

CALCUTTA TRAMWAYS ACT, 1951

25 of 1951

[18th October, 1951]

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CALCUTTA TRAMWAYS ACT, 1951

25 of 1951

[18th October, 1951]

An Act to empower the Government of West Bengal to acquire the undertaking of the Calcutta Tramways Company, Limited. WHEREAS an agreement, a copy whereof is set forth in the First Schedule to this Act was made the 30th day of August, 1951, between the Governor of the State of West Bengal of the one part and the Calcutta Tramways Company, Limited, of the other part; AND WHEREAS it is declared in the said agreement that the same shall be subject to confirmation and being given effect to by an Act of the Legislature of West Bengal to be thereafter passed for the purpose; AND WHEREAS it is expedient that the same should be confirmed and given effect to and the law relating to the undertaking of the Calcutta Tramways Company, Limited, should be amended; It is hereby enacted as follows:

1. Short title :-

This Act may be called the Calcutta Tramways Act, 1951.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,

(a) "the Government" means the Government of West Bengal;

(b) "the Company" means the Calcutta Tramways Company, Limited;

(c) "the transfer agreement" means the agreement made the 30th day of August, 1951, between the Governor of the State of West Bengal of the one part and the Company of the other part, a copy whereof is set forth in the First Schedule to this Act;

(d) "the undertaking" means the undertaking of the Company.

3. Confirmation of agreement between Government and Company :-

The transfer agreement is hereby confirmed and made binding on the parties thereto and the several provisions thereof shall have effect as if the same had been enacted in this Act.

4. Transfer of powers :-

Notwithstanding anything to the contrary in any other law, all the powers and duties of the Corporation of Calcutta, the Commissioners of the Howrah Municipality, the Commissioners of the South Suburban Municipality and the Commissioners for the New Howrah Bridge with respect to the construction, maintenance, use, leasing of or otherwise dealing with tramways are transferred to and vested in the Government.

5. Amendment of agreements :-

(1) The several agreements particulars whereof are set out in the Second Schedule to this Act shall have effect as if the Government were parties thereto in lieu of the respective bodies and persons set out in column 2 of the said Schedule and any reference in any such agreement to any of such bodies or persons shall unless the subject-matter or the context otherwise requires be deemed to be a reference to the Government:

Provided that any sums payable under any such agreement to any of such bodies or persons shall continue to be payable as if this Act had not been passed.

(2) Any provision in any of the agreements referred to in the

preceding subsection of this section whereby any body or persons may be entitled to purchase the whole or any part of the undertaking is hereby annulled and the Government in its or their place and stead shall be entitled to purchase the undertaking on the terms set out in the transfer agreement.

6. Repeals :-

The provisions of the Calcutta Tramways Act, 1880, the Bengal Tramways Act, 1883 and the Calcutta Tramways (Howrah) Order, 1905 and of Any other Act or Order relating to the purchase of the undertaking or any part thereof which is purchaseable by any body or persons are hereby repealed in so far as such provisions are inconsistent with the provisions of this Act relative to the transfer of the undertaking to the Government.

7. New Howrah Bridge and its approaches and the Esplanade to be included in Calcutta :-

Notwithstanding anything contained in the Calcutta Municipal Act, 1923, the Howrah Bridge Act, 1926 or in any other Act, the New Howrah Bridge and its approaches, vested in the Commissioners for the New Howrah Bridge and the Esplanade (including the area commonly known as the Maidan), shall be deemed to be included in Calcutta as defined in clause (II) of section 3 of the Calcutta Municipal Act, 1923:

Provided that save as aforesaid, nothing in this section shall affect the provisions of the Howrah Bridge Act, 1926, and save, as may hereafter be provided by or under any law, the provisions of the Calcutta Municipal Act, 1923, shall not apply to the area referred to above.

SCHEDULE 1

Transfer Agreement

SCHEDULE 1

[See section 2(c).]

(Transfer Agreement.)

ARTICLES OF AGREEMENT made this 30th day of August, One thousand nine hundred and fifty-one BETWEEN THE GOVERNOR OF THE STATE OF WEST BENGAL of the one part and THE CALCUTTA TRAMWAYS COMPANY, LIMITED, a Company incorporated under the English Companies Acts and having its registered office at 1, Queen Victoria Street in the City of London (hereinafter called "the Company") of the other part.

WHEREAS by virtue of the Calcutta Tramways Act, 1880, the Bengal Tramways

Act, 1883, the Calcutta Tramways Act, 1894, and the Calcutta Tramways (Electric Traction) Asct, 1900, and the Agreements particulars whereof are set out in the Schedule hereto and all other powers therein enabling it, the Company is empowered to make and maintain tramways within the municipal limits of Calcutta and its suburbs;

AND WHEREAS in pursuance of the powers aforesaid the Company has constructed and maintained various tramways;

AND WHEREAS the Company is maintaining, managing and running along the said tramways as service for the public desiring to use the same;

AND WHEREAS the Government of West Bengal (hereinafter referred to as "the Government") is desirous, in the interest of improving the said service for the greater convenience of the public, to co-operate with the Company in running the said service;

AND WHEREAS the Government is desirous of ultimately owning, possessing, managing and running the said tramways undertaking as a Government service for the benefit of the public;

AND WHEREAS it is necessary for the better implementation of this Agreement that an Act should be passed by the appropriate legislature ratifying and giving effect to the same.

Witnesseth And it is hereby agreed as follows:

1. In this Agreement except so far as the contrary is expressly provided or the context otherwise requires, the following words and expressions have the meanings hereby respectively assigned to them, that is to say:

"Accounting Year" means the period from the first day of January to the thirty-first day of December next ensuing;

"Physical assets" mean the lands, buildings, structures, works, machinery, plant, rolling stock, lines, mains, motors, dynamos, switchboards, apparatus, appliances, tool, implements, motor trucks and other like property of the Company from time to time comprised in the undertaking and in use or available for use;

"Purchase Date" means the first day of January, 1972.

"The undertaking" means the tramways undertaking of the Company as authorised by the Acts, Agreements and powers here in be fore referred to.

2. (1) The Company shall continue to carry on the undertaking until the purchase date in accordance with this Agreement and any statutory powers granted or to be granted to or empowering the Company in that behalf.

(2) Except as otherwise specifically provided in this Agreement nothing herein shall be deemed to restrict the financial and administrative powers of the Company or to restrict the right of the Company to carry on its undertaking until the purchase date in the ordinary course of business.

(3) The Company shall exercise due care and economy in the management and administration of the undertaking and shall take all such steps as shall be

reasonably practicable to work the undertaking to the best advantage of the parties to this Agreement.

(4) The Company shall maintain in proper condition all physical assets comprised in the undertaking to the reasonable satisfaction of the Government and will permit an authorised representative of the Government on producing his authority once in every year to enter upon the premises of the Company, where any such assets are in existence, to inspect such assets.

3. (1) There shall be established in Calcutta an Advisory Committee consisting of the following persons:

(a) A Chairman appointed by the Government in consultation with the Company.

(b) Two members appointed by the Government.

(c) Two members appointed by the Company.

(2) The Advisory Committee shall consider any matter affecting any proposed extensions of the undertaking, alterations of routes where these involve a realignment of tracks, questions involving labour disputes, the fare schedule of the services carried on by the Company and capital expenditure and communicate their recommendation to the Government and the Company.

(3) The members of the Committee established under this clause shall hold and vacate their office in accordance with the terms of their respective appointments and shall on ceasing to be members of the Committee be eligible for reappointment provided that any members may at any time by notice in writing served on the Government and on the Company resign his office.

(4) Upon the death or resignation of a member of the Committee or a member becoming incapable to act a new member shall be appointed in the place of the member so dying, resigning or becoming incapable.

4. (1) The Company shall apply its revenues in the manner following, that is to say:

(a) Firstly, paying all expenses of managing, maintaining and working the undertaking, including debenture interest;

(b) Secondly, paying all Indian and United Kingdom taxes payable by the Company;

(c) Thirdly, setting aside in each accounting year in a Renewals and Replacements Reserve Account the sum of Eighty thousand pounds sterling or such greater sum as the Directors of the Company for the time being may in consultation with the Government consider necessary in the light of experience and in view of the expansion of the undertaking or increase in prices;

(d) Fourthly, setting aside in each accounting year in a fund (hereinafter called "the Shareholders' Account") the following sums:

(i) 87,457 together with '

(ii) four per cent, upon any additional outside share capital raised by the

Company with the consent of the Government after the date of this Agreement.

(e) Fifthly, accumulating any surplus in a special reserve account the balance of which (after providing for losses, if any) will eventually accrue to the benefit of the Government. (Before such transfer, however, of a loss against the credit standing in the Special Reserve Account, the Government should be consulted, the final decision on such matter nevertheless being reserved to the Company.)

(2) If in any accounting year the revenues arising from the undertaking are insufficient to provide for all the matters enumerated in the preceding sub clause of this clause, such revenues shall be so applied in the priority there set out.

5. (1) The Accounts of the Company for the year ending the thirty-first day of December One thousand nine hundred and fifty-one and for each subsequent year shall be made out in conformity with this Agreement.

(2) The dividends to Shareholders in respect of the year ending the thirty first day of December One thousand nine hundred and fifty-one and each subsequent year shall be paid out of the Shareholders' Account.

(3) Any sum for the servicing of the Debenture-stock of the Company, that is to say, any sum set apart for, or used in, the repayment of the Debenture-stock of the Company shall, in the year ending the thirty-first day of December One thousand nine hundred and fifty-one and in each subsequent year, be paid out of the Shareholders' Account and be a charge on the same.

6. (1) The Company shall not raise additional outside share or loan capital without the consent in writing of the Government except in the case of temporary advances from the Company's Bankers in the ordinary course of business.

(2) The Company shall give notice in writing to the Government of its intention of incurring any capital expenditure in respect of expansions of the undertaking and if the Government shall within one month from the date of receiving any such notice intimate the Company in writing of its objection to such expenditure, the Company shall not incur such expenditure.

7. (1) Not later than twelve months before the purchase date the Government may serve upon the Company notice in writing (hereinafter called "a purchase notice") of its intention to acquire the undertaking on the purchase date.

(2) In the event of the Government serving a purchase notice the following provisions shall have effect, that is to say:

(a) The Government shall subject to the exchange regulations and other relevant laws prevailing at the time in the United Kingdom and India pay to the Company in sterling in London not less than thirty days before the purchase date:

(i) the sum of 3,750,000;

(ii) a sum equal to the amount of any additional outside capital brought into the undertaking with the consent of Government under Clause 6(1) of the Agreement during the period between the date of this Agreement and the first day of January One thousands nine hundred and seventy-one.

(b) Subject to payment being made in terms of sub-clause (a) above, all the right, title and interest of the Company of and an in the undertaking shall on the

purchase date become vested in the Government free from all mortgages, charges and liens created by the issue of Debenture or Debenture-stocks of the Company:

Provided that the Company shall be entitled to retain all statutory books of account and other documents normally kept outside India but shall afford every facility to the Government to have inspection of same or take copies of or extracts therefrom.

(c) The Government shall also pay to the Company in sterling in London, the amount of the balance (if any) of the Shareholders' Account at the purchase date within one month after a certificate by the Company's Auditors of the amount thereof has been served on the Government.

(d) No further sum than is provided for in this clause shall be payable to the Company in respect of the transfer of the undertaking to the Government.

(3) From and after such vesting of the undertaking in the Government all powers, rights, obligations and liabilities excepting the liabilities in respect of the Share and Loans Capital of the Company shall be exercisable by and be binding on the Government in substitution for the Company and shall cease to be exercisable by or binding on the Company:

Provided that no contract entered into by the Company after the date of this Agreement and extending for more than one year beyond the purchase date shall be binding on the Government unless it has been previously approved by the Government.

8. If the Government does not serve a purchase notice in accordance with the last preceding clause, then all the terms and conditions of this Agreement shall continue in force subject to the following modifications;

(a) (i) The Government shall pay to the Company in sterling in London such sums as may from time to time be necessary to redeem the Second Debenture-stocks of the Company on their due dates;

(ii) After the second Debenture-stocks have been redeemed as aforesaid the Company shall from time to time until the undertaking is vested in the Government pay to the Government sums equal to the interest which would have been payable on such Debenture-stocks had the same not been redeemed.

(b) (i) The Government shall on giving two years' notice to the Company be entitled to acquire the undertaking on the 1st day of January of any subsequent year and such date shall be the purchase date.

(ii) In the event of the undertaking being acquired in pursuance of a notice under this clause there shall be deducted from the sum payable under clause 7(2)(a)(i) hereof any sums which may have been paid by the Government in pursuance of paragraph (a)(i) of this Clause.

9. This Agreement shall be binding subject to an Act of the Legislature of West Bengal confirming it by the thirty-first day of December One thousand nine hundred and fifty-one and making the same binding on the parties hereto and on all other persons, bodies and authorities having any rights or interest in the undertaking whether by statute, order, agreement or otherwise.

10. Where any notice or other document is required by this Agreement to be served, then if it is to be served on the Company it may be served by delivering it to the Agent of the Company in Calcutta or by sending it in a prepaid registered letter addressed to him at his office in Calcutta and if it is to be served on the Government it may be served by sending it in a prepaid registered letter addressed to the Chief Secretary to the Government at Writers' Buildings, Calcutta.

11. If any dispute or difference shall arise with reference to the construction of this Agreement or any clause herein or in respect of any act, deed, matter or thing done or omitted to be done by any of the parties to this Agreement, the decision whereof is not hereby otherwise provided for, the same shall be referred to an Arbitrator if agreed upon between the parties hereto or in default of such Agreement to two Arbitrators, one to be appointed by each party, the proceedings by the said Arbitrator or Arbitrators being held in Calcutta and the decision or award of the said Arbitrator or Arbitrators or Umpire as the case may be shall be final and binding on the parties and the provisions of the Arbitration Act, 1940, shall apply.

| THE SCHEDULE above referred to | | |
|---------------------------------------|--|--|
| Date. | Grantors. | Grantees. |
| 1 | 2 | 3 |
| 2nd October, 1879 | Corporation of the Town of Calcutta. | Dillwyn Parrish, Alfred Parrish and Robinson Souttar. |
| 22nd November, 1879 | Municipal Commissioners of the Suburbs of Calcutta. | Dillwyn Parrish, Alfred Parrish and Robinson Souttar. |
| 2nd September, 1893 | Corporation of Calcutta | Calcutta Tramways Company, Limited. |
| 9th December, 1899 | Corporation of Calcutta | Calcutta Tramways Company, Limited. |
| 9th May, 1905 | Municipal Commissioners of Howrah | Calcutta Tramways Company, Limited. |
| 5th April, 1908 | Municipal Commissioners of the South Suburban Municipality. | Calcutta Tramways Company, Limited. |
| 17th January, 1938 | Commissioenrs for the New Howrah Bridge. | Calcutta Tramways Company, Limited. |

SCHEDULE 2
Agreements

| THE SECOND SCHEDULE [See section 5(1).] Agreements | | |
|---|--------------------------------|--------------------------------|
| Date. | Grantors. | Grantees. |
| 1 | 2 | 3 |
| | Corporation of the Town | Dillwvn Parrish. Alfred |

| | | |
|----------------------------|---|--|
| 2nd October, 1879 | Corporation of Calcutta. | Parrish and Robinson Souttar. |
| 22nd November, 1879 | Municipal Commissioners of the Suburbs of Calcutta. | Dillwyn Parrish, Alfred Parrish and Robinson Souttar. |
| 2nd September, 1893 | Corporation of Calcutta | Calcutta Tramways Company, Limited. |
| 9th December, 1899 | Corporation of Calcutta | Calcutta Tramways Company, Limited. |
| 9th May, 1905 | Municipal Commissioners of Howrah | Calcutta Tramways Company, Limited. |
| 5th April, 1908 | Municipal Commissioners of the South Suburban Municipality | Calcutta Tramways Company, Limited. |
| 17th January, 1938 | Commissioners for the New Howrah Bridge. | Calcutta Tramways Company, Limited. |