

DAMODAR VALLEY CORPORATION ACT, 1948

14 of 1948

[27th March, 1948]

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SCHEDULE 1 :- THE SCHEDULE

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OBJECTS AND REASONS "The Damodar river rises in Western Bihar and flows generally in a South-eastern direction into Bengal. It is a seasonal river having a large flow of water during the rains which, apart from being generally wasted, at times causes great damage to life and property. It is now proposed to harness the water of

this river and some of its tributaries and utilise it in multiple development of the Damodar Valley and the adjoining area. This Bill seeks to set up a Corporation, called the Damodar Valley Corporation on the lines of the Tennessee Valley Authority in the U.S.A. It will be an autonomous body within the framework of the enactment. Its objects, constitution and powers are laid down in the Bill. Briefly, its main function will be to control flood in the Damodar, generate electric power for distribution and provide water for irrigation and other purposes. In addition, the Corporation will, endeavour to promote economic development of the Damodar Valley and the adjoining areas. It will consist of three members including the Chairman. These three members and the secretary and treasurer will be appointed by the Central Government. The Corporation will have power to acquire land and construct or cause to be constructed such dams, barrages, reservoirs, power-houses and power structures, electrical transmission lines, irrigation and navigation works as may be necessary. The capital required by the Corporation will be provided by the Central Government and the Governments of Bihar and West Bengal. The profits and losses will be distributable between these three Governments in certain agreed proportions. The provisions of this Bill are designed to give effect to the broad outlines of the agreement reached between the three Governments concerned." - Gazette of India. 1947 Part V. page 595.

PART 1
INTRODUCTORY

1. Short title, extent and commencement :-

- (1) This Act may be called The Damodar Valley Corporation Act 1948.
 - (2) It extends to the ¹ [States] of Bihar and West Bengal.
 - (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf.
1. The Corporation was established on 7-7-1948; See Notification No. D.W. III-A-4 (6) Dam/2, published in Gaz., of Ind., 1948, Pt. I. p. 831.

2. Interpretation :-

In this Act, unless there is anything repugnant in the subject or context, -

- (1) "Corporation" means the Damodar Valley Corporation;
 - (2) "Damodar Valley" includes the basin of the Damodar river and its tributaries;
 - (3) "Members" means a member of the Corporation and includes the Chairman;
 - (4) "participating Government" means the Central Government, the State Government of Bihar and the State Government of West Bengal;
 - (5) "prescribed" means prescribed by rules made under section 59 ;
 - (6) "¹[State] Government" means the Government of Bihar or as the case may be of West Bengal, and "¹ [State] Governments" means the Governments of Bihar and of West Bengal:
 - (7) "regulations" means the regulations made by the Corporation under section 60 .
1. The Corporation was established on 7-7-1948; See Notification No. D.W. III-A-4 (6) Dam/2, published in Gaz., of Ind., 1948, Pt. I. p. 831.

PART 2
ESTABLISHMENT OF THE CORPORATION

3. Incorporation :-

- (1) With effect from such date¹ as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Corporation by the name of the Damodar Valley Corporation.
 - (2) The said Corporation shall be a body corporate having perpetual succession and a common seal, and shall by the said name sue and be sued.
1. For notification specifying the functions and powers of the Corporation and area of operation, see Gaz., Ind., 1953. Pt. 1. S. 1. page 336.

4. Constitution of the Corporation :-

- (1) The Corporation shall consist of a Chairman and two other members appointed by the Central Government after consultation with the ¹[State] Governments.
- (2) A person shall be disqualified for being appointed, or for continuing as, a member of the Corporation-
 - (a) if he is a member of ²[Parliament] or any ¹ [State] Legislature; or
 - (b) If he has, directly or indirectly, any interest in a subsisting contract made with, or in any work being done for, the Corporation except as a shareholder (other than a director) in an incorporated company provided that, where he is a shareholder, he shall disclose to the Government the nature and extent of shares held by him in such Company.
- (3) No act or proceeding of the Corporation shall be invalid by reason only of the existence of any vacancy amongst

its members or any defect in the appointment of a member thereof.

1. For notification specifying the functions and powers of the Corporation and area of operation, see Gaz., Ind., 1953. Pt. 1. S. 1. page 336.

2. Substituted for the word '-Provincial', by A.L.O., 1950.

5. Conditions of service of members :-

1 [(1) * * * *].

(2) The remuneration and other conditions of service of the members shall be such as may be prescribed.

1. For notification specifying the functions and powers of the Corporation and area of operation, see Gaz., Ind., 1953. Pt. 1. S. 1. page 336.

6. Appointment of officers and servants :-

(1) The secretary and the financial adviser of the Corporation shall be appointed by the Central Government.

(2) The secretary shall be the chief executive officer of the Corporation.

(3) The Corporation may appoint such other officers and servants as it considers necessary for the efficient performance or its functions.

7. Conditions of service of officers and servants :-

The pay and other conditions of service of the officers and servants of the Corporation shall -

(a) as respects the secretary and financial adviser, be such as may be prescribed; and

(b) as respects the other officers and servants, be such as may be determined by regulations.

8. Functions and duties of the financial adviser :-

The functions and duties of the financial adviser shall be such as may be prescribed.

9. 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 Corporation, or in any employment under, by or on behalf of the Corporation otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Corporation.

10. Appointment of Advisory Committee :-

Subject to any rules¹ made under section 59 the Corporation may from time to time appoint one or more Advisory Committees for the purpose of securing the efficient discharge of the functions of the Corporation, and in particular for the purpose of securing that those functions are exercised with due regard to the circumstances and requirements of particular local areas.

1. For notification specifying the functions and powers of the Corporation and area of operation, see Gaz., Ind., 1953. Pt. 1. S. 1. page 336.

PART 3

FUNCTIONS AND POWERS OF THE CORPORATION

PART 4

FINANCE, ACCOUNTS AND AUDIT

27. Expenditure till the Corporation is established :-

All expenditure incurred by the Central Government for and in connection with the establishment of the Corporation up to date of its establishment shall be treated as the capital provided by the Central Government to the Corporation and such capital shall be adjusted between the participating Governments in accordance with the provisions of section 30 to Section 36 .

28. Vesting of property in the Corporation :-

All property acquired and works constructed for the purposes of the Damodar Valley Scheme before the establishment of the Corporation shall vest in the Corporation and all income derived and expenses incurred in this behalf shall be brought into the books of the Corporation.

29. Fund of the Corporation :-

(1) The Corporation shall have its own fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(2) Except as otherwise directed by the Central Government, all moneys belonging to that fund shall be deposited in the Reserve Bank of India or the Agents of the Reserve Bank of India or invested in such securities as may be approved by the Central Government.

30. Liabilities of participating Governments to provide capital to the corporation :-

The participating Governments shall, as hereinafter specified, provide the entire capital required by the Corporation for the completion of any project undertaken by it.

31. Payment by participating Government on specified date :-

Each participating Government shall provide its share of the capital on the date specified by the Corporation and if

any Government fails to provide such share on such dates, the Corporation may raise loan to make up the deficit at the cost of the Government concerned.

32. Expenditure on objects other than irrigation, power and flood control :-

The Corporation shall have power to spend such sums as it thinks fit on objects authorized under this Act other than irrigation, power and flood control and such sums shall be treated as common expenditure payable out of the fund of the Corporation before allocation under section 32 .

33. Allocation of expenditure chargeable to project on main objects :-

The total capital expenditure chargeable to a project shall be allocated between the three main objects, namely, irrigation, power and flood control as follows, namely: -

(1) expenditure solely attributable to any of the objects, including a proportionate share of overhead and general charges, shall be charged to that object, and

(2) expenditure common to two or more of the said objects, including a proportionate share of overhead and general charges, shall be allocated to each of such objects in proportion to the expenditure which, according to the estimates of the Corporation, would have been incurred in constructing a separate structure solely for that object, less any amount determined under clause (1) in respect of that object.

34. Capital allocated to irrigation :-

The total amount of capital allocated to irrigation shall be shared between ¹[State] Governments as follows, namely:-

(1) the Government concerned shall be responsible for the capital costs of the works constructed exclusively for irrigation in its ¹[State]; and

(2) the balance of capital cost under irrigation for both the ¹ [States] of Bihar and West Bengal shall be shared by the State Governments in the proportion to their guaranteed annual off-takes of water for agricultural purposes:

Provided that the divisible capital cost under this clause shall be provisionally shared between them in accordance with their previously declared intentions regarding their respective guaranteed off-takes and any payments made accordingly shall be adjusted after the determination of the guaranteed off-takes.

1. For rules made under S. 59. see Gazette of India. 1948. Pt. I. S. 1. p. 482.

35. Capital allocated to power :-

The total amount of capital allocated to power shall be shared equally between the three participating Governments.

36. Capital allocated to flood control :-

The total amounts of capital up to fourteen crores of rupees allocated to flood control shall be shared equally between the Central Government and the Government of West Bengal and any amount in excess thereof shall be the liability of the Government of West Bengal.

37. Disposal of profits and deficits :-

(1) Subject to the provisions of sub-section (2) of section 40 , the net profit, if any, attributable to each of the three main objects, namely, irrigation, power and flood control, shall be credited to the participating Governments in proportion to their respective shares in the total capital cost attributed to that object.

(2) The net deficit, if any, in respect of any of the objects shall be made good by the Governments concerned in the proportion specified in sub-section (1): Provided that the net deficit in respect of flood control shall be made good entirely by Government of West Bengal and the Central Government shall have no share in such deficit.

38. Payment of interest :-

The Corporation shall pay interest on the amount of capital provided by each participating Government at such rate as may, from time to time, be fixed, by the Central Government and such interest shall be deemed to be part of the expenditure of the Corporation.

39. Interest charges and other expenses to be added to and receipts taken for reduction of capital cost :-

For a period, not exceeding fifteen years, from the establishment of the Corporation. if the Corporation runs in deficit, the interest charges and all other expenditure shall be added to the capital cost and all receipts shall be taken in reduction of such capital cost.

40. Provision for depreciation and reserve and other funds :-

(1) The Corporation shall make provision for depreciation and for reserve and other funds at such rates and on such terms as may be specified by the Auditor-General of India in consultation with the Central Government.

(2) The net profit for the purposes of. Section 37 shall be determined after such provision has been made.

41. Corporations share in betterment levy by State Governments :-

In the event of any betterment levy being imposed by a ¹ [State] Government, the proportionate proceeds thereof in so far as they are attributable to the operations of the Corporation shall be credited to the Corporation.

1. For rules made under S. 59. see Gazette of India. 1948. Pt. I. S. 1. p. 482.

42. Borrowing of money :-

The Corporation may, with the approval of the Central Government, borrow money in the open market or otherwise for the purposes of carrying out its functions under this Act.

43. Liability to pay Central taxes :-

(1) The Corporation shall be liable to pay any taxes on income levied by the Central Government in the same manner and to the same extent as a company.

(2) The ¹ [State] Government shall not be entitled to any refund of any such taxes paid by the Corporation.

1. For rules made under S. 59. see Gazette of India. 1948. Pt. I. S. 1. p. 482.

44. Budget :-

(1) The Corporation, in consultation with the Financial adviser, shall in October each year prepare in such form as may be prescribed a budget for the next Financial year showing the estimated receipts and expenditure and the amounts which would be required from each of the three participating Governments during that financial year.

(2) Printed copies of the budget shall be made available to each of the three participating Governments by the 15th day of November each year.

(3) The budget shall be laid before ¹ [Parliament] and the [State] Legislatures concerned as soon as may be after it is prepared.

1. For rules made under S. 59. see Gazette of India. 1948. Pt. I. S. 1. p. 482.

45. Annual report :-

(1) The Corporation shall prepare, in such form as may be prescribed, an annual report within six months after the end of each Financial year giving a true and faithful account of its activities during the previous financial year, with particular reference to-

(i) irrigation;

(ii) water-supply;

(iii) electrical energy

(iv) flood control;

(v) navigation;

(vi) afforestation;

(vii) soil erosion;

(viii) use of lands; ;

(ix) resettlement of displaced population;

(x) sanitation and public health measures; and

(xi) economic and social welfare of the people.

(2) The annual report shall also give a true and faithful account of the income and expenditure during the previous financial year, the net account attributable to each of the three main objects and the distribution of the capital cost between the three participating Governments and show the progressive totals from the inception of the Corporation and the up-to-date financial results.

(3) The payments provisionally made by each of the three participating Government on the basis of the budget estimates shall be adjusted as soon as possible in accordance with the allocation made in the annual report.

(4) Printed copies of the annual report shall be made available to each of the three participating Governments by the 15th day of October each year.

(5) The annual report shall be laid before ¹ [Parliament] and the [State] Legislatures concerned as soon as may be after it is prepared.

1. For rules made under S. 59. see Gazette of India. 1948. Pt. I. S. 1. p. 482.

46. Other annual financial statements :-

(1) The Corporation shall also prepare such other annual financial statements in such form and by such dates as may be prescribed.

(2) Printed copies of each such annual financial statement shall be made available to each of three participating Governments by such date as may be prescribed.

47. Accounts and audit :-

The accounts of the Corporation shall be maintained and audited in such manner as may, in consultation with the

Auditor-General of India, be prescribed.

PART 5
MISCELLANEOUS

48. Directions by the Central Government :-

(1) In discharge of its functions the Corporation shall be guided by such instructions on questions of policy as may be given to it by the Central Government.

(2) If any dispute arises between the Central Government and the Corporation as to whether a question is or is not a question of policy, the decision of the Central Government shall be final.

49. Disputes between the Corporation and Governments :-

(1) Save as otherwise expressly provided in this Act, any dispute between the Corporation and any participating Government regarding any matter covered by this Act or touching or arising out of it shall be referred to an arbitrator who shall be appointed by the Chief Justice of India.

(2) The decision of the arbitrator shall be final and binding on the parties.

50. Compulsory acquisition of land for the Corporation :-

Any land required by the Corporation for carrying out its functions under this Act shall be deemed to be needed for a public purpose and such land shall be acquired for the Corporation as if the provisions of Land Acquisition Act, 1894, were applicable to it and the Corporation were a company within the meaning of clause (c) of section 3 of the said Act.

51. Control of Central Government :-

(1) The Central Government may remove from the Corporation any member who in its opinion-

(a) refuses to act,

(b) has become incapable of acting

(c) has so abused his position as a member as to render his continuance on the Corporation detrimental to the interest of the public, or

(d) is otherwise unsuitable to continue as member.

(2) The Central Government may suspend any member pending an enquiry against him.

(3) No order of removal under this section shall be made unless the member concerned has been given an opportunity to submit his explanation to the Central Government, and when such order is passed the seat of the member removed shall be declared vacant and another member may be appointed under Section 4 to fill up the vacancy.

(4) A member who has been removed shall not be eligible for re-appointment as member or in any other capacity to the Corporation.

(5) The Central Government may declare void any transaction in connection with which a member has been removed under sub-section (1).

(6) If the Corporation fails to carry out its functions, or follow the directions issued by the Central Government under this Act, the Central Government shall have the power to remove the Chairman and the members of the Corporation and appoint a Chairman and members in their places.

52. Application of certain provisions of the Indian Forest Act, 1927, to the forests of the Corporation :-

All acts prohibited in respect of a reserved forest under Section 26 of the Indian Forest Act, 1927, shall be deemed to be prohibited in respect of any forest owned by or under the supervision or control of the Corporation and all offences in respect of such forest shall be punishable under the said Act as if they were committed in respect of a reserved forest.

53. Penalty :-

Whoever contravenes the provisions of section 17 and Section 18 of this Act or any rule made thereunder shall be punished with imprisonment for a term which may extend to six months or with fine or with both.

54. Procedure for prosecution :-

No Court shall take cognizance of an offence under this Act except on the complaint of an officer of the Corporation authorized by it in this behalf.

55. Power of entry :-

Any officer or servant of the Corporation generally or specially authorized by the Corporation may at all reasonable times enter upon any land or premises and there do such things as may be reasonably necessary for the purposes of lawfully carrying out any of its works or of making any survey, examination or investigation, preliminary or incidental to the exercise of powers or the performance of functions by the Corporation under this Act.

56. Members, officers and servants of the Corporation to be public servants :-

All members, officers and servants of the Corporation, whether appointed by the Central Government or the Corporation, 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, 1860 .

57. Protection of action taken under the Act :-

(1) No suit, prosecution, or legal proceeding shall lie against any person in the employment of the Corporation for anything which is in good faith done or purported to be done under this Act.

(2) Save as otherwise provided in the Act, no suit or other legal proceeding shall lie against the Corporation for any damage caused or likely to be caused by anything in good faith done or purported to be done under this Act.

58. Effect of other laws :-

The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

59. Power to make rules :-

The Central Government may, by notification in the official Gazette, make rules¹ to provide for all or any of the following matters; namely-

- (1) the salaries and allowances and conditions of service of members, the secretary and the financial adviser;
- (2) the functions and duties of the financial adviser;
- (3) the dams or other works or the installations which may be constructed without the approval of the Corporation.
- (4) the forms of the budget, the annual report and the annual financial statements and the dates by which copies of the annual financial statements shall be made available to the participating Governments;
- (5) the manner in which the accounts of the Corporation shall be maintained and audited;
- (6) the appointment of an Advisory Committee: and
- (7) the punishment for breach of any rule made under this Act.

1. See Damodar Valley Corporation (Prevention of Pollution of Water) Regulation published in Bihar Gazette. 1958. Pt. II. p. 700.

60. Power to make regulations :-

(1) The Corporation may, with the previous sanction of the Central Government, by notification in the Gazette of India, make regulations for carrying out its functions under this Act.

(2) In a particular and without prejudice to the generality of the foregoing power, in such regulation the Corporation may make provision for-

- (a) making of appointments and promotions of its officers and servants;
- (b) specifying other conditions of service of its officers and servants;
- (c) specifying the manner in which water-rates and charges for electrical energy shall be recovered;
- (d) preventing the pollution of water¹ under its control;
- (e) regulating the taking out of fish² from the water under its control;
- (f) regulating its proceedings and business;
- (g) prescribing punishment for breach of any regulation.

(3) All regulations made under sub-sections (1) and (2) shall, as soon as possible, be published also in the official Gazettes of the ³ [State] Governments.

1. See Damodar Valley Corporation (Prevention of Pollution of Water) Regulation published in Bihar Gazette. 1958. Pt. II. p. 700.

2. See the Damodar Valley Fishery Regulations, 1966 published in Calcutta Gazette, 9-5-1966. Pt I, p. 1077 and Bihar Gazette, 2-11- 1966. Pt. II. p. 3055.

3. Substituted for the word "Provincial" by A.L.O.,1950.

SCHEDULE 1

THE SCHEDULE

(See section 24) PART I
Provisions of the Acts specified in column (1)
(1) (2)
1. The Canals Act, 1864 (Ben. Act 5 of 1864). Section 6 (Power of State Government to fix and alter rates of tolls). Section 8 (Power of State Government to appoint persons to collect tolls who may farm collection). 2. The Indian Forest Act, 1927(16 of 1927). Section 35 (Protecti for special purposes). Section 36 (Power to assume management of forests):
PART II

Acts Provisions of the Acts specified in column (1)

(1) (2)

1. The Bengal Irrigation Act, 1876 Part III (Power of the maintenance of canals). (Ben, Act 3 of 1876). Section 41 of Part IV (Power of Can issue notice to person causing obstruction). Section 42 of Part IV (Power of Canal Officer to cause obstructions to be removed). 2. The Ber Embankment Act, 1882 (Ben, Act 2 Part II (Powers of Collector and procedure thereon). of 1882). Part III (Powers of Collector in cases of danger to life or property). 3. the Indian Forest Act, 1927(16 of 1927). Section 36 (Power to assume management of forests).
