

20 June 2003

EMPLOYMENT GUARANTEE IN RAJASTHAN:

DRAFT ACT AND COST ESTIMATES

Contents

- 1. Introduction**
- 2. Summary of the Draft Act**
- 3. Draft Employment Guarantee Act**
- 4. Cost Estimates**
- 5. Financing Options**

DRAFT EMPLOYMENT GUARANTEE ACT FOR RAJASTHAN:

Introduction

The enclosed draft has been prepared by a group of concerned citizens, initially convened by members of the Right to Food Campaign in collaboration with Mazdoor Kisan Shakti Sangathan (MKSS, Rajasthan). It draws inspiration from the Maharashtra Employment Guarantee Act, 1977, which has been the cornerstone of Maharashtra's "employment guarantee scheme" for the last twenty-five years. However, the proposed employment guarantee act for Rajasthan departs from Maharashtra's EGA in two crucial respects.

First, the proposed EGA attempts to consolidate the recent trend towards decentralised planning and devolution of powers in Rajasthan. For instance, we envisage the Gram Panchayat rather than the Panchayat Samiti as the main implementing agency at the village level.

Second, the proposed EGA includes stronger mechanisms for transparency and accountability at all levels. For instance, Gram Sabhas are expected to conduct "social audits" of the projects taken up within their jurisdiction every six months. This, again, is in tune with the present trend towards transparent and accountable governance in Rajasthan.

The enclosed draft is a preliminary document, to be circulated for discussion. Further revision is expected in the relatively near future. All comments and suggestions are welcome.

Bikram Batra, Nikhil Dey, Jean Drèze, Colin Gonsalvez, Aparajita Goyal, Harsh Mander, Santosh Mathew, Vijay Nagaraj, Sudha Narayanan, Aruna Roy, N.C. Saxena, Vivek S., Shekhar Singh, Kavita Srivastava

New Delhi, 20 June 2003

DRAFT EMPLOYMENT GUARANTEE ACT FOR RAJASTHAN:

A Summary

A draft "Employment Guarantee Act" for Rajasthan has been prepared by a group of concerned citizens. The essential features of the proposed Act are as follows:

The right to work

- The aim of this Act is to safeguard the right to work. The fundamental entitlement defined by the Act is as follows (section 3):

Every adult in the rural areas of Rajasthan shall have a right to guaranteed employment for doing unskilled manual work at the statutory minimum wage, and to receive the wages thereof within a fortnight, in accordance with the provisions of this Act and the Programme made thereunder.

The Employment Guarantee Programme

- In order to give effect to the right to work, the Act directs the state government to implement an Employment Guarantee Programme (EGP), analogous to Maharashtra's "employment guarantee scheme".

- Works taken up under the EGP are expected to be productive, in the broad sense of contributing directly or indirectly to economic progress or the quality of life.

- Employment is to be provided within the Panchayat Samiti, preferably within a radius of 5 kilometres of the village where the applicant resides. Labourers employed outside this radius are entitled to transport and daily living allowances.

- At the work sites, labourers are entitled to facilities such as safe drinking water, child-minding, and medical treatment of injuries.

- Applications for work are to be submitted in writing at the Panchayat Samiti office. Group applications of 15 persons or more may be submitted through the Gram Panchayat.

- If a person does not get work within 15 days of applying, he or she is entitled to an "unemployment allowance", no lower than one fourth of the statutory minimum wage.

Institutional Arrangements

- The implementation of EGP works shall follow the same basic procedures as those presently applicable to drought relief and other rural works programmes in Rajasthan.
- The Act attempts to take on board the present trend towards decentralised and participatory governance in Rajasthan. For instance, the main implementing agency at the village level is the Gram Panchayat, and the Gram Sabha and Ward Sabhas are centrally involved in the planning of EGP works.
- The Block Development Officer is responsible for matching the demand for work with available EGP employment within the Panchayat Samiti area.

Transparency, Monitoring and Redressal

- The Act provides for every implementing agency to be accountable to an independent monitoring body. For instance, the work of the Gram Panchayat is to be monitored by the Gram Sabha, e.g. through periodic social audits. At the state level, the EGP will be monitored by an independent Employment Guarantee Council, answerable to the State Assembly.
- Various provisions have been made to ensure transparency at all levels. For instance, the details of each project are to be clearly displayed on a board close to the site after completion of the work. Similarly, a copy of the muster rolls of each project taken up by the Gram Panchayat is to be posted at the Gram Panchayat office until such time as the wages are paid.
- The Act outlines specific mechanisms for dealing with any complaints that may arise in the implementation of the Employment Guarantee Programme.

Employment Guarantee Fund

- The costs of the EGP are to be met from an "Employment Guarantee Fund" established for this purpose. Ideally, the resources for this fund would come from three sources: (1) a bundle of "dedicated taxes", (2) a matching contribution from the state government, and (3) a matching contribution from the central government.
- Gram Panchayats, Panchayat Samitis and Zila Parishads will be receiving fixed shares of the project funds (initially 74%, 15% and 11% of total project funds, respectively).
- The Employment Guarantee Fund is also expected to be used for disbursement of unemployment allowances, payment of salaries of supporting staff, compensation in the event of disability or death, etc.

RAJASTHAN RURAL EMPLOYMENT GUARANTEE ACT, 2003

1. Short title, extent and commencement	1
2. Definitions	2
3. Guarantee of employment to all adults in rural areas	3
4. State council and its functions	3
5. Officers responsible for implementation of the programme	4
6. Essential features of the programme	4
7. Conditions for guaranteed employment	5
8. Entitlements of labourers employed under the programme	6
9. Unemployment allowance	7
10. Functions of the employment Guarantee Committees and Samiti Officer	8
11. The Planning Process	9
12. Transparency, monitoring and redressal	9
13. Establishment and utilisation of employment Guarantee Fund	10
14. Delegation of Powers	11
15. Act to have overriding effect	11
16. Power to make rules	11

DRAFT**RAJASTHAN RURAL EMPLOYMENT GUARANTEE ACT, 2003**

An Act to safeguard the right to work by providing guaranteed employment at the statutory minimum wage to all adult persons who volunteer to do unskilled manual work in rural areas of the State of Rajasthan.

WHEREAS making effective provision for safeguarding the right to work is a duty of the State under article 41 of the Constitution of India;

AND WHEREAS realising the right to work is also essential for the realisation of other constitutional rights such as the right to life, the right to food and the right to education;

AND WHEREAS providing guaranteed employment to all persons who volunteer to do unskilled manual work in rural areas would be a major step towards the realisation of the right to work;

AND WHEREAS a programme of guaranteed employment could also contribute to other important objectives such as economic growth, social equity, environmental protection, and the empowerment of women;

AND WHEREAS a decentralised approach to the provision of guaranteed employment would help to promote people's participation in development planning;

AND WHEREAS it is also necessary to make certain supplemental, incidental and consequential provisions. It is here enacted in the Fifty-fourth Year of the Republic of India as follows:

1. Short title, extent and commencement

(1) This Act may be called the Rajasthan Rural Employment Guarantee Act, 2003.

(2) It extends to all rural areas of the State of Rajasthan.

(3) It shall come into force in all the areas to which it extends on such date as the State Government may, by a notification in the *Official Gazette*, appoint.¹

¹ *Note:* Here a provision could be made for "gradual" implementation over (say) two or three years, if necessary.

2. Definitions

In this Act, unless the context otherwise requires:

- (a) “adult” means a person who has attained the age of eighteen years;
- (b) “the Council” means the Rajasthan Employment Guarantee Council constituted under section 4;
- (c) “District Committee” means the District Employment Guarantee Committee constituted under section 10;
- (d) “Samiti Committee” means the Panchayat Samiti Employment Guarantee Committee constituted under section 10;
- (e) “Programme” means the Employment Guarantee Programme prepared and published under section 6 and for the time being in force;
- (f) “applicant” means a person who has applied for employment under the Employment Guarantee Programme under section 7;
- (g) “project” means any work taken up under the Programme for the purpose of providing employment to the applicants;
- (h) “implementing agency” includes any Department of the State Government, the Zila Parishad, the Panchayat Samiti, the Gram Panchayat, or any other local authority or State Government Undertaking, which is entrusted by the State Government with the task of implementing any work taken up under the Programme;
- (i) “implementing officer” means the highest officer of the implementing agency in the District, or any officer subordinate to him to whom any of the powers or duties of the agency have been entrusted;
- (j) “Panchayat Samiti area” includes any ‘B’ Class municipal area;
- (k) “Panchayat Samiti Level Officer” or “Samiti officer” means the Block Development Officer, or a person not below the rank of Tehsildar or Block Development Officer appointed under section 5 by the State Government, in lieu of the Block Development Officer, for the implementation of the Programme in the concerned Panchayat Samiti area;
- (l) “productive works” means any works which, in the opinion of the State Council, will directly or indirectly contribute to the increase of production or the improvement of the quality of life;
- (m) "Employment Guarantee Fund" means the fund established under section 13;
- (m) “prescribed” means prescribed by rules made under this Act.

3 Guarantee of employment to all adults in rural areas

Every adult in the rural areas of Rajasthan shall have a right to guaranteed employment for doing unskilled manual work at the statutory minimum wage, and to receive the wages thereof within ten days, in accordance with the provisions of this Act and the Programme made thereunder.²

4. State Council and its functions

(1) For the purposes of regular monitoring and periodical review of the implementation of this Act, there shall be a Council to be called the Rajasthan Employment Guarantee Council. The Council shall be chaired by the Chief Secretary and the number of other members of the Council shall not exceed sixteen. The Council shall include: (i) at least two persons affiliated with academic institutions of eminence; (ii) at least two persons belonging to distinguished voluntary organisations with a long-standing involvement in development work; (iii) at least two persons belonging to widely-recognised organisations of agricultural or casual labourers. At least one third of the members of the Council shall be women. Provision shall also be made for adequate representation of District Collectors and of members of elected local bodies involved in the implementation of the Programme, including Sarpanches, Pradhans, and Zila Pramukhs.

(2) The responsibilities of the Council shall include: (i) advising the State Government on all matters concerning this Act and the Programme and their implementation; (ii) reviewing the monitoring and redressal mechanisms from time to time and recommending improvements if appropriate; (ii) drawing a list of permissible works to be taken up under the Programme, and updating this list every year; (iii) approving the schedule of rates proposed by the State Government, after due scrutiny; (iv) promoting the widest possible dissemination of information about the Act and the Programme; (v) monitoring the implementation of the Act and the Programme and preparing annual reports to be submitted to the State Assembly; (vi) scrutinising the annual accounts of the Employment Guarantee Fund; (vii) issuing guidelines and recommendations concerning the payment of wages in kind; (viii) any other responsibilities that may be specified in the Programme rules.

(3) The Council shall be competent to undertake an evaluation of the Programme and for this purpose to collect or cause to be collected statistics pertaining to the rural economy of Rajasthan and the implementation of the Programme. The Council shall also be competent to recommend to the State Government the appointment of Study Groups for undertaking studies of specific questions and problems connected with the implementation of the Act and the Programme.

(4) The Council shall coordinate and review the functioning of the District Committees.

(5) The Council shall meet at least four times every year.

² *Note:* If necessary, a “cap” may be introduced on the total number of days of employment each person or household is entitled to receive over the year (e.g. 100 days per person per year).

5. Officers responsible for implementation of the Programme

(1) The Collector of the District shall act as the implementing officer of the Programme in the District, and for this purpose all other officers of the State Government and local authorities within the district shall be ultimately responsible to the Collector. The Collector himself shall be accountable to the Zila Parishad, both directly and through the District Committee.

(2) For every Panchayat Samiti area, the State Government shall appoint a Panchayat Samiti Level Officer, to be called the Samiti Officer, who shall be responsible for the implementation of the Programme in that area. In ordinary circumstances, the Block Development Officer shall be appointed as the Samiti Officer, unless this goes against the recommendations of the State Council. The Samiti Officer shall be answerable to the Panchayat Samiti, both directly and through the Samiti Committee.

6. Essential features of the Programme

(1) For the purpose of giving effect to the employment guarantee mentioned in section 3, the State Government shall prepare a Programme for providing employment to all adults residing in the rural areas who volunteer to do unskilled manual work, subject to the conditions laid down by or under this Act or in the Programme.

(2) The rules of the Programme shall be published in the *Official Gazette*, and a summary thereof shall also be publicised in such local newspapers, having wide circulation in each District, as the State Government may determine.

(3) The Programme shall have the following essential features:

(i) Only productive works shall be taken up under the Programme. The State Council shall prepare a comprehensive list of permissible works. Within that list, the District Committee shall prepare a list of "preferred works" that may be given priority by implementing agencies within the district. The identification of preferred works by the District Committee shall be based on the economic, social and environmental benefits of different types of work, and also on their contribution to social equity.

(ii) The works taken up under the Programme shall be in rural areas. It shall, however, be lawful for the State Government to direct that certain categories of works may be taken up in areas other than rural areas.

(iii) The Programme may also provide, as far as possible, for the training and upgradation of the skills of unskilled labourers.

(iv) The wages shall be directly linked with the quantity of work.

(v) The wages shall be paid according to the schedule of rates, which shall be fixed by the State Government for different types of works every year, subject to the approval of the State Council. The schedule of rates for unskilled labourers shall be so fixed that a

person working diligently for 7 hours would normally earn a wage equal to the statutory minimum wage of agricultural labourers in Rajasthan at that time.

(vi) It shall be open to the Samiti Office and Gram Panchayat to direct any person who applies for employment under the Programme to do work of any type permissible under the Programme.

(vii) Contractors shall not be used for the execution of works taken up by Gram Panchayats or Samiti Officers, except for specific types of work to be specified in the Programme rules with the approval of the State Council.

(viii) Normally works should not be undertaken on private land, except for such land development works as may be permitted by the State Council. Works undertaken on private land should not account for more than 20 per cent of the total expenditure sanctioned to any implementing agency. When works are taken up under the Programme on private lands, which will directly benefit the holders of the land, then at most one third of the expenditure on these works shall be financed from the Employment Guarantee Fund, except in the case of land owned by members of the Scheduled Castes and Scheduled Tribes, released bonded labourers, widows, and such disadvantaged sections of the population as may be specified in the Programme rules.

7. Conditions for guaranteed employment

(1) Every adult person who

- (i) resides in any rural area;
- (ii) is willing to do any unskilled manual work;

shall be entitled to gainful employment in accordance with the Programme for the time being in force, for as many days as the applicant requests subject to a minimum of 15 continuous days.

(2) It shall be the responsibility of the State Government to provide employment in accordance with the provision of the Programme to every such person within 15 days of receipt of an application, within the Panchayat Samiti area.

(3) Applications may be submitted in writing by groups of at least 15 persons to the Gram Panchayat, or by individuals to the Samiti Officer. Application letters shall include the applicant's name and address, the date from which employment is sought, and the number of days for which the applicant is willing to work continuously, which shall not be less than 15 days. Multiple applications may be submitted over time by the same person, as per procedures laid down by the Programme rules, provided that the corresponding periods for which employment is sought do not overlap. The Gram Panchayat and Samiti Officer, as the case may be, shall be bound to accept valid applications and to issue a dated receipt to the applicant.

(4) Applicants who are provided with work shall be so notified through the Gram Panchayat, by means of a public notice displayed at the Gram Panchayat Bhawan.

(5) As far as possible, employment shall be provided within a radius of 5 kilometres of the village where the applicant resides. In cases where employment is provided outside such radius, transport allowances and daily living allowances shall be paid in accordance with the Programme rules.

(6) If the applicant is not provided with employment in the manner mentioned in sub-section 7(2) within 15 days of the date for which employment is sought, he shall be entitled to a daily unemployment allowance to be paid from the Employment Guarantee Fund. The unemployment allowance shall be paid at such rate as may be fixed by the State Government from time to time with the approval of the State Council, but not less than one fourth of the prevailing statutory minimum wage of agricultural labourers in the State of Rajasthan.

(7) The Gram Panchayat shall prepare and maintain such registers and issue such identity cards or pass-books to the applicants as may be prescribed by the Programme rules, including a job card with a record of employment provided. The Gram Panchayat shall supply such information as may be requested by the Samiti Officer at such times and in such forms as he may prescribe.

8. Entitlements of labourers employed under the Programme

(1) If any personal injury is caused to any person employed under the Programme by accident arising out of and in the course of his employment, he shall be entitled, free of charge, to such medical treatment as is admissible under the Programme. Where hospitalisation is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines, and diet. During the period he is undergoing treatment in the hospital, he shall be entitled to daily wages at the rate of half of the statutory minimum wage applicable to agricultural labourers in Rajasthan at that time. In case of death or disability of such a person, an *ex-gratia* payment shall be made to his legal heirs in the manner laid down in the Workmen Compensation Act. These payments shall be made from the Employment Guarantee Fund.

(2) As and when applicants are asked to report for work under sub-section 7(4), they shall be entitled to advance payment of wages subject to the approval of the Gram Panchayat. Advance wages shall not exceed the equivalent of seven days' wages. They shall be paid from the ordinary funds of the Gram Panchayat, and reimbursed as and when labourers receive their full wages under the Programme.

(3) The following facilities shall be available at the worksites: (i) safe drinking water; (ii) shade for small children and periods of rest; (iii) a first-aid box with adequate material for emergency treatment of minor injuries, strokes, body aches and other health hazards connected with the work being performed.

(4) In cases where at least twenty-five women are employed on a work site, a provision shall be made for one of them to be deputed to look after any small children that may be

brought to the worksite by other women, if the need arises. The person deputed for child-minding shall be paid the statutory minimum wage of agricultural labourers in the State of Rajasthan.

(5) In case of any delay in the payment of wages, that is, in the event where wages are paid later than 10 days beyond the fortnight during which work has been done, labourers shall be entitled to the payment of compensation as per the Payment of Wages Act.

(6) Wages may be paid in cash or in kind, taking into account the guidelines and recommendations of the State Council on this matter.

(7) A proportion of the wages, not exceeding 10 per cent, may be deducted as a contribution to welfare schemes organized for the benefit of labourers employed under the Programme, such as health insurance, accident insurance, survivor benefits and social security arrangements.

9. Unemployment allowance

(1) The liability of the State Government to pay unemployment allowance under sub-section 7(6) shall commence after the expiry of 15 days from the date from which employment is sought. It shall cease as soon as (i) the applicant is directed by the Gram Panchayat to report for work, or (ii) the period for which employment is sought comes to an end.

(2) The unemployment allowance to be paid to an eligible applicant under sub-section 7(6) shall be sanctioned by the Samiti Officer. For this purpose the State Government may prescribe such procedure as it deems fit. Unemployment allowances shall be paid from the Employment Guarantee Fund.

(3) Any applicant who is provided with employment and does not report for work within 7 days of being notified under sub-section 7(4), or who is absent from work for more than one week without the permission of the implementing officer, shall stand debarred from applying for work or receiving unemployment allowance for a period of three months. Such defaults shall be recorded by the Samiti Officer, reported to the Gram Panchayat, and entered on the job card of the applicant.

(4) Notwithstanding anything contained in this Act, if the State Government is during any period unable, owing to unusual natural calamities and other circumstances beyond human control, to provide employment under sub-section 7(2), there shall be no liability on the State Government to pay the unemployment allowance under sub-section 7(6) during that period.

(5) In all cases where unemployment allowance is actually paid, the Samiti Officer shall be bound to provide an explanation to the Samiti Committee spelling out why it has not been possible to provide employment to the applicant. A similar explanation shall be provided by the District Collector in his annual report to the State Council.

10. Functions of the Employment Guarantee Committees and Samiti Officer

(1) In every district, a District Employment Guarantee Committee shall be constituted by, and answerable to, the Zila Parishad. The Committee shall have up to twelve members other than the chairperson. At least two thirds of the members shall be selected among elected members of the Zila Parishad, at least one third shall be women. The Committee may also include persons who are not elected members of the Zila Parishad, especially persons belonging to civil society organisations with a demonstrated commitment to the right to work, as per procedures to be laid down in the Programme rules. The District Collector shall not belong to the Committee.

(2) A Panchayat Samiti Employment Guarantee Committee of similar composition shall be constituted by every Panchayat Samiti. The Samiti Officer shall not belong to the Committee.

(3) At the Gram Panchayat level, the Gram Panchayat shall be responsible for planning the works taken up under the Programme as per the recommendations of the Gram Sabha and Ward Sabhas, and for executing and supervising these works. The Gram Sabha and Ward Sabhas shall monitor the work of the Gram Panchayat.

(4) The Samiti Officer shall be responsible for providing administrative sanction to works recommended by the District Committee, the Samiti Committee and the Gram Panchayats, and for the monitoring of Programme works taken up by implementing agencies at the Panchayat Samiti level. He shall also be in charge of matching the demand for employment with employment opportunities arising from Programme works in the Panchayat Samiti area.

(5) The responsibilities of the Samiti Officer under the Programme further include: (i) monitoring of works taken up by the Gram Panchayats; (ii) sanctioning and ensuring the payment of unemployment allowances; (iii) ensuring the prompt and fair payment of wages of all labourers employed under the Programme within the Panchayat Samiti area.

(6) The Committees shall, within their respective jurisdictions, monitor and review the implementation of the Programme, and shall suggest to the State Government and the State Council such steps as in their opinion are necessary for a more effective implementation of the Act. The Collector and the Samiti Officer concerned shall, from time to time, report to the Committees the action taken by them or the State Government on the suggestions made by the Committees.

(7) The responsibilities of the Samiti Committee also include: (i) preparing a shelf of possible projects to be taken up at the Panchayat Samiti level; (ii) issuing guidelines for the monitoring and evaluation of projects taken up at the Panchayat Samiti levels; (iii) dealing with any public complaints that may arise in connection with the implementation of projects taken up at the Panchayat Samiti level.

(8) Every District Level Committee shall guide, coordinate and evaluate the working of the Panchayat Samiti Committees in the District.

11. The planning process

(1) Unless directed otherwise by the relevant sections of this Act and the Programme rules, all official procedures ordinarily used in the planning, implementation, monitoring and evaluation of rural works programmes shall be applicable to works taken up under the Programme.

(2) Unless directed otherwise by the relevant sections of this Act and the Programme rules, the Gram Sabhas and Ward Sabhas shall follow the procedures laid down in the Gram Sabha Manual in all matters pertaining to the implementation of the Programme.

(3) Each Gram Panchayat shall maintain a shelf of possible works to be taken up under the Programme as and when demand for work arises, taking into account the recommendations of the Gram Sabha and Ward Sabhas. Proposals for these projects shall be sent to the Samiti Officer for scrutiny and preliminary approval.

(4) As and when works need to be opened in the Panchayat in response to applications for employment under the Programme, the Gram Panchayat shall seek formal sanction for the concerned works from the Samiti Officer.

(5) The Samiti Officer shall supply each Gram Panchayat with muster rolls for the works sanctioned at the Gram Panchayat level, and also a list of employment opportunities available elsewhere to residents of the Gram Panchayat. The Gram Panchayat shall allocate employment opportunities among the applicants and ask them to report for work.

(6) Adequate staff and technical support shall be made available to the Gram Panchayat and Panchayat Samiti for the purpose of carrying their responsibilities under this Act.

12. Transparency, monitoring and redressal

(1) The State Government shall provide in the Programme for regular inspection of the works taken up under the Programme, to ensure proper quality of the works as well as to ensure that the wages paid for the completion of any work are commensurate with the quantity of the work done.

(2) Each Gram Panchayat, Samiti Officer and District Collector shall prepare an annual report on the implementation of the Programme within its jurisdiction. The report shall be submitted to the Gram Sabha, Panchayat Samiti, and Zila Parishad, respectively, and made available in convenient form for public scrutiny.

(3) The Collector and the implementing agencies in the District shall be responsible for the funds placed at their disposal by the State Government. They shall maintain the accounts of employment and expenditure in such manner as may be prescribed.

(4) All accounts and records relating to the Programme shall be available in convenient form for external scrutiny, and accessible to the public as per the Panchayati Raj Act and the Right to Information Act.

(5) The details of each project, including a summary of expenditure and labour employed, shall be prominently displayed on a board close to the site after completion of the work. A similar board, with details of all works completed within the Gram Panchayat area during the preceding three years, shall be painted on the walls of the Gram Panchayat office and updated every six months.

(6) A copy of the muster rolls of each project taken up by the Gram Panchayat shall be posted at the Gram Panchayat office until such time as the wages are paid.

(7) Ward Sabhas and Gram Sabhas shall conduct social audits of all the projects taken up within their jurisdiction every six months, according to such procedures as may be specified in the Programme rules. All records of the relevant projects shall be available for public scrutiny at these social audits.

(8) Completion certificates of works taken up under the Programme by the Gram Panchayat shall be issued by the Gram Sabha or Ward Sabhas after conducting the relevant social audits.

(9) If any dispute or complaint arises concerning the implementation of the Programme by the Gram Panchayat, the matter shall be referred to the Samiti Officer, who will be required to settle the complaint within 7 days.

(10) If any dispute or complaint arises concerning the implementation of the Programme by the Samiti Officer, the matter shall be referred to the District Collector, who will be required to settle the complaint within 7 days.

(11) In cases of complaints of corruption in any Programme works within the Panchayat Samiti, the Samiti Officer shall be responsible for conducting an enquiry within one month of the complaint being submitted to him in writing. The enquiry report shall be made available to the concerned Gram Sabha in the case of works taken up by the Gram Panchayat, and to the District Collector in the case of departmental works.

13. Establishment and utilisation of Employment Guarantee Fund

(1) On the date of commencement of this Act, a fund to be called the Employment Guarantee Fund shall be deemed to be established.

(2) The following shall form part of, or be paid into, the Fund, namely:

(a) **[to be specified – see accompanying memo on “financing of employment guarantee in Rajasthan”]**

(b) any contribution of grants made by the State Government, the Central Government or any local authority;

(c) any sums received from other bodies or individuals, whether incorporated or not.

(3) Any amount transferred or credited to the Fund shall be charged on the Consolidated Fund of the State.

(4) The amount standing to the credit of the Fund shall be expended in such manner and subject to such conditions as may be prescribed for the purpose of implementing the Programme.

(5) The Fund shall be held and administered on behalf of the State Government by an officer not below the rank of a Secretary of the State Government, subject to such general or partial directions as may be given by the State Government from time to time. The accounts of the Fund shall be audited as per standard procedures, submitted to the State Council, and made available in convenient form for public scrutiny at the end of each financial year.

(6) The funds disbursed for implementation of projects taken up under the Programme shall be allocated between Gram Panchayats, Panchayat Samitis and Zila Parishads according to such ratios as may be specified in the Programme rules. The initial ratios shall be as follows: 74 per cent to Gram Panchayats; 15 per cent to Panchayat Samitis; 11 per cent to Zila Parishads.

14. Delegation of powers

The State Government may, by notification in the *Official Gazette*, direct that the powers exercisable by it, except the powers to make the Programme and the rules, shall, in circumstances and under conditions specified by the notification, be exercisable also by such officer or officers subordinated to it as may be specified in the notification.

15. Act to have overriding effect

The provisions of this Act or the Programme rules, notifications or orders made or issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law.

16. Power to make rules

(1) The power to make rules under this Act shall be exercised by the State Government by notification in the *Official Gazette*.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act to carry out the purposes of this Act.

(3) All rules made under this Act shall be subject to the condition of previous publication.

**"EMPLOYMENT GUARANTEE" IN RAJASTHAN:
COST ESTIMATES
(Rs crores per year, at 2001 prices)**

	With GOI assistance	Without GOI assistance
Cost in year 1		
Option 1: Initial coverage restricted to ¼ districts	250 ^a	400
Option 2: Initial coverage restricted to ½ districts	500 ^a	800
"Full-fledged" cost (all districts covered)		
	800 ^b	1,600

^a Half of the wages (Rs 30/day) to be paid in kind with grain supplied by central government.

^b Half of the *total* programme costs to be paid by the central government.

Notes

(1) The wage rate is assumed to be Rs 60 per day (the statutory minimum in Rajasthan), and the labour-material ratio is assumed to be 75:25. This means that each day of employment generation costs **Rs 80 per day** to the government.

(2) The estimate of employment generation under the proposed Eemployment Guarantee Programme is **20 crore person-days** per year. This roughly corresponds to 100 days of employment per BPL households.* It would enable most poor households to “cross the poverty line” (though separate social security arrangements would be required for those who are unable to work).

(4) In order to contain employment generation within this target of 20 crore person-days per year, it may be necessary to apply a “cap” on the total number of days of employment each person or household is entitled to receive over the year. This is not inconsistent with the notion of “employment guarantee”, and the draft Act leaves room for such a cap.

* Note that the number of BPL households in rural Rajasthan at the time of writing (about 2 million) is much larger than the number of rural households that are "below the poverty line" according to the latest Planning Commission estimates (about 1.2 million). This is because the list of BPL households is still based on the 1997 BPL survey, itself based on 1993-4 poverty estimates.

"EMPLOYMENT GUARANTEE" IN RAJASTHAN: SOME FINANCING OPTIONS

1. The annual cost of a full-fledged Employment Guarantee Act (EGA) for Rajasthan is estimated at **Rs 1,600 crores**, at 2001 prices (see preceding chart). This is about 2% of Rajasthan's domestic product.

2. If the Employment Guarantee Programme (EGP) is initially restricted to half of the districts, the initial cost would amount to Rs 800 crores per year. Of this, roughly Rs 300 crores can be absorbed under the Sampurna Grameen Rozgar Yojana (SRGY) and related schemes. This leaves a short-term burden of **Rs 500 crores** per year in the initial phase. This could be raised through a temporary 20% surcharge on Sales Tax.³

3. It is proposed that the extension of EGP from half of the districts to all districts (hopefully from the second year onwards) should be conditional on the central government agreeing to pay half of the total programme costs. The state government would contribute the other half, i.e. **Rs 800 crores** per year. This would have to be made available by raising taxes and/or reducing low-priority subsidies. An illustrative option is as follows:⁴

	Rs crores
Additional liquor taxes (35% increase in tax rate)	345
Professional tax (0.3% of SDP, as in Madhya Pradesh)	198
"Green" taxes (vehicles, mining, advertisement)	142
Lottery	111
TOTAL	796

5. With adequate political will, the following medium-term options could also be considered:

	Rs crores
Tax on property and capital transactions (50% increase)	359
Improved efficiency in revenue collection	338
Holding government salaries and pensions constant in real terms for one year	281

6. If needed, the initial costs could be reduced by restricting the Employment Guarantee Programme in the first year to one third or even one fourth of the districts, instead of one half. From the point of view of the right to work, the main issue is to provide for a legal and universal guarantee of employment within a reasonable time frame.

³ An earlier 15% surcharge on Sales Tax, following the abolition of "octroi", raised Rs 375 crores or so (Finance Department, Government of Rajasthan, personal communication). Since then, the tax base has expanded, and it is reasonable to assume that a 20% surcharge would raise Rs 500 crores or so. There is special scope for raising taxes on petroleum products, which have *declined* in recent years with the decline in petrol prices.

⁴ For further discussion of these (tentative) estimates, see Sudha Narayanan (2003), "Financing of Employment Guarantee in Rajasthan", mimeo, Centre for Development Economics at the Delhi School of Economics.