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THE EMIGRATION ORDINANCE, 1982

ORDINANCE NO. XXIX OF 1982

[7th September, 1982]

An Ordinance to repeal and, with certain amendments, re-enact the Emigration Act, 1922.

WHEREAS it is expedient to repeal and, with certain amendments, re-enact the Emigration Act, 1922 (VII of 1922), for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the Chief Martial Law Administrator is pleased to make and promulgate the following Ordinance:

Short title,
application and
commencement

1. (1) This Ordinance may be called the Emigration Ordinance, 1982.

(2) It applies to all citizens of Bangladesh wherever they may be.

(3) It shall come into force on such date as the Government may, by notification in the *official Gazette*, appoint; and different dates may be appointed for different provisions of this Ordinance.

Definitions

2. (1) In this Ordinance, unless there is anything repugnant in the subject or context,-

- (a) "citizen" means a citizen of the People's Republic of Bangladesh;
- (b) "demand" means any requirement or offer for employment of workers by a foreign or Bangladeshi employer, having any project or contract or establishment abroad, which is supported by visa instructions or work permit from the competent Government authority of the country of employment;
- (c) "depart" and "departure" means the departure out of Bangladesh of any person for employment by any foreign or Bangladeshi employer or for self-employment by any means;

- (d) “dependent” means any woman or child who is related to an emigrant and any aged or incapacitated relative of an emigrant;
- (e) “emigrant” means any person who emigrates or is assisted to emigrate or has emigrated under this Ordinance and includes any dependent of an emigrant;
- (f) “emigrate” and “emigration” means the departure by sea, air or land out of Bangladesh of any person for the purpose or with the intention of working for wages or engaging in any trade, profession or calling in any country beyond the limits of Bangladesh;
- (g) “licence” means a document issued by the Government authorising a person or an entity to operate as recruiting agent for employment abroad;
- (h) “newspaper” shall have the same meaning as defined in the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973);
- (i) “overseas employment” means employment of a citizen outside Bangladesh;
- (j) “prescribed” means prescribed by rules made under this Ordinance;
- (k) “recruiting agent” means a person licensed under section 10;
- (l) “recruit” means issuing a letter of appointment signing contracts for employment abroad by a foreign or Bangladeshi employer, making preliminary arrangements for selecting persons for employment abroad through advertisement, publicity, letter, preparation of panel, verbally or in writing, and any other steps towards furtherance of the objectives of the employment of a citizen abroad;
- (m) “Registrar” means a Registrar of Emigrants appointed under this Ordinance; and
- (n) “rules” means rules made under this Ordinance.

(2) In case of any doubt or dispute arising otherwise than in the course of any proceedings, as to whether a person is an emigrant within the meaning of this Ordinance, the question shall be determined by the Government and such determination shall be final.

Appointment of Registrar of Emigrants

3. (1) The Government may appoint a person to be a Registrar of Emigrants and define the area to which the authority of a Registrar so appointed shall extend.

(2) Every Registrar shall be a public servant within the meaning of section 21 of the Penal Code (Act XLV of 1860).

Duties and functions of the Registrar

4. Every Registrar shall, in addition to the duties assigned to him by or under this Ordinance, perform such functions as may be assigned to him by the Government.

Agents in foreign countries

5. The Government may, for the purpose of safeguarding the interest of emigrants and promoting overseas employment, appoint persons to be agents in any place outside Bangladesh and may define their powers and duties.

Delegation of certain authority

6. The Government may authorise any authority subordinate to it to-

- (a) promote emigration of citizens;
- (b) contract and regulate such emigration; and
- (c) look after the interest and welfare of emigrants at home and abroad.

Regulation for emigration

7. (1) Emigration for overseas employment shall not be lawful from any port or place except from such ports or places as the Government may, by notification in the *official Gazette*, declare to be ports or places from which such emigration is lawful.

(2) No person shall, unless he possesses a valid demand, recruit or attempt to recruit any citizen for overseas employment except in accordance with the provisions of this Ordinance and the rules made thereunder.

(3) Notwithstanding anything contained in any other law for the time being in force, emigration of a citizen shall be lawful, if he is in possession of valid travel documents with registration endorsement under sub-section (4) of section 11, and-

- (a) he is in possession of a letter of appointment or a work permit from a foreign employer, or an employment or emigration visa from a foreign Government; or

- (b) he has been selected for emigration by a foreign employer through an organisation or authority or by a recruiting agent, recognised by the Government in this behalf or under an agreement or treaty between the Government and a foreign Government.

8. (1) If the Government, having regard to the occupation, profession, vocation or qualification of any person or class of persons is satisfied that emigration of such person or class of persons is not in the public interest, it may, by order, prohibit the emigration of such person or class of persons and thereupon the departure of such person or class of persons otherwise than in accordance with such order shall not be lawful.

Power to prohibit emigration of workers

(2) Notwithstanding the provisions of sub-section (1), where the Government has reason to believe that sufficient grounds exist for prohibiting emigration of any person or any class of persons to any country, it may, by notification in the *official Gazette*, declare that emigration of such person or class of persons to that country shall cease to be lawful from a date specified in the notification; and from that date such emigration to that country shall accordingly cease to be lawful.

9. (1) No person or organisation shall, except with the prior permission of the Government or any authority designated, recruit or attempt to recruit a citizen for overseas employment or issue an advertisement or publish any material or hold any interview or examination for such recruitment for the purpose of emigration.

Prohibition of advertisement, etc.

(2) No newspaper shall publish any advertisement for employment abroad unless it is satisfied that the same is intended to be issued with the Government approval or clearance.

10. (1) Whoever desires to engage, or to recruit, or to assist, any person to emigrate shall apply to the Government, for licence at such time and in such manner, and shall, with his application, furnish such information and documents and pay such security and fee as may be prescribed.

Grant of licence

(2) On receiving an application under sub-section (1), the Government may, after such enquiry regarding the character, antecedents and solvency of the applicant as it may consider

necessary, grant the licence applied for on such terms and conditions, if any, as may be prescribed, or reject the application for licence.

(3) The decision of the Government under sub-section (2), shall be final and shall not be questioned in any Court of law.

(4) A licence under this section may be issued in favour of a citizen or in favour of a corporation, company, partnership firm or any other entity, if-

- (a) in the case of corporation or company, at least sixty per cent of the stock of the corporation or the company, and
- (b) in the case of a partnership firm or any other entity, at least sixty per cent of the capital or proprietary right of the firm or the entity, is owned or controlled by Bangladeshi citizens.

Appearance of emigrants before the Registrar, etc.

11. (1) Before any person departs from Bangladesh, the person by whom he has been engaged or assisted shall appear in person or by his duly authorised agent before the Registrar and furnish such information regarding terms of his engagement or contract, and such other matters concerning his selection as may be prescribed.

(2) If the person departing from Bangladesh is directly appointed or recruited by a foreign Government or organisation or agency or by other foreign employers, such person shall furnish required information to the Registrar.

(3) If the Registrar is satisfied that the terms of agreement under which a person has been engaged or assisted are in conformity with the terms on the basis of which the licence to recruit was granted, he shall register in a book to be kept for the purpose such particulars concerning the person engaged or assisted and his dependants, if any, and the person engaging or assisting him in such form as may be prescribed.

(4) Registration of persons departing Bangladesh shall be endorsed on their passports by the Registrar.

12. An emigrant residing abroad and who has not been registered under this Ordinance shall get himself registered with such Labour Attaché or, in his absence, with any such other officer as may be specified by the Government in this behalf and such registration shall be reported to the Registrar.

Registration of emigrants residing abroad

13. (1) No licence shall be used, directly or indirectly, by any person other than the person in whose favour it was issued or at any place other than the place mentioned in the licence nor shall the licence be transferred, conveyed or assigned to any person or entity.

Non-transferability of licence or authority

(2) No transfer of the business address or designation of any agent or representative mentioned in the licence shall be made without prior approval of the Government.

14. (1) If, at any time during the pendency of a licence, the Government is satisfied, after making such enquiry as it may deem necessary, that the licensee has been guilty of misconduct or that his conduct or performance as a licensee has been unsatisfactory or that he has violated any of the provisions of this Ordinance or the rules made thereunder or the prescribed Code of Conduct, it may, after giving the licensee an opportunity of being heard, by order in writing, cancel the licence or suspend it for a period to be specified in the order and may also forfeit the security furnished by him under section 10 in full or in part.

Cancellation, suspension, forfeiture of security, etc.

(2) The security money forfeited under sub-section (1) may be-

- (a) paid to an affected person, or
- (b) utilised for repatriating of any stranded person in foreign country or for such other purpose as the Government may deem appropriate in the public interest.

(3) On expiry of the period for which the licence is granted or on the intimation by the licensee that he does not intend to continue to act as a recruiting agent and on being satisfied that no ground for forfeiting the security in whole or in part exists, the Government may order the refund of the security or part thereof to the person by whom it was furnished or to his authorised representative.

Power to
withdraw
licence

15. Notwithstanding anything to the contrary contained in this Ordinance, if, at any time, the Government is satisfied that it is necessary in the public interest to discontinue the practice of granting licence to recruiting agents, it may, by notification in the *official Gazette*, withdraw all licences granted under section 10.

Decision under
sections 14 and
15 to be final

16. The decisions of the Government under sections 14 and 15 shall be final and shall not be questioned in any Court of law.

Inspection, etc.,
to ensure
compliance with
the provisions
of this
Ordinance

17. The Government may, for the enforcement of the provisions of this Ordinance and the rules made thereunder, appoint such officers as it may deem fit and an officer so appointed may-

- (a) enter into any office or premise maintained or used by any person or entity in connection with the recruitment of emigrants for overseas employment;
- (b) require and enforce the production of any books of accounts and records maintained by such person or entity and inspect such books of accounts and records; and
- (c) examine such person or entity and obtain from him or it statement in writing in this behalf.

Power to search
and detain
vessels

18. All the powers for the time being conferred by law on officers of customs with regard to the searching and detention of vessels may be exercised for the prevention of offences under this Ordinance by any such officer or by any officer authorised by the Government in this behalf.

Power to make
rules

19. (1) The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Ordinance.

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

- (a) powers and duties of officers appointed by the Government under the Ordinance;

- (b) the licensing, supervision and control of persons engaged in recruiting persons for overseas employment or causing or assisting persons to emigrate and in the conveyance and accommodation of emigrants, and the prohibition of unlicensed persons from being so engaged;
- (c) the establishment, supervision and regulation of any place of accommodation provided for emigrants and for their medical care while resident there;
- (d) the forms to be maintained and the returns to be submitted by persons licensed in accordance with the rules made under clause (b);
- (e) the manner of inspection of premises, books of accounts and records of any person or entity connected with recruitment of emigrants for overseas employment;
- (f) the information to be furnished by recruiting agents to emigrants and the language in which such information is to be furnished;
- (g) appearance of emigrants before the Registrar and furnishing information under section 11;
- (h) fees to be paid by a recruiting agent to the Registrar for each emigrant departing Bangladesh;
- (i) setting up training, orientation and briefing centres to guide and advise intending emigrants and their dependants proceeding abroad;
- (j) recall and repatriation, in the public interest, of an emigrant;
- (k) measures to be adopted for the welfare of emigrants and their dependants;
- (l) disposal of complaints against recruiting agents;
- (m) formation of an association of recruiting agents and framing of Code of Conduct to be observed by recruiting agents;
- (n) service charge to be paid to a recruiting agent;
- (o) depositing of fees and securities by a recruiting agent;

- (p) procedure for sending of emigrants by persons possessing secured contract or sub-contract for the purpose;
- (q) the security, well-being and protection of emigrants; and
- (r) fees receivable from persons recruited and going abroad for employment.

Unlawful
emigration

20. (1) Whoever, except in conformity with the provisions of this Ordinance and the rules made thereunder, emigrates or attempts to emigrate or departs or attempts to depart shall be punishable with imprisonment for a term which may extend to one year simple imprisonment or with fine not exceeding Taka five thousand or with both.

(2) Whoever, except in conformity with the provisions of this Ordinance or the rules made thereunder,-

- (a) makes or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate, or
- (b) causes or assists, or attempts to cause or assist any person to emigrate or depart or to attempt to emigrate or depart or to leave any place for the purpose of emigrating or departing, or
- (c) causes any person engaged, assisted or recruited by him, after grant of the licence under section 10 to depart without appearing before the Registrar as required under section 11, or
- (d) furnishes or publishes information or notice or document in relation to recruitment for employment abroad, or
- (e) substitutes or alters any employment contract approved and verified by the Registrar, or
- (f) withholds or denies travel documents from a prospective emigrant for monetary or financial consideration other than those authorised under this Ordinance,

shall be punishable with rigorous imprisonment for a term which may extend to five years, or with fine, or with both.

(3) When in the course of any proceeding in connection with emigration in which a recruiting agent or a person or an

organisation is concerned, a breach of the provisions of this Ordinance or the rules made thereunder is committed, such agent or, as the case may be, person or organisation shall be liable to the punishment provided by sub-section (2), unless he proves that he was not responsible for and could not have prevented the commission of the breach.

(4) A person who recruits a citizen or holds an interview or examination or issues an advertisement for such recruitment in contravention of the provisions of section 9 shall be liable to the punishment provided by sub-section (2).

21. Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into an agreement to emigrate, or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

Fraudulently inducing to emigrate

22. Whoever falsely represents that any emigrant is required by the Government or is to be engaged on behalf of the Government, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

False representation of Government authority

23. Whoever for providing or securing, or on the pretext of providing or securing, to or for any person, employment in any country beyond the limits of Bangladesh-

Receiving money, etc., for providing foreign employment

(a) being a recruiting agent, charges any fee in addition to the prescribed amount;

(b) not being a recruiting agent, demands or receives or attempts to receive, for himself or for any other person any money or other valuable thing;

shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

24. Whoever contravenes the terms of the agreement with his foreign employer by abandoning his employment or otherwise, shall, after the repatriation to Bangladesh, be punishable with fine which may extend to five thousand Taka.

Penalty for contravention of agreement

25. (1) The amount of expenditure, if any, incurred by the Government for repatriation to Bangladesh of a person who is

Recovery of expenditure for repatriation, etc.

convicted of an offence punishable under sub-section (1) of section 20 or section 24, shall be recoverable from such person in accordance with the provisions of the Public Demands Recovery Act, 1913 (Ben. Act III of 1913).

(2) The Government may recover the amount involved in an offence under section 21 in accordance with the provisions of the Public Demands Recovery Act, 1913 (Ben. Act III of 1913) and the amount so recovered shall be paid to the person who had paid it.

Special Courts

26. (1) The Government may, by notification in the *official Gazette*, establish as many special Courts as it considers necessary for trial of offences under this Ordinance and, where it establishes more than one special Court, shall specify in the notification the headquarters of each special Court and the territorial limits within which it shall exercise jurisdiction under this Ordinance.

(2) A special Court shall consist of a person who is the Chairman of a Labour Court established under the Industrial Relations Ordinance, 1969 (XXIII of 1969).

(3) A special Court shall take cognizance of, and have jurisdiction to try, an offence punishable under this Ordinance only upon a complaint in writing made by such person as the Government may, by a general or special order, authorise in this behalf.

(4) A special Court trying an offence under this Ordinance shall try such offence summarily and in trying such offences, such special Court shall follow the procedure laid down in the Code of Criminal Procedure, 1898 (Act V of 1898) for summary trial.

Indemnity

27. No suit, prosecution or other legal proceeding shall lie against the Government, Registrar or any person for anything in good faith done or intended to be done under this Ordinance.

Ordinance not to apply to certain persons

28. This Ordinance shall not apply to the departure of a person-

- (a) who is not a citizen of Bangladesh, or
- (b) who is in the service of the Republic or of a local authority and is proceeding on duty, or on training, or leave, or for employment with any international organisation, with the permission of the Government, or

- (c) who is engaged as a member of the crew on board a foreign-going vessel, or
- (d) who is a dependent of a citizen already resident or employed in a foreign country and is on a temporary visit to Bangladesh.

29. (1) The Emigration Act, 1922 (VII of 1922), shall stand repealed in relation to any provision in respect of which this Ordinance comes into force. Repeal and savings

(2) Notwithstanding such repeal,-

- (a) anything done or any action taken or any rule made or any notification issued or any proceeding commenced under the provisions of the said Act, shall, in so far as it is not inconsistent with the provisions of this Ordinance, be deemed to have been done, taken, made, issued or commenced, as the case may be, under the corresponding provision of this Ordinance; and
- (b) all cases pending before any Court immediately before the commencement of this Ordinance shall be tried and disposed of by such Court, and all matters in connection with such cases shall be regulated in accordance with the provisions of the said Act, as if the said Act had not been repealed by this Ordinance.