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SIND ORDINANCE NO. II OF 1984

THE KARACHI FISHERIES HARBOUR AUTHORITY ORDINANCE, 1984

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SIND ORDINANCE NO. II OF 1984

THE KARACHI FISHERIES HARBOUR AUTHORITY ORDINANCE, 1984

[9th May, 1984]

AN ORDINANCE to provide for the establishment of Karachi Fisheries Harbour Authority.

Preamble.

WHEREAS it is expedient to provide for the establishment of Karachi Fisheries Harbour Authority;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977 and the Provisional Constitution Order, 1981, the Governor of Sind is pleased to make and promulgate the following Ordinance :—

CHAPTER—I

PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be called the Karachi Fisheries Harbour Authority Ordinance, 1984.

(2) It shall come into force at once.

Definitions.

2. In this Ordinance, unless there is anything repugnant to the subject or context—

(a) "Authority" means the Karachi Fisheries Harbour Authority established under section 4;

(b) "Board" means the Board constituted under section 6;

(c) "budget" means official statement of annual income and expenditure of the Authority;

(d) "Chairman" means the Chairman of the Board;

(e) "fish" means any species of fish or aquatic animal including whales, seals, porpoises, turtles, shell-fish, shrimps, oyster, crustaceans, ascidians, and spawn and eggs of such fish;

(f) "fishing boat" means a vessel of any size and in any manner propelled and employed in fishing;

(g) "fish industry" means capturing, distribution and

marketing of fish and includes processing, manufacturing and disposal of fish by-products, construction of fish crafts and gears;

(h) "Fund" means the fund of the Authority;

(i) "Government" means the Government of Sind;

(j) "Managing Director" means the Managing Director of the Authority;

(k) "member" means a member of the Board and includes the Chairman;

(l) "prescribed" means prescribed by rules or regulations;

(m) "project" means rehabilitation of Karachi Fisheries Harbour Project financed by EEC;

(n) "regulations" means regulations made under this Ordinance;

(o) "rules" means rules made under this Ordinance;

(p) "scheme" means a scheme prepared, undertaken or executed under this Ordinance;

(q) "Society" means the Karachi Fishermen Co-Operative Society.

CHAPTER—II

HARBOUR AREA

Declaration of Harbour area.

3. (1) Government may, by notification in the official Gazette, within the limits of Karachi Port define the limits of Karachi Fisheries Harbour for the purposes of this Ordinance, and may, from time to time, by a like notification, alter such limits.

(2) The limits defined under sub-section (1) may include any wharves, buildings and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the Harbour.

THE KARACHI FISHERIES HARBOUR AUTHORITY ORDINANCE, 1984

CHAPTER—III

ESTABLISHMENT OF THE AUTHORITY AND CONSTITUTION OF THE BOARD

Authority.

4. (1) Government may, by notification, establish and Authority to be known as the "Karachi Fisheries Harbour Authority" for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and shall, by the said name, sue and be sued.

(3) The Authority shall establish its head office within the limits of Karachi Harbour.

Management.

5. (1) The general direction and administration of the Authority and its affairs shall vest in the Board which may exercise all powers and do all acts and things which may be exercised or done by the Authority:

[1][[2"Provided that until the board is duly constituted. The Chairman shall subject to such direction as Government may from time to time give exercise the powers discharge the duties and perform the functions of the board."]

(2) The Board in discharging its functions shall act on sound principles of fisheries harbor planning, construction, operation, management and maintenance, and shall be guided on question of policy by such directions as Government may, from time to time, give.

(3) If any question arises as to whether any matter is a matter of policy or not, the decision of Government shall be final.

Constitution of the Board.

6. (1) The Board shall consist of—

(i) a Chairman appointed by Government;

(ii) official and non-official members appointed by Government;

[1] In Section 5, sub-section (1) provision added by Order. XXXII of 1984.
[2] In section 5, sub-section (1) provision added by Order. XXXII of 1984.

(iii) nominees of the Society not exceeding six in number:

Provided that the number of members including the Chairman appointed by Government shall always be less than the number of nominees of the Society.

[1]["five nominees of the society;

(iv) one representative of the fish processing industry appointed by government:

provided that the number of members including the chairman shall not be less than fifteen".]

(2) The Chairman or a member, other than an ex-officio member shall, unless he resigns by addressing a letter to Government or its removed earlier, hold office for three years; provided that his resignation shall not take effect until accepted by Government.

(3) The Chairman may co-opt any person as a member for any particular purpose but such person shall not have right of vote.

(4) An official member appointed by virtue of his office shall cease to be member on vacating such office.

(5) Any person ceasing to be the Chairman or a member of the Authority by reason of the expiry of the terms of his office shall be eligible for another term of three years or for such shorter term as Government may determine.

(6) Government shall, by notification, remove a non-official member who has incurred any of the dis-qualifications mentioned in section 7.

(7) A casual vacancy in the office of the Chairman or a non-official member shall be filled in accordance with the provisions of sub-section (1) and the Chairman or the member appointed in such vacancy shall hold office for the un-expired

[1] Subs. By Section 6 of sub-clause (iii) and (iv) Sind Act No. XI of 1996 (16·7.1996)

portion of the term.

(8) The Managing Director shall be the member/ Secretary of the Authority.

Dis-qualification of Members.

7. No person shall be or continue to be a member who—

(a) is or has been adjudged insolvent;

(b) is or has been mentally or physically incapacitated;

(c) is or has been convicted of an offence involving moral turpitude;

(d) Has acted or is acting in contravention of the provisions of this Ordinance;

(e) Has financial interest in any project or scheme of the Authority; or

(f) Has any interest directly or indirectly in conflict with the interest of the Authority.

Fees, allowances and privileges to Chairman and non-official member.

8. Government may allow such remuneration, fees, allowances or other privileges to the Chairman and non-official members as it may determine.

Managing Director.

9. (1) Government shall appoint a person as Managing Director possessing such qualification and on such terms and conditions as may be prescribed.

(2) The Managing Director shall be a whole-time Officer of the Authority and be responsible for the implementation and execution of schemes of the project and carrying out orders of the Authority and performing such other functions as may be assigned to him.

(3) Government may remove the Managing Director if he—

(a) refuses or fails to discharge or becomes incapable of discharging his responsibilities under this Ordinance;

(b) has abused his position as Managing Director; or

(c) has directly or indirectly acquired or attempted to acquire without permission in writing of Government any share or interest in any property, scheme, project or other concern of the Authority.

(4) The Managing Director shall be liable to such disciplinary action and in such manner as may be prescribed by rules.

Appointment of Officers and advisers.

10. (1) The Authority may, for efficient performance of its functions, appoint such Advisers and Officers including Manager, Deputy Manager and other staff possessing such professional, technical, ministerial or secretarial qualifications and experience and on such terms and conditions as may be prescribed.

(2) The officers, employees and staff of the Authority shall be liable to such disciplinary action and in such manner as may be prescribed.

Financial technical Advisory Committees etc.

11. The Authority may, for carrying out the purposes of this Ordinance—

(a) Constitute in the manner as may be prescribed financial, technical or advisory committees;

(b) Associate a person or body of persons whose assistance or advice it desires to avail of on such terms and conditions and for such period as it may deem fit.

CHAPTER—IV

POWERS AND FUNCTIONS OF THE AUTHORITY AND ITS FUNCTIONARIES AND THEIR WORKING.

Powers and functions of the authority.

12. (1) Subject to other provisions of this Ordinance, the Authority may take such measures and exercise such powers as may be necessary for carrying out the purposes of this Ordinance.

(2) Without to prejudice the generality of the foregoing powers, the Authority may :—

(i) acquire, hold control over and administer movable or immovable property;

(ii) dispose of any property;

(iii) formulate and enforce any scheme for the purposes of this Ordinance;

(iv) incur expenditure for carrying out the purposes of this Ordinance;

(v) enter into and perform contracts;

(vi) undertake the planning, designing and supervision of the construction work required for the harbor area;

(vii) undertake efficient operation of harbor facilities and carry out maintenance and repairs of harbor buildings, installations, internal roads and equipment and undertake periodical inspection of all facilities to ensure that they meet statutory standards of safety and hygiene;

(viii) provide plots of land to private individuals or firms for establishment of boat building yards, fish industry, fish processing industry, ice plants, cold storage facilities and other related ancillary activities;

(ix) procure necessary equipment for its proper functioning;

(x) provide for navigational channels, fish landing jetties, berthing facilities, and prescribe terms and conditions and charges therefor and develop boat basin area;

(xi) prescribe procedure and conditions for registration of fishermen, fish dealers, transporters including their transport used for transport of fish, disposal of fish and other commodities within the harbor area and fees for registration;

(xii) take such steps as may be necessary or conducive to the attainment of its objects.

Powers and functions of the chairman.

13. The Chairman shall discharge such duties and perform such functions as are assigned to him by or under this Ordinance.

Powers and functions of the managing Director.

14. Subject to provisions of this Ordinance and rules and the general control of the Chairman, the Managing Director shall—

(a) exercise effective control over and be responsible for smooth functioning of the day to day affairs of the of the Authority;

(b) supervise the financial and executive administration of all Authority and perform all duties assigned and exercise all powers conferred on or delegated to him by or under this Ordinance;

(c) be responsible for and have the authority necessary for overseeing and implementing in an expeditious and efficient manner the orders or schemes of the Authority;

(d) have power to exercise administrative control over the personnel of the Authority.

Meetings of the Board.

15. (1) The meetings of the Board shall be held in such manner, at such time and places, as may be prescribed :

Provided that until regulations are made in this behalf, the meeting of the Board shall be held as and when convened by the Chairman.

(2) One third of the total number of the members shall form quorum for a meeting of the Board.

(3) Any matter required to be decided by the Board shall be decided in a meeting of the Board by vote of majority or members present in such meeting.

(4) Each member shall have one vote and in the case of tie, the Chairman shall exercise a casting vote.

CHAPTER—V.

FINANCE, AUDIT AND ACCOUNTS

Fund.

16. (1) There shall be a separate fund of the Authority known as the Karachi Harbour Authority Fund.

(2) The Fund shall consist of–

(a) Grants and subsidy received from Government;

(b) Loans raised or obtained by the Authority;

(c) Fees, commissions and other charges for services rendered under this Ordinance; and

(d) All other sums receivable by the Authority.

Loans.

17. The Authority may with the previous sanction of and on such terms and conditions as may be approved by Government obtain loans from banks or other sources for carrying out the purposes of this Ordinance.

Contribution of the Society.

18. (1) The Society shall annually pay to the Authority such amount as may be mutually agreed between the Society and the Authority.

(2) The Society shall also re-pay the amount incurred by the Authority in connection with the development of the Society or execution of any of its scheme.

(3) The amounts credited in the Fund shall be deposited in a Bank approved by Government.

(4) The Authority may invest its funds in any security of Federal Government or Provincial Government or any other security approved by Government.

Budget.

19. The annual budget of the Authority shall be prepared and approved in such manner as may be prescribed by rules.

Accounts and Audit.

20. (1) The Authority shall maintain or cause to be maintained its accounts and records in such form and in such manner as may be prescribed by rules.

(2) The Authority shall prepare or cause to be prepared annual balance sheet showing the profit and loss account as may be prescribed by rules.

(3) The accounts of the Authority shall be audited at least once in every financial year by such firm of Chartered Accountants on such payment as may be approved by Government.

(4) A statement of the finally audited accounts under sub-section (3) alongwith the reports of the auditors shall be furnished to Government within four months after the end of every financial year.

Recovery of dues.

21. All sums due to the Authority from any person shall be recoverable as arrears of land revenue.

CHAPTER—VI

OFFENCES AND THEIR COGNIZANCE

Penalty.

22. (1) Whoever contravenes any provision of this Ordinance shall be punishable with imprisonment for a term which may extend to twelve months or with fine which may extend to ten thousand rupees or with both.

(2) Whoever contravenes any rules or regulations made under this Ordinance shall be punishable with imprisonment not exceeding one month or with fine not exceeding one thousand rupees or with both.

(3) Where the person contravening any provision of this Ordinance or the rules is a company or other body corporate, the Director, Manager, Secretary, or other officer or agent thereof shall, unless he proves that the contravention was committed without his knowledge or that he exercised due diligence to prevent such contravention, be deemed to be guilty of such contravention.

(4) whoever attempts to contravene or abet the contravention of any provision of this Ordinance, rules or regulations shall be deemed to have contravened such provisions.

Cognizance of Offence.

23. (1) No court shall take cognizance of any offence under this Ordinance except on a complaint in writing made by the Chairman or any person authorized by him.

(2) No court inferior to that of Magistrate of the first class shall be competent to take cognizance of the offence under this Ordinance and the rules and regulations made there-under.

Confiscation of any net, trap, cage, etc.

24. The Court may order confiscation of any net, trap, cage or other contrivance or engine employed in the commission of an offence under this Ordinance.

CHAPTER—VII

MISCELLANEOUS

Control of Government over acts and proceedings of the Authority.

25. All acts and proceedings of the Authority shall be subject to control of Government, and Government may suspend or modify any such acts or proceedings.

Power of Government to give directions.

26. (1) Government may require the Authority to furnish to it any document, returns, statement, statistics or any other information regarding any matter, under the control of the Authority and the Authority shall comply with such requisition.

(2) Government may from time to time give such directions as it considers necessary for the guidance of and compliance by the Authority.

Annual report.

27. The Authority shall, soon after expiry of each financial year, furnish an annual report to Government on the conduct of its affairs for that year.

Delegation of powers.

28. (1) The authority may, by general or special order and subject to such conditions as it may impose, delegate to the Chairman, managing Director, Member, or its Officer or employee, any of its powers, duties or functions under this Ordinance or the rules and regulations made thereunder.

(2) The Chairman or Managing Director may delegate to any Officer or employee of the Authority any of his powers delegated under this Ordinance or the rules or regulations made thereunder, not being the power delegated to him under sub-section (1).

Public Servant.

29. The Chairman, members, officers and employees of the Authority shall, while acting or purporting to act under this ordinance, rules or regulations, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

Indemnity.

30. No suit, prosecution or other legal proceedings shall lie against Government, Authority, Chairman, Member or Managing Director or any officer of the Authority in respect of anything done in good faith or intended to be done in good faith under this Ordinance, rules or regulations made thereunder.

Rules.

31. Government may make rules for carrying out the purposes of this Ordinance.

Regulations.

32. (1) Subject to the provisions of this Ordinance and the rules, the Authority may make regulations for carrying out he purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the forging power, such regulations may provide for—

(i) the meetings of the Board;

(ii) conduct of business by the Board;

(iii) terms and conditions of service including disciplinary matters of officers, Advisers and staff of the authority, other than the Managing Director;

(iv) constitution of financial, technical and advisory committees;

(v) transaction of financial business;

(vi) management and control of the harbor area including navigational channel, fish landing jetties, boat basin area, berthing facilities;

(vii) registration of fishermen, fish dealers, transporters, labourers including transport used for the carriage and transport of fish and fees therefor;

(viii) landing and disposal of fish and other commodities and fees therefor;

(ix) scale of charges to be levied for—

(a) the use of utility services, facilities or premises in the harbor area provided by the Authority;

(b) the operation, repairs, maintenance, up-keep and effective management and control of the harbor area;

(x) the recovery of charges or fees which may be due to the Authority;

(xi) any matter required to be prescribed under this Ordinance.

Dissolution of the Authority.

33. (1) Government may, by notification in the Official Gazette, declare that the Authority shall be dissolved on such date as may be specified in such notification and the Authority shall stand dissolved accordingly.

(2) On and from the said date—

(i). all properties, funds and dues placed at the disposal of the Authority by Government shall revert to Government;

(ii). All properties, funds and dues exchanged for, derived from, or otherwise attributable to the properties, funds and dues referred to in clause (i) which, immediately before the said date, were held by or were recoverable by the Authority, shall vest in, and be recoverable by Government or any person or authority as it may appoint in this behalf;

(iii). All properties, funds and dues, other than those referred to in clause (i), which immediately before the said date, vested in or were recoverable by the Authority shall vest in or be recoverable by Government;

(iv). all liabilities which, immediately before the said date, were enforceable against the Authority shall be responsibility of Government;

(v). for the purpose of completion of any on going scheme sanctioned under this Ordinance, and recovery of properties, funds and dues referred to in clauses (i) and (ii), the functions of the Authority and the Chairman under this Ordinance shall be discharged by Government or any person authorize by it.

Removal of difficulties.

34. If any difficulty arises in giving effect to any of the provisions of this Ordinance, Government may make such order as may appear to it to be necessary or expedient for the purpose of removal of the difficulty,