National Dairy Development Board (Enforcement of Claims) Regulations, 2000

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National Dairy Development Board
Anand 388 001

THE NATIONAL DAIRY DEVELOPMENT BOARD (ENFORCEMENT OF CLAIMS) REGULATIONS, 2000

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THE NATIONAL DAIRY DEVELOPMENT BOARD (ENFORCEMENT OF CLAIMS) REGULATIONS, 2000

NDDB/LEGAL:/4401 - In exercise of the powers conferred by section 48 of the National Dairy Development Board Act, 1987 (37 of 1987), read with section 30 and section 31 thereof, the Board of Directors of the National Dairy Development Board hereby makes the following regulations, namely; –

CHAPTER 1

PRELIMINARY

1. Short title and commencement

(1) These regulations may be called the National Dairy Development Board (Enforcement of Claims) Regulations, 2000.

(2) They shall come into force on the date of their publication in the Gazette of India.

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2. Definitions

(1) In these regulations, unless the context otherwise requires -

(a) "Act", means the National Dairy Development Board Act, 1987 (37 of 1987);

(b) "borrower" means a person against whom there is owing a debt in favour of the National Dairy Development Board;

(c) "Code" means the Code of Civil Procedures, 1908 (5 of 1908);

* [(d) "Court" means the principal civil court of original jurisdiction in a district (which includes the High Court in exercise of its original civil jurisdiction), having jurisdiction to decide the questions forming the subject matter of the claims if the same have been the subject matter of a suit, but does not include any civil court of a grade inferior to such principal civil court, or any court of small causes.]

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* Substituted vide Notification No.DEL:NDDB dated 26th April 2004 published in Part III – Section 4 of Gazettee of India, Extraordinary dtd.26.04.2004

(e) "Defaulter" means any person against whom claim is capable of being made or enforced under regulation 3;

(f) "National Dairy Development Board" means the National Dairy Development Board, constituted as a body corporate under Section 4 of the Act;

(g) "Regulation" means a regulation forming part of these regulations;

(h) "Section" means a section of the Act ; and

(i) words and expressions not defined in these regulations, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

CHAPTER II

PROCEEDINGS BEFORE THE COURT

3. Procedure for Enforcement of claims

1. Where –

(a) any person, in breach of any agreement with the National Dairy Development Board, makes any default in the repayment of any loan or advance made by the National Dairy Development Board or any installment thereof, or

(b) any person makes any default in meeting his obligations in relation to any guarantee given to the National Dairy Development Board on behalf of any other person, or

(c) any person who fails to comply with the terms of any agreement with the National Dairy Development Board,

any officer of the National Dairy Development Board generally or specially authorised by the Board in this behalf, may apply to the Court within whose jurisdiction the defaulter carries on the whole or any part of his business, for one or more of the following reliefs, namely :-

(i) an order for the sale of the property pledged, mortgaged, hypothecated or assigned by the person to the National Dairy Development Board , as security for the loan or Advance; or

(ii) an Order transferring the management of the concerned Organisation to the National Dairy Development Board; or

(iii) an Order granting ad interim injunction, restraining the defaulter and persons claiming under him, from transferring or removing any machinery or plant or equipment from the premises of the borrower without the prior permission of the National Dairy Development Board, where such transfer or removal is reasonably apprehended.

(2) An application under sub-regulation (1) of this regulation shall, as far as may be, be made in Form given in the First Schedule hereto and state :-

(a) the nature and extent of the liability of the person (as the borrower or otherwise) to the National Dairy Development Board;

(b) the grounds on which the Application is made; and

(c) give such other particulars as circumstances of the case may require.

4. **Procedure to be followed on Application for certain reliefs** :

(1) Where an application has been made seeking one or more reliefs mentioned in sub-regulation (1) of regulation 3, the Court shall, along with issue of notice to the defaulter under regulation 5, -

*[(a) in case of an Application seeking relief under clause (i) thereof, pass such appropriate order, concerning the property pledged, mortgaged, hypothecated or assigned to National Dairy Development Board as security for the loan or advance, as it may deem fit and proper to ensure the ultimate recovery of such loan or advance.]

(b) in the case of an Application seeking relief under **[clause (iii)] thereof, grant an ad interim injunction, restraining the defaulter

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* Substituted vide Notification No.DEL:NDDB dated 26th April 2004 published in Part III – Section 4 of Gazettee of India, Extraordinary dtd.26.04.2004

** *Ibid*

from transferring or removing machinery or other equipment from the premises of the concerned Organisation, and

(c) in the case of an Application under *** [clause (ii)] thereof, for the transfer of management of the Organisation –

(i) grant an ad interim injunction, restraining the defaulter from transferring or removing any machinery, plant or equipment from the premises of the Organisation, and

(ii) direct the defaulter to show cause, on a date to be specified in the notice, as to why the management of the Organisation should not be transferred to the National Dairy Development Board.

(2) The Court may grant any one or more reliefs sought to as the circumstances set out in the application may warrant.

(3) Before passing an Order under sub-regulation (1) of this regulation, the Court may, if it thinks fit, record the statement of the officer making the application on oath to prima facie satisfy himself about the genuineness of the claim.

**** [(4) .....]

5. **Notice to show cause**

The Court shall, at the time of passing an Order under sub-regulation (1) of regulation 4, issue to the defaulter and to any other person who may appear to have any interest in the security which is directed to attached or against whom any other relief is sought, a notice, accompanied by copies of the Order, the Application and the statement, if any, recorded by him, calling upon the person concerned to show cause, on a date specified in the notice, as to why an ad interim order of attachment should not be made absolute or the injunction or other relief granted confirmed, as the case may be.

... Substituted vide Notification No.DEL:NDDB dated 26th April 2004 published in Part III – Section 4 of Gazettee of India, Extraordinary dtd.26.04.2004

**** Deleted vide Notification No.DEL:NDDB dated 26th April 2004 published in Part III – Section 4 of Gazettee of India, Extraordinary dtd.26.04.2004

6. **Order of the Court and investigation of the claim** :

(1) If no cause is shown on or before the date specified in the notice issued under regulation 4 or regulation 5, as the case may be, the court shall forthwith made the ad interim Order absolute and direct the sale of the attached property or transfer the management of the organisation to the National Dairy Development Board, or confirm the injunction or other relief, as the case may be.

(2) If the matter is contested, then the court shall proceed to adjudge the claim of the National Dairy Development Board as provided in the Code as if it is a summary proceeding, and the provisions thereof shall, *mutatis mutandis,* apply in respect thereof.

7. Final Order

After making an enquiry as envisaged under sub-regulation (2) of regulation 6, the court may –

(a) confirm the order of attachment and direct the sale of the attached property,

(b) vary the Order of attachment, so as to release a portion of the property from attachment and direct the sale of the remainder of the attached property,

(c) release the property from attachment,

(d) confirm or dissolve the injunction, or

(e) Order the transfer of management of the concerned Organisation to the National Dairy Development Board or reject the claim made in that behalf.

Provided that, the Court may while adjudging the matter under these regulations, be competent to pass such further Orders as it may deem fit, so as to protect the interests of the National Dairy Development Board, as also to apportion the costs of the proceedings in such manner as circumstances require;

Provided further that, unless the National Dairy Development Board intimates to the court that it will not appeal against an order passed by the Court, its claim to transfer the management of the concerned Organisation to the Board, such order shall not be given effect to ;-

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(i) before the expiry of the period within which appeal is to be preferred under regulation 9, and

(ii) if an appeal has been preferred, then until the appeal is disposed of, unless the Appellate court otherwise directs.

8. Execution

(1) An Order for the attachment or sale of property under these regulations shall be carried into effect, as far as practicable, in the manner provided in the Code for the attachment or sale of property in execution of a decree, as if the National Dairy Development Board were the decree holder.

(2) An Order under these regulations transferring the management of an Organisation to the National Dairy Development Board shall be carried into effect as far as practicable, in the manner provided in the Code for the execution of a decree for possession of or for the delivery of the property, as if the National Dairy Development Board were a decree-holder.

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CHAPTER III

APPEAL

9. Appeal

(1) Any party aggrieved by an Order of the Court made ♦[under regulation 7] may , within thirty days from the date of the Order, Appeal to the High Court as far as may be in the Form given in the Second Schedule, and upon such Appeal, the High Court may, after giving the parties a reasonable opportunity to show cause, pass such orders as it thinks fit and proper.

(2) The provisions of the Code as to procedure relating to appeals against Orders shall, as far as may be, apply to Appeals under these Regulations.

♦ Substituted vide Notification No.DEL:NDDB dated 26th April 2004 published in Part III – Section 4 of Gazettee of India, Extraordinary dtd.26.04.2004

CHAPTER IV

MISCELLANEOUS

10. **No preference over other creditors**

Where in respect of any defaulter who is a corporate body, proceedings for liquidation have commenced before an Application is made under ♦♦ [sub-regulation (1) of the regulation 4], nothing in these regulations shall be construed as giving to the National Dairy Development Board any preference over the other creditors of the defaulter which is not conferred by any other law for the time being in force.

11. **Receiver**

For the avoidance of doubts, it is hereby declared that any Court competent to grant any relief under these regulations shall also have the power to appoint a receiver if circumstances so require, and to exercise all other powers incidental thereto.

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♦♦ Substituted vide Notification No.DEL:NDDB dated 26th April 2004 published in Part III – Section 4 of Gazettee of India, Extraordinary dtd.26.04.2004

First Schedule

FORM

Before the Court of the District Judge at .....

BETWEEN

A. ---------- APPLICANT

AND

B. ---------- RESPONDENT

Application under Sec.30 and 31 of the National Dairy Development Board Act 1987, (37 of 1987) read with Regulation 3 of the National Dairy Development Board (Enforcement of Claims) Regulations, 2000.

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DETAILS OF APPLICATION
*Delete whichever is not applicable.

1. Particulars of the Applicant :-

   (i) Name of the applicant :
   (ii) Address of Registered Office :
   (iii) Address for service of all notices :
   (iv) Name and designation of authorized Officer

2. Particulars of the Respondent :-

   (i) Name of the Respondent :
   (ii) Office address of the Respondent :
   (iii) Address for service of all notices :

3. Jurisdiction of the Court :

   The Applicant declares that the subject-matter of the recovery of debt due falls within the Jurisdiction of the District Court at .....

4. The facts of the case are given below :-
(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue, fact or otherwise)

5. Relief(s) sought :-

In view of the facts mentioned in para 4 above, The Applicant prays for the following relief(s) In pursuance of Section 30, Section 31 and Section 48 of the National Dairy Development Board Act, 1987 read with the National Dairy Development Board (Enforcement of Claims) Regulations, 2000.

[Explain the grounds of relief]

6. Interim order, if prayed for pending final decision on the Application, the Applicant seeks issue of the following interim Order :-

[Give here the nature of the Interim Order prayed for with reasons].

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7. Matter not pending with any other court, etc :-
The applicant further declares that the matter regarding which this Application has been made is not pending before any other Court of law or any other authority.

8. List of enclosures :-

VERIFICATION

I,..... ....., being the Officer duly authorized to represent the Statutory Body Viz., The National Dairy Development Board do hereby verify that the contents of Paras 1 to 8 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place :
Date : Signature

The Second Schedule

FORM

Before The High Court of Judicature at.....

Memorandum of Appeal under Regulation 9 of the National Dairy Development Board (Enforcement of Claims Regulations) 2000 made under Sections 30, 31 and 48 of the National Dairy Development Board Act, 1987 (37 of 1987)

Between

A---------- Appellant

AND

B---------- Respondent

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Details of Appeal :

1. Particulars of the Appellant :

   (i) Name of the Appellant
   (ii) Address of registered office of the Appellant
   (iii) Address for service of all notices.

2. Particulars of the Respondent :

   (i) Name of the Respondent
   (ii) Office address of the Respondent
   (iii) Address for service of all notices.

3. Jurisdiction of the High Court :- The Appellant declares that the matters of the Appeal falls within the jurisdiction of the High Court.

4. Limitation :- The Appellant further declares that the Appeal is within the period specified in Regulation 9 of the National Dairy Development Board (Enforcement of Claims) Regulations, 2000.

5. Facts of the case and the Orders passed by the Court and action taken thereon. The facts of the case are given below :

(Give here a concise statement of facts and grounds of Appeal against the specific Order of the Court or action taken).

6. Relief (s) sought, ____ In view of the facts mentioned in Paragraph 5 above, the Appellant prays for the following relief(s) (Specify below the relief(s) sought explaining the grounds for relief(s) and the legal provisions (if any) relied upon).

7. Interim order, if prayed for :- Pending final decision on the Appeal the Appellant seeks issue of the following Interim Order.

(Give here the nature of the Interim Order prayed for with reasons).

8. Matter not pending with any other court etc. – The Appellant further declares that the matter regarding which this Appeal has been made is not pending before any other Court of law or any other Authority.

9. List of Enclosures :

Verification

I,..... (Name in full and block letters) being the ..... (Designation) of ..... (Name of the Company) holding a valid power of attorney from ..... (Name of the Organisation or entity) do hereby verify that the contents of Paras 1 to 9 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Signature of the Appellant

Place :
Date :

AMRITA H. PATEL
Chairman
NATIONAL DAIRY DEVELOPMENT BOARD
(Advt.-3/4/Exty/132/2k)

12.7.2000

Notification No.NDDB/LEGAL/4401 in Gazette of India dated 12th July 2000.