



The Orissa Gazette

PUBLISHED BY AUTHORITY.

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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

Regulations, Orders, Notifications and Rules, of the Government of India, of the Government of Bihar, and of the High Court. Papers extracted from the *Gazette of India* and Provincial Gazettes. Orders of Commandants of Volunteers Corps.

HOME, REVENUE AND FINANCE DEPARTMENTS.

NOTIFICATIONS.

The 19th March 1937.

No. 614-C.—The following notification by the Government of Madras is republished for general information.

By order of the Governor,

A. F. W. DIXON,

Addl. Secretary to Government.

The 9th February 1937.

No. 299, Public (General).—In exercise of the powers conferred by section 19 of the Indian Press (Emergency Powers) Act, 1931 (XXIII of 1931), the Governor in Council hereby declares to be

forfeited to His Majesty all copies, wherever found, of the booklet in Tamil entitled 'Thirugnana Sambandar' written by one S. Narayana Ayyar of Madras and of the set of four double-sided gramophone records in Tamil bearing nos. N. 8422, N. 8423, N. 8424 and N. 8425, produced by His Master's Voice Gramophone Company, embodying the subject matter of the said booklet, and all other documents containing copies or translations of or extracts from the said booklet or gramophone records on the ground that they contain matter which tends to promote feelings of enmity and hatred between different classes of His Majesty's subjects and are consequently of the nature described in sub-section (1) of section 4 of the said Act, as amended by section 16 of the Criminal Law Amendment Act, 1932 (XXIII of 1932).

By order of the Governor in Council,

C. F. BRACKENBURY,

Chief Secretary.

The 19th March 1937.

No. 616-C.—The following notification by the Government of the Punjab is republished for general information.

By order of the Governor,

A. F. W. DIXON,

Addl. Secretary to Government.

HOME DEPARTMENT.

GENERAL.

Lahore, 26th February 1937.

No. 1078-A-D.S.B.—In exercise of the powers conferred by section 19 of the Indian Press (Emergency Powers) Act, XXIII of 1931, the Governor in Council hereby declares to be forfeited to His Majesty all copies, wherever found, of the pamphlet in Urdu entitled "*Parja Mandal, Riyasat Patiala ka Amlī Programme*" (The practical programme of the Parja Mandal, Patiala State), published by Jagir Singh and printed by Prem Singh at the Dukhi Dunya Press, Amritsar, and all other documents containing copies or translations of or extracts from the said pamphlet inasmuch as it contains matter of the nature described in sub-section (1) of section 4 of the aforesaid Act, read with section 16 (d) of the Criminal Law Amendment Act, XXIII of 1932.

By order of the Governor in Council,

F. H. PUCKLE,

Chief Secretary to Government, Punjab.

The 20th March 1937.

No. 620-C.—The following notification by the Government of Bombay is republished for general information.

By order of the Governor,

A. F. W. DIXON,

Addl. Secretary to Government.

HOME DEPARTMENT.

POLITICAL.

Bombay Castle, 6th March 1937.

No. 312-Poll.—In exercise of the powers conferred by section 99-A of the Code of Criminal Procedure, 1898 (Act V of 1898), the Governor in Council is pleased to declare all copies, wherever found, of the book in Gujarati entitled "*Satyne Panthe*" (i. e. "*On the Path of Truth*") or "*Saraswaticandra Patwa, B.A., Have Nizamudinna Jivanni Samari*", (i. e., "*A Summary of the Life of Mr. Saraswaticandra Patwa, B.A., now Nizamuddin*"), written by Chimanlal C. Patwa, B.A., *alias* Saraswaticandra *alias* Nizamuddin S. Parmar and printed at the Gita Printing Press, Ahmedabad, and all other documents containing copies, reprints, translations of or extracts from the said book, to be forfeited to His Majesty, on the ground that it appears to the Governor in Council that the said book contains matter which is punishable under section 295-A of the Indian Penal Code.

By order of the Governor in Council,

J. B. IRWIN,

*Secy. to Govt. of Bombay.
Home Department.*

LAW AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

The 17th March 1937.

No. 1853—111-L-15/36 Com.—The following notification of the Government of India in the Department of Industries and Labour is republished for general information.

By order of the Governor,

C. G. NAIR,

Secretary to Government.

New Delhi, 24th February 1937.

No. L-3067.—In exercise of the powers conferred by sub-section (1) of section 26 of the Payment of Wages Act, 1936 (IV of 1936), read with section 22 of General Clauses Act, 1897 (X of 1897), the Governor General in Council is pleased to make the following rules, the same having been previously published as required by sub-section (5) of section 26 of the first-named Act, namely:—

RULES.

1. *Short Title.*—These rules may be called the Payment of Wages (Procedure) Rules, 1937.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—

- (a) “the Act” means the Payment of Wages Act (IV of 1936);
- (b) “appeal” means an appeal under section 17;
- (c) “the Authority” means the authority appointed under sub-section (1) of section 15;
- (d) “the Court” means the court mentioned in sub-section (1) of section 17;
- (e) “employer” includes the persons responsible for the payment of wages under section 3;
- (f) “section” means a section of the Act;
- (g) “Form” means a form appended to these rules;
- (h) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

3. *Form of Application.*—Applications under sub-section (2) of section 15 by or on behalf of an employed person or group of employed persons shall be made in duplicate in Form A, Form B or Form C as the case may be, one copy of which shall bear such court-fee as may be prescribed.

4. *Authorisation.*—The authorisation to act on behalf of an employed person or persons, under section 15, shall be given by a certificate in Form D, shall be presented to the Authority hearing the application and shall form part of the record.

5. *Permission to appear.*—Any person desiring the permission of the Authority to act on behalf of any employed person or persons shall present to the Authority a brief written statement explaining his interest in the matter, and the Authority shall record an order on the statement, which in the case of refusal shall include reasons for the order, and shall incorporate it in the record.

6. *Presentation of documents.*—(1) Applications or other documents relevant to an application may be presented in person to the Authority at any time during hours to be fixed by the Authority, or may be sent to him by registered post.

(2) The Authority shall at once endorse, or cause to be endorsed, on each document the date of the presentation or receipt, as the case may be.

7. *Refusal to entertain application.*—(1) The Authority may refuse to entertain an application presented under rule 6, if after giving the applicant an opportunity of being heard the Authority is satisfied, for reasons to be recorded in writing that:—

- (a) the applicant is not entitled to present an application, or
- (b) the application is barred by reason of the provisions in the provisos to sub-section (2) of section 15, or
- (c) the applicant shows no sufficient cause for making a direction under section 15.

(2) The Authority may refuse to entertain an application which is insufficiently stamped or is otherwise incomplete and, if he so refuses, shall return it at once with an indication of the defects. If the application is presented again after the defects have been made good, the date of representation shall be deemed to be the date of presentation for the purposes of the provisos to sub-section (2) of section 15.

8. *Appearance of parties.*—(1) If the application is entertained, the Authority shall call upon the employer by a notice in Form E to appear before him on a specified date together with all relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.

(2) If the employer or his representative fails to appear on the specified date, the Authority may proceed to hear and determine the application *ex parte*.

(3) If the applicant fails to appear on the specified date, the Authority may dismiss the application:

Provided that an order passed under sub-rule (2) or sub-rule (3) may be set aside and the application reheard on good cause being shown within one month of the date of the said order notice being served on the opposite party of the date fixed for rehearing.

9. *Record of Proceedings.*—(1) The Authority shall in all cases enter the particulars indicated in Form F and at the time of passing orders shall sign and date the Form.

(2) In a case where no appeal lies, no further record shall be necessary.

(3) In a case where an appeal lies, the authority shall record the substance of the evidence, and shall append it under his signature to the record of direction in Form F.

10. *Signature on forms.*—Any form, other than a Record of Direction, which is required by these rules to be signed by the Authority, may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

11. *Exercise of powers.*—In exercising the powers of a Civil Court conferred by section 18 the Authority shall be guided in respect of procedure by the relevant orders of the first Schedule of the Code of Civil Procedure, 1908, with such alterations as the Authority may find necessary, not affecting their substance, for adapting them to the matter before him, and save where they conflict with the express provisions of the Act or these rules.

12. *Appeals.*—(1) An appeal shall be preferred in duplicate in the form of a memorandum one copy of which shall bear the prescribed court-fee, setting forth concisely the grounds of objection to the direction and shall be accompanied by a certified copy of that direction.

(2) When an appeal is lodged a notice shall issue to the respondent in Form G.

(3) The Court after hearing the parties and after such further inquiry, if any, as it may deem necessary, may confirm, vary, or set aside the direction from which the appeal is preferred, and shall make an order accordingly.

13. *Inspection of documents.*—Any employed person, or any employer or his representative, or any person permitted under sub-section (2) of section 15 to apply for a direction, shall be entitled to inspect any application, memorandum of appeal, or any other document filed with the Authority or the Court, as the case may be, in a case to which he is a party, and may obtain copies thereof on the payment of such fees as may be prescribed.

FORM A.

FORM OF INDIVIDUAL APPLICATION.

[See sub-section (2) of section 15 of the Payment of Wages Act.]

In the Court of the Authority appointed under the Payment of Wages Act (IV of 1936)
for _____ area.

Application No. _____ of 193 .

Between A. B. C. _____ applicant.

(through

a legal practitioner.

an official of _____

which is a registered trade union,)

And X. Y. Z. _____ opposite party.

The applicant states as follows :—

1. A. B. C. is a person employed $\frac{\text{in}}{\text{on}}$ the

factory
railway _____ entitled
industrial establishment
and resides at

The address of the applicant for the service of all notices and processes is :—

2. X. Y. Z., the opposite party, is the person responsible for the payment of his wages under section 3 of the Act, and his address for the service of all notices and processes is :—

3. (1) The applicant's wages have not been paid for the following wage period(s) (give dates)

Or A sum of Rs. _____ has been unlawfully deducted from his wages of _____ (amount) for the wage period(s) which ended on [give date(s)].

(2) [Here give any further claim or explanation].

4. The applicant estimates the value of the relief sought by him at the sum of rupees _____

5. The applicant prays that a direction may be issued under sub-section (3) of section 15 for :—

(a) Payment of his delayed wages as estimated or such greater or lesser amount as the Authority may find to be due.

Or Refund of the amount illegally deducted.

(b) Compensation amounting to

The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate.

Signature or thumb impression of the employed person, or legal practitioner, or official of a registered trade union duly authorised.

FORM B.

FORM OF GROUP APPLICATION.

[See sub-section (2) of section 15 and section 16 of the Payment of Wages Act]

In the Court of the Authority appointed under the Payment of Wages Act (IV of 1936) for _____ area.

Application No. _____ of 19 .

Between A. B. C. and (state the number) _____ others, applicants:

(through _____ a legal practitioner. an official of

_____ which is a registered trade union).

And X. Y. Z. _____ opposite party.

The applicants state as follows:—

1. The applicants whose names appear in the attached schedule are persons employed in the _____ factory / railway / industrial establishment entitled.

The address of the applicants for service of all notice and processes is.

2. X. Y. Z., the opposite party, is the person responsible for the payment of wages under section 3 of the Act, and his address for the service of all notices and processes is:—

3. The applicants' wages have not been paid for the following wage period (s):—

4. The applicants estimate the value of the relief sought by them at the sum of rupees _____

5. The applicants pray that a direction may be issued under sub-section (3) of section 15 for:—

(a) Payment of the applicants' delayed wages as estimated _____ or such greater or lesser amount as the Authority may find to be due.

(b) Compensation amounting to _____ .

The applicants certify that the statement of facts contained in this application is to the best of their knowledge and belief accurate.

Signature or thumb impression of two of the applicants, or legal practitioner, or an official of a registered trade union duly authorised.

SCHEDULE.

Names of applicants:—

- 1.
2.
3.
4.
*
*

FORM C.

FORM OF APPLICATION BY AN INSPECTOR OR PERSON PERMITTED BY THE AUTHORITY OR AUTHORISED TO ACT.

[See sub-section (2) of section 15 and section 16 of the Payment of Wages Act.]

In the Court of the Authority appointed under the Payment of Wages Act, for _____ area.

Application No. _____ of 193 .

Between

A. B. C., [(designation) _____ an Inspector under the Payment of

Wages Act] [or a person permitted by the authority authorised to act under sub-section (2) of section 15].....applicant.

And

X. Y. Z.the opposite party.

FORM E.

NOTICE FOR THE DISPOSAL OF APPLICATION.

To

Whereas under the Payment of Wages Act, 1936 (IV of 1936), a claim against you has been presented to me in the application of which a copy is enclosed, you are hereby called upon to appear before me either in person, or by any person duly instructed, and able to answer all material questions relating to the application, or who shall be accompanied by some person able to answer all such questions, on the _____ day of _____ 19____ at _____ o'clock in the ^{fore}/_{after} noon to answer the claim; and as the day fixed for your appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence, and the documents upon which you intend to rely in support of your defence.

Take notice that, in default of your appearance on the day before mentioned, the application will be heard and determined in your absence.

Given under my hand and seal, this day of _____ 193 .

Authority.



FORM F.

RECORD OF DIRECTION.

- (1) Serial number.....
 - (2) Date of the application.....
 - (3) Name or names, parentage, address, or addresses of the applicants; or some, or all of the applicants belonging to the same unpaid group:—
 - (4) Name and address of the employer:—
 - (5) Amount claimed:—
 - (a) as delayed wages : Rs.....
 - (b) as deducted from wages : Rs.....
 - (6) Plea of the employer and his examination (if any):—
 - (7) Finding, and, in the case of a direction under sub-section (3) or (4) of section 15, a brief statement of the reasons therefor:—
- Rs.
- (8) Amounts awarded—
 - (a) Delayed wages.....
 - (b) Deducted wages.....
 - (9) Compensation awarded.....
 - (10) Penalty imposed.....
 - (11) Costs awarded to—
 - (i) Court-fee charges.....
 - (ii) Pleader's fee.....
 - (iii) Witnesses expenses.....

Signed _____

Dated _____

NOTE.—In cases where an appeal lies attach on a separate sheet the substance of the evidence.

FORM G.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL UNDER SECTION 17 OF THE PAYMENT OF WAGES ACT, 1936.

Appeal from the decision of the Authority for the _____ area, dated the _____ day of _____ 193 .

To

Respondent.

Take notice that an appeal of which a copy is enclosed, from the decision of the Authority for _____ area has been presented by X. Y. Z. (and others), and registered in this Court, and that the _____ day of _____ 193 , has been fixed by this Court for the hearing of this appeal.

If no appearance is made on your behalf by yourself, or by some one by law authorised to act for you in this appeal, it will be heard and decided in your absence.

Given under my hand and the seal of the Court, this _____ day of _____ 193 .

Judge.



A. G. CLOW,

Secretary to the Government of India.

The 18th March 1937.

No. 1879-Cm.—The following Regulation, which has been approved by the Governor General in Council and assented to by the Governor General and has been published in the *Gazette of India* of the 13th March 1937, is republished in the *Orissa Gazette* under sub-section (2) of section 71 of the Government of India Act.

By order of the Governor,

C. G. NAIR,

Secretary to Government.

REGULATION NO. XI OF 1937.

A

REGULATION

TO

Make provision for the levy of dues upon goods in the ports of Orissa.

WHEREAS it is expedient to make provision for the levy of dues upon goods in the ports of Orissa; It is hereby

Preamble.

enacted as follows:—

1. (1) This Regulation may be called the Orissa Ports Regulation, 1937.

Short title.

Commencement.

(2) It shall come into force at once.

(3) The local Government may by notification declare any port in Orissa to be a port for the purposes of this Regulation.

(4) Such notification shall define the limits of the area to which it refers.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "Port" means any port in Orissa;

(b) "Owner", when used in relation to goods, includes any consignor, consignee, shipper or agent for the safe custody, landing, shipping or transshipping of such goods;

(c) "Port Officer" means any person declared by the Local Government to be a Port Officer for the purposes of this Regulation;

3. Dues according to the rates and in the manner and at the times fixed by the Local Government shall be paid by the owners of goods landed or discharged from or shipped or transhipped into any vessel within the limits of a port in addition to any dues leviable otherwise than under the provisions of this Regulation.

Levy of dues.

4. (1) The Local Government shall by notification declare the rates at which dues leviable under this Regulation shall be paid, and

Rates.

(a) may cause such rates to vary in any or all of the following cases:—

- (i) according to the class of the goods;
- (ii) according as the goods are exported from or imported into a port;
- (iii) according to the place to which the goods are to be exported or from which they are imported, and
- (iv) according to the class of vessel; and

(b) may exempt specified classes of vessels or goods from the operation of this Regulation.

(2) At least one month before issuing any notification under this section the Local Government shall publish in the Gazette a draft of the proposed notification together with a notice specifying a date on or after which the draft will be taken into consideration, and the Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(3) The rates when finally sanctioned shall be published by notification in the Gazette and shall come into operation on such date as the Local Government may prescribe.

5. (1) The Local Government may make rules for carrying out the purposes of this Regulation.

(2) Without prejudice to the generality of the foregoing power, such rules may contain directions as to all or any of the following matters, namely:—

- (a) appointing places where goods landed or discharged from, or intended for shipment in, or transshipment into vessels are to be placed for the purpose of assessing the dues payable under this Regulation,
- (b) regulating the manner in which any dues payable under this Regulation shall be assessed,
- (c) regulating the time at which and the persons to whom such dues shall be paid,
- (d) enabling owners of private jetties or of specified classes of vessels to compound for the dues payable in respect of goods landed or discharged or shipped or transhipped on or from such jetties or out of or into such vessels by the payment of fixed annual or monthly sums,
- (e) prescribing the method of publishing the notice referred to in sub-section (2) of section 8.

(3) All rules made under sub-section (1) shall be published in the Gazette and shall thereupon have effect as if enacted by this Regulation.

6. All dues levied under this Regulation shall be credited to the Port Fund Account of the port prescribed by sub-section (2) of section 36 of the Indian Ports Act, 1908.

XV of 1908.

7. No right to any refund of dues shall be recognised unless a claim therefor is preferred in writing to the Port Officer and evidenced by satisfactory proofs within six months of the date of payment of such dues.

8. (1) The Port Officer may cause any goods in respect of which dues are payable under this Regulation to be seized and detained, at the risk of the owner, until such dues are satisfied.

(2) Where any goods have been so seized, the Port Officer shall publish a notice in such manner as the Local Government may direct, stating the description of the goods, the amount of dues payable in respect thereof and that if the dues remain unpaid after one month from the date of publication of such notice the goods will be sold. He shall also send a copy of such notice to the owner when his address is known. At the expiration of such period if the dues and all costs of removal and warehousing and other expenses incidental to the detention of the goods have not been paid, the Port Officer may cause the goods or any part of them, to be sold by public auction:

Provided that, if the goods are of a perishable nature, the Port Officer may give such notice to the owner as the urgency of the case admits of, and may cause the goods to be sold at such time, being not less than 24 hours after the seizure of the same, as he shall think fit.

(3) The title of a *bona fide* purchaser of goods at such sale shall not be invalidated by reason of the omission of, or any defect in, any such notice, nor shall any such purchaser be bound to inquire whether such notice has been given.

(4) The proceeds of such sale shall be applied—

- (a) first, in payment of the expenses of such sale;
- (b) secondly, in payment of freight and other charges due to the master or owner of any vessel in respect of which such master or owner had a lien upon such goods at the time when the same were

seized: provided that notice of such claim shall have been given to the Port Officer at or before such seizure: provided further that proof of such claims is given to the satisfaction of the Port Officer;

(c) thirdly, in payment of the dues and expenses mentioned in sub-section (2).

(5) The surplus, if any, of such proceeds shall be paid to the owner of the goods on his applying for the same: provided that such application be made in writing within one year from the sale, or reason be shown to the satisfaction of the Port Officer why such application was not so made:

and, if no such application is made or reason shown such surplus shall be credited to the Port Fund Account.

9. Whoever removes, or attempts to remove, or abets the removal of any goods with the intention that the payment of any dues payable under this

Regulation may be evaded, and whoever wilfully commits any breach of any rule made under section 5, shall be punishable with a fine which may extend to one hundred rupees.

10. The Madras Outports Landing and Shipping Fees Act, 1885, is hereby repealed in its application to the province of Orissa.

Repeal.

I assent to this Regulation.

LINLITHGOW,
Viceroy and Governor General.

The 11th March, 1937

An authentic copy.

G. H. SPENCE,
Secy. to Govt. of India,
Legislative Department