Co-operative Society or sale of land to it by the Housing Board is not one of the purposes of the Act. The fact that a Private Cooperative Society also purchase land, gets layout sanctioned plots it out and sells to its members does not mean that it is a purpose of the Andhra Pradesh Housing Board. Further there is no provision in the Andhra Pradesh Housing Board Act which empowers the Government to de-notify the land that has already been acquired by the Government for the Housing Board. Therefore the order of the Government directing the Housing Board to release 4 ½ acres of land to the Peoples Co-operative House Building Society illegal and without jurisdiction. The People Co-operative House Building Society Ltd., vs State of A.P & Others ) Gangadhara Rao.J) 1983 (1) ALT 37 NRC.

#### **80. Default in performance of duty :-**

- (1) If the Government is satisfied that the Board has made default in performing any duty imposed on it by or under this Act, it may fix a period for the performance of that duty.
- (2) If in the opinion of the Government the Board fails or neglects to perform such duty within the period to be fixed for its performance, it shall be lawful for its performance, it shall be lawful for the Government, notwithstanding anything contained in section 7, to supersede and reconstitute the Board in prescribed manner.
- (3) After the super session of the Board and until it is reconstituted, the powers, duties and functions of the Board under this Act shall be carried on by the Government or by such officer or officers as the Government may appoint for this purpose.

#### **81. Dissolution of the Board :-**



- (1) The Government may by notification in the Andhra Pradesh Gazette, declare that with effect from such date as may be specified in the notification, the Board shall be dissolved.]
- (2) With effect from the date specified in the notification under sub-section (1).
  - (a) all properties, funds and dues which are vested in any realizable by the Board shall vest in and be realizable by the Government;
  - (b) all liabilities enforceable against the Board shall be enforceable against the Government to the extent of the properties, funds and dues vested in and realized by the Government;
- (3) Nothing in this section shall effect the liability of the Government in respect of loans or debentures guaranteed under sub-section (5) of Section 62.

**81-A Power to remove difficulties:-**

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order in the Andhra Pradesh Gazette, make such provisions not inconsistent with the purposes of this Act as appear to them to be necessary or expedient for removing the difficulty.
- (2) Every order made under sub-section (1) shall be laid on the Table of the Legislative assembly for a period of fourteen days when the Assembly is in session.

**82. Repeal and saving :-**

- (1) The Hyderabad Labour Housing Act, 1952 (XXXVI of 1952), the Secunderabad Town Improvement Trust act of 1355 Fasli, and all rules, regulations and orders pertaining to the constitution, working and activities of the Hyderabad City Improvement Board and for the time being having the force of Law, are hereby repealed;

Provided that the repeal shall not effect :-

- (a) the previous operation of any law so repealed or anything duly done thereunder, or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed, or
- (c) Any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed, or
- (d) Any investigation, legal proceeding or remedy in respect of any such right, privilege obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:-

Provided further that subject to the proceeding, proviso, anything done or any action taken including any appointment or delegation made, notification,

order, instruction or direction issued, rule, regulation, from bye-law or scheme framed under any such law shall be deemed to have been done or taken under this Act and shall continue to be in force according unless and until superseded by anything done or any action taken under this Act.

- (2) All debt and obligations incurred, all contracts entered into and all matters and things engaged to be done, by, with or for the Government for the purposes of the Hyderabad City Improvement Board and the Secunderabad Town Improvement Trust before and upto the date of establishment of the Board under this Act shall be deemed to have been incurred, entered, into or engaged to be done by, with or for the Board, all suits and other legal proceedings instituted or which may be instituted by or against the Government shall be continued or instituted by or against the Board, as the case may be.
- (3) All the assets entrusted to the Hyderabad City Improvement Board and the Secunderabad Town Improvement Trust and all the assets acquired for the purposes of the said City Improvement Board and Town Improvement Trust shall after the establishment of the Board under this Act vest in the Board for the purposes of this Act.
- (4) All applications made or proceedings instituted under the aforesaid laws shall be deemed to have been made or instituted under this Act and shall be disposed of as if this Act was applicable at the time when such application or proceeding was made or instituted.
- (5) All notifications issued before the date of the coming into force of this Act and all proceedings pending on that date for the acquisition of any immovable property or easement for the purposes of the Hyderabad City Improvement Board or the Secunderabad Town Improvement Trust shall be deemed to have been issued and to be proceedings for acquisition of such immovable property or easement for the purposes of this Board under this Act.

\*\*\*\*\*