

Andhra Pradesh Industrial Single Window Clearance Act, 2002

17 of 2002

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Andhra Pradesh Industrial Single Window Clearance Act, 2002

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AN ACT TO PROVIDE FOR SPEEDY PROCESSING AND ISSUE OF VARIOUS LICENSES, CLEARANCES AND CERTIFICATES REQUIRED FOR SETTING UP OF INDUSTRIAL UNDERTAKINGS FOR THE PROMOTION OF INDUSTRIAL DEVELOPMENT AND ALSO TO PROVIDE FOR AN INVESTOR FRIENDLY ENVIRONMENT IN THE STATE OF ANDHRA PRADESH AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO. Whereas, it is expedient to provide for speedy implementation of industrial and other projects in the State, by providing Single point clearances to promoters and to ensure early commercial production of such projects; Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-third year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Andhra Pradesh Industrial Single window Clearance Act, 2002.
- (2) It extends to the whole of the State of Andhra Pradesh.
- (3) It shall be deemed to have come into force with effect on and from the 22nd June, 2002.

2. Definitions :-

In this Act, unless the context, otherwise requires,-

- (1) "Clearances" means grant or issue of no-objection certificate, allotments, consents, approvals, permissions, registrations, enrollments, licences and the like, by any competent authority or authorities in connection with the setting up of an industrial undertaking in the State of Andhra Pradesh and shall include all such clearances required till the industrial undertaking starts commercial production;
- (2) "Competent Authority" means any Department or agency of the Government Authorized Agency, Gram Panchayat, Municipality or other local body, which are entrusted with the powers and

responsibilities to grant or issue clearances;

(3) "District Committee" means the District Single Window Clearance Committee constituted under section 3;

(4) "Empowered Committee" means the Committee notified by the Government under section 6;

(5) "Government" means the Government of Andhra Pradesh;

(6) "Industrial undertaking" means an undertaking engaged in manufacturing or processing or both or providing service or doing any other business or commercial activity as may be specified by the State Government;

(7) "Nodal Agency" means the agency notified at the State Level or at the District level under section 8;

(8) "Notification" means a notification published in the Andhra Pradesh Gazette and the word notified shall be construed accordingly;

(9) "Prescribed" means prescribed by rules made under this Act;

(10). "Special Committee" means the Special Single Window Clearance Committee constituted under section 5;

(11) "State Board" means the Board notified by the Government under section 7;

(12) "State Committee" means the State Single Window Clearance Committee Constituted under section 4.

CHAPTER 2 CONSTITUTION. POWERS AND FUNCTIONS OF THE DISTRICT COMMITTEES. STATE COMMITTEE. SPECIAL COMMITTEES. EMPOWERED COMMITTEE. STATE BOARD AND NODAL AGENCIES

3. Constitution, Powers And Functions Of District Committees :-

(1) The State Government may, by notification, constitute a District Single Window Clearance Committee for each district, which shall consist of the District Collector as the Chairman and eight other members for such term as may be specified in the notification.

(2) The District Committee shall exercise the following powers and perform the following functions namely:-

(i) to meet at such times and places as the Chairman of the Committee may decide and shall transact business as per the procedure as may be prescribed;

(ii) to receive applications for all clearances for setting up industrial units with proposed investment up to the amount notified under section 21;

- (iii) to review and monitor the processing of applications by the competent authorities and to forward the orders of the competent authorities to the applicant.
- (iv) to inform the applicant of the date on which the application was received by the competent authority and the date on which such application may be deemed to have been approved in the case of deemed approval;
- (v) to forward cases with remarks and relevant documents to the State Committee for decision under section 17;
- (vi) to invite competent authorities or experts, who are not members of the Committee, as special invitees for any meeting of the District Committee as desired by the Chairman of the Committee;
- (vii) the member of the District Committee shall attend the meeting convened under clause (i) personally and in case he is unable to attend the meeting, he may depute a senior level officer with a written authorisation to take appropriate decision in the meeting;
- (viii) such other powers and functions as may be prescribed.

4. Constitution Powers And Functions Of State Committee :-

- (1) The Government may, by notification, constitute a State Committee known as the State Single Window Clearance Committee, which shall consist of the Commissioner of Industries as the Chairman with ten other members for such term as may be specified in the notification.
- (2) The State Committee shall exercise the following powers and perform the following functions namely:-
 - (i) to meet at such times and places as the Chairman of the Committee may decide and shall transact business as per the procedure as may be prescribed;
 - (ii) to receive all applications for clearances for setting up industrial units with proposed investment more than the amount notified under section 21;
 - (iii) to review and monitor the processing of applications by the competent authorities and District Committees and to forward the orders of the competent authority to the applicant;
 - (iv) to inform the applicant of the date on which the application was received by the competent authority and the date on which such application may be deemed to have been approved in the case of deemed approval;
 - (v) to forward cases with remarks and relevant documents to the

Empowered Committee for decision under section 19;

(vi) to invite competent authorities or experts, who are not members of the Committee, as special invitees for any meeting as desired by the Chairman of the State Committee;

(vii) the Member of the State Committee shall attend the meeting convened under clause (i) personally and in case he is unable to attend the meeting, he may depute a senior level officer with a written authorisation to take appropriate decision in the meeting;

(viii) such other powers and functions as may be prescribed.

5. Constitution, Powers And Functions Of Special Committees :-

(1) The Government may, by notification, constitute Special Single Window Clearance Committees for any specified purpose, specified area or specified sector and delegate to them such powers and functions as the Government may deem fit.

(2). The Special Committee shall consist of such number of members of whom one shall be nominated by notification as Chairman by Government.

6. Constitution, Powers And Functions Of Empowered Committee :-

(1) The Government may notify the State Investment Promotion Committee as the Empowered Committee.

(2) The Empowered Committee shall,-

(i) review and monitor the disposal of applications by the District Committees and State Committee, and competent authorities;

(ii) consider and decide cases under sections 18 and 19;

(iii) exercise such other powers and perform such other functions as may be prescribed.

(3) The powers and functions entrusted to the State Investment Promotion Committee as Empowered Committee under the provisions of this Act shall be in addition to the regular powers exercised and functions discharged by the State Investment Promotion Committee.

(4) The decisions of the Empowered Committee shall be binding on the State Committee, District Committees and the Competent Authorities.

7. Constitution, Powers And Functions Of State Board :-

(1) The Government may notify the State Investment Promotion Board as the State Board.

(2) The State Board shall,-

(i) review and monitor the disposal of applications by the District Committees, State Committee and competent authorities;

(ii) consider and decide cases under section 20 and cases referred under proviso to section 17 (2) and proviso to section 19(2);

(iii) exercise such other powers and perform such other functions as may be prescribed.

(3) The powers and functions entrusted to the State Investment Promotion Board as State Board under the provisions of this Act shall be in addition to the regular powers exercised and functions discharged by the State Investment Promotion Board.

(4) The orders passed by the State Board for issuing clearances shall be final and binding on the Empowered Committee, State Committee, District Committees and the Competent Authorities.

8. Appointment Of Nodal Agency :-

(1) The State Government may, by notification, appoint a nodal agency at the State level, which shall be a cell headed by an officer not below the rank of Additional Director of Industries and including such supervisory and secretarial staff as may be required.

(2). The State Government may notify the District Industries Centre as Nodal Agency at the district level.

9. Powers And Functions Of Nodal Agency :-

(1) The Nodal Agency shall provide secretarial support to the District Committees and the State Committee, as the case may be.

(2) Under the superintendence, direction and control of the respective committees, the nodal agency shall acknowledge all applications filed before the Committee and shall forward the applications to the concerned competent authority within three working days. The Nodal Agency shall pursue the clearance of the applications with the competent authorities.

CHAPTER 3 MISCELLANEOUS

10. Filing Of Application Forms :-

(1) All applications for clearances shall be submitted with the required fees in the prescribed manner to the appropriate committee.

(2) The applications shall be forwarded by the Committee to the competent authority for processing and disposal.

11. Power To Call Additional Information :-

(1) On receipt of application under sub-section (2) of section 10, the competent authority shall have power to obtain further additional information from the applicant as required by him, while furnishing a copy of the same to the Nodal Agency.

(2) The applicant shall furnish the required information to the competent authority and also to the Nodal Agency simultaneously.

(3) The competent authority shall send its orders sanctioning or rejecting the application, as the case may be, to the Nodal Agency so that the same can be given to the applicant.

12. Combined Application Forms(Caf) :-

(1) It shall be competent for the Government to prescribe combined application forms which may consist of,-

(a) forms under central enactments without any change; and

(b) existing forms or new forms in lieu of the existing forms under state enactments.

(2) All Departments or authorities concerned shall accept such application forms for processing and issue of required clearances.

13. Self Certification :-

(1) Every entrepreneur shall furnish a "Self Certification at the time of submitting application form to the Nodal Agency, undertaking in such form as may be prescribed that he shall comply with the applicable provisions of the relevant acts and the rules made thereunder.

(2) The self certification furnished by the entrepreneur shall be accepted by the concerned Departments and authorities for the purpose of issuing and granting clearance.

14. Time Limits For Processing Of Applications :-

Notwithstanding anything contained in any state law for the time being in force,-

(1) The Government may lay down the procedure for processing and disposal of applications.

(2) the Government may prescribe time limits for processing and disposal of applications by the competent authorities.

(3) the competent authority may ask for additional information at any time before the expiry of the period stipulated for the disposal of such clearance:

Provided that such request for additional information should be made only once by the competent authority.

(4) After receipt of the additional information, the competent authority shall pass orders on the application before the expiry of the stipulated time from the date of receipt of such additional information.

15. List Of Deemed Approval :-

(1) While prescribing time limits under section 14, the State Government may notify the clearances in respect of which failure of the competent authority to pass final orders on the application within the stipulated time shall result in deemed approval.

(2) The applicant may proceed to execute the work or take other action following the deemed approval, but not so as to contravene any of the provisions of the Acts or rules or bye-laws applicable to such clearances.

16. Information Of Deemed Approval :-

The appropriate Committee shall inform to the applicant the date on which the application was received by the competent authority and the date on which it was deemed to have been approved.

17. Review Of District Level Cases :-

Notwithstanding anything contained in any State law, for the time being in force,-

(1) The District Committee may, either suo motu or on an application, examine any order passed by any competent authority, rejecting any clearance or approving it with modification, and if the District Committee considers that there are valid grounds for a change in such decision, it shall forward such case to the State Committee with remarks and relevant documents for a decision.

(2) The State Committee shall examine all cases referred to it by the District Committee and pass appropriate orders:

Provided that the cases relating to the orders passed by the Government as competent authority shall be referred to the State Board for decision.

(3) The decision taken by the State Committee shall be binding on

the District Committee and the competent authorities.

18. Revision Of District Level Cases By Empowered Committee :-

Notwithstanding anything contained in any State law, for the time being in force, the Empowered Committee may, either suo motu or on a reference, examine any orders passed by the State Committee and pass appropriate orders as it deems fit and such orders shall be final.

19. Review Of State Level Cases :-

Notwithstanding anything contained in any State law, for the time being in force,-

(1) The State Committee may, either suo motu or on an application, examine any order passed by any competent authority, rejecting any clearance or approving it with modification, and if the State Committee considers that there are valid grounds for a change in such decision, it shall forward such case to the Empowered Committee with remarks and relevant documents for a decision.

(2) The Empowered Committee shall examine all cases referred to it by the State Committee and pass appropriate orders:

Provided that the cases relating to the orders passed by the Government as competent authority shall be referred to the State Investment Promotion Board for decision.

(3) The decision taken by the Empowered Committee shall be binding on the State Committee, District Committees and the competent authorities.

20. Revision Of State Level Cases By State Board :-

Notwithstanding anything contained in any State law, for the time being in force, the state Board may, either suo motu or on a reference, examine any orders passed by the Empowered Committee and pass appropriate orders as it deems fit and such orders shall be final.

21. Pecuniary Jurisdiction Of District Committees :-

The Government may by notification specify the investment limit up to which the applications for clearances shall be made to the District Committees.

22. Exemption :-

The State Government may, by notification, exempt any clearances from any of the provisions of the Act.

23. Penalty :-

Any entrepreneur who fails to comply with the conditions or undertaking in the self certification given to the Nodal Agency or other department or authorities shall on conviction be punishable with fine which may extend to five thousand rupees for the first offence and for the second or subsequent offences with fine which may extend to ten thousand rupees.

24. Offences By Companies, Etc :-

(1) Where an offence under this Act is committed by a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or that commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other officer, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purposes of this section:-

(a) "Company" means any body corporate and includes a firm or other association of individuals; and.

(b) "Director" in relation to a firm means a partner in the firm.

25. Act To Override Other Laws :-

Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State law for the time being in force or any

custom or usage or any instrument having effect by virtue of any such law.

26. Powers To Remove Doubts Or Difficulties :-

If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, by order, make provisions or give such directions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty.

27. Power To Give Directions :-

The State Government may, from time to time, issue to the State Committee or the District Committees such general or special directions of policy as they may deem necessary or expedient for the purpose of carrying out the objects of this Act and the said State Committee or the District Committees, as the case may be, shall be bound to follow and act upon such directions.

28. Savings :-

The provisions of sections 13 to 20 of this Act shall not apply to any clearances required under central enactments.

29. Power To Make Rules :-

(1) The Government may by notification make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act, shall immediately after it is made be laid before the Legislative Assembly of the State, if it is in session and if it is not in session in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of session in which it is so laid or the session immediately following, the

Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

30. Repeal Of Ordinance 6 Of 2002 :-

The Andhra Pradesh Industrial Single Window Clearance Ordinance, 2002 is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The State Government have brought out an Industrial Policy 2002-2005, in which it was spelt out that "The Single Window Registration for clearances will be made compulsory by Law". In pursuance of the Policy, it has been decided to undertake a specific Legislation to make the Single Window Registration compulsory for all clearances from State agencies.

2. The proposed measure on the Single Window clearance envisages the creation of District Level Committees of Officers and a State Level Committee of Officers. The District Level Committee will be headed by the District Collector and the State Level Committee will be headed by Commissioner of Industries. The said Committees will receive applications, forward the same to the competent authorities and thereafter communicate such clearances. The processing and decision making powers continue to be vested with the concerned departmental functionaries. The measure covers clearances both for establishment and also for operation that is all clearances required before commercial production.

3. The salient features of the measures are:-

- (1) Creation of a Nodal Agency for providing secretariat assistance to the District Level and State Level Committee;
- (2) The State Government to fix up time-frames for issue of clearances and non-adherence to time-frames by any competent authority will result in automatic Deemed approval, as specified;
- (3) The District Level and State Level Committees would be competent to communicate the Deemed Approval to the applicants in the prescribed manner, so that the applicant will have documentary support for pursuing further course of action in establishing Industries in the State;
- (4) Provision has also been made for self-certification by the applicants;
- (5) The State Government may exempt certain clearances from the purview of Deemed approval and self-certification in public interest and safety;
- (6) The State Investment Promotion Board will be notified as the State Board and the State Investment Promotion Committee will be notified as Empowered Committee respectively.
- (7) The District Level Committee has been authorised to review

rejection cases and refer suitable cases to the State Committee for appropriate decisions. Revision in such cases would lie with the Empowered Committee.

(8) The State Level Committee has been authorised to review rejection cases and refer suitable cases to the Empowered Committee for appropriate decisions. Revision in such cases would lie with the State Board; and

(9) Constitution of special Single Window Clearance Committee for any specified purpose, specified area or specified sector.

4. The implementation of the Single Window Clearance would result in reduction of time taken for sanctions, clearances and permissions for the establishment and operation of the Industries in the State. It will also reduce the need to contact many Departments by individual entrepreneurs and would provide Single Window Services for all clearances.

5. The measure covers all clearances required from state agencies. However the provisions regarding new time limits, new forms, self certification, deemed approval and review will not apply to clearances under Central enactments.

6. To achieve the object in view, it has been decided to undertake a specific Legislation. As the Legislative Assembly of the State was not then in session having been prorogued it has been decided to implement the measure immediately by promulgating an Ordinance. The Andhra Pradesh Industries Single Window Clearance Ordinance 2002 (A. P. Ordinance 6 of 2002) was promulgated by the Government on the 21st June, 2002.

7. This Bill seeks to replace the said Ordinance.