

THE MURREE-KAHUTA DEVELOPMENT AUTHORITY ACT,

1986

(I of 1987)

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TEXT

'THE MURREE-KAHUTA DEVELOPMENT AUTHORITY ACT, 1986

(II of 1987)

[12 January, 1987]

An

Act

to provide for the establishment of the Murree-Kahuta Development Authority

Preamble.- WHEREAS it is expedient to establish an Authority for the development of Murree and Kahuta Tehsils of Rawalpindi;

It is hereby enacted as follows:—

CHAPTER-I

PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the Murree-Kahuta Development Authority Act, 1986.

(2) It shall extend to such areas of Murree and Kahuta Tehsils of Rawalpindi District as may, from time to time, be notified by the Government.

(3) It shall come into force at once.

2. Definitions.— In this Act unless there is anything repugnant in the subject or context—

(a) 'Authority' means the Murree-Kahuta Development Authority;

(b) 'Area' means the area of the jurisdiction of the Authority as notified;

(c) 'Chairman' means Chairman of the Authority;

(d) 'Director-General' means Director-General of the Authority;

(e) 'Government' means Government of the Punjab;

(f) 'Government Agency' includes—

(i) a division, department, bureau section, commission, board, office, or unit of the Government;

(ii) a Local Council; and

(iii) a development or any other public authority, company or corporation owned or controlled by Government or a Local Council;

(g) 'Land' includes earth, water and air above below or on the surface and any improvements in the structure customarily regarded as land and

'This Act was passed by the Punjab Assembly on 21st December, 1986; assented to by the Governor of the Punjab on 5th January, 1987; and, was published in the Punjab

benefit arising out of land and things attached to earth or permanently fastened to earth;

(h) 'member' means a member of the Authority and includes its Chairman;

(i) 'person' includes an individual, company, firm, co-operative society or Association of individuals whether incorporated or not; and

(j) 'prescribed' means prescribed by rules or regulations made under this Act.

CHAPTER-II

Establishment and Constitution of the Authority

3. Establishment and constitution— (1) As soon as may be after the commencement of this Act, the Government may, by notification, establish an Authority known as "The Murree-Kahuta Development Authority".

(2) | The Authority shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and transfer property, both movable and immovable and may by its name sue or be sued.

4. Members of the Authority.— (1) The Authority shall consist of the following members:—

(a) Chief Minister;

(b) Minister Incharge;

(c) All members of the Provincial and National Assembly whose constituency falls partly or wholly within the region;

(d) Chairman, Planning and Development Board;

(e) Secretary, Finance Department;

(f) Secretary, Forest, Wildlife and Tourism;

(g) Secretary, Housing and Physical Planning Department;

(h) Secretary, Communications & Works Department;

(i) Commissioner, Rawalpindi Division, Rawalpindi;

(j) Director-General; and

(k) Such other persons as may be nominated by the Government.

(2) The Chief Minister shall be the Chairman of the Authority.

(3) |The Government may, by notification, alter the membership of the Authority or increase or decrease the number of its members.

(4) |A member may resign his office by submitting his resignation in writing to the Government.

(5) © A member other than an official member shall stand removed from the membership of the Authority on his removal from the seat of the Provincial Assembly or the National Assembly, as the case may be.

CHAPTER-III

Powers and Functions

5. Powers and functions.— (1) Subject to the provisions of this Act and the rules framed thereunder, the Authority may exercise such powers and take such measures as may be necessary for carrying out the purposes of this Act.

(2) | Without prejudice to the generality of the foregoing sub-section, the Authority may—

(a) prepare, implement and enforce schemes for development of education, health, agriculture and industry, forest conservation and development, preservation of wildlife, promotion of tourism, improvement of water supply, land slide management, development of irrigation facilities, development of means of communication, construction and development of housing, sewerage, drainage, environmental improvement and slum clearance;

(b) acquire property, both movable and immovable;

(c) sell, lease, exchange or otherwise dispose of any property vested in it;

(d) undertake any works and incur any expenditure;

(e) procure machinery, instruments or any other material required by it;

(f) enter into contracts;

(g) cause studies, surveys, experiments, technical researches or contribute towards the cost of any such studies, surveys, experiments or technical researches, made by any other Agency;

(h) issue interim development orders for areas for which a scheme is under preparation and restrict or regulate by general or special order, any change in the use of land and alteration in building structure and installations;

(i) cause removal of any works obstructing the execution of its schemes;

(j) seek and obtain advice and assistance for the preparation of any scheme, or for the execution of any scheme from any Government Agency or person, and such Agency or person shall give the advice and assistance sought by the Authority to the best of its ability, knowledge and judgement and the additional expenditure if any, involved in giving such advice or assistance shall be borne by the Authority; and

(k) undertake any other function which the Government may assign to it.

(3) | The Authority with the approval of the Government may, and if directed by the Government, shall undertake the maintenance and regulation of schemes and other activities of a Government Agency as may be necessary and when a scheme or any activity is undertaken by the Authority, the assets and liabilities connected therewith shall also stand transferred to the Authority.

(4) The Authority with the approval of the Government may, and if directed

by the Government, shall transfer any of its functions and powers to a Government Agency on such terms and conditions as it may deem fit.

6. Delegation.— (1) The Government may delegate to the Authority all or any of its functions and powers including powers to levy or recover a tax.

(2) |The Authority may, by general or special order, delegate to the Director-General or a Committee constituted under section 8 or a member or any officer of the Authority any of its powers, duties and functions under this Act, subject to such conditions as it may impose.

7. Appointment of officers etc. and association of other persons.— (1) The Authority may subject to such general or special order as the Government may give, appoint such officers, advisers, experts, consultants and employees, as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit.

(2) | The Authority may associate with it, in such manner, on such terms and for such purpose as it may deem fit, any person whose assistance or advice it may require in carrying out its functions.

8. Committees.— The Authority may constitute such financial, technical and advisory committees as may be deemed necessary for carrying out the purposes of this Act and such committees shall exercise such powers and perform such functions as may be delegated or assigned to them.

CHAPTER-IV DIRECTOR-GENERAL

9. Appointment and terms of office. (1) The Director-General may be appointed by Government on such terms and conditions as it may determine.

(2) The Director-General shall—

- (a) be a whole-time officer of the Authority;
- (b) perform such duties as may be assigned to him and exercise such powers as may be delegated to him by the Authority; and
- (c) hold office during the pleasure of the Governor.

CHAPTER-V Executive Powers and Conduct of Business

10. Executive authority (1) Save as otherwise provided, the executive authority of the Authority shall vest in, and be exercised by, its Director-General.

(2) All acts of the Authority whether executive or not, shall be expressed and taken in the name of the Authority and shall be authenticated by the Director-General by affixation of his official seal.

11. Disposal of business.— (1) The business of the Authority shall be disposed of at its meetings, or at the meetings of its committees, or by its Director-General or servants or other functionaries.

(2) No act or proceedings of the Authority shall be invalid merely by reason of any vacancy in, or defect in, the constitution of the Authority.

12. | Meetings.— (1) The members of the Authority shall meet at such place and at such time as the Authority may decide.

(2) | The Authority may frame regulations for the conduct of its meetings.

(3) | The Chairman and in his absence any other member of the Authority elected by the members for that purpose shall preside over a meeting.

(4) | The Authority shall hold at least one meeting in each quarter of the year.

CHAPTER-VI

Preparation and Execution of Schemes

13. Preparation of schemes.— The Authority shall, in such form and in such manner as may be prescribed, prepare schemes for the area or any part thereof.

14. Modification of schemes.— A scheme prepared under this Act may, at any time be amended, modified or abandoned by the Authority in such form and in such manner as may be decided by the Authority.

15. Power to give directions.— (1) The Authority may, with the prior approval of the Government, require a Government Agency, within whose jurisdiction any particular locality or aspect of development covered by a scheme lies—

(a) to execute a scheme in consultation with the Authority;
(b) to take over and maintain any of the works and services in that areas;

(c) to provide any amenity in relation to the land which, in the opinion of the Authority, ought to be provided; and

(d) to enforce regulations on behalf of the Authority.

(2) | The expenditure incurred on the execution of any scheme or on the taking over or maintenance of any work, or the enforcement of regulations, under this section, shall be borne, as may be agreed to between the Authority and the Government Agency and in the event of disagreement, as may be determined by the Government.

CHAPTER-VII

GENERAL

16. Directions by the Government.— The Authority shall, in discharging its functions, act and be guided by such directions as the Government may give to it from time to time.

17. Borrowing money.— (1) The Authority shall be deemed to be a “Local Authority” for the purpose of borrowing money and any scheme or project prepared or undertaken by the Authority shall be deemed to be ‘work’ as defined in section 2 of the Local Authorities Loans Act, 1914 (Act IX of 1914):

Provided that no local or foreign loan shall be obtained by the Authority without the previous sanction of the Government.

(2) — The Authority may, in consultation with the Government, borrow money or raise funds by issuing bonds or debentures or otherwise for carrying out the purposes of this Act according to profit/loss as may be approved by the Government.

18. Power to levy betterment fee.— Where as a consequence of any scheme having been executed by the Authority, the value of any property in that locality, in the opinion of the Authority, has increased, the Authority, may with the previous consent of the Government, levy upon the owner of the property or any person having an interest therein, a betterment fee in respect of the increase in value of the property resulting from the execution of the scheme.

19. Assessment of betterment fee.— (1) Where it appears to the Authority that any particular development scheme is sufficiently advanced to enable the amount of the betterment fee to be determined the Authority may, by an order made in this behalf, declare that for the purpose of determining the betterment fee, the execution of the scheme shall be deemed to have been completed and shall thereafter give notice in writing to the owner of the property or any person having an interest therein that the Authority proposes to assess the amount of betterment fee in respect of the property mentioned in Section 18.

(2) | The betterment fee under Section 18 or under sub-section (1) of this section, shall be assessed and be payable, in the manner prescribed.

CHAPTER-VIII

Finances, Accounts and Audit

20. Authority Fund.— (1) There shall be formed a fund to be known as the “Authority Fund” which shall vest in the Authority and shall be utilized by the Authority in connection with its functions under this Act including the payment of salaries and other remuneration to the members, officers, servants, experts and consultants of the Authority.

(2) | To the credit of the Authority Fund, shall be credited—

(a) | grants made by the Government;

(b) all moneys received from the Federal Government or any international agency by way of grants, loans, advances or otherwise;

(c) all fees, rates and charges received by the Authority under this Act;

(d) all moneys received by the Authority from the disposal of lands, buildings and other properties movable or immovable;

(e) proceeds from the self-financing schemes;

(f) loans obtained from the Government or State Bank of Pakistan or any Scheduled Bank with special or general sanction of the Government;

(g) all profits or interests accruing from investment; and

(h) — such proceeds from the sources of income or disposal of assets of the Government, as Government may direct to be placed at the disposal of the Authority.

(3) |The Authority may keep in current account of any scheduled bank such

sum as may be prescribed and any amount in excess of the said amount shall be

invested in any Government securities, Government sponsored saving schemes or in such other manner as may be determined by the Authority.

Explanation.— For the purpose of this sub-section, Government includes Federal Government.

21. Rates and Fees.— With the previous consent of the Government, adequate funds may be raised by the Authority from time to time, to meet the cost of its schemes by imposing rates, fees and other charges at such rates and in such manner as may be prescribed.

22. Accounts.— The Authority shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed.

23. | Budget.— The Authority shall prepare, every year, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure of the Authority and shall submit the same to the Government for approval and if the Government does not approve the budget, with or without modifications, within thirty days of its receipt, the budget as prepared by the Authority shall be deemed to be the approved budget.

24. Audit.— The account of the Authority shall be audited in such manner as may be directed by the Government.

CHAPTER-IX

Penalty and Procedure

25. Penalty.— (1) Whoever contravenes any provision of this Act, or any rules or regulations made thereunder shall, if no other penalty is provided for such contravention, be punishable with imprisonment for a term which may extend to six months or with fine upto one thousand rupees or with both.

(2) | Whoever refuses or willfully neglects to provide any Officer or servant of the Authority with the means necessary for entering into any premises for the purpose of collecting any information or making an examination or enquiry in relation to any development works shall be punishable with imprisonment extending to one year or fine upto two thousand rupees or both.

(3) | Whoever, without lawful excuse, fails or refuses to comply with any direction or order issued by the Authority under this Act, shall be guilty of an offence punishable under sub-section (1).

(4) | Whoever attempts to commit or abets the commission of an offence punishable under this Act shall be deemed to have committed that offence.

26. Procedure.— No Court shall take cognizance of any offence punishable under this Act except on a complaint in writing made by an officer authorised for the purpose, by the Authority.

CHAPTER-X
Miscellaneous

27. Annual Report. (1) The Authority shall prepare for every year a report of its activities during that year and submit the report to the Government in such form and on or before such date, as may be prescribed.

(2) The report referred to in sub-section (1) shall be laid before the Provincial Assembly of the Punjab within six months of its receipt by the Government.

28. Recovery of dues.— Any sum due to the Authority from, or any sum wrongly paid by the Authority to, any person under this Act, shall be recoverable as arrears of land revenue.

29. Removal of building etc. erected or used in contravention of this Act.— (1) If any building, structure, work or land is erected, constructed or used in contravention of the provision of this Act or of any rule, regulation or order made thereunder, the Authority or any person authorised by it in this behalf may, by order in writing, require the owner, occupier, user or person in control of such building, structure or work to erect, construct or to use it in such manner so as to bring such erection, construction or user in accordance with the provisions of this Act.

(2) If an order under sub-section (1) in respect of any building, structure, work or land is not complied with within such time, as may be specified therein, the Authority or any person authorised by it in this behalf, may, after giving the person affected by the order, an opportunity or being heard, remove, demolish or alter the building, structure or work or stop the use of the land and, in so doing may use such force as may be necessary and may also recover the cost thereof, from the person responsible for the erection, construction or use of the building, structure, work or land in contravention of the provisions as aforesaid.

30. Members, Officers and employees to be public servants.- The Chairman, Members, Director-General, Officers, Servants, Experts and Consultants of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code.

31. Immunity of the authority and its employees.— No suit, prosecution or any other legal proceedings shall lie against the Authority, the Chairman, the Director-General, any Member, Servant, Expert or Consultant of the Authority, in respect of anything done or intended to be done in good faith under this Act.

32. Power to make rules.— Subject to the provisions of this Act, the Government may make rules for carrying into effect the purposes of this Act.

33. Power to make regulations.— Subject to the provisions of this Act, and the rules framed thereunder, the Authority may make such regulations as may be necessary, to carry out the purposes of this Act.

34. This Act to prevail over other laws.— In the event of any conflict or inconsistency between the provisions of this Act and the provisions of any other law, the provisions of this Act shall, to the extent of such conflict or inconsistency, prevail.

35. Power of the Government.— An order of the Government in relation to any matter pertaining to the Authority shall prevail upon the decisions and orders of the Authority and its functionaries including committees and shall be binding on them.

36. Dissolution.— The Government may, by notification, dissolve the Authority and make provisions for dealing with the consequences of such dissolution.