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Preface

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The Bengal Agricultural Debtors Act was passed in 1935 before the inauguration of provincial autonomy. The Act was to provide for the relief of indebtedness of agricultural debtors in Bengal whose debts amounted to more than one hundred crores of rupees. Various defects in the Bill were pointed out when it was under discussion in the Bengal Legislative Council. There was general agreement that some means should be found to relieve the indebtedness of the agricultural population. It was however pointed out by the critics of the Bill that its principles were unsound and many of its provisions were too wide and vague. The Government was warned that the bill if passed would wreck the whole system of rural credit since the Government were not giving any financial help or creating rural credit organisations. The defect in the definition of 'debtor', it was pointed out, offered a loophole for persons who were not agriculturists and tenure holders, and others would take advantage of the law to defeat the claims of their creditors. The difficulty in creating Debt Settlement Boards of the right type in the rural area was anticipated as also the dangers from vesting enormous powers in the hands of the Debt Settlement Boards. The palpably unjust discrimination that was made between the debtor and the creditor in regard to procedure was also criticised. The member in-charge of the Bill, now the Home Minister, was however adamant and almost all the amendments moved from the side of the opposition were defeated. As to many of the criticisms levelled against the Bill, the member in-charge, Hon'ble Khwaja Sir Nazimuddin, promised that rules would be framed under the Act which would meet most of the objections. Certain rules were framed and issued as "The Bengal Agricultural Debtors Rules, 1936". But these rules did not at all seek to fill up the lacuna or remedy the defects in the Act. The result has been that the Agricultural Debtors Act has proved a remedy worse than the disease. In the following pages an endeavour has been made to indicate how the Act and the Debt Settlement Boards created under the Act have, while seriously injuring the interests of creditors of all classes including the Loan Companies have conferred no benefit worth the name on the bonafide agricultural debtors. On the other hand, the Debt Settlement Boards have, by ousting the jurisdiction of the civil courts, created an extraordinary situation. In several cases that came before the Hon'ble Judges of the Calcutta High Court, their lordships have pointed out the serious defects in the Agricultural Debtors Act and in one case

involving a claim of over twenty-six thousand rupees, the Chief Justice observed :

*"It seems clear that the Bengal Debt Settlement Act in its present shape is likely to entail consequences of a fantastic description which obviously could not have been fully realised or even dimly foreseen when the Act was drafted or when it was passed into law."*

The Government of Bengal do not appear to have taken notice of this and similar other observations of their Lordships. They have on the contrary decided that they would more than double the existing number of Boards till every union in every "thana" in the Province had at least one Board.

Space does not permit a full review of the operations of the Debt Settlement Boards or even a mention of the numberless cases of the injustice and of malpractice that have been brought to the notice of the All Bengal Loan Companies Association and by the Association to the notice of the Government.

In this brochure I have not confined myself to the criticism of the B. A. D. Act and the Debt Settlement Boards. My object has been mainly to indicate how the Bengal Loan Companies whose number is more than 800, already hard hit by trade depression and the phenomenal fall in the prices of agricultural products, are receiving their death blow at the hands of the so-called Debt Settlement Boards. The Loan Companies have been largely instrumental in rescuing the agricultural population from the hands of the rural mahajan during three quarters of a century, that they have thrived as Bengal's peculiar indigenous rural credit organisations. The Government will be guilty of betraying a sacred trust if they allow these institutions to die ; for even now they are the principal credit organisations in rural Bengal and hold as deposit the savings of a considerable number of the lower middle and upper agricultural classes of the province. Crores of rupees are involved and what is more, the confidence of the people in non-official Banks and Companies is terribly shaken. If these pages succeed in creating public interest and making the Government realise their responsibility, I shall consider myself amply compensated for the trouble undertaken for a cause I consider to be great. The materials have been gathered mostly from articles published in newspapers contributed from time to time by persons who have first-hand knowledge of the subject. If many of the articles are mine there are others also from the pen of experts

I am indebted to several friends in the preparation of the manuscript and otherwise, particularly to S. J. Narendra Nath Mukherjee M. A., himself a banking expert, Prof. Hari Charan Ghosh M. A. P. R. S., and Mr. S. K. Niyogi of the Khulna Loan Co. Ltd.,

## BENGAL LOAN COMPANIES—THEIR SERVICES

It is an admitted fact that before the advent of loan offices rural agricultural finance was in the hands of private Mahajans. In spite of the invectives hurled against them for their one time usurious methods, it can not be gainsaid that the money of these private Mahajans, obtained by the agriculturist as loan, contributed mostly to the agricultural stability of the country. Bengal loan offices were ushered into existence to take the place of these private Mahajans and as a matter of fact, these private Mahajans as a class had been almost wiped away in the wake of the coming into being of these loan offices. The agriculturists, who erstwhile, were an uncared-for lot, got the entire benefit of lesser rate of interest and 'bona fide' dealings, which these loan offices offered them. And had it not been for these indigenous humane banking organisations the present Government would have found the agriculture of the country as well as its agriculturists in a plight beyond redemption. So it is idle to say that the Bengal Loan offices did not benefit either the agriculturist or the landlords. For all time to come agricultural stability and progress must depend upon finance of some agencies and in the absence of a network of Co-operative Banks and Mortgage Banks, the loan companies must continue to supply the bulk of rural credit.

The ruin of the Loan Offices of Bengal will entail extreme misery on the lower middle class and a certain section of the solvent agriculturists. It is therefore necessary to devise ways and means so that this class of semi-indigenous banking institutions may be saved. It is also generally accepted that the chief malady from which these are suffering is that the assets are all "frozen" and as such they are unable to realise them. This is why they find it difficult to pay interest or any part of the principal to their depositors. Thus the problem is to investigate the causes responsible for this locking up of their assets so that there may not be any repetition of the disaster in future and to devise measures to thaw the frozen assets.

In regard to the first part of the problem it may be pointed out that these loan offices did not go out of their way in advancing loans against land. It is common knowledge and we should not forget that "land revenue fixed in perpetuity in 1793 was inordinately high and was exacted with the utmost rigour." The more shrewd among the Bengal Zamindars managed to save themselves from ruin by the ingenious device of creating permanent tenures in their estates. This process developed with the subsequent

growth of population and the rise of prices and was responsible for partial reduction of the incidence of land tax. But at the same time "a large class of intermediaries arose between the Zamindars and the actual raiyat." It is also to finance these Zamindars and the superior class of intermediaries like the patnidars and darpatnidars and other permanent tenure-holders that the necessity was felt for a special class of banking institutions making advances on the mortgage of land.

This special class of banking institutions practically ousted the only other lending agency—the private money lenders, so far as these tenure-holders were concerned, and continued, unlike those in other provinces, to develop along the line of land mortgage banking. For about half a century these offices were maintaining, on the whole 'a steady upward tendency.' The reason of this continued success was not that they followed what is commonly known as strictly commercial banking practice but a rise in prices leading to an inflation of land values and an increase in the demand for advances from loan offices. The clientele also of these offices most of whom are directly dependent on agricultural prosperity for the liquidation of their indebtedness never failed to pay the bank dues. There was nothing wrong in their methods of business and the Hon'ble Mr. N. R. Sarkar admitted (as a member of the Indian Central Banking Enquiry Committee) that "as a rule, the loan offices.....conduct their activities with a reasonable degree of caution, maintaining a due proportion of capital and reserve in comparison to their total deposits." In regard to their investments, he said that "it is true that investments are not liquid, but bad investments have been few."

Circumstances, however, have, of late, changed the whole situation. The general depression during the last few years led to a precipitate fall in agricultural prices. This weakened the financial position of most of the clients of these companies and they began to default, and as a result these offices have been hit hard. This is obvious since almost all of them lent out a large portion of their funds on the security of landed properties, mostly agricultural. But these offices cannot be blamed for this state of affairs. They could not avoid their present fate as it was a natural corollary to the existing agricultural economics of the country and specially so of our province.

It is undeniable that there had been too many small offices which grew much more rapidly during the period 1915 to 1930 than the factors giving rise to loan offices can legitimately account for. This created maladjustment between supply and demand and there was a very unhealthy competition among these newly started companies. These new companies, unlike their older comrades, changed their policy and began to offer an increased rate of interest to the depositors and also to advance considerable sums against personal security. They, too, in their turn began to charge still higher rates of interest from the borrowers and degenerated

almost into the status of the ordinary money lenders. No body could, however, then anticipate that the state of agricultural industry would be so disastrous in near future and the economic condition of the large section of their clientele would be so impaired by dependence on agricultural income. The circumstances were entirely external and as such were beyond their control. The authorities of these offices were surprised at the course of events following the deepening of the depression and could not adjust themselves to a situation where there is "poverty amidst plenty." And in the course of a year and a half after 1929, they found that they had become owners of lacs of rupees in paper but hardly of hundreds in actual cash. Things became worse, when, above this, came the demand of their customers for the withdrawal not only of all accumulated interest but also of a substantial portion of their deposit money.

It should, however, be pointed out here that "the loan offices in Bengal do not form a homogeneous body" and the depression has not hit all of them equally hard. A few of the older companies, though affected, have somehow managed to keep themselves afloat but the rest and the new companies in particular whose number is the largest are the worst sufferers. And for this, the law of the land is to be blamed. The law should have been amended, or a special Loan Offices Act ought to have been enacted on the lines suggested by the Bengal Banking Enquiry Committee to prevent this unhappy and rapid growth.

There had been only 103 companies in 1915. The number reached 799 on the 31st. of March, 1929. Of these as many as 400 were started after 1925-26. This rapidity in the growth of small loan offices ought to have been checked long before there could be an actual disaster. Even a champion of laissez faire policy like Adam Smith advocated the regulation of small banks on the ground that the liberty of the few, in their cases, endangered the liberty of the many.

## THE B. A. D. ACT AND LOAN COMPANIES.

### **A piece of bad draftsmanship**

The Government of the Province seems to have taken no great interest in this matter. It has, on the contrary, recently passed a legislation which has made the situation still worse, and has thereby been indirectly an instrument of causing extreme hardship to a very large number of people. This reactionary piece of legislation is known as the Bengal Agricultural Debtors Act of 1935 (Bengal Act VII of 1936.) It has been introduced "to provide for the relief of indebtedness of agricultural debtors" and presently to avoid "consequences that may be disastrous to the province". But it will seen that these have remained a pious wish and the Act "has created an awful confusion in rural Bengal". This Act further furnishes a very useful illustration of what are the consequences when a Bill

is carelessly drafted. Lack of draftsmanship and adequate attention have deprived it not only of an integral entity but have very materially affected the other settled statutory laws of the country.

### **Its basis is fundamentally wrong**

The basis of this Act is fundamentally wrong. In the statement of objects and reasons, it is said that relief would be given by settlement of debts through agreement between debtor and creditor and only in certain cases powers will be granted to the Settlement Boards for settlement by compulsion.

Banking, even in the crudest form of mutual loan taking, rests primarily on the co-ordination of confidence and credit amongst the contracting parties and the State should be extremely cautious in affecting the friendly relations of good will and business between the creditors and debtors. No creditor who means business out of his accumulations prefers a law court for the final adjustment of his claims, nor does a sensible debtor in ordinary course of things want to harass his creditors. But if the debtors find that they have been powerfully armed and privileged by the Governmental authorities to put off the creditors for decades, they naturally feel inclined to avail themselves of these opportunities. The consequences are that rural credit in Bengal has hopelessly been shaken and there has been a serious set back in the development of all classes of credit organisation in the province.

The B. A. D. Act is one which will ultimately throw, if it has not already thrown, all machineries of agricultural finance out of gear. The several hundreds of loan offices, scattered throughout the province, have hitherto supplied a large bulk of rural credit and their resuscitation must be an important factor in all schemes of credit re-organisation of our province. But before any such scheme is mooted, the evils that have come into existence in connection with the operation of this Act injuring the interests not only of the creditors but of the debtors as well must be removed. It has been pointed out that this Act which "in its first operation for the time being has created havoc in the credit of the agriculturists, will contribute very little to the real well-being of the agriculturists or the agricultural development of the country. It has not only created a negation of credit but has lost sight of the fact that without future and continuous agricultural finance the scheme of protection of the agriculturists will be problematic".

Many of the provisions of the Bengal Agricultural Debtors Act are so wide and vague that it is not at all surprising that in judging cases arising out of its operation, scathing remarks have been made by the Hon'ble Judges of the High Court of Calcutta. The case of *Nrishingha vs. Kedar Nath*, (41 C.W.N. 1308), says the Acting Chief Justice, "affords

some illustration of what may be the amazing and unexpected results of the Bengal Agricultural Debtors Act". "The facts here", as the 'Calcutta Weekly Notes' puts them, "were that in execution of a money decree some properties of the judgment-debtor were sold. The purchaser was the decree-holder himself and he purchased for the amount of the decree. Having done so, he applied for a set-off which was allowed but before the sale had been confirmed, a notice to stay further proceedings was received from a Debt Settlement Board. Before an order was passed on that notice the judgment-debtor also made an application under order 21, rule 90 C.P.C, so that when the order came to be made, that application was yet undisposed of. Could it be said in such circumstances that when the notice under section 34 came to be dealt with, any debt was in existence or any proceeding in respect thereof was pending? Their lordships answer both the questions in the negative." On these facts, the Acting Chief Justice opined that "the effects of the Act, unless the courts are very careful to interpret its provisions with the utmost strictness, may be to work untold hardship to persons to whom money is owing and to entail much injustice." Elsewhere in the same judgment, he thinks that "this case ought to be regarded as a warning of the kind of thing which may happen in the future and an index of how the provisions of the Agricultural Debtors Act may be taken advantage of by dishonest debtors with the object of defeating or delaying the just claims of their decree-holder creditors." In the same case Mr. Justice Edgley remarks that "the provisions of the Bengal Agricultural Debtors Act are so drastic and interfere to such a large extent with the ordinary rights of decree-holders and creditors that it is obvious that they must be very carefully and strictly interpreted."

Later on, in another case (Bhagawan vs. Chandulal 41 Cwn. 1365) one of the defendants in a suit of Rs. 26,855-15 went off from Darjeeling, where in the court of the Subordinate Judge the suit was lying, and claimed to reside at Maldah, and on that basis, made an application, under the provisions of the Bengal Agricultural Debtors Act, to a Board established under this Act at Parbatipur, claiming that he was a 'debtor' within the meaning of the Act,—despite the fact that the amount claimed by the petitioner was a sum over Rs. 26,000. Judging on these facts, the Acting Chief Justice writes that "it seems clear that the Bengal Debt Settlement Act in its present shape is likely to entail consequences of a fantastic description which obviously could not have been fully realised or even dimly foreseen when the Act was drafted or when it was passed into law."

#### **"An Example of Injustice—Wrought to Judgment Creditors**

More recently in Manindra vs. Bepinbehari (41 C. W. N. 1367) the Acting Chief Justice holds that it "furnishes another example of injustice

which may be wrought to judgment-creditors unless the courts are very careful to see that no more latitude is given to the provisions of the Bengal Agricultural Debtors Act of 1936 than the strictest interpretation of those provisions will justify."

### **SEC. 34—A further weapon in the hands of dishonest debtors**

Coming to a detailed consideration of the operations of this B. A. D. Act ( which has, as the "Calcutta Weekly Notes" puts it, been so christened, not without reason, by a high official of the High Court, B standing for Bengal, A for agricultural and D for debtors) on the loan offices, it may be pointed out that the collection of debt by these companies, specially in North Bengal, has been seriously interfered with. Advantage is frequently being taken of section 34 for staying all further proceedings in the civil courts for realisation of debt. Referring to this fact, the Acting Chief Justice remarks in 41 C.W.N. 1370 that "the case ( Manindra vs. Bepin ) under review shows how it is possible even under the general law for a dishonest debtor, even if he be a judgment-debtor, to evade his just obligations and to avoid discharging the debt which he undoubtedly owes. But now a further weapon has been placed in the hands of dishonest debtors in the shape of the intervention of Debt Settlement Boards." There is a further difficulty about this section. It has also been provided in this section that the suit or proceeding should abate so far as its claim is covered by the decision of the Board. But there is no provision in the Act entitling the deserving creditor to the cost of the suit or proceeding and prescribing the procedure to be followed for its realisation. Before a decree is passed for the costs, it will not be a debt, and in that case it will be outside the jurisdiction of the Board : even if it be a debt, the amount incurred after the date of application under section 8, sub-section 6 will not be taken cognisance of by the Board. The civil or revenue court cannot give a decree for costs as the suit or proceeding will abate.

### **SEC. 13, Sub-Clause (3)—A Reminiscent of Archaic Law.**

Next comes the notice to the creditors under section 13, and the *ex parte* order in case of non-compliance with the notice under clause (2) of this section. This order shall not be questioned in any civil court and no remedy against it can be sought save in the manner provided in proviso (1) of clause (3) of this section. This has practically ousted all other settled statutory laws of the country. Besides this section appears to be inconsistent with section 8 under which either the debtor or the creditor may apply to the Board for debt-conciliation. But here in the event of non-compliance by the creditor, the amount stated in the debtors' application is taken to be correct, whereas in the case of creditor's



application, the debtor defaulting, the application is to be dismissed. In all fairness, on the analogy of sub-clause (2), the amount stated in creditor's application should be taken as correct. The principle embodied in sub-clause (3) is reminiscent of archaic law where the plaintiff had to drag the defendant to the court before the court would assume jurisdiction in the matter. Over and above all these, certain practical difficulties are being experienced by the loan offices in regard to notice. The Settlement Board is to recognise a creditor after he has appeared before it on the service of a notice. Now the name of creditor may be omitted from the list submitted by the debtor, or sometimes the distance of the creditor's residence (as in the case of the loan companies,) may be an inducement to the debtor to omit the name of such creditors with the hope of defrauding them of their dues. The Act undoubtedly provides for redress in these cases, but the process is costly and harassing to the Loan Companies who may not know for a considerable period of time that the debtor has not included them in the creditor's list. Moreover, even in those cases, where the notice is obtained, it is very inconvenient and often prohibitively costly for these companies to appear before the Debt Settlement Boards in view of distance and the difficulties of communication, especially in north and east Bengal. Instances are on record to show that cases have been fixed for hearing on the same day before a dozen or more of Debt Settlement Boards at distances from the office of the company ranging from two to forty miles and in all directions. To add to these difficulties, it often happens that in the notices served only the name of the Debt Settlement Board is mentioned and not the place where the Board is situated.

### **Conciliation by Compulsion**

Then comes section 21. This is perhaps the most objectionable section in the whole Act. It negatives the principle underlying section 19 that where a large proportion of creditors (40 per cent) agree, and the offer seems fair to the Board, settlement may be made and "gentle" compulsion applied to the other creditors. This principle is in keeping with the professed objects and reasons of the Act. It could never have been the intention of the Government to enforce absolute compulsion in the settlement of debts of the agricultural debtors owing to the creditor. But section 21 in effect compels the creditors to accept whatever the Board considers fit and fair, even though not a single creditor accepts it, for otherwise these creditors are to wait for considerable period of time even up to ten years. It may not be here out of place to refer to section 20 of the Punjab Act of 1934 which provides for a certificate being given by a Settlement Board to a debtor in respect of a debt where the terms offered are considered fair by the Board 'and' are accepted by the creditors holding 40 per cent. or more of the total debts. There is a similar provision in the Bhawnagore State. The Durbar has sanctioned a debt redemption scheme depending for its application

on the voluntary co operation of the 'Sowcars' and the indebted 'Khadut'. The Zanzibar Commission on agricultural indebtedness reported that "the Conciliation Board should have the power to impose on the parties any adjustment which is acceptable to the debtor and to 60 per cent. in value of his creditors."

### Definition of a "Debtor" has created a remarkable situation

Further, to crown all, the definition of debtor, as contained in clause (9) of section 2 has made the position of the creditors still worse. Any debtor who has something to do with land comes within the purview of this definition and may avail himself of the Act. There is a provision under section 55 empowering the Local Government to fix the maximum amount of debt to be dealt with under the provisions of this Act, but the Government has yet done nothing in this direction. The consequences are, in the language of the Acting Chief Justice, that a "remarkable situation arose that an agricultural Board was being invited to take and indeed was already taking (by its Chairman) action which had the effect of holding up a suit involving a claim to over Rs. 26,000 solely upon the exparte statement of one of the Defendants that he was a "debtor" within the meaning of the Act." (41 C.W.N. 1364). Elsewhere in the same judgment he observes that "although the alleged debt was as much as Rs. 26,000, it yet does not seem open to the court to decide or even consider whether the debtor comes within the Act or whether he does not: that question rests solely with the Board." Recently on the re-opening of the High Court in November last, an appeal was allowed by Bartley and Nasim Ali J.J. in a case where "the facts alleged were that during the pendency of the insolvency proceedings a notice under section 34 of the Bengal Agricultural Debtors Act was received by the court intimating that an application had been received by the Atharabari Debt Settlement Board under sections 8 and 13 (1) of the Act praying for the settlement of the debts of the opposite party who had since been adjudicated insolvents. The court when moved to stay all further proceedings in the case under section 34 of the Act refused to take action on the ground that "the Act had no application as the opposite party who were stated to be merchants were not debtors within the meaning of the Act." Their lordships observed that the order made by the judge could not be supported. It was made mainly on the ground that the appellants were not debtors within the meaning of the Act. Under section 20 of the Act itself if any question arose in connexion with proceedings before the Board under the Act, as to whether a person was a debtor or not, it was for the Board to decide the matter. It was not for the insolvency court to decide whether a person was or was not a debtor within the meaning of the Act.

### **Nothing in the Act as to the personnel of the Board.**

Lastly, there has been no provision in the Act as to the personnel of the Board. These Boards are called upon to decide important questions of fact and sometimes of law. Village people such as we generally find in the Union Boards are ill-equipped for such task. The constitution of the Boards should avoid all classes of persons who are very often amenable to the influence of village factions and other undesirable influences. According to the Khedut Debt Redemption Scheme of the Bhavanagore State, the Debt Liquidation Committee should consist of (i) two Darbari Officers of whom one will be drawn from the Revenue Department and one from the Judicial Department, (ii) two respectable Panch nominated by the creditors of the Mahal and (iii) two respectable persons of the village jointly co-opted by the Darbari Officers and the Panch. Reference may also be profitably made to the recommendation of the Zanzibar Commission in regard to the Debt Conciliation Board which should consist of a Resident Magistrate, an Indian and an Arab. But in Bengal, educated men are few in the villages and the spirit of public service is woefully lacking. Village cliques which are a bane to rural life have captured and are capturing the Boards for their selfish ends. And unless something is immediately done there will be a devastation of the entire credit system of rural Bengal.

### **To harass Creditors.**

Many of the provisions of the Bengal Agricultural Debtors Act are so wide and vague that it is not at all surprising that undue advantage is being taken of them to harass the creditors in every possible way with the hope of eventually defeating their claims altogether. The Act was ostensibly framed to scale down the amount of the debts to comparatively manageable proportions but in actual practice the agencies created by the Act e.g. the Debt Settlement Boards have in many cases allowed themselves to be used for the purpose of protecting dishonesty and frustrating the just settlement of claims. A few types of cases are given below :—

(1) Designing persons, some of them debtors themselves, have combined and got Debt Settlement Boards appointed in their areas, and are becoming members themselves. The object is to issue 'stay orders' on suits instituted or execution obtained in civil courts. As some of the members of the Boards are debtors, unscrupulous use is being made of the power given to these Boards to stay proceedings in the civil courts for an indefinite length of time.

(2) The members of the Boards are generally ignorant of many of the provisions of the Agricultural Debtors Act. They are generally in the hands of their Peshkar and know this much that they have a right to issue injunctions on civil courts staying proceedings against debtors. Not a few

of them are illiterate and have no knowledge whatever of the law relating to mortgage or limitation. The personnel of the Boards should be improved by taking more educated persons or peripatetic village Munsiffs. To provide against unfairness or partiality of the Boards, strong action should be taken such as reprimand or dismissal. Circulars in Bengali should be issued to the Boards explaining the meaning and the implications of the Act.

(3) Though the Agricultural Debtors Act defines 'debtor' as a person whose primary means of livelihood is agriculture and who is (a) a ryot or an under-ryot or (b) cultivates land himself or by members of his family or by hired labourers or by adhiars, burgadars or bhagdars, the zemindars, talukdars, and other persons who ought not to get the benefit of this Act are having recourse to it only for defeating and delaying their creditors. As there is no limit to the amount of the debt which may be the subject of settlement or award, debtors in the position of zemindars and gantidars and even professional men owing debts of thousands of rupees manage to get stay-orders on the plea that they cultivate land by hired labourers, burgadars, etc. In one case the debt was over rupees sixteen thousand. The operation of the Act should be confined to cases of persons having debts up to a certain limit, say rupees one thousand and five hundred. Circulars should be issued to the Boards explaining, to whom to give the benefit of a debtor. Instructions should be issued that before issuing stay-order the Board must insist on having satisfactory evidence that the applicant is a debtor within the definition of the Act. Circulars should be issued indicating clearly the points necessary to prove that the applicant is a debtor under the Act.

(4) Cases before the Debt Settlement Boards are adjourned again and again for some or other frivolous reasons. The chairman and members of the Board are irregular in attending meetings of the Board. The result is that applicants often find that the Chairman is absent or there is no quorum for the sitting of the Board. Such instances should be taken serious notice of and Boards performing their functions in this slipshod way should be dissolved. Circulars should be issued instructing the Boards to dispose of cases within six months.

(5) There are cases in which the debtors have stayed execution of decrees obtained against them and have, in collusion with their landlords, brought about the sale of the mortgaged property for arrears of rent. Thus the creditors are defrauded of their dues. There is no remedy provided in the Act against such cases.

(6) The Debt Settlement Board is intended to be the cheapest machinery for administering justice. As a matter of fact, it is cheap neither for the debtor, nor for the creditor. Debt Settlement Board clerks realise fees from each applicant at the rate of annas four for copying the document even though it be copied by the applicant, and annas eight for

statements even though the statements be written and presented by the applicant. Besides this on every date of hearing even if an adjournment is given, each party has to pay one rupee and two annas.

(7) Perhaps the greatest sufferers under the operation of the Agricultural Debtors Act are the Loan Companies. Instances are on record to show that cases have been fixed for hearing on the same day before a dozen or more of Debt Settlement Boards at distances from the office of the company ranging from two miles to forty miles and in all directions, north, south, east and west. How is it possible for a Loan Company to send officers simultaneously to these places to look after the cases? To add to their difficulty it often happens that in the notices served only the name of the Debt Settlement Board is mentioned and not the place where the office is situated. Besides, communication in the rural areas, it is well known, is not easy and many are kutcha muddy roads, where roads exist at all. It is suggested that all cases in which a Loan office is concerned should be transferred to and disposed of by a Board nearest the headquarters.

To sum up : The Debt Settlement Board Scheme has on the whole proved to be a total failure. The reason perhaps is not due so much to the Agricultural Debtors Act, which is full of defects, as to the almost total absence of proper materials in the rural areas for the constitution of impartial or efficient Boards. Educated men are few in the villages and the spirit of public service is woefully lacking. The impression has gone abroad that the Mahajans being mainly Hindus and the debtors mainly Mahomedans the latter need not pay the debts even when they are able. The Agricultural Debtors Act has armed the Boards with extensive powers and these powers are vested in many cases in most unworthy hands. People in cities and towns have a very inadequate notion of the devastation to the entire rural credit system wrought by these Boards. The only honest remedy will be to repeal the Act and arm the civil courts with the power now vested in the Boards.

### **Attitude of Government.**

The attitude of the Government of Bengal towards the operation of the Debt Settlement Boards is curious. They have not apparently taken any notice of the severe strictures of the Calcutta High Court on the defects of the B. A. D. Act and the operations of the Boards created by it. A deputation of the Loan Companies Association waited upon the Ministers at Darjeeling in June 1937 and the position was discussed threadbare. The Home Minister who was present and who was responsible for the B. A. D. Act admitted some of the defects of the Act and promised to remedy them. But though since then the All Bengal Loan Companies Association has submitted representations to the Government and representatives of the Association have interviewed and

discussed matters with the Hon'ble Ministers and their Secretaries no action has been taken in the way of removing the admitted defects of the Act or framing proper rules and regulations under the Act with a view to improving the personnel of the Boards and regularising their procedure. Even as late as on 24th March (1938) the Hon'ble Minister Mr. M. B. Mullick speaking at the Bengal Legislative Assembly in connection with the demand of grant for debt conciliation admitted that there were defects in the Bengal Agricultural Debtors Act which required amendments. He or the Government has however done nothing so far to bring an Amending Bill. Despite the fact that the Debt Settlement Boards have generally proved themselves incompetent, the Government have thought fit to announce that they would more than double the number of the Boards instead of scrapping them as they should be if their personnel cannot be improved.

The Hon'ble Finance Minister has presented two Budgets since the present Ministry took office. Curiously enough in none of his two Budget speeches he has thought fit to refer to the gravity of the situation created by the collapse of the more than 800 Loan Companies of Bengal or to the evils associated with the operation of the Agricultural Debtors Act. He had promised to the deputation of the Bengal Loan Companies Association that the Government would appoint either a committee or an officer of the Government to investigate the affairs of the Loan Companies with a view to finding means as to how the Government could help these useful institutions. One could have understood this apathy and virtual repudiation of promises given had the Finance Minister provided in the Budget any considerable extension of credit facilities for the rural population by means of a greatly increased number of mortgage banks or Co-operative Credit Societies. He observed in the first of his Budget speeches that "mere scaling down the amount of the debts to comparatively manageable proportions will not yield any permanent result if steps are not taken at the same time to prevent the ryots from relapsing into the same hopeless state by incurring further unproductive debts." "They will also have to be provided," he proceeded to observe, "with proper credit facilities for their long term and short term requirements. "How best such facilities can be given, whether through Co-operative Societies, or Land Mortgage Banks is receiving", the Minister announced, "careful consideration of the Government."

It is to be observed that he refrained from mentioning the Loan Companies as the alternative agencies, already existing in very large number, which properly reorganised, could be utilised immediately in the scheme of supplying credit facilities to the ryots.

### **Debt Settlement Boards and Loan Companies**

The Loan Companies are in a peculiar position of difficulty in regard to the Debt Settlement Boards. The companies depend entirely on borrowed capital. Unless some sort of arrangement is made with their creditors, viz., the depositors prior to settlement with their debtors, awards forced on these concerns will be ruinous. It may be noted that these companies used to supply credit to the agriculturists and investments among the agriculturists represent a considerable share of the working capital of many of them. So any attempt at disturbing their normal function and free dealings is calculated to bring about stagnation in their credit system and an ultimate break-down. Very few people have foreseen the awful situation that may arise out of the impending crisis. The depositors who entrusted their lives' savings with these concerns will be ruined. With them will also be gone the rural credit. Can rural Bengal go without credit? If not, why these credit institutions, useful as they are, should be strangled? If the Loan Companies are not excluded from the operation of the Bengal Agricultural Debtors Act very few companies are likely to survive. A simple petition made before the Hon'ble High Court would put many of them under liquidation as no Loan Company can under the present law apply to a Board for the settlement of its liabilities.

### **Instalments Too Long**

It is well known that the Loan Companies receive deposits for short periods ordinarily not exceeding one to four years but the instalments usually proposed by Debt Settlement Boards are amazingly long. No prudent company with an ounce of business instinct can agree to such wild proposals without running the risk of going into liquidation.

It may be noted that some of the Companies were forced by circumstances to enter into a scheme of arrangement with the creditors for a period of ten years or so under section 153 of the Indian Companies Act with the sanction of the Hon'ble High Court for the liquidation of the debts due from them in accordance with the terms of the scheme. If any settlement with the debtors of such a company is made in contravention of the terms of the scheme or if as a result of such settlement payment in terms of the scheme is deferred or delayed it will be open to any creditor of such company to apply to the Hon'ble High Court for putting such company under liquidation. There is no provision to stay the hands of the creditor of such a company.

### **Loan Companies Were Looking Up**

During the last few years the Loan Companies have been put to severe strain due to economic depression. The depositors patiently waited

and suffered a good deal. Yet it cannot be said that these Companies had been harsh to the agricultural debtors or harassed them with unnecessary litigation or took out vexatious executions. It is therefore, most unfortunate that when the sign of recovery was already visible these companies should have been seriously handicapped in rehabilitating themselves by reason of the operation of the Bengal Agricultural Debtors Act.

### **Touting for cases by D. S. boards**

It is a general complaint of the collecting officers of the Companies that propaganda is being carried on among debtors who are able and may be otherwise willing to pay amicably not to pay. The Debt Settlement Board Rules require a minimum number of cases for the maintenance of a Board. Fixing of such quotas for a particular Board may be construed as a direct hint to the Chairman and the members to canvass for the increase of cases. Will it be in keeping with the dignity of persons who have to exercise judicial function to go abegging for cases? Yet there are chairmen and members who do not hesitate to take the hint.

### **Refusal to pay debts**

It may be noted in this connection that since the depression became widespread, some of the Loan Companies especially those under scheme of arrangement under section 153 of the Indian Companies Act adjusted the debts due to them granting sufficiently long instalments without future interest. Such debtors paid their instalments regularly till the commencement of the operation of the Boards. Now they would not pay. What is this inability due to? Economic outlook is decidedly better. Jute is now selling at a higher price. But the Debt Settlement Boards have encouraged the debtors to put off the payments in the hope that there may not be payment at all.

### **Compulsory settlements**

The law contemplates that the Board "shall use its best endeavours to induce them (creditor and debtor) to arrive at an amicable settlement" (vide section 15 of the Act). If the parties can be induced to arrive at an amicable settlement no occasion for grievance may arise from either side. Moreover such mutual adjustment by consent may prevent estrangement of feelings which may result from compulsion. In some parts of the country, the Boards do not at all encourage amicable settlements. From the very beginning the creditors are sought to be coerced and compelled. No pressure is put upon the debtor to give a reasonable offer. Instances may be cited to show that for paltry amounts pretty long instalments are considered to be fair offers by the Board with the result that the creditor does not think profitable to take certificate proceedings on default of the paltry amount of a particular instalment. General provision



for post-award interest is not considered fair by the Boards. In the case of a Loan Company they forget that the Loan Company itself is a borrower and it has to pay interest. Its creditors may not wait beyond the term of their deposits or loans and that the company cannot therefore agree to long instalments. When the parties do not agree the ordinary Board must either dismiss the application or send the record to the Collector for transfer to a special Board (vide rule 78). They do not always follow the procedure laid down in the Act and the rules in such cases. In such cases some ordinary Boards pass orders of settlement against the consent of the creditor on terms fixed by them although they are not empowered under section 7 read with section 19 (1) (b). Of course such irregularities may be rectified on appeal and as a matter of fact certain appeals have been preferred. This fact is mentioned to show that these ordinary Boards think that they have power to compel the creditors. This erroneous notion of their powers stands in the way of effecting amicable settlements. So it is essential that the persons who hold administrative control over these Boards should instruct them with regard to their proper functions and duties. As the Loan Offices stand on a different footing special instructions should be issued by the Government regarding the settlement of debts due to Loan Offices having regard to the following points :—

- (a) Long instalments should not be considered fair and there should always be a default clause in cases of instalments ;
- (b) Post-award interest should be allowed at a reasonable rate ;
- (c) No principal amount should be reduced ;
- (d) Priority next to arrears of rent should be given to the dues of Loan Offices.

### **Some practical difficulties**

(i) Debt Settlement Boards are scattered over the whole area in a district and they hold sittings generally on the same days. Great difficulty is experienced in attending such Boards simultaneously. Due to economic depression the staff has been reduced by almost every company. Most of the companies have only one officer. To add to the inconvenience the same date is not given for the cases of a company.

(ii) It is difficult to give consent to settlements. If such settlements propose any reduction either in the principal or interest the sanction of the Board of Directors would be necessary. This power cannot be delegated to an agent. The new amendment of the Companies Act saddles the Directors with great responsibility. They cannot, without personal risk, give consent to any reduction especially of principal amount. Under the byelaws of many Companies, Directors' power to allow remission or reduction is also limited.

(iii) Delay in disposal of cases.

Unusual delay takes place in the disposal of cases. Some civil suits which were stayed months ago have not yet been disposed of finally owing to the delay of the Boards.

(iv) Stay orders.

The provisions relating to stay of civil suits and proceedings are liable to be abused. So far as is known Government has not yet issued instructions on the subject to the Boards. The decision of the Board after the stay order has been obtained in the civil court is not promptly communicated to the court so as to enable it to deal with the matter so stayed.

(v) Maximum amount of debt.

The maximum amount of debt which can be dealt with under the provisions of the Act has not yet been prescribed under section 55. A limit should be immediately fixed. Boards should not be allowed to deal with an amount of debt exceeding Rs. 1,500.

(vi) Copy.

The Boards make unusual delay in giving an estimate of court fees and granting copies. The date of the application for copy, the date of giving estimate and the date of delivery of the copy should be inserted on the back of the copy. It is complained that some Boards deliberately make delay in granting copies to avoid appeals.

(vii) Inspection.

Although the parties and their authorised agents are entitled to inspect records during the sittings of the Board, such inspection is not generally allowed.

(viii) Section 8 (5) should be so amended as to bar a fresh application by a debtor if an application has been already filed by the creditor except when such application of the creditor has been dismissed under section 17 (1) (b).

(ix) Appeals from awards and on the ground of failure on the part of the Board to perform its functions under the Act or any abuse of powers as contemplated by section 40(1) (b), and (d) should be to the Special Appellate Officer and the proviso to section 40(1) and the rules should be amended accordingly.

(x) Court fees.

Court fees are unnecessarily demanded by some Boards on Statements, of objections and on petitions for time although such documents are not charged under Schedule attached to Rule 136, Bengal Agricultural Debtors Rules, 1936. Some of the Loan Companies have complained to the Sub-Divisional Officers and District Officers, but to no effect.

(xi) Properties, movable and immovable, shown in the petition for settlement should be deemed to be attached on the filing of the petition of settlement.

(xii) Consent to settlement should be obtained in writing. The signature or thumb impression of the parties concerned should also be obtained. A written petition embodying the terms of amicable settlement should be required so as to prevent fraud and abuses.

(xiii) The law relating to settlement of debts is complicated. It is unfortunate that its working has been in most cases placed in charge of persons who are unable to understand the provisions of the law but who are empowered to deal with cases involving thousands of rupees which the munsiffs with legal education, training and judicial experience are forbidden to entertain.

### **Remedial Measures Suggested**

In view of what has been already said, the following ameliorative measures for the immediate relief of the loan offices of our province may be suggested. But it must not be forgotten that the banking system is very delicate and is determined by local circumstances, partly economic and partly historical. The special feature of Bengal Loan Offices is also a reflex of certain economic and historical facts, and no scheme of reorganisation can discard this fact. We should not ignore that "the vast majority of loan offices carries on land mortgage banking in greater or less degree and also grants loans against pledge of ornaments." This old transaction must not be lost sight of and facilities must be given to these companies to preserve and develop the tradition more efficiently.

### **Taking over the Zamindaries by the Court of Wards**

During the last few years vast properties have come into the hands of these offices in spite of their efforts to avoid it. The Zamindars and other landholders form a large group of debtors, especially the bigger ones, and the companies have tried to settle with some of these Zamindars. But these Zamindar-debtors could not avail themselves of these settlements although most of them were offered considerable sacrifice of interest on the part of the Loan Offices. The result is that these offices have been compelled, much against their interest and ordinary practice, to get the properties sold in execution of decree, and in the absence of buyers, to take over the property themselves. This unavoidable state of affairs has made the situation worse, and these Zamindaries have in many cases turned out to be additional burden upon the companies. If it is difficult for the landlords and other private landholders to realise rent to the proportion sufficient for them to pay their creditors, it is still more difficult for the companies as the mortgagee-purchasers to manage and make profit out of these properties to pay their own depositors. In view of this abnormal situation it is not expecting too much if these companies ask for some special privileges, at least for some temporary period, so that they may tide over the present situation. If the Court of Wards takes over the

management of these Zamindaries, it will be, in the majority of cases, able, through better management and the advantage of certificate procedure to pay at least the interest due if not a part of the principal as well. But the Court of Wards Act, although recently amended, is for the benefit of the Zamindars. The law does not give any *locus standi* to the creditor to apply to the Court of Wards to take over an estate mortgaged to him. All that is necessary now is an amendment of the Court of Wards Act in this direction. That will then be of immense service to the loan offices of Bengal. A substantial part of the working capital of the companies is blocked in mortgage loans to Zamindars, talukdars etc. and the provision suggested above, at least in the case of loan office creditors, for application to the court to take over an estate encumbered to the extent of say, fifty-thousand rupees, would save the present situation. Provision should also be made for an appeal to the High Court against the decision of the Court of Wards.

### **Extension of the Privileges Contained in Chap : XIII (A) of The Bengal Public Demands Recovery Act 1913**

Secondly, extension of the privileges contained in Chapter XIII (A) of the Bengal Public Demands Recovery Act, 1913, to the loan offices would be another measure of great relief in the successful administration of the properties that have come to their hands. This chapter provides that any landlord other than the Government whose land is situated in an area for which record-of-rights has been prepared and finally published and in which such record is maintained may apply to the Local Government through the collector of the district in which his land is situated, for the application of the procedure prescribed by this Act, to the recovery of arrears of rent which he alleges are or may accrue, due to him for lands in such area. The Local Government may allow such applications on specified conditions. This demand of the loan offices will not be unusual. The properties which are taken over by the Court of Wards from the "disqualified" landlords are always under special privileges. Why not extend analogous rights to these offices? The Court of Wards can realise rent on certificate procedure from estates in their charge for which no record-of-rights has been made. The same privilege should be afforded to these companies.

### **Exemption of the Loan Offices from the Scope of the B. A. D. Act**

Thirdly, the B. A. D. Act should be immediately amended to exempt the loan offices from its scope. If that is not considered possible in the larger interest of the indebted agriculturists, the Act should be substantially modified and very carefully drafted in the light of the judgments delivered by the High Court. The evil consequences of the B. A. D. Act and its operation must be arrested without further delay. The

provisions of this Act "are sufficiently iniquitous to shock the moral and legal conscience," and the sooner it is removed from the statute book, the better it is for society.

### **Refund of Court Fees in the Event of A Stay Order Under the B. A. D. Act**

Fourthly, the Court Fees Act should be amended in order to give relief to the loan offices. In regard to suits to be instituted the loan companies' difficulties are considerable. They pay the usual court fee stamp, pleaders' fee and incur considerable expenditure by way of travelling and halting allowances of their agents who go to the interior of the districts to appear before the Settlement Boards. But they find one fine morning that all these expenses have gone for nothing for the debtor's action who, on receipt of summons from the civil court, has applied before the Conciliation Board and got a stay-order. Notice under Section 34 has become the everyday practice of these Settlement Boards, which, it seems, are indifferent to the just claims of the creditors. "The making of the order," under this section, to quote the Acting Chief Justice, once again, "will serve to indicate how hard is the way of creditors seeking to recover moneys justly due to them." (Monindra Mohan vs. Bepin Behari 41 Cwn 1367). Is it, in these circumstances, too much for these companies to demand that the court fees should be refunded as the stay-orders issued by the Boards have made these suits infructuous ?

### **Extension of the Period of Limitation**

Fifthly, the period of limitation should be extended, at least in the case of these loan offices. Their present practice is to defer the institution of suits till the very last moment when suits are about to be barred by limitation. This is considered in certain quarters to be asking too much. The period of limitation appears already to be too long but abnormal circumstances require abnormal remedies. It is no business of the loan offices to manage big properties and make profit out of them. On the contrary they are supposed to lend money to the proprietors of these landed estates out of the deposits of lower middle class and of certain section of the solvent agriculturists. If through unforeseen circumstances, all these moneys are locked up in Zamindari, it would be difficult, nay almost impossible for the loan offices, to pay either interest or any part of the principal. The result will be that the distress of these classes of people who invested their all in these companies will be, as it has already been, great and the entire source of rural credit for agricultural finance will be dried up. Politically viewed too, it will be inexpedient to leave things to drift for nobody knows what the ruin of these classes of people will lead to as both in quantity and quality, they are a lot to be reckoned with, by any responsible Government.

### How Reserve Bank can help Loan Companies

The Reserve Bank of India has issued a circular regarding the extension of its operations to indigenous Bankers and firms. The scheme, suggested therein to establish relations between the Reserve Bank and the indigenous Bankers and firms is proposed to be experimental in its nature. The Reserve Bank will not, in its experimental stage, deal with these indigenous Bankers direct as there are some difficulties on the part of the Reserve Bank to do so. It proposes to provide for credit facilities to these indigenous Bankers through the scheduled Banks which will receive from it an accommodation for the purpose. The Reserve Bank is in this way trying to avoid all possible risks that may arise out of the transactions with these indigenous Bankers and placing the same on the shoulders of the scheduled Banks which, it has been proposed, would directly deal with them. It is not known whether the village Mahajans and money lenders will be treated as indigenous Bankers. It is necessary to define this term indigenous Bankers clearly.

One thing which should be pointed out in this connection in particular is about the Loan Companies and small mofussil Banks of Bengal. These Loan Companies are joint stock concerns. Although many of these concerns had to take recourse to Sec. 153 of the Indian Companies Act, the conditions of several Companies are not beyond any hope of revival. If these Companies are given proper help to divert some of their resources to proper banking business and for financing rural trade of their locality, they will certainly prove to be of much help and continue to be an essential part of the banking structures of the mofussil areas of Bengal. While the Reserve Bank is making an endeavour to improve the position of the indigenous bankers, we fail to understand why the ill-fated Loan Companies which are nothing but well-organised joint stock banks should be left out of its fostering care. These Loan Companies would not be less helpful in providing banking facilities to rural trade and agriculture than the indigenous bankers, provided of course necessary help and opportunities are offered to them also. Their position is rather better than the indigenous bankers as these Loan Companies are legal bodies having proper accounts of their business duly audited by registered Accountants and Auditors. Their business is confined to bonafide trading according to the provisions of their Memorandum and Articles of Association. In a word they fulfil all the essential conditions required by the Reserve Bank, with only one exception, on fulfilment of which the Reserve Bank may deal with the indigenous bankers direct and without intervention of the scheduled Banks. The companies have not the resources which in the opinion of Reserve Bank should be atleast equal to those stipulated for scheduled Banks. Had the Loan

Companies possessed these resources, they would have been, as a matter of course, included in the scheduled list of the Bank and there would have been no reason for any request on the part of these Companies for any help from it. Now these Companies, in view of the facts above, may reasonably demand special consideration from the Bank which has been ready in extending its helping hand to persons and firms inferior in status and qualifications to the Loan Companies. It is not understood why the Reserve Bank should ignore these important Joint Stock Banks in offering at least the facilities which are being offered to the indigenous bankers. It may insist reasonably to have the accounts of the banking business which may be done by these Loan Companies shown separately in their Balance Sheets and there will be no difficulty even on the part of the Loan Companies now under Sec. 153 of the Indian Companies Act to do so.

So far we have discussed only the Loan Companies which have been compelled to have recourse to Sec. 153 of the Indian Companies Act, but the attention of the Deputy-Governor of the Reserve Bank of India is drawn to Companies which, unlike the above noted ones, are transacting business as in normal times and like other joint stock banking concerns. Under Sec. 277F of the Indian Companies (Amendment) Act 1936, these Companies are banking concerns and they are to maintain a cash reserve and file returns with the Registrar, Joint Stock Companies, almost in the same way as the schedule Banks are to keep Cash Reserve and file returns with the Reserve Bank of India. The banking facilities which some of these Loan Companies are affording to the rural traders should not be overlooked. Many other similar concerns may do so, if proper facilities are afforded. The Reserve Bank should consider sympathetically the question of giving the Loan Companies facilities, at least some of the facilities that are being afforded to the scheduled banks as they fulfil almost all the conditions of a scheduled bank except of having 5 lacs of rupees to the credit of their reserve fund. Besides the facilities that are being offered to the indigenous bankers, these Loan Companies should be allowed to have facilities in the matter of remittance of their funds through district treasuries and sub-treasuries seeing that free remittance facilities are given to the Co-operative Banks, which are nothing but joint stock concerns. There is no reason why the Loan Companies should not be allowed such facilities.



# ঋণ সালিশী আইনের অপব্যবহার

বাংলাদেশে ঋণ সালিশী আইনের বলে তথা কথিত ঋণ সালিশী বোর্ডের উৎপাতে পল্লী অঞ্চলে যেরূপ অবস্থার সৃষ্টি হইয়াছে তাহা বহু ভুক্তভোগীর চিঠি পত্রে বাংলা ও ইংরাজী সংবাদ পত্রে প্রকাশ হইয়াছে। শুধু মহাজন নহে দরিদ্র কৃষক প্রজারাও গুরুতর ক্ষতিগ্রস্থ হইতেছে। তাহারা কৃত্রাপি ঋণ পাইতেছে না। টাকার অভাবে হালের গরু, চাষের বীজ পর্যন্ত ক্রয় করিতে পারিতেছে না। একগাত্র দুষ্ট প্রকৃতির জোতদার, দোকানদার প্রভৃতি শ্রেণীর লোক চাষী প্রজা সাজিয়া মহাজনের ত্রাঘ্য প্রাপ্য দিতেছে না। অথচ ঋণ সালিশী বোর্ড-গুলি এই শ্রেণীর লোকের জ্ঞাত আদৌ সৃষ্টি হয় নাই। কি প্রকারে ঋণ সালিশী আইন ও ঋণ সালিশী বোর্ডের অপব্যবহার হইতেছে তাহা নিম্নে মুদ্রিত কয়েকখানি পত্রে সুস্পষ্ট হইবে।

মহাশয়,—বহুকাল হইতে বঙ্গের অধিকাংশ কৃষক প্রতি বৎসর চাষাদির ব্যয় নির্বাহার্থ স্ব গ্রামের কি পার্শ্ববর্তী গ্রামের মহাজন হইতে আবশ্যকীয় ঋণ গ্রহণ করিয়া ফসল পাওয়ার পরেই ঐ ঋণ পরিশোধ করিয়া আসিতেছিল। মহাজনগণ গ্রামের ব্যাকস্বরূপ ছিল। কিন্তু ঋণ সালিশী আইনের বিল পাশ হওয়ার পর হইতেই মহাজনগণ ঐরূপ ঋণ দেওয়া বন্ধ করিয়াছে। ফলে অনেক কৃষক অর্থাভাবে তাহাদের জমি চাষ করিতে পারে নাই। ঐ ঋণ সালিশী আইনের দ্বারা কি অপকার সাধিত হইতেছে, তাহার মধ্যে কত গলদ রহিয়াছে এবং তদ্বারা কতিপয় স্বার্থান্বেষী ব্যক্তির কি ভাবের সুযোগ উপস্থিত হইয়াছে, তাহার কতিপয় দৃষ্টান্ত নিম্নে উল্লেখ করিতেছি। বোধ হয়, অনুসন্ধান করিলে প্রত্যেক জিলাতেই এইরূপ দৃষ্টান্তের অভাব হইবে না।

১। অগ্রায়রূপ লাভবান হইবার উদ্দেশ্যে কতিপয় স্বার্থপর লোক মিলিত হইয়া নানা প্রকার তর্কির করিয়া নিজ নিজ ইউনিয়নে সালিশী বোর্ড মঞ্জুর করাইয়া নিতেছে এবং নিজেরা তাহার মেম্বর হইতেছে। এইভাবে অধিকাংশ স্থানেই উপযুক্ত লোক দ্বারা বোর্ড গঠিত হইতেছে না।

২। বন্ধক সম্বন্ধীয় আইন ও নজিরসমূহ অতি কঠিন ও দুর্কোধ্য। কিন্তু যে সকল ব্যক্তি বোর্ডের মেম্বর হইতেছে, তাহাদের অধিকাংশেরই তৎসম্বন্ধে সাধারণ জ্ঞানও নাই। ঋণ সালিশী আইন প্রধানতঃ আপোষে সালিশ ব্যবস্থার উদ্দেশ্যেই গঠিত হইয়াছে, স্তত্রায় মেম্বরগণের ঐ সকল আইনের অভিজ্ঞতার কোন প্রয়োজন নাই বলিয়া খাজা সাহেব ওকালতি করিয়াছিলেন ব:ট, কিন্তু যে স্থলে মহাজন ও খাতক নিজেরা আপোষে ঋণের ব্যবস্থা করিতে অস্বীকার করিবে সে স্থলে সালিশী বোর্ড বিচার করিয়া এওয়ার্ড (award) দিতে তমাদি আইন, বন্ধক সম্পর্কীয় আইন নজির ইত্যাদির প্রয়োজন না হইয়া পারে না।

৩। খাই খালানী কটকবালা দলিলমূলে গৃহিত ঋণসমূহের কিরূপ ব্যবস্থা হইবে, দীর্ঘ কিস্তিবন্দী হইলে খাইখালানীবন্ধ ও কটের ভূমির দখলের কি ব্যবস্থা হইবে, দীর্ঘ কিস্তিবন্দীর মধ্যে রেহানী সম্পত্তি কিম্বা খাতকের অগ্রাণ্ড সম্পত্তি বাকী খাজনার দায়ে নীলাম হইলে, ঐ ঋণ আদায় হওয়ার কি ব্যবস্থা হইবে, তাহা আইনের কোন স্থানে খুঁজিয়া পাওয়া যায় না।

৪। ঋণ সালিশী আইনে খাজনার ঋণ বলিয়া গণ্য হইয়াছে, কিন্তু বাকী পড়া খাজনার বাবদ কিস্তির ব্যবস্থা হইলে ঐ খাজনা প্রাপক ভূম্যধিকারিগণের উপরিস্থ মালিকের প্রাপ্য খাজনা বা রাজস্ব পরিশোধের কি উপায় হইবে, তাহা আইনকর্তাগণ বিবেচনা করা প্রয়োজন মনে করেন নাই। ইতিমধ্যেই বাকী খাজনা ও খাজনার ডিক্রী সম্বন্ধে সালিশ ব্যবস্থার বহু দরখাস্ত হইয়া ঐ সকল টাকা আদায় বন্ধ হওয়ার দরুন ভূম্যধিকারিগণের বহু সম্পত্তি বাকীয়েতে পড়িতেছে ও নীলাম হইয়া যাইতেছে। মহাজনগণের আদায়-উল্ল বন্ধ হওয়াতে তাহাদের আর্থিক অবস্থাও অত্যন্ত শোচনীয় হইয়া দাঁড়াইতেছে।



৫। এই ভোলা মহকুমায় ঋণ সালিশী আইনের অপব্যবহার বেশ বৃদ্ধি পাবে চলিতেছে। যে ইউনিয়নে সালিশী বোর্ড স্থাপিত হয় নাই, সেই ইউনিয়নেরও বহু খাতক ও দাইক তাহাদের বিরুদ্ধে চলিত মোকদ্দমা ও ডিক্রীজারীসমূহ স্থগিত রাখার ছরভিসন্ধিতে ভিন্ন এলাকার বোর্ডে ঐ সকল ঋণ সম্বন্ধে সালিশ ব্যবস্থার জন্ত দরখাস্ত দিতেছে এবং ঐ সকল বোর্ড ও ঐ প্রকার দরখাস্ত গ্রহণ করিতেছে এবং আদালতের প্রতি নোটিশ হইয়া ঐ সকল মোকদ্দমাও ডিক্রীজারী স্থগিত হইতেছে। Jurisdiction সম্বন্ধে অপর পক্ষ আপত্তি দিলেও বোর্ড দরখাস্তকারীর বাধ্য হইয়া তাহা গ্রাহ্য করিতেছেন। আদালতও Jurisdiction সম্বন্ধে তাহার বিচার করিবার ক্ষমতা নাই বলিয়া প্রকাশ করিতেছে। এইভাবে বহু মোকদ্দমা ও ডিক্রীজারী অনির্দিষ্ট কালের জন্ত স্থগিত হইয়া আছে।

৬। কোন ঋণের একাধিক খাতক থাকা সত্ত্বেও একজন ঐ ঋণ সালিশের জন্ত দরখাস্ত দিলেই বোর্ড আইনের বাধ্য সত্ত্বেও ঐ দরখাস্ত অবাধে গ্রহণ করিতেছে। অপর পক্ষ আপত্তি করিলেও, তাহা গ্রাহ্য হইতেছে না।

৭। কোন কোন বোর্ডের মেম্বর স্বয়ং খাতক হইয়া তাহার ঋণ সম্বন্ধে সালিশ ব্যবস্থার জন্ত নিজ বোর্ডেই দরখাস্ত দিয়া বিশেষ সুবিধা করিয়া লইতেছে।

৮। Contingent debt এবং যে পাওনা দেনা নির্দিষ্ট হইবার জন্ত দেওয়ানী আদালতে মোকদ্দমা দায়ের আছে (যথা Account Suit প্রভৃতি) তৎসম্বন্ধেও দরখাস্ত হইয়া দরখাস্ত জমা হইতেছে।

৯। ডিক্রীজারীমূলে সম্পত্তি নীলাম হইলে, নীলাম সিদ্ধ হওয়ার পূর্বে ঐ ডিক্রীজারীর দ্বারী টাকা ঋণ ধরিয়া প্রকারান্তরে নীলাম নাকচ করিবার উদ্দেশ্যে দাইক ঋণ সালিশী বোর্ডে দরখাস্ত দিতেছে। হস্তান্তর ফিস দাখিল সাপক্ষে যে সকল নীলাম ফাইন্সাল হওয়া স্থগিত আছে, তাহার মূল পাওনা সম্বন্ধেও সালিশের দরখাস্ত হইতেছে এবং নীলাম খরিদার হস্তান্তর ফিস দাখিল করা সত্ত্বেও নীলাম সিদ্ধ হইতেছে না। বোর্ড এরূপ দরখাস্ত অবাধে গ্রহণ করিতেছে এবং দেওয়ানী আদালত বোর্ড হইতে নোটিশ পাইয়া ঐ সকল নীলাম সিদ্ধ করিতেছে না। নীলাম দ্বারা ডিক্রীর টাকা পরিশোধ হইলেও সেই ডিক্রীর টাকা ঋণ ধরিয়া কিস্তি দিলে, ঐ নীলাম ও দাখিলী হস্তান্তর ফিসের কি উপায় হইবে?

১০। এখন পর্যন্ত কোন বোর্ডই সালিশী বিচার করিবার বিশেষ ক্ষমতা প্রাপ্ত হয় নাই। মহাজন ও খাতক আপোষে সালিশ ব্যবস্থা না করিলে ঋণ সালিশী আইনের ৭ ধারার বিধান মতে বোর্ডের বিচার করার ও এওয়ার্ড দেওয়ার ক্ষমতা না থাকা ও অপর পক্ষে আপত্তি করা সত্ত্বেও কোন কোন বোর্ড বিচার করিয়া এওয়ার্ড দিতেছে এবং কোন কোন বোর্ড ঐ ক্ষমতা পাওয়া সাপক্ষে ঘন ঘন তারিখ ফেলিয়া মোকদ্দমা ঘুরাইতেছে।

১১। অতি সাধারণ ব্যক্তিগণ বোর্ডের মেম্বরস্বরূপে অসাধারণ ক্ষমতা প্রাপ্ত হইয়া ধরাকে সরা জ্ঞান করিতেছে এবং সাব-জজ্, জজ্ সাহেব হইতেও তাহাদের অধিক ক্ষমতা আছে বলিয়া বুক ফুলাইয়া বেড়াইতেছে।

১২। অধিকাংশ বোর্ডেই কাজ কিভাবে চলিতেছে, তাহা যে কেহ বোর্ডের বৈঠকের দিন উপস্থিত থাকিয়া লক্ষ্য করিতে পারে। মোকদ্দমার ঘন ঘন তারিখ দেওয়া হইতেছে এবং প্রত্যেক তারিখে পক্ষ হইতে ১০০ আনা চারে আদায় করা হইতেছে।

১৩। অনেক বোর্ডই এক পক্ষের বাধ্য হইয়া অপর পক্ষকে প্রার্থনা সত্ত্বেও কোন নকলত্র দিতেছে না। বোর্ডের মেম্বরগণ কোন সময়ে খাতকের বাধ্য হইয়া মহাজনকে তাহাদের মতলব মত বাধ্য করিবার জন্ত নানা প্রকার ভয় প্রদর্শন করিতেছে এবং কোন সময়ে মহাজনের বাধ্য হইয়া অতি সংক্ষেপ কিস্তি দিতেছে।

দেওয়ানী আদালতের ও বোর্ড সমূহের রেকর্ডগুলি অহুসন্ধান করিলে এবং স্থানীয় তদন্ত করিলে উপরোক্ত বিষয়গুলির যথার্থতার প্রমাণ পাওয়া যাইবে।

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এইরূপভাবে আইনের নামে যে কত বে-আইনী কার্য ও যথেষ্টাচারিতা চলিতেছে, তাই অবর্ণনীয়। এই আইনের পুস্তক বিক্রয় করিবার উদ্দেশ্যে কতিপয় ব্যক্তি টাউনে ও গ্রামে গ্রামে ঘুরপায়ে নাচিয়া নাচিয়া নানা প্রকার ছড়া গাহিয়া বেড়াইতেছে এবং “বসন্তবাড়ী নীলাম হইবে না”, “স্বদ দিতে হইবে না”; “অর্ধেক টাকার ২০ বৎসরের কিস্তি পাওয়া যাইবে” ইত্যাদি কথা প্রকাশ্যে প্রচার করিতেছে। এমনকি ২০ বৎসরের মধ্যে মনিবের খাজনা ও মহাজনের টাকা দিতে হইবে না বলিয়াও কোন কোন ব্যক্তি প্রচার করিয়া ফিরিতেছে। ফলে সক্ষম ব্যক্তিও খাজনা দেওয়া ও ঋণ পরিশোধ করা বন্ধ করিয়াছে এবং বহু টাকার কাঠ, টিন খরিদ করিয়া নিয়া তদ্বারা ভাল ভাল ঘর তুলিতেছে। অপর পক্ষে মধ্যবিত্ত লোকের অবস্থা ক্রমশঃই শোচনীয় হইয়া দাঁড়াইতেছে। এইরূপভাবে কিছুকাল চলিলে মধ্য শ্রেণীর লোকের ধ্বংস অনিবার্য। ইতিমধ্যেই কোন কোন পরিবারে উপবাস আরম্ভ হইয়াছে।

—“জনৈক ভুক্তভোগী ( ভোলা )”

আনন্দ বাজার পত্রিকা ১৬ই আষাঢ়, ১৩৪৪

## ঋণ সালিশী বোর্ডে গলদ

মহাশয়,—বর্তমানে বাঙ্গলা দেশে ঋণসালিশী বোর্ড লইয়া বেশ সাড়া পড়িয়া গিয়াছে। এই আইন প্রচলনের ফলে দেনদার এবং পাওনাদার উভয় পক্ষের মধ্যেই একরূপ অবিশ্বাসের সৃষ্টি হইয়াছে যে, দেশে একটি সম্পূর্ণ অচল আর্থিক অবস্থা আসিয়া পড়িতেছে। আইন প্রণয়ন কালে যে সমস্ত সন্দেহ করা হইয়াছিল, প্রয়োগ কালে তাহা বেশ পরিস্ফুট হইয়া পড়িতেছে।

প্রথমতঃ সালিশী বোর্ড গঠনে আইনের কৃত্রিম নির্বাচনের উল্লেখ দেখিতে পাওয়া যায় না। কিন্তু পাওনাদারের বেলায় নির্বাচনের প্রহসন খাড়া করা হয়। আর সেই নির্বাচনের কর্তা করা হয়, ইউনিয়ন বোর্ডের প্রেসিডেন্টদিগকে। সমস্ত নির্বাচনেই পূর্বে একটি ভোটার লিষ্ট প্রস্তুত করা হইয়া থাকে। কিন্তু এই ব্যাপারে তাহার কিছুই দরকার হয় না। উপস্থিতমত নির্বাচন কালে আকণ্ঠ ঋণগ্রহণ এক ব্যক্তিও প্রেসিডেন্টের “মুজ্জী” মত পাওনাদার গণ্য হইয়া ভোটার বা মেম্বর হইতে পারে। তাহার ফলে প্রকৃত পাওনাদারের প্রতিনিধি খুব কম সংখ্যকই বোর্ডে প্রবেশ করিতে পারে। এই সমস্ত কৃত্রিম প্রতিনিধি বেশদিন অপ্ৰকাশ থাকিতে পারেনা। কারণ মহাজনের দেনা ফাঁকি দেওয়ার ইহা একটি প্রকাণ্ড সুযোগ। কাজেই অল্প দিনের মধ্যেই তাঁহারা নিজ নিজ দেনার জন্ত ঋণ সালিশী বোর্ডের আশ্রয় গ্রহণ করিতে বাধ্য হন। অনেক ঋণ সালিশী বোর্ডের নথীপত্র তল্লাস করিলেই ইহার সত্যতা প্রমাণিত হইবে।

তারপর সালিশী বোর্ডের চেয়ারম্যান মনোনয়নের পালা। অধিকাংশ স্থানেই প্রেসিডেন্ট-বৎসল সার্কেল অফিসারদিগের ইঙ্গিতক্রমেই মনোনয়ন কার্য হইয়া থাকে। ফলে ইউনিয়ন বোর্ডের প্রেসিডেন্টদিগের “পোয়া-বারো”। একাধারে তাঁহারা ইউনিয়ন বোর্ডের চেয়ারম্যানরূপে দেশে অপ্ৰতিহত ক্ষমতার অধিকারী হইয়া ধরাকে সরা জ্ঞান করিয়া থাকেন। একথা সর্বজনবিদিত যে, ইউনিয়ন বোর্ডের প্রেসিডেন্টদিগের উপর সাধারণের কিছুমাত্র আস্থা নাই। ইউনিয়ন বোর্ডের প্রেসিডেন্টদিগের কীর্ষি-কাহিনীতে দেশ ভরপুর। কিন্তু কর্তৃপক্ষ কর্তে আশুলি দিয়া অত্যধিক ইউনিয়ন বোর্ড খ্রীতিবশতঃ ইউনিয়ন বোর্ডের প্রেসিডেন্ট কখনও গুরুতর ফৌজদারী মোকদ্দমায় দণ্ডপ্রাপ্ত ব্যক্তি হইলেও, তাঁহাকেই ঋণ সালিশী বোর্ডের চেয়ারম্যান নিযুক্ত করিয়া থাকেন। এই সমস্ত ব্যক্তি নিরপেক্ষতা রক্ষা পূর্বক নিঃস্বার্থরূপে কণ্ঠটুকু কাজ করিতে পারেন, তাহা সহজেই অসম্ভব।