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The Uttar Pradesh Local Funds Audit Act, 1984
Act 12 of 1984

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THE UTTAR PRADESH LOCAL FUNDS AUDIT ACT, 1984

(U. P. ACT NO. 12 OF 1984)

(As passed by the Uttar Pradesh Legislature)

AN

ACT

to make provision for, and to regulate audit of local funds under the management or control of local authorities and funds of certain corporate and non-corporate bodies in the State of Uttar Pradesh.

IT IS HEREBY enacted in the Thirty-fifth Year of the Republic of India as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Uttar Pradesh Local Funds Audit Act, 1984.
- (2) It extends to the whole of Uttar Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

Definitions.

2. In this Act :—

(a) 'Audit' includes test audit, concurrent audit, cent-per-cent audit and special audit and also inspection of accounts by the officers appointed under section 3;

(b) 'auditor' includes the Director and all other officers appointed under section 3 to assist him;

(c) 'Director' means the Director, Local Fund Audit Department, Uttar Pradesh appointed under section 3 and includes an officer on whom powers of the Director are conferred under sub-section (4) of that section;

(d) 'local authority' means a municipal board or Nagaralika or Nagar Mahapalika, Notified Area Committee, Town Area Committee, Zila Parishad, Kshetra Samiti, Gaon Sabha or any other authority constituted for the purpose of local self-Government or village administration or legally entitled to or entrusted by the State Government with the control or management of municipal or local fund and includes any society, body, or institution, whether incorporated or not, notified by the State Government by general or special order to be a local authority for the purposes of this Act;

(e) 'Principal Officer' in relation to a local authority means such officer thereof as may, from time to time, be specified by general or special order of the State Government;

(f) (i) 'special audit' in relation to a local authority means an audit of account for a specified period or pertaining to a specified item or series of items of account requiring exhaustive checking conducted under the orders of the State Government or on the request of the principal officer of a local authority;

(ii) 'test audit' means an annual audit of accounts of one or more months in a year selected at random by the auditor and conducted on percentage basis in his discretion with a general review of the accounts of the year;

(iii) 'concurrent audit' means a post audit of day-to-day accounts with a general review of the accounts from time to time;

(iv) 'cent per cent audit' means a post audit of all the transactions of a particular account of a specified period;

(g) 'Prescribed Authority' in relation to a local authority means an officer or a body corporate appointed by the State Government by notification in this behalf.

Appointment of Director and other Audit Officers.

3. (1) There may be appointed a person to be the Director, Local Fund Audit Department, and the following category of officers to assist him, namely,—

(a) Deputy Director, Local Fund Audit Department;

- (b) Assistant Director, Local Fund Audit Department;
- (c) District Audit Officer, Local Fund Accounts;
- (d) Senior Auditor, Local Fund Accounts;
- (e) Auditor, Local Fund Accounts;
- (f) Any other officer appointed by the State Government.

(2) The State Government may, on such terms and conditions, as may be determined by it, appoint the Director, and every such officer, as is referred to in sub-section (1) and may make provisions with regard to the appointment and conditions of service of their staff.

(3) The persons appointed under sub-section (2) shall within such area as the appointing authority may specify, exercise such powers and perform such duties as may be conferred or imposed on them by or under this Act.

(4) The State Government may, by notification, confer upon any officer not below the rank of an Assistant Director, Local Fund Audit Department the powers of the Director under sub-section (4) of section 4 or section 6 or section 7 or section 8 or section 9.

4. (1) The State Government may, from time to time, by notification, specify the local authorities, accounts of which are to be audited.

(2) On the issue of a notification under sub-section (1) the accounts of the local authority shall, notwithstanding anything contained in any enactment by or under which such local authority is constituted or in any rules made thereunder, be subject to audit in all respects in the manner provided by or under this Act.

(3) The local authority whose accounts are to be audited under sub-section (2) shall be liable to pay audit fees at the rates fixed by the State Government from time to time.

(4) If within one month of the receipt of a memorandum of audit fee leviable under sub-section (3), the audit fee is not paid by the Principal Officer of the local authority into the Government Treasury, the State Government or the District Magistrate, with the prior sanction of the State Government, may make an order directing the banker or person having the custody of the funds of such local authority to pay the amount of audit fee from such fund into the Government Treasury, whether in lump sum or in instalments as directed in the order, and the Banker or such other person shall be bound to comply with the order, failing which the amount of audit fee shall be recovered as arrears of land revenue.

5. The principal officer of the Local Authority accounts of which are subject to audit under section 4 shall produce or cause to be produced for audit all accounts, returns, registers, files and correspondence or any other documents as may be demanded by the auditors.

6. (1) For the purpose of any audit under this Act, an auditor may—

(a) require the Principal Officer of the Local Authority in writing to produce or cause to be produced such vouchers, returns, accounts, registers, files and correspondence or any other documents in relation to accounts, as the auditor may think fit, at such place as the auditor may direct at or within a reasonable given time.

(b) require in writing—

(i) any salaried servant of the local authority accountable for, or having the custody or control of, such vouchers, returns, accounts, registers, files and correspondence or other documents to appear in person, or

(ii) any person having directly or indirectly any share or interest in any work under the local authority or any person whose presence is deemed necessary for explaining any difficulty or circumstance,

to appear in person or by an authorised agent before him, at the place directed in the order and answer any question.

(c) require the Principal Officer of the local authority, to meet him at a place, where the audit of the accounts is being conducted or such other place, as the auditor may direct, and specify in writing the point on which the explanation is required.

Accounts subject to audit and payment of audit fees.

Production of Records for Audit.

Power of Auditor to require production of records and attendance of persons.

(2) The auditor may, in any requisition or intimation sent under sub-section (1), fix a reasonable period not being less than three days within which the said requisition or intimation shall be complied with.

(3) The auditor shall give to the local authority whose accounts are to be audited not less than two weeks' notice in writing of the date on which he proposes to commence the audit:

Provided that the auditor may, on his own motion and shall on direction by the State Government or the Director commence the audit by giving a shorter notice or without giving any notice recording the reasons therefor in writing.

(4) The Director shall, in connection with the performance of his duties under this Act, have authority—

(a) to inspect the accounts of any local authority which is under his audit charge, including physical verification of cash, valuables and stores;

(b) to require that any registers, books, papers and other documents which deal with or form the basis of or are otherwise relevant to the transactions to which his duties in respect of audit extend, shall be sent to such place and on such dates as he may appoint for his inspection;

(c) to put such questions or make such observations as he may consider necessary, to the person in charge of the office and to call for such information as he may require for the purpose of the audit or the preparation of any account or report which it is his duty to prepare.

Penalty for disobeying requisition under section 6.

7. (1) Any person who wilfully neglects or refuses to comply with any requisition lawfully made upon him under clause (a) or clause (b) or clause (c) of sub-section (1) or clause (a) or clause (b) or clause (c) of sub-section (4) of section 6 shall be liable to imprisonment of either description for a term which may extend to six months, or fine, upto rupees one thousand, or both.

(2) No proceedings under this section shall be instituted except on the written sanction of the Director.

(3) Before giving sanction under sub-section (2) the Director shall call upon the person against whom the proceedings are to be instituted to show cause why the sanction should not be given.

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

Audit report to be sent to concerned Local Authority and certain other officers and bodies.

8. (1) As soon as practicable after completion of the audit, the result of audit shall be communicated to the Principal Officer of the local authority in such form and containing such particulars as may be prescribed, in two parts, namely—

(i) the Audit and Inspection Note dealing with the general and important matters which require particular attention, and

(ii) the objection statement containing outstanding objections dealing with minor and technical irregularities.

(2) Copies of Audit and Inspection Note shall also be sent to such officers and authorities as may be considered necessary by the Director.

(3) The Director shall prepare or cause to be prepared a consolidated audit report of accounts and shall forward it to the State Government every year for being laid before each House of the State Legislature.

Procedure to be followed after report of the Director under section 8.

9. (1) On receipt of the report under section 8, the Principal Officer of the local authority shall take immediate action and record replies within one month against each point raised therein showing the action taken or proposed to be taken thereon. Thereafter, the audit report along with the comments of the Principal Officer shall be considered and decision taken in a special meeting of the local authority concerned to be held within three months from the date of receipt of the audit report.

(2) It shall be the duty and responsibility of the Principal Officer to see that the defects and irregularities pointed out in audit notes and objection statement are removed or settled promptly and with due despatch.

(3) An annotated copy of the audit report along with the comments of the Principal Officer and the decision of the local authority on each point shall be sent to the Director or the Officer appointed by him within one month of the holding of the meeting referred to in sub-section (1). The annotated copy will show against each para the name or names of officials responsible for irregularities and the action taken or proposed to be taken against them. Further correspondence regarding the disposal of audit objections shall be conducted directly between the local authority and the Director or the officer authorised by him.

(4) On receipt of the annotated copy of the audit note along with the comments of the Principal Officer and the decision of the local authority, the Director or the officer authorised by him in this behalf may, in respect of all or any of the matters dealt with in the report—

(a) accept the action taken by the local authority and settle the objection; or

(b) direct that the matter be further investigated at the next audit or at any earlier date; or

(c) hold that the defects or irregularities pointed out in the report or any of them have not been removed or remedied.

(5) If it is held that any defect or irregularity in the accounts of the local authority pointed out in the report has not been removed or remedied within a reasonable time the Director may specially bring the matter to the notice of the Prescribed Authority and the State Government, and the State Government may subject to any law for the time being in force, direct any such action as may be considered necessary, namely—

(1) prosecution of any person responsible for the defect or irregularity as the case may be;

(2) dissolution of the local authority;

(3) supersession of the local authority;

(4) suspension of the grant-in-aid to such local authority;

(5) departmental enquiry against any officer or servant of the local authority;

(6) removal of the Principal Officer of the local authority.

(6) While recommending action under sub-section (5), the Director shall invite special attention to any information which appears to him to support a charge of criminal misappropriation or fraud or which in his opinion requires special attention or immediate action.

10. (1) If after giving the person concerned a reasonable opportunity for showing cause the Director is satisfied that the loss, waste or misapplication of any money or property of the local authority, is a direct consequence of misconduct on the part of delinquent person, or gross neglect on his part, or that the said person being a party to making, or authorising the making of the illegal payment, the Director, notwithstanding anything contained in any law for the time being in force, may, by order in writing, direct such person to pay to the local authority before a specified date the amount together, with interest thereon, as may be found just and equitable to reimburse the local authority for such loss, waste or misapplication of its money or property :

Provided firstly, that no order of surcharge shall be made under this Act against any Principal Officer, member or servant of any local authority after the expiry of ten years from the occurrence of such loss, waste or misapplication of money or property or after expiry of six years from the date of his ceasing to be a Principal Officer, member or servant of the local authority whichever is later :

Provided secondly, that in the case of loss, waste or misapplication of money or property occurring as a result of a resolution of a local authority or of any of its committees or sub-committees, the amount of the loss to be recovered shall be divided equally among all members including office bearers who are reported in the minutes of the local authority or of its committees or sub-committee as having voted for or who remained neutral in respect of such resolution :

Director to surcharge illegal payment or loss caused by gross negligence or misconduct.

Provided, thirdly, that in the case of superseded local bodies, if loss waste or misapplication of money or property is due to any action of the Administrator or officer in charge who is a Government servant, the matter shall be reported by the Director to the State Government for necessary action :

Provided, fourthly, that the liability of a legal representative of a deceased delinquent person shall be to the extent of the property of the deceased which has come to the hands of such legal representative.

(2) If the person to whom a copy of the decision is furnished under sub-section (1) refuses to receive it, he shall be deemed to have duly received it on the day on which the copy was refused by him.

(3) If he is not available at the time of final order its gist along with the operative portion shall be sent to him at his last known address by registered post or shall be affixed at his last known residence and shall be proclaimed by beat of drum in the locality and this will give rise to a presumption of due service.

Appeal against order of surcharge.

11. (1) Any person aggrieved by an order made under sub-section (1) of section 10 may within thirty days from the date of receipt of the order by him, prefer an appeal in the prescribed manner to the Commissioner having jurisdiction in the area in which the principal office of the local authority is situated.

(2) The Commissioner, while hearing an appeal preferred under sub-section (1), follow such procedure as may be prescribed.

(3) The order passed by the Commissioner in appeal under this Act shall be final.

Recovery of charges as arrears of land revenue.

12. The sum stated in the order of surcharge under section 10 or section 11 as the case may be shall be paid by the person surcharged within sixty days of the date of the order, and, if not so paid, may on the application of the Director be recovered by the Collector as arrears of land revenue and deposited in the fund of the local authority, in the manner prescribed.

Payment of charges etc.

13. All expenses incurred by a local authority in compliance with any requisition made by the auditor under sub-section (1) of section 6 or by the Director under sub-section (4) of section 6 shall be payable out of the Funds of that local authority.

Director, Auditor etc. to be public servant.

14. The Director and Officers and Auditors working under the Director and exercising or authorised to exercise powers under this Act or the rules made thereunder shall be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (No. 45 of 1860).

Bar of suits.

15. Save as otherwise provided in this Act, no suit or other proceedings shall be brought in any civil court to call in question any order lawfully made by any authority under this Act.

Protection for acts done in good faith.

16. No suit, prosecution or other proceedings shall lie against the State Government, Director or any other officer, auditor or subordinate to the Director for anything in good faith done or purporting to have been done under this Act.

Inspections of records by the Inspector.

17. (1) The State Government may, by notification, appoint such persons as it thinks fit to be Inspectors from amongst the officers appointed under section 3 for the purposes of this Act, and define the local limits of their jurisdiction.

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits of his jurisdiction—

(a) enter, at all reasonable hours, with such assistance, if any, of persons in the service of the Government or any local or other public authority as he thinks fit and as approved by the Director or the person authorised by him, any premises or place for the purpose of examining any register or record or papers in connection with the audit proceedings under the orders of the Director, Auditor, or any other person in charge of the audit proceedings, and require the production thereof for inspection;

(b) interrogate any person on the spot to elicit information;

(c) seize or take copies or sign such record or papers as may be necessary to carry out the directions of his superior officers;

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

(3) Any person required to produce any document or thing or to give any information required by the Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

(4) The provisions of the Code of Criminal Procedure, 1973 (Act II of 1974), shall, so far as may be, apply to any search or seizure under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

18. For the purpose of any examination or audit under this Act, the Director or the Auditor and for purpose of appeal the appellate authority shall have the same powers as vested in a Civil Court under the Code of Civil Procedure, 1908 (Act No. V of 1908), when trying a suit in respect of the following matters, namely—

Miscellaneous.

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) issuing commissions ;
- (c) receiving evidence on affidavits ;
- (d) requiring the discovery and production of documents
- (e) any other matter which may be prescribed.

19. Any proceeding relating to surcharge, pending under any law for the time being in force immediately before the commencement of this Act, shall be disposed of, and any order passed in any such proceeding shall be enforced, in accordance with such law as if the provisions of this Act were not in force.

Savings.

(2) Save as provided in sub-section (1) all proceedings relating to surcharge in respect of any local authority to which this Act applies, shall, after the commencement of this Act, be taken and disposed of under this Act, notwithstanding anything to the contrary contained in any law for the time being in force.

20. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or on any of the following matters, namely—

- (a) to regulate notification of the local authority accounts of which are to be audited by the Director;
- (b) the rate of audit fee to be paid by the local authority for audit of accounts under sub-section (3) of section 4 of the Act, and the mode of its payment and realisation;
- (c) the form and the manner in which accounts shall be submitted for audit;
- (d) the powers and duties of auditor and the procedure to be followed for conducting audit and the time and places at which such audit may be conducted;
- (e) the powers and duties of the Director;
- (f) enquiry, appeal and recovery in respect of surcharge;
- (g) inspection of records by the Inspector.

By order,
G. B. SINGH,
Sachiv.