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PART III

Laws, Regulations and Rules passed thereunder.

JAMMU AND KASHMIR LEGISLATIVE ASSEMBLY
SECRETARIAT, JAMMU.

Under Rule 64 of the Rules of Procedure and Conduct of Business in the Jammu and Kashmir Legislative Assembly, the following Bill together with the Statement of Objects and Reasons, is published in an extraordinary issue of the Government Gazette.

By order of the Hon'ble Speaker.

(Sd.) **M. RAMZAN,**

Secretary.

**THE JAMMU AND KASHMIR PROPERTY TAX BOARD
BILL, 2011**

[L. A. Bill No 11 of 2011.]

A Bill to establish a Property Tax Board in the State and for the matters connected therewith or incidental thereto.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-second Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir Property Tax Board Act, 2011.

(2) It shall come into force from the date of its publication in the Government Gazette.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires—

(a) “Act” means the Jammu and Kashmir Property Tax Board Act, 2011 ;

(b) “Board” means the Jammu and Kashmir Property Tax Board established under sub-section (1) of section 3 ;

(c) “Fund” means the Property Tax Board Fund referred to in section 14 ;

(d) “Government” means the Government of Jammu and Kashmir ;

(e) “Municipality” means a Municipal Corporation or a Municipal Council or a Municipal Committee constituted under the Jammu and Kashmir Municipal Corporation Act, 2000 or the Jammu and Kashmir Municipal Act, 2000, as the case may be ;

(f) "notification" means a notification published in the Government Gazette ;

(g) "prescribed" means prescribed by rules made under this Act ;

(h) "regulations" mean the regulations made under section 24 of this Act.

(2) Words and expressions used in the Act but not defined shall have the same meaning as assigned to them respectively in the Jammu and Kashmir Municipal Corporation Act, 2000 or the Jammu and Kashmir Municipal Act, 2000, as the case may be.

3. *Establishment of the Board.*—(1) The Government may, by notification, establish, for the purposes of the Act, a Board to be called the Jammu and Kashmir Property Tax Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name and shall be competent to acquire, hold and dispose of any property, both movable and immovable, to enter into contracts and to do all things necessary for the purposes of the Act.

4. *Composition of the Board.*—(1) The Board shall consist of a Chairperson and such number of members not exceeding two as may be determined by the Government.

(2) The Chairperson shall be a person who is, or has been, an officer of the Government not below the rank of Commissioner/ Secretary to the Government ;

(3) The other members shall be persons having knowledge and experience in the field of municipal administration, valuation of properties, accountancy, law and management.

(4) No action of the Board shall be invalid or otherwise called in question merely on the ground of existence of any vacancy in the Board.

5. *Appointment of Chairperson and members.*—(1) The Chairperson and members of the Board shall be appointed by the Government on the recommendation of a committee consisting of :—

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| (a) Chief Minister | Chairman |
| (b) Minister Incharge Housing and Urban Development | Member |
| (c) Minister Incharge Law, Justice and Parliamentary Affairs | Member |

(2) The Committee referred to in sub-section (1) shall recommend a panel of two persons for each post to the Cabinet for approval.

6. *Term of office and conditions of service.*—(1) The Chairperson and members shall hold office for a term of three years from the date they enter upon their office :

Provided that no Chairperson or member shall hold office after he has attained the age of 65 years.

(2) The salary, allowances and other terms and conditions of service of the Chairperson and the members shall be such as may be prescribed :

Provided that the salary, allowances and other terms and condition of service of the Chairperson and the members shall not be varied to their disadvantage after appointment.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson or a member may,—

- (a) relinquish his office by giving in writing to the Government a notice of not less than three months ; or
- (b) be removed from his office in accordance with the provisions of section 7.

(4) The Chairperson or any member on ceasing to hold office as such, shall not be eligible for further appointment under the

Government or in any corporation, company, society, board or university owned, controlled or financed by the Government.

7. *Removal of Chairperson or member.*—(1) The Chairperson and members shall not be removed from office except in accordance with the provisions of this section.

(2) The Government may, by order, remove from office the Chairperson or any member, if he,—

- (a) has been adjudged as insolvent ; or
- (b) has been convicted of an offence which in the opinion of the Government involves moral turpitude ; or
- (c) has become physically or mentally incapable of acting as such ; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his function in the Board ; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest ; or
- (f) has been guilty of proved misbehavior :

Provided that the Chairperson or a member shall not be removed from his office on any ground specified in clauses (d), (e) and (f) unless the inquiry officer appointed by the Government for this purpose has, after an enquiry, held that the Chairperson or such member ought to be removed on such ground.

(3) The Government may suspend the Chairperson or any member of the Board in respect of whom an inquiry has been ordered under sub-section (1) until the Government has passed orders on receipt of the report on such enquiry.

8. *Functions of the Board.*—The Board shall perform the following functions, namely :—

- (i) enumerate, or cause to be enumerated, all properties in the municipalities in the State and develop a data-base ;
- (ii) review the property tax system and suggest suitable basis for assessment and valuation of properties ;
- (iii) recommend modalities for periodic revision ;
- (iv) ensure quality in valuation of properties ;
- (v) ensure transparency in valuation process and facilitate disclosure of valuations for fair comparison ;
- (vi) publish the annual work plan ;
- (vii) render such advice on valuation of properties to a municipality as the Government may, from time to time, require it to do or as the Board may consider necessary for carrying out the purposes of the Act ;
- (viii) undertake directly or through any institution, training of officers and employees of municipalities as the Government may direct or as the Board may consider necessary for carrying out the purposes of the Act ;
- (ix) perform such functions as may be assigned to it under any other law ;
- (x) perform such other functions as may be assigned to it by the Government from time to time.

9. *Organization.*—(1) The Board may establish regional offices in the State with appropriate staff with the prior approval of the Government.

(2) The Board may reorganize its departments and regional offices from time to time as required to implement the provisions of the Act.

10. *Powers of the Board.*—For the purpose of performing its duties under the Act, the Board may,—

- (a) summon any person to attend any hearing of the Board to give evidence or produce any document or other article in his possession or assist in physical survey in any municipality or municipal corporation's jurisdiction for ascertaining the valuation of land ;
- (b) generally require any person to furnish any information or produce any document or other article in his possession ;
- (c) require any person to attend any counseling or mediation session as the Board may specify ;
- (d) do anything incidental to any of its powers.

11. *Powers to give directions.*—The Government may give such directions, not inconsistent with the provisions of the Act, as to the performance of the duties and the exercise of the powers of the Board and the Board shall give effect to such directions.

12. *Officers and other employees of the Board.*—(1) The Board shall have a Secretary to exercise such powers and perform such duties under the control of the Chairperson, as may be prescribed.

(2) The Secretary shall be appointed by the Government.

(3) The number, nature and categories of other officers and employees required to assist the Board in discharge of its functions shall be such as may be prescribed.

(4) The salaries and allowances payable to, and other terms and conditions of the service of the Secretary, officers and other employees shall be such as may be prescribed.

(5) The Board may appoint consultants required to assist it in the discharge of its functions on such terms and conditions as may be prescribed.

(6) The Board may for the purpose of carrying out its functions under the Act, requisition the services of any officer or employee of the Government or any other agency.

(7) The officers and other employees of the Board shall be under the administrative and disciplinary control of the Board.

13. *Penalties.*—(1) Any person who refuses to attend any hearing of the Board, or refuses to furnish any information or produces documents to the Board or furnish any information which is false in a material particular and which he knows to be false or does not believe to be true, or obstructs or impedes the Chairperson of the Board or any person acting under the directions of the Board, shall be liable to payment of a fine not exceeding Rs. 5,000.

14. *Fund of the Board.*—(1) The Board shall have a fund to be called the Property Tax Board Fund to which shall be credited—

(i) such moneys as may be paid to the Board by the Government or any other authority or agency ; and

(ii) such moneys as may be paid to the Board by the municipalities, and other local authorities.

(2) All moneys received by the Board shall be deposited in a separate account with the Jammu and Kashmir Bank.

15. *Municipalities to make payment to the Board.*—(1) Every municipality, in respect of which notification under section 12 has been issued, shall pay to the Board such proportion of the expenditure incurred by the Board on account of the valuation with respect to such Municipality as may be prescribed.

(2) The Board shall calculate the amount payable by the Municipality under sub-section (1) and may require the concerned Municipality to pay the amount within such time as may be specified by the Board.

(3) If the amount is not paid within the specified time, the Board may refer the matter to the Government and the Government may

pay the amount to the Board and deduct the same from any grant payable by it to such municipality.

16. *Expenditure incurred on account of salaries and allowances including contingencies.*—(1) The expenditure incurred by the Board for meeting the salaries and allowances of the Chairperson, Members, Secretary, officers and other employees serving under or for the Board shall be defrayed out of the funds to be provided by the Government.

(2) The expenditure towards contingencies for undertaking normal activities of the Board shall be met out of the Property Tax Board Fund.

17. *Annual report.*—The Board shall prepare an annual report of its activities during the year in such form as may be prescribed and the annual report shall be laid, as soon as may be, before both Houses of the State Legislature.

18. *Budget.*—(1) The Board shall prepare each year in such form and within such time, as may be prescribed, a budget in respect of the ensuing financial year, showing the estimated receipts and expenditure and shall forward a copy of the same to the Government for approval.

(2) The Government may, in according such approval, make such additions, alterations and modifications thereon as it thinks fit :

Provided that before making such additions, alterations or modifications, the Government shall give the Board an opportunity to express its views thereon within such period as may be prescribed.

19. *Expenditure and accounts.*—(1) The Board shall have the same financial powers as are exercisable by the Administrative Secretary of the Government. Matters beyond such financial powers shall be referred by the Board to the Government for decision.

(2) The Board shall keep accounts of all receipts and expenditure, and prepare annual accounts in such manner as may be prescribed.

20. *Audit.*—(1) The Board shall cause its accounts to be audited annually by an auditor to be appointed by the Government and the auditor so appointed shall have the right to demand the production of books, accounts, documents and other papers from the Board.

(2) The annual accounts so prepared shall be placed before the auditor for audit. As soon as the accounts have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor to the Government.

(3) The Board shall comply with such directions as the Government may, after perusal of the report of the auditor, think fit to issue in this behalf.

(4) The Board shall pay out of the fund such sum as may be determined by the Government by way of fees, if any, for such audit.

21. *Delegation of powers and functions by Board.*—(1) The Board may delegate any of its powers and functions including financial powers to the Chairperson of the Board by a resolution adopted by it in this behalf.

(2) The Board may also delegate any of its powers and functions to the Secretary or any officer of the Board by a resolution adopted by it in this behalf.

22. *Chairperson, members, officers and employees to be public servants.*—The Chairperson, members, officers and the employees of the Board shall, when acting or purporting to act under the provisions of the Act, be deemed to be a public servant within the meaning of section 21 of the State Ranbir Penal Code.

23. *Power to make rules.*—(1) The Government may, by notification, make rules for carrying out the purposes of the Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, the Government may make rules relating to

meetings of the Board, working procedures, matters relating to officers and employees of the Board and any of the matters which may be, or is, required to be prescribed.

24. *Powers to make regulations.*—(1) Subject to the provisions of the Act and the rules made thereunder, the Board may, with the previous approval of the Government, make regulations for carrying out the purposes of the Act.

(2) The Government may, in according such approval, make such additions, alterations and modifications therein as it thinks fit :

Provided that before making such additions, alterations or modifications, the Government shall give the Board an opportunity to express its views thereon within such period not exceeding two months as may be specified by the Government.

25. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of the Act, the Government may, by order published in the Government Gazette, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the Government to make rules and clause 24 empowers the Board to make Regulations.

The said delegation is of normal character.

MINISTER INCHARGE
HOUSING AND URBAN DEVELOPMENT
DEPARTMENT.

STATEMENT OF OBJECTS AND REASONS

The 13th Finance Commission for accessing the General Performance Grant Component of the award, has recommended for setting up of the Property Tax Board to advise the Government on various matters relating to property tax system. The functions of the Board are enumerated in clause 8 of the Bill. Among other things, it aims at achieving uniformity and transparency in property tax assessment in all the Urban Local Bodies in the State and to introduce professionalism in the valuation of properties.

**MINISTER INCHARGE
HOUSING AND URBAN DEVELOPMENT
DEPARTMENT.**

FINANCIAL MEMORANDUM

Section 5 of the J&K Property Tax Board Bill, 2011 provides for the post of Chairperson and members not exceeding two in number. Section 12 of the Bill provides for the post of Secretary and other Staff. The Board shall be provided with the office and other staff by the Government as may be required from time to time. Section 16 provides for expenditure to be incurred on account of payment of salaries, office expenses etc.

The annual financial implication on this account shall be Rs. 133.79 lacs.

MINISTER INCHARGE
HOUSING AND URBAN DEVELOPMENT
DEPARTMENT.

RECOMMENDATION OF THE GOVERNOR

The Governor has in pursuance of sub-sections (1) and (3) of section 84 of the Constitution of Jammu and Kashmir recommended to the Jammu and Kashmir Legislative Assembly the introduction and consideration of the Bill.

(Sd.) M. RAMZAN,

Secretary.