

APPENDIX I

SINDH BOARD OF REVENUE ACT, 1957

[28th February, 1957]

(XI of 1957)

(First Published after having received the assent of Government of West Pakistan in the gazatted of west Pakistan on 23rd Feb 1957)

**AN
ACT**

to provide for the constitution of a Board of Revenue for ²[Sind].

Preamble. WHEREAS It is expedient to provide for the constitution of a Board of Revenue for ¹ [Sind];

It is hereby enacted as follows:-

Short title and extent. -- 1. (1) This Act may be called the ¹[Sind] Board of Revenue Act, 1957.

² [(2) It extends to the whole of the province of [Sind].]

²(3) * * * * *

Definitions.--2. Unless there is anything repugnant in the subject or context-

³[(i) "Additional Member" means an Additional Member, Board of Revenue,]

³ [(i-a)] "Board" means the Board of Revenue established under this Act;

(ii) "Government" means the Government of ¹[Sind].

(iii) "Member" Means a member of the Board of Revenue established under this Act.

Constitution of Board of Revenue. -- 3. (1) There shall be a Board of Revenue for ¹[Sind] Which shall consist of such Members ³[and Additional Members] as may be appointed by the Government from time to time.

¹ for the words "West Pakistan" wherever appearing the word "Sind" substituted through W.P BOR (Sind amendment) Ord. 1970.

² Sub-section (3) omitted *ibd.*

³ clause (i) renumber as clause (i-a), and new clause (i) inserted *ibd.*

(2) The Government may, whenever considered necessary or expedient, appoint or remove a Member [or an Additional Member].

Superintendence and control of Revenue officers and Revenue Courts 4. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, but subject to the provisions of sub-section (2), and to any orders of the Government with respect to the appointments and conditions of service of Revenue Officers, of the general superintendence and control over all Revenue Officers and Revenue Courts in ¹[Sind] shall vest in and all such officers, in so far as their functions as Revenue Officers are concerned, shall be subordinate to the Board.

(2) The Board shall be subject to the control of the Government, and in all matters, other than those in which the Board exercises appellate and revisional jurisdiction, the Government shall have power to issue such directions to the Board as may be considered necessary or expedient and the Board shall carry out those directions.

Powers of the Board 5. (1) The Board shall be the controlling authority in all matters connected with the administration of land, collection of land revenue, preparation of land records and other matters relating thereto.

(2) The Board shall be the highest court of appeal and revision in revenue cases in the province.

¹(3) * * * *

Conduct of business. 6. (1) Subject to the approval of the Government, the Board may distribute its business amongst its Members and may, by rules, regulate the procedure of all proceedings before it.

(2) Any order made or a decree passed by a Member shall be deemed to be the order or decree of the Board.

(3) Where in a case which the Members of the Board are required to dispose of collectively, in accordance with the rules framed under this Act, there is a difference of opinion amongst the Members as to the decision to be given on any point-

(a) it shall be decided according to the opinion of the majority of Members if there is such a majority; and

(b) if the Members are equally divided the Members shall state the point on which they differ and the case shall then be

heard, on that point, collectively by those Members who heard it and by another Member, and if there is no such Member by an additional Member to be appointed by the Government for the purpose of that case, and then the point on which there is the difference of opinion shall be decided according to the opinion of the majority of all such Members.

¹[**Explanation.**--In this section and in section 7, the expression "Member" or "Members" shall include an Additional Member or Members.]

Revision of orders by Board. 7. (1) Any order made or a decree passed by a Member either on appeal or in revision shall, subject to any order made or decree passed under the provisions of Sub-sections (2) and (3) of this section and of section 8, be final.

(2) Any person considering himself aggrieved by an order made or a decree passed by a Member, in such class of cases as may be specified in the rules framed under section 9 of this Act, may apply to the Board for revision of such order or decree, and if the Full Board considers that there are sufficient reasons for doing so, it may revise that order or decree and pass such further order as it may think fit after hearing the applicant:

Provided that no revision shall lie to the Full Board against an order made or a decree passed by a Member in exercise of the revisional jurisdiction.

Explanation--"Full Board" shall mean two or more Members of the Board, as may be determined by the rules.

(1) Every application under sub-section (2) for revision of an order or decree shall be made within a period of ninety days from the date of that order or decree.

COMMENTS

It has been held by the Hon. Supreme Court in case reported as 2015 SCMR 58 that fourthly, and more relevantly to our present discussion, the order dated 15-08-2000 passed by the MBR (Judicial) purportedly exercises revisional jurisdiction under Section 164 of the Punjab Land Revenue Act, 1967 to decide petition bearing ROR No. 280 of 2000 filed by the respondents. This order annuls and recalls the earlier revisional order dated 17-11-1994 passed by the MBR (Colonies) in the respondents, Revision Petition No. 2902 of 1994. The order dated 15-08-2000 is passed incompetently because the proviso to section 7(2) of the Board of Revenue Act, 1957 bars revisional jurisdiction of the Board of

Revenue for adjudicating the correctness or validity of a revisional order passed by Single Member of the Board of Revenue. Therefore, in the present case, the order dated 15-08-2000 passed by the MBR (Judicial) is utterly devoid of legal authority to adjudicate the earlier revisional order dated 17-11-1994 passed by the MBR (Colonies). Consequently, the order dated 15-08-2000 cannot stand for being passed in excess of jurisdiction and is accordingly declared so.

Review of orders by the Board. 8. (1) Any person considering himself aggrieved by a decree passed or order made by the Board and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason desires to obtain a review of the decree passed or order made against him, may apply to the Board for a review of judgment and the Board may, after giving notice to the parties affected thereby and after hearing them, pass such decree or order as the circumstances of the case require.

(2) Every application for a review of a decree or order under sub-section (1) shall be made within ninety days from the date of that decree or order.

Power to make rules. 9. (1) The Board may, subject to the prior approval of the Government, make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the Board may make rules for all or any of the following purposes, namely:-

- (i) The procedure to be followed in any proceedings taken before a Revenue Officer or Court;
- (ii) To prescribe the forms, manner and subject in, or on which any returns or information about any cases or class of cases or proceedings or other matters shall be submitted by a Revenue Officer or Court to the Board or to any other authority;
- (iii) To prescribe the authorities or the officers by whom any particular cases or class of cases generally, or with respect to any particular locality, shall be dealt with;
- (iv) To provide for the territorial and pecuniary limits of jurisdiction of the various Revenue Courts; and

(v) To specify the class of cases in which a revision under subsection (2) of section 7 shall lie to the Board.

10. [Savings and validation.] Repealed by the W.P. Board of Revenue (Sind Amendment) Ordinance, 1970 (Sind Ordinance 1 of 1970), S.8 (w.e.f. 1st July, 1970).

11. [Repeal of W.P. Ord. XII of 1956 and continuance of action taken there-under.] Repealed by the W.P. Board of Revenue (Sind Amendments) Ordinance, 1970 (Sind Ordinance 1 of 1970), S.8 (w.e.f. 1st July, 1970).

[Sindh Board of Revenue conduct of Appeals and Revisions Rules, 1959 shown below have been copied out from the books already published. In these books Rule 6 was already included. However the Board of Revenue Sindh notified rule 6 through amendment in 1996 without mentioning about existing rule 6 and as such rule number 6 has been mentioned twice. Besides this I could not trace out any notification through which the word "Sindh" was substituted for the words "West Pakistan" in these rules but since in the amendment of 1996 notified by the Board of Revenue Sindh word "Sindh" is mentioned instead of words "West Pakistan" the same has been so mentioned.]

APPENDIX II

SINDH BOARD OF REVENUE (CONDUCT OF APPEALS AND REVISIONS) RULES, 1959

[22nd May 1959]

1. Short title and commencement :- (1) These rules may be called the Sindh Board of Revenue (conduct of Appeals and Revisions) Rules, 1959.

(2) They shall come into force at once.

2. Definitions:- In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-

- (a) "Full Board" shall, subject to the provisions of subsection (3) of section 6 of Sindh Board of Revenue Act, 1957, consist of all the Members of the Board: Provided that in case it is not possible for all Members to be present at the hearing, the number of Members present shall not be less than two.
- (b) "Case" means a particular judicial matter under consideration and includes all papers relating to it as are required for its disposal.

[(c) "SENIOR MEMBER" means the senior most Member]

(Sub-rule (C) added by sindh amendment notified by Notification No.1/914/90-Admn:1/7 dated 02-1-1996.)

3. Presentation of appeals and applications for revisions to the Board.— (1) Every appeal and application for revision made to the Board, shall be presented to such Assistant to the Commissioner of the Division to which it relates as may be appointed in this behalf by the Commissioner, or the Clerk of the Court of the Board and shall be immediately entered by him in a register to be prescribed by the Board.

(2) The Assistant or the Clerk of the Court shall, after examination, record a note stating whether the appeal or application for revision is in order, is stamped with proper court-fee and is accompanied by certified copies of decrees, judgments and orders passed by the subordinate Court or officer and in case of any defect shall direct the appellant or the applicant to remove the defect within thirty days.

(3) After the defects, if any, have been removed within the prescribed time, the Assistant to the Commissioner shall forward the appeal or application to the Clerk of the Court of the Board.

(4) On receipt of such appeal or application for revision, the Clerk of the Court shall immediately place it before the Member concerned for such orders as he may consider appropriate in accordance with the law for the time being in force.

4. Stay of execution of orders and decrees.— (1) Where an appeal or an application for revision has been made, the Member or the Full Board, as the case may be, may *suo motu* or on an application made in that behalf, stay the execution of the order or decree appealed from or sought to be revised.

(2) The Commissioner or the Court which passed an order or decree against which an appeal lies, may, on application made before the expiry of the time allowed for appeal direct the execution of such order or decree to be stayed for such time as may be determined or till the stay order is set aside by the Board or the Member, as the case may be.

(3) No order for stay or execution shall be made under sub-rule (1) or (2) unless the officer making it is satisfied--

(a) that substantial loss may result to the party applying for stay or execution unless the order is made ; and

(b) that the application has been made without unreasonable delay.

(4) Notwithstanding anything contained in sub-rules (1) and (2) the Member, Board, Commissioner or the Court as the case may be,

may make an *ex parte* order for stay or execution pending hearing of the application.

4-A. Disposal of urgent petitions for stay orders:- (i) Urgent petitions for stay of execution of an order or decree appealed from or sought to be revised shall be accompanied by an additional petition in Form "A" annexed to these rules, bearing a court-fee stamp of Rs. 2 and showing the grounds of urgency, and shall be presented before 11 a.m.

(ii) These petitions will be laid down before the Clerk of Court of the Board, who shall ordinarily fix them for hearing on the next day. If however, the Clerk of Court is satisfied that there is sufficient urgency, he shall submit the petition to the Member -in-Charge, for orders on the day of presentation.

(iii) In the absence of the Member-in-Charge, an emergent stay application, verified to be pressing, shall, on certification of the Secretary (Establishment), be submitted to the senior-most Member, present in Lahore, for such order as he may deem necessary.

Explanation:- For the purposes of this rule Member-in-Charge means the Member competent under these rules to deal with the case.

5 . Revision of orders or decrees by Full Board:- (1) An application for revision under sub-section (2) of section 7 of the Sindh Board of Revenue Act, 1957, shall lie to the Full Board only in cases where the order made or decree passed by the Court, subordinate to the Board, is reversed or modified by a Member of the Board on appeal.

(2) The Full Board shall consist of Members other than the Member who made the order or passed the decree sought to be revised.

6.--- (1) if, in the course of hearing of an appeal or application for revision, any complicated question of law or usage having the force of law or an intricate question of law and fact arises, the Member seized of the case may, after recording reasons therefore, refer the case for consideration of the Full Board which may also include the Member making the reference.

(2) The Full Board shall give its findings on the points so referred as it may deem fit and the Member making the reference shall dispose of the appeal or the application for revision in the light of such finding of the full board.

(3) Nothing contained in this rule shall prevent the Full Board from giving its finding on the points so referred, merely because a finding has already been given on a similar point by a previous Full Board; provided that if that the finding of the previous Full Board is to be reversed, it shall be by a Board consisting of an equal or larger number of Members.

6 . TRANSFER OF PENDING CASES. The Senior Member may, suo moto or on a reference from a Member or on an applications made by a party to a case pending adjudication transfer the case to his own file or to the file of any other Member for disposal:

Provided that no such transfer shall be made without giving the party or as the case may be parties an opportunity of being heard.
(Rule 6 added by Notification No. 1/914/90-Admn:I/7 dated 02-1-1996 of Sindh Board of Revenue though this rule could be mentioned as rule 6-A which is apparently a clerical mistake.)

FORM 'A'

Application for which urgency is Claimed should be submitted to the Clerk of Court before 11 a.m. and will ordinarily be laid before the Member-in-Charge on the day Following that on which the Application is presented. The application may, however, if specially requested and the reasons for the request stated, be submitted for orders on the day of presentation. In no case, however, will an application received after 9-30 a.m. be submitted for orders on the day of presentation.

IN THE BOARD OF REVENUE, WEST PAKISTAN, LAHORE.

To
The Clerk of Court,
Board of Revenue,
West Pakistan
Lahore.

Title of the case

Petitioner

Appellant
Respondent
Versus

Sir,

It is prayed that the accompanying petition may kindly be treated as urgent, in accordance with the provisions of rule 4-A of the Sindh Board of Revenue (Conduct of Appeals and Revisions) Rules, 1959.

1. The grounds of urgency are:-

Advocate.
For Petitioner.
Dated:

Board of Revenue, Sindh,
Hyderabad, dated the

NOTIFICATION.

No. 1/914/90-Admn. I/ / In exercise of the powers conferred by section 9 of the Sindh Board of Revenue Act, 1957, the Board of Revenue, Sindh, with the prior approval of the Government is pleased to make the following amendments in the Sindh Board of Revenue (Conduct of Appeal and Revision) Rules, 1959.

AMENDMENTS.

- (1) In rule 2 after clause (b) the following new clause 'c' shall be added:-
(c) "SENIOR MEMBER" means the senior most Member.
- (2) After rule 5 the following rule 6 shall be added:-

TRANSFER OF PENDING CASES.

The Senior Member may, suo moto or on a reference from a Member or on an application made by a party to a case pending adjudication transfer the case to his own file or to the file of any other Member for disposal:

Provided that no such transfer shall be made without giving the party or as the case may be parties an opportunity of being heard.

(ABDUL WAHEED FIRZADA)
SECRETARY (REVENUE)
BOARD OF REVENUE SINDH HYDERABAD.

No. 1/914/90-Admn. I/ / Hyderabad, dated the 16-2-1960

A copy is forwarded for information & necessary action to :-

- 1. The Members, Board of Revenue, Sindh, { all }
- 2. The Commissioner, { all }
- 3. The Deputy Commissioner, { all }
- 4. The Revenue Officer, Kotri Barrage.
- 5. The Colonization Officer, Gadsa Barrage Sukkur/
Colonization Officer, Sukkur Barrage, Hyderabad.
- 6. The Superintendent Government Printing Press for
Publication in next issue of official Gazette.
- 7. The Section Officer (Regd) Law Department, Karachi.

(ABDUL WAHEED FIRZADA)
SECRETARY (REVENUE)
BOARD OF REVENUE SINDH HYDERABAD.

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