

Technicians Studio Private Limited Act, 1980

28 of 1980

[24 July 1980]

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PREAMBLE

An Act to provide for the taking over of the Technicians' Studio Private Limited at 4, Baburam Ghosh Road, ²[Kolkata]-40 in the public interest for its better management and maintenance and the subsequent acquisition of the same for the public purpose, namely, the growth and development of the film industry in West Bengal.

WHEREAS it is expedient to provide for the taking over of the Technicians' Studio Private Limited at 4, Baburam Ghosh Road, ²[Kolkata]-40 in the public interest for its better management and maintenance and the subsequent acquisition of the same for the public purpose, namely, the growth and development of the film industry in West Bengal and for matters connected therewith or

incidental thereto;

It is hereby enacted in the Thirty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:-

1. For Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, Part IV of the 15th April, 1980, pages 813-814; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 28th April, 1980.

2. The word within the square brackets was substituted for the word "Calcutta" by section 5 of the West Bengal Capital City (Change of Name) Act, 2001 (West Ben. Act XVIII of 2001), w.e.f. the 1st January, 2001.

1. Short title :-

This Act may be called the Technicians Studio Private Limited Act, 1980.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "appointed day" means the date of publication of the notification issued under section 3;

(b) "Company" means the Technicians Studio Private Limited at 4, Baburam Ghosh Road, ¹[Kolkata]-40, together with the movable properties, cash balances; reserve funds, cinema-machineries, cameras, projectors, sound-recording machines, stores and any other property which may be in the ownership, possession, custody or control of the Company immediately before the commencement of this Act and also includes the lease-hold interest or for that matter the tenancy right of the Company in the premises;

(c) "notification" means a notification published in the Official Gazette;

(d) "premises" means the land and buildings with fittings, fixtures and appurtenances thereto at 4, Baburam Ghosh Road, ¹[Kolkata]-40 on which the studio of the Company is situated;

(e) "prescribed" means prescribed by rules made under this Act.

1. The word within the square brackets was substituted for the word "Calcutta" by section 5 of the West Bengal Capital City (Change of Name) Act, 2001 (West Ben. Act XVIII of 2001), w.e.f. the 1st January, 2001.

3. Taking over of management of the Company :-

- (1) The State Government shall, by notification, take over the management and control of the Company.
- (2) The notification issued under sub-section (1) shall, subject to sub-section (3), remain in force for a period of five years from the date of its publication in the Official Gazette.
- (3) The notification under sub-section (1) shall cease to have any force with effect from the date specified in the notification issued under sub-section (1) of section 6.

4. Transfer :-

Subject to the provisions of section 6, with effect from the appointed day and for the period referred to in sub-section (2) of section 3-

- (a) the management and control of the Company shall stand transferred to the State Government;
- (b) the Company including its employees shall cease to exercise management and control in relation to the Company;
- (c) all contracts, assurances of property, agreements, settlements or awards, decrees and orders of any Court or Tribunal or other instruments in force in relation to the Company immediately before the appointed day shall remain suspended and all rights, privileges, obligations and liabilities accruing or arising thereunder before the said date shall remain suspended or shall be enforceable with such modifications and in such manner as may be specified in the notification;
- (d) subject to the provisions of clause (c) any proceeding pending or any cause of action existing before the appointed day in relation to the Company may be continued or enforced by or against the State of West Bengal and shall cease to be continued or enforced by or against the Company, its agents, sureties or guarantors;
- (e) the lease-hold interest or for that matter the tenancy-right of the Company in the premises shall devolve on the State Government and the State Government shall be liable to pay rent or compensation for the use and occupation of such premises with effect from the appointed day, till the acquisition of the premises by the State Government.

5. Appointment of Administrator :-

- (1) The State Government shall, by order in writing, appoint an Administrator for managing the Company in accordance with the

provisions of this Act and the rules made thereunder.

(2) The State Government may appoint one or more persons to assist the Administrator in carrying out his functions under this Act.

(3) The terms and conditions of service of the Administrator and other person or persons who may be appointed to assist the Administrator shall be such as may be prescribed.

6. Acquisition of the Company :-

(1) The State Government may, at any time within the period of five years from the appointed day, acquire the Company by notification, with effect from the date to be specified therein.

(2) On the issue of the notification under sub-section (1), the Company shall, with effect from the date specified in the notification, vest absolutely in the State Government free from all encumbrances.

(3) Every person employed in connection with the affairs of the Company and continuing in office immediately before the date specified in the notification under sub-section (1) shall continue to hold office on and from that date on the same terms and conditions as to pay, leave, pension, gratuity and all other matters, unless and until his employment is terminated or until his remuneration or other terms and conditions of employment are altered by the State Government in accordance with such rules as may be made by the State Government in this behalf.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947.) or any other law for the time being in force, the alteration in the terms and conditions of employment of an employee on the transfer of his services from the Company to any other post shall not entitle him to any compensation under this Act or any other law for the time being in force and no claim for such compensation shall be entertained by any court, tribunal or other authority.

6A. Management etc. of the company :-

¹[Notwithstanding anything contained elsewhere in this Act, the State Government may direct, by notification, that the general superintendence, direction, control and management of the affairs and business of the Company, which has been acquired by the State Government under section 6, shall, instead of continuing to vest in the State Government, vest in such existing Government company or a new Government company, and with effect from such

date, as may be specified in the notification, and thereupon the existing, or new, Government company so specified shall be entitled to exercise, to the exclusion of all other persons, all such powers, and do all such things as the Company is authorised to exercise and do in relation to its affairs and business.

Explanation.-For the purposes of this section,-

(a) "existing Government company" means a Government company which is carrying on business on the date of acquisition of the Company under section 6; and

(b) "new Government company" means a Government company formed and registered on or after the date of acquisition of the Company under section 6.]

1. Section 6A was inserted by section 2 of the Technicians Studio Private Limited (Amendment) Act, 1985 (West Ben. Act XVI of 1985).

7. Payment of compensation :-

(1) For the acquisition of the Company under section 6, the compensation payable by the State Government to the persons interested in the Company shall, subject to sub-section (2), be the market value of the Company as on the date of notification under section 6.

(2) (a) The State Government shall appoint a Tribunal consisting of a person who is or has been a District Judge or an Additional District Judge and such Tribunal shall determine-

(i) the amount payable as compensation by the State Government to the persons interested in the Company,

(ii) the amount payable by the Company to the State Government and other creditors, if any, of the Company.

(b) The Tribunal shall, upon determination of the amount under sub-clauses (i) and (ii) of clause (a), make an award. In making the award the Tribunal shall, if necessary, deduct the amount under sub-clause (ii) of clause (a) out of the amount under sub-clause (i) of that clause.

(c) In addition to the market value of the Company as provided in sub-section (1), the Tribunal shall allow interest at the rate of six per centum per annum on the market value of the Company from the date of notification under section 6 till the date of the award.

(3) The State Government may appoint one or more assessors to assist the Tribunal appointed under sub-section (2).

(4) The Tribunal shall have the powers of a civil court while trying

suits under the Code of Civil Procedure, 1908 (5 of 1908.), in respect of the following matters:-

- (a) summoning and enforcing the attendance of any person and examining him on oath,
- (b) requiring the discovery or production of documents,
- (c) receiving evidence on affidavits, and
- (d) issuing commissions for the examination of witnesses and documents.

(5) Any person aggrieved by the award of the Tribunal may appeal to the High Court within thirty days from the date of such award.

8. Manner of payment of compensation :-

For the acquisition of the Company the State Government shall, as soon as possible after the date of the award made by the Tribunal, or, as the case may be, the date of the order of the High Court in the case of an appeal, pay in cash to the persons interested in the Company the amount of compensation determined under section 7 together with interest at the rate of six per centum per annum from the date of the award till the date of payment.

9. Penalty :-

Any person who-

- (a) having in his possession, custody or control any property belonging to the Company, wrongfully withholds such property from the Administrator, or
 - (b) wrongfully obtains possession of any property forming part of the property of the Company, or
 - (c) wilfully withholds or fails to produce to any person authorised under this Act any register, record or other documents which may be in his possession, custody or control, or
 - (d) fails, without any reasonable cause, to submit any document, books or other instruments, when required to do so,
- shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

9A. Offences by companies :-

¹[(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company

for the conduct of the business of the company, as well as the company, 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 had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall 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.]

1. Section 9A was inserted by section 3 of the Technicians Studio Private Limited (Amendment) Act, 1985 (West Ben. Act XVI of 1985).

10. Protection of action taken in good faith :-

¹[No suit, prosecution or other legal proceeding shall lie against the State Government or any person appointed under this Act or the existing, or new, Government company for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.]

1. Section 10 was substituted for the original section by section 4, *ibid*.

11. Advance by the state Government :-

(1) The State Government may, on the application made by the Administrator in this behalf, advance moneys for the purpose of efficiently managing the Company and all such moneys shall be repayable by the Company with such interest as may be prescribed.

(2) Any money advanced under sub-section (1) shall, subject to the prior payment of municipal rates and any sum due to Government on account of taxes or fees, be a first charge upon the properties of

the Company.

12. Period of limitation :-

In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in clause (c) of section 4, the period during which it or the remedy for the enforcement thereof was suspended shall be excluded.

13. Act to have overriding effect :-

The provisions of this Act or any order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law or any instrument having effect by virtue of any other law.

14. Power to make rules :-

(1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be or is required to be prescribed or made by rules.