**CHAPTER IIB (SECTION-14 J to 14Z)**

**CEILING ON HOLDINGS**

This Chapter was inserted in the Act by WBLR (Amendment) Act, 1971 which was replaced by the WBLR (Amendment) Act, 1972 which has taken effect retrospectively from 15th Feb., 1971. Later on also several sections of this Chapter have amended by the WBLR (Amendment) Acts of 1974, 81, 86 etc.

The Constitutional validity of this chapter is challenged in the **Dayamaya Devi Vs. State of W.B 1978, CWN 639.** In this case the Calcutta High Court strucj down Section 14M, 14L, 14P, 14U, 14V, 14W, 14X, & 14Y to the ultra vires being violative of Article 31(A) of the Indian Constitution. But the inclusion of WBLR (Amendment) Act, 1974 & 72 into 9th Schedule of the Constitution neutralize the ratio decendi of the above case and it was held that amendment Act can be challenged on the ground of violative of Article 31(A) of COI.

Accordingly in ***Anchal Bhusan Vs. State of West Bengla, 1980, CWN 643*** the decision of Dayamaya Case overruled. Further in the case of ***Sasanka Sekhar Maity vs. Union of India AIR 1981 SC 522*** Chapter II B was held intra vires the Constitution.

**Scheme of Chapter II B**

**SECTION-14J: PROVISIONS OF CHAPTER II-B TO HAVE OVERRIDING EFFECT**

The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act or in any other law for the time being in force or in any custom, usage or contract (express or implied) or in any agreement, decree, order, decision or award of any court, tribunal or other authority:

Provided that nothing in this Chapter shall apply to any vacant land in an urban agglomeration as defined in the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976).]

The object of insertion of chapter IIB by the West Bengal Land Reforms (Amendment) Act, 1972 was:

1. to break up the concentration of ownership or accumulation of agricultural land in the possession of few persons, and
2. to control the material resources of the community to do social and agrarian reform by way of equitable distribution of lands as far as practicable to all persons of the society.

The concept of family ceiling was introduced to serve social purpose and to do social justice.

**14K. Definitions.**—In this Chapter,—

(a) "ceiling area" means the extent of land which a *raiyat* shall be entitled to own;

(b) "charitable purpose" includes relief of the poor, medical relief or the advancement of education or of any other object of general public utility; and

(c) "family", in relation to a *raiyat* shall be deemed to consist of--

(i) himself and his wife, minor sons, unmarried daughters, if any,

(ii) his unmarried adult son, if any, who does not hold any land as a *raiyat*,

(iii) his married adult son, if any, where neither such adult son nor the wife nor any minor son or unmarried daughter of such adult son holds any land as a *raiyat*,

(iv) widow of his predeceased son, if any, where neither such widow nor any minor son or unmarried daughter of such widow holds any land as a *raiyat*,

(v) minor son or unmarried daughter, if any, of his predeceased son, where the widow of such predeceased son is dead and any minor son or unmarried daughter of such predeceased son does not hold any land as a *raiyat*, but shall not include any other person.

*Explanation I.*—For the purposes of this Chapter, an adult unmarried person shall include a man or woman who has been divorced and who has not remarried thereafter

Provided that where such divorced man or woman is the guardian of any minor son, or unmarried daughter, or both, he or she, together with such minor son or unmarried daughter, or both, shall be deemed to be a separate family.

*Explanation II.*—References in this clause to wife, son or daughter shall, in relation to a *raiyat* who is a woman, be construed as references to the husband, son or daughter, respectively, of such woman;

(d) "irrigated area" means an area specified as such by the State Government, by notification in the Official Gazette, being an area which is, or is in the opinion of the State Government capable of being irrigated, at any time during the agricultural year commencing on the 1st day of *Baisakh*, 1377 B.S., or thereafter, from any State canal irrigation project or [State power-driven deep tube-well or shallow tube-well or any other State irrigation project] or State river lift irrigation project;

(e) "orchard" means a compact area of land having fruit bearing trees grown thereon in such number that they preclude; or when fully grown would preclude, a substantial part of such land from being used for [any other] purpose;

[(ee) "project report" means a project report relating to such purpose as mentioned in the first proviso to section 14Y, which has been examined, vetted and approved by the appropriate Department of the State Government;]

(f) "standard hectare" means,—

(i) in relation to an agricultural land, an extent of land equivalent to—

(a) 1.00 hectare in an irrigated area,

(b) 1.40 hectares in any other area,

(ii) in relation to any land comprised in an orchard, an extent of land equivalent to 1.40 hectares,

[(iii) in relation to any other land, an extent of land equivalent to 1.40 hectare.]

**SECTION 14L**

**NO RAIYAT TO HOLD LAND IN EXCESS OF THE CEILING AREA**

Section 14L lays down that on and from the commencement of chapter IIB no raiyat shall be entitle to hold any land in excess to the ceiling area as applicable to him under section 14M.

**SECTION 14M**

**CEILING AREA**

This section prescribes the ceiling area for different classes of raiyatwhich are given below in the table:

|  |  |
| --- | --- |
| **RAIYAT** | **CEILING AREA** |
| 1. Adult unmarried person
 | 2.50 standard hectares |
| 1. Sole surviving member of the family
 | 2.50 standard hectares |
| 1. Having family of 2 to 5 members
 | 5.00 standard hectares |
| 1. Having family of more than 5 members
 | 5.00 standard hectares, plus 0.50 standard hectare for each member in excess of five, so, however, that the aggregate of the ceiling area for such *raiyat* shall not, in any case, exceed 7.00 standard hectares |
| 1. Any other raiyat
 | 7.00 standard hectares |

In case in the family of a *raiyat*, there are more *raiyats* than one, the ceiling area for the *raiyat*, together with the ceiling area of all the other *raiyats* in the family shall not, in any case, exceed,--

(a) Where the number of members of such family does not exceed five, 5.00 standard hectares;

(b) Where such number exceeds five, 5.00 standard hectares, plus 0.50 standard hectares for each member in excess of five, so, however, that the aggregate of the ceiling area shall not, in any case, exceed 7.00 standard hectares.

More than one raiyat in family all the lands owned individually by the members of the family shall be deemed to be owned by the raiyats of the family. [Section 14M (3)]

In determining the extend of land owned by raiyats the share of such raiyats in the lands owned by co-operative society, company, co-operative farming society, Hindu undivided family or a firm shall be taken into account. [Section 14M (4)]

The author of a private trust or endowment shall be deemed to be raiyat to the extent of his share in the lands owned by such trust or endowment and such share shall be taken into account for calculating the ceiling area such author. [Section 14M (5)]

A trust or an institution of public nature exclusively for a charitable or religious purpose or both shall be deemed to be a *raiyat* under this Act and shall be entitled to retain lands not exceeding 7.00 standard hectares, notwithstanding the number of its centers or branches in the State. [Section 14M (6)]

**Section14N. Determination of irrigated area.**—(1) If any question arises Is to whether any land is or is not within an irrigated area, such question shall be determined by the prescribed authority in such manner as may he prescribed.

(2) The State Government shall prescribe such authority as it may think it for the determination of the question referred to in sub-section (1).