

THE ANDHRA PRADESH GAZETTE
PART IV-B - EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 13. HYDERABAD THURSDAY APRIL 20, 1989

ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS ETC.

The following Act of the Andhra Pradesh Legislative Assembly received the assent of the Governor on the 19th April, 1989 and the said assent is hereby first published on the 20th April, 1989 in the Andhra Pradesh Gazette for general information:--

ACT No. 9 OF 1989

An Act to authorise the Director of State Audit to audit the Accounts relating to Local Authorities or other Authorities and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fortieth Year of the Republic of India as follows:—

1. SHORT TITLE, EXTENT AND COMMENCEMENT:

- (1) This Act may be called the Andhra Pradesh State Audit Act, 1989.
- (2) It extends to the whole of the State of Andhra Pradesh.
- (3) It shall be deemed to have come into force on the 7th January, 1989.

2. DEFINITIONS:

In this Act, unless the context otherwise requires—

(a) 'Audit' means Pre-Audit, Concurrent Audit, Post Audit, Cent Percent Audit, Resident Audit, Test Audit, Special Audit and such other examination of Accounts as the Government may from time to time specify;

(b) 'Auditor' means the Director of State Audit appointed under Section 3 and includes any other person on whom all or any of the powers of the Auditor under this Act, are conferred;

(c) 'Cent Percent Audit' means a Post Audit of all the transactions of a particular account of a specified period;

(d) 'Chief Executive Officer' means the Officer or Authority vested with powers to administer the fund of Local Authority or any other Authority specified in the Schedule (hereinafter referred to as other Authority) and includes every Officer by whatever designation known dealing with such Local Authority or other Authority;

(e) 'Concurrent Audit' means a Post Audit of a day-to-day Accounts of a specified period, with a general review of the Accounts from time to time;

(f) 'Director' means the Director of State Audit appointed under Section 3;

(g) 'Fund' means any fund the control and management of which a Local Authority or other Authority is legally entitled to and includes any cess, rate, duty fee or tax leviable by, and any property vested in, such Authority;

(h) 'Government' means the State Government of Andhra Pradesh;

(i) 'Local Authority' means:--

(a) a Municipal Corporation constituted under the law relating to Municipal Corporation for the time being in force;"

(b) a Municipal Council constituted under the Andhra Pradesh Municipalities Act, 1965;

(c) a Mandal Praja Parishad, a Zilla Praja Parishad or a Zilla Abhivrudhi Sameeksha Mandali constituted under the Andhra Pradesh Mandala Praja Parishads, Zilla Praja Parishads and Zilla Abhivrudhi Sameeksha Mandals Act, 1986;

(d) a Gram Panchayat or a Township constituted under the Andhra Pradesh Gram Panchayats Act, 1964;

(e) a Market Committee constituted under the Andhra Pradesh (Agricultural, Produce and Livestock) Market Act, 1966;

(f) Rashtra Karshaka Parishad, Commodities Federations and Mandal Karshaka Parishads constituted under the Andhra Pradesh Rashtra Karshaka Parishad and Allied Bodies Act, 1988; and

(g) A Zilla Grandhalaya Samstha constituted under the Andhra Pradesh Public Libraries Act, 1960;

(j) 'Notification' means a notification published in the Andhra Pradesh Gazette and the words 'notified' shall be construed accordingly;

(k) 'Post Audit' means the detailed audit conducted after the transactions are completed;

(l) 'Pre-Audit' means the Preliminary Audit before receiving the money or arranging the payments;

(m) 'prescribed' means prescribed by Rules made under this Act;

(n) 'Resident Audit' means concurrent or pre-audit of expenditure and review of receipts.

(o) 'Schedule' means the Schedule appended to this Act;

(p) 'Special Audit' means an audit of Accounts pertaining to a specified item or series of items requiring through examination.

(q) 'Surcharge' means the amount for which, the Auditor in exercise of powers vested in him under this Act makes a person liable for the loss, waste misapplication or misappropriation, of any money or other property belonging to any Local Authority.

3. APPOINTMENT OF DIRECTOR:

(1) There shall be appointed by the Government a Director of State Audit to be in-charge of the audit of the fund of Local Authorities and other Authorities specified in the Schedule in the whole of the State hereinafter referred to as 'Director' and as many other persons as they consider necessary to exercise the powers and perform the functions of the Director under this Act in relation to such areas as may be specified.

(2) The powers to be exercised and functions to be performed by the Director shall be such as may be prescribed.

(3) The Director shall exercise general control and superintendence over the Officers of the State Audit Department in the performance of their functions under this Act or the Rules made thereunder.

(4) Notwithstanding anything in sub-section (1), the Director of Local Fund Audit functioning before the commencement of this Act, shall continue to be such Director and function as such until a new Director is appointed under sub-section (1) and the Department known as the 'Local Fund Audit Department' prior to the commencement of this Act, shall hereinafter be known as the 'State Audit Department'.

4. AUDIT OF ACCOUNTS:

Notwithstanding anything in any other law for the time being in force but without prejudice to the powers and functions of the Comptroller and Auditor General (Duties, Powers and Conditions of service) Act, 1971 (*Central Act 56 of 1971*), it shall be lawful for the Director to conduct an audit in respect of any Local Authority or any other Authority specified in the Schedule in the manner provided by or under this Act and to recover the cost of audit in respect of such Authorities as may be specified by the Government, by order subject to such Rules as may be made in this behalf.

5. PRESENTATION OF ACCOUNTS FOR AUDIT:

Every Chief Executive Officer shall present or cause to be presented for audit all the accounts of the fund which he administers annually within such period in such form and in such manner as may be prescribed.

6. PRODUCTION OF DOCUMENTS AND ATTENDANCE OF PERSONS FOR AUDIT:

(1) for the purpose of any audit under this Act an Auditor may -

(a) require the Chief Executive Officer concerned in writing the production, at the Head Office of the Local Authority or other Authority of such receipts, vouchers, statements, returns, correspondence, notes or any other documents in relation to the accounts as he may think fit;

(b) require in writing—

- i. any salaried employee of the Local Authority or other Authority accountable for or having the custody or control of such receipts, vouchers, statements, returns, correspondence, notes or other documents; or
- ii. any person having directly or indirectly by himself or his partner any share or interest in any contract with or under the Local Authority, or other Authority to

appear in person or by an authorised agent before him at the Head Office of the said Authority and answer any question or sign a declaration with respect thereto;

(c) in the event of an explanation being required from the Chief Executive Officer, invite such Officer in writing specifying the points on which his explanation is required to meet him at the Head Office of such Officer; or

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

(2) The Auditor may fix a reasonable period not less than three days for the purpose of compliance of the provisions of sub-section (1).

(3) The Auditor shall give the Local Authority or other Authority not less than one week notice in writing of the date on which he proposes to commence the audit:

Provided that for special reasons to be recorded in writing, the Auditor may give a shorter notice than a week or commence a special or detailed audit on the Authority of the Government or the Director without such notice.

7. FURNISHING OF AUDIT REPORT:

The Director shall, as soon as practicable after the completion of audit, prepare a report on the accounts audited and examined by him and send such report to the concerned Local Authority or other Authority in such manner, as may be prescribed.

8. CONTENTS OF AUDIT REPORT:

The Audit Report shall contain a statement of -

(a) every payment which appears to him to be contrary to law;

(b) the amount of any deficiency, waste or loss which appears to have been caused by the gross negligence or misconduct of any person in the performance of his duties;

(c) the amount of any sum received which ought to have been accounted, but is not brought into account by any person; and

(d) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of money due.

9. PROCEDURE TO BE FOLLOWED AFTER FURNISHING THE REPORT:

(1) On receipt of the Audit Report under Section 8, the Chief Executive Officer shall remedy any defect or irregularity which may have been pointed out in the report and shall place the Audit Report, together with a statement of action taken or proposed to be taken thereon and an explanation in regard thereto before a meeting of the concerned Local Authority or other Authority specially convened for the purpose within a period of two months from the date of receipt of the Audit Report. He shall also within one month of the said meeting, send to the Director a report of his having remedied the defects or irregularities, if any pointed out in the Audit Report or shall, within the said period, supply the Director any further explanation in regard to such defects or irregularities as the Local Authority or other Authority may wish to give.

(2) On receipt of such intimation or explanation, the Director may, in respect of all or any of the matters referred to in his report:—

(a) accept the explanation given by the Chief Executive Officer;

- (b) direct that the matter be further investigated at the next audit or at any earlier date;
- (c) hold that the defects or irregularities pointed out in the Audit Report or any of them have not been removed or remedied;
- (d) condone any objection, the compliance of which is not possible due to loss of records connected with its disposal due to any natural calamity.

(3) Nothing in this Section or in Section 8 shall preclude the Director at any time from bringing to the notice of the Government for such action as he may consider necessary any information which appears to him to support a presumption of criminal mis-appropriation or fraud or which in his opinion deserves special attention or immediate investigation.

10. DIRECTOR TO SURCHARGE ILLEGAL PAYMENT OR LOSS CAUSED BY GROSS NEGLIGENCE OR MISCONDUCT:

(1) The Director may disallow every item of expenditure incurred contrary to law and surcharge the same on the person incurring or authorising the incurring of such expenditure, and may charge against any person responsible therefor the amount of any deficiency, loss or unprofitable outlay occasioned by the negligence or misconduct of that person or of any sum which ought to have been accounted, but is not brought into account by that person and shall, in every such case, certify the amount due from such person.

Explanation: It shall not be open to any person whose negligence or misconduct has caused or contributed to any such deficiency or loss, to contend that not withstand is negligence or misconduct the deficiency or loss would not have occurred, but for the negligence or misconduct of some other person.

(2) The Director shall state in writing the reasons for his decision in respect of every disallowance, surcharge or charge and a copy of such decision shall be served on the person against whom it is made in the manner laid down for the service of summons in the Code of Civil Procedure, 1908 (Central Act V of 1908).

(3) Any person aggrieved by any disallowance, surcharge or charge may, within sixty days after the date of service on him the decision of the Director either--

- (a) make an application to the concerned Principal Civil Court of Original Jurisdiction to set aside such disallowance, surcharge or charge and the Court, after taking such evidence as is necessary may confirm, modify or remit such disallowance, surcharge or charge with such orders as to costs as it may think proper in the circumstances; or
- (b) in lieu of such application, may appeal to the Government who shall pass such orders as they think fit.

(4) Where an application is made to the Court under Clause (a) of subsection (3), the Director shall be the sole Respondent thereto, and the applicant shall not make either the Government or any other person a party to the proceedings.

(5) From the decision of the Court under clause (a) of sub-section (3), an appeal shall lie to the High Court.

(6) Every sum certified by the Director to be due from a person under this Act shall be paid by such person to the Local Authority or the Authority as the case may be, within

sixty days after the date of service on him of the decision of the Director unless within that time such person has made an application to the Court or an appeal to the Government against the decision, and such sum if not so paid or such sum as the Court or the Government declare to be due, shall be recoverable as if it were an arrear of land revenue.

11. DIRECTOR TO SUBMIT AUDIT AND REVIEW REPORT:

(1) The Director shall submit annually a Consolidated Audit and Review Report on the accounts of the Local Authorities, or other Authorities in such form and in such manner as may be prescribed and furnish the same to the Government.

(2) The Annual Consolidated Audit and Review Report in respect of Local Authorities shall be laid on the table of Legislative Assembly.

12. PENALTIES:

(1) (a) Any person who willfully neglects or refuses to comply with any requisition lawfully made upon him under clause (a) or clause (b) of sub-section (1) of Section 6, shall on conviction be punishable with fine which may extend to five thousand rupees.

(b) Any person who is convicted under clause (a) fails to comply with any such requisition shall be punishable for each day after conviction during which he continues to persist in his offence, with a fine not exceeding five hundred rupees.

(2) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Director,

(3) Before issuing such sanction under sub-section (2), the Director shall give a reasonable opportunity to the person against whom the proceedings are to be instituted, to show cause why the sanction for such prosecution shall not be given.

(4) No Court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

13. OFFICERS AND EMPLOYEES OF THE STATE AUDIT DEPARTMENT TO BE PUBLIC SERVANTS:

The Director or any other person appointed to exercise any of the powers or perform any of the powers or perform any of the functions under this Act shall be deemed to be a Public Servant within the meaning of Section 21 of the Indian Penal code, 1860. (Central Act 45 of 1860).

14. PROTECTION OF ACTION TAKEN IN GOOD FAITH:

No suit, prosecution or other legal proceedings shall be instituted against the 'director or any person acting under the provisions of this Act for anything which is in good faith done or intended to be done under this Act or under the Rules made thereunder.

15. AMENDMENT OF THE SCHEDULE:

The Government may by notification and for reasons to be recorded therein, add any other Authorities to or omit any such Authority from the Schedule and on the publication of such notification such Authority shall be deemed to be included in, or as the case may be, omitted from the Schedule.

16. POWER TO MAKE RULES:

(1) The Government may by notification, make Rules for carrying out all or any of the purposes of this Act.

(2) Every Rule made under this Act shall immediately after it is made, be laid before the Legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the Rule or in the annulment of the Rule, the Rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled 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.

17. REPEAL OF ORDINANCE 1 OF 1989:

The Andhra Pradesh State Audit Ordinance, 1989 is hereby repealed.

THE SCHEDULE **[See Section 2 (o)]**

1. All Hindu Religious and Charitable Endowments and Institutions.
2. Tirumala Tirupathi Devasthanams.
3. Andhra Pradesh Wakf Board.
4. A University established or incorporated by State enactment.
5. Andhra Pradesh Housing Board.
6. Integrated Tribal Development Agency and Tribal Welfare Engineering Division.
7. An Urban Development Authority constituted under the Andhra Pradesh Urban (Development) Act, 1975.
8. District Rural Development Agencies.
9. A Society for Training and Employment Promotion in the State.
10. Co-operative Societies registered or deemed to be registered under the Andhra Pradesh Co-operative Societies Act, 1964.
11. Andhra Pradesh Employees Welfare Fund.
12. All Private Engineering Colleges receiving grant-in-aid from the Government.
13. All Aided Colleges and Schools other than Government Colleges and Schools.
14. All Polytechnics, receiving aid from the Government.
15. Aided Women Hostels and other Institutions other than Government under the Women Welfare Department.
16. Telugu and Urdu Academies.
17. Ravindra Bharathi.
18. All Official Receivers.

19. Parakala Seshavatharam Andhra Pradesh State Chamber of Panchayat Raj.
20. All District Chambers of Panchayat Raj.
21. Medical Lending Libraries at Visakhapatnam, East Godavari, Guntur, Chittoor, Kurnool and Warangal Districts.
22. District Sailors and Soldiers Board at East Godavari, West Godavari, Krishna, Guntur, Nellore, Chittoor, Anantapur, Cuddapah, Kurnool and R.R. Districts.
23. T.B. Sanitorium in Chittoor District.
24. Prize Endowments in East Godavari, Chittoor and Anantapur Districts.
25. N.C.C. Trophy, Anantapur.
26. District Leprosy Fund, Anantapur.
27. Andhra Pradesh Medical Council, Hyderabad
28. Andhra Pradesh Medical Pharmacy Council, Hyderabad.
29. Andhra Pradesh Residential Educational Institutions Society, Hyderabad.
30. Official Trustee, Hyderabad.
31. Andhra Pradesh Bhoodana Yagna Board, Hyderabad.
32. Aradhana Magazine.
33. Andhra Pradesh State Council of Higher Education, Hyderabad.
34. Andhra Pradesh Dental Council.

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