

Upendra Nath Mukherjee Memorial Hospital Acquisition Act, 1982

18 of 1982

[12 October 1982]

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PREAMBLE

An Act to provide for the acquisition of the Hospital known as the Upendra Nath Mukherjee Memorial Hospital at 24, Sura 3rd Lane, Beliaghata, ²[Kolkata]-10.

WHEREAS it is expedient to provide for the acquisition of the Hospital known as the Upendra Nath Mukherjee Memorial Hospital at 24, Sura 3rd Lane, Beliaghata, ²[Kolkata]-10 for its better management and maintenance in the public interest and for matters connected therewith or incidental thereto;

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

1. For Statement of Objects and Resons, see the Calcutta Gazette,

Extraordinary, Part IV of the 20th September, 1982 (Bill No. 16 of 1982); for proceedings of the West Bengal Legislative Assembly, see the proceedings of meeting of that Assembly held on the 5th October, 1982.

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 and commencement :-

(1) This Act may be called the Upendra Nath Mukherjee Memorial Hospital Acquisition Act, 1982.

(2) It shall be deemed to have come into force on the 27th day of August, 1982.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "appointed day" means the 27th day of August, 1982;

(b) "the Hospital" means the Upendra Nath Mukherjee Memorial Hospital at 24, Sura 3rd Lane, Beliaghata, ¹[Kolkata]-10, together with the indoor beds and provisions for outdoor services and dispensaries attached thereto and includes all lands and buildings, equipments, stores, drugs and other articles used in connection therewith as accessories to or adjuncts of the said Upendra Nath Mukherjee Memorial Hospital at 24, Sura 3rd Lane, Beliaghata, ¹[Kolkata], run under the auspices of the Medical Aids Society of Bengal, a society registered under the Societies Registration Act, 1860 (21 of 1860.);

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

(d) "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. Hospital to vest in the State Government :-

On and from the appointed day the Hospital shall, by virtue of this Act, be transferred to, and vest in, the State Government.

4. General effect of vesting :-

(1) The Hospital shall be deemed to include all rights, powers, authorities and privileges related to, and properties movable or immovable, cash balances, reserve fund and other assets of, the Hospital including lands, buildings, works, machinery, furniture, plants, laboratories, libraries, dispensaries, apparatus, tools, instruments and implements which may be in the ownership, possession, custody or control of the Hospital immediately before the appointed day and all books of accounts, registers and all other documents of whatever nature relating thereto.

(2) Every deed of gift, endowment, bequest or trust or other documents relating to any property and assets referred to in clause (b) of section 2 or sub-section (1) of this section shall be construed as if it were made or executed in favour of the State Government.

(3) Properties which vest in the State Government under this Act shall, by virtue of the vesting, be freed and discharged from any trust, obligations, mortgages, charges and other encumbrances affecting them, and any attachment, injunction or any decree or order of any court restricting the use of any such property in any manner shall be deemed to have been withdrawn.

(4) Any contract, whether express or implied, or any arrangement, whether under any statute or otherwise, or any order made by any court, in so far as it creates any encumbrance or any liability in relation to the Hospital or any part of it shall be deemed to have terminated on the appointed day.

(5) Every person in whose possession or custody or control the Hospital or any part of it may be immediately before the appointed day shall, on the appointed day, deliver possession of the Hospital or part thereof to the State Government or to such person or authority as may be specified by the State Government in this behalf.

(6) Every person, who has in his possession or control any book, document or other papers relating to the Hospital or any part of it, shall be liable to account for the said book, document or other papers to the State Government or to such person as the State Government may appoint in this behalf.

(7) Subject to the provisions of sub-section (4), if on the appointed day any suit, appeal or other proceeding of whatever nature by or against the Hospital is pending, the same shall be continued, proceeded with or enforced by or against the Hospital.

(8) The liabilities of the Hospital shall, on and from the appointed day, be met by the State Government in such manner as may be

prescribed.

(9) The State Government may take, or cause to be taken, all necessary steps for securing the possession of the Hospital which has vested in it under this Act.

5. Payment of compensation :-

(1) For the transfer to, and vesting in, the State Government of the Hospital under section 3, the compensation payable by the State Government for the lands and buildings shall be such as may be determined by the Competent Authority referred to in sub-section (3) of this section applying mutatis mutandis the provisions of the Land Acquisition Act, 1894 (1 of 1894.) subject to the deduction of all liabilities relating to the lands and buildings and subject further to the condition that in respect of the lands and buildings which the Medical Aids Society of Bengal or its promoters received as gifts or donations or for permissive use from the original owners thereof, the compensation shall be determined and payable in accordance with the terms, conditions and stipulations made by the original owners thereof and subject to the deduction of all grants and contributions made by the State Government to the said Medical Aids Society of Bengal prior to the appointed day.

(2) The compensation payable by the State Government for all other assets excepting the lands and buildings as provided in sub-section (1) shall be the market value thereof determined by the Competent Authority referred to in sub-section (3) of this section after deduction of all grants and donations made by the State Government to the said Medical Aids Society of Bengal prior to the appointed day.

(3) The Land Acquisition Collector, 24-Parganas, shall be the Competent Authority for the purpose of this Act.

(4) Any person aggrieved by the award of the Competent Authority may appeal to the Appellate Authority within thirty days from the date of the award and the District Judge, 24-Parganas, shall be the Appellate Authority for this purpose.

(5) The State Government shall, as soon as possible after the date of the award made by the Competent Authority, or as the case may be, the date of the order of the Appellate Authority in the case of an appeal, pay to the persons found entitled the amount of compensation determined under this section.

(6) The amount of compensation determined under this section shall carry interest at the rate of six per cent, per annum with

effect from the appointed day till the date of payment of compensation.

6. Management of the Hospital :-

The Hospital which has vested in the State Government under this Act shall be managed on behalf of the State Government by such person or authority as may be appointed by the State Government in this behalf in accordance with such rules as may be made by the State Government.

7. Protection from acts done in good faith :-

No suit, prosecution or other legal proceeding shall lie against the State Government or an officer or other employee serving in connection with the affairs of the Hospital for anything which is in good faith done or intended to be done under this Act.

8. Employment of certain employees to continue :-

(1) Notwithstanding anything contained in sub-section (4) of section 4, every person (not being a part-time or overaged employee) employed in connection with the affairs of the Hospital, who has been in such employment immediately before the appointed day shall become on and from the appointed day an employee of the State Government and shall hold office or service with such remuneration and on such terms and conditions as may be determined by the State Government:

Provided that any employee not being satisfied with the remuneration or terms and conditions of employment determined by the State Government may terminate his employment by giving three months notice to the State Government to that effect:

Provided further that an employee shall be entitled to exercise option to retain the same rights to contributory provident fund as would have been admissible to him had not this Act been passed.

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

(3) The remuneration and the terms and conditions of employment referred to in sub-section (1) shall be finally determined by the State Government within three months from the appointed day.

9. Act to override other laws :-

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any instrument or in any decree or order of any court or other authority.

10. Penalty :-

(1) Any person who-

(a) having in his possession or custody or control any property forming part of the Hospital, wrongfully withholds such property from the State Government, or

(b) wrongfully obtains possession of any property forming part of the Hospital which has vested in the State Government, or

(c) wilfully withholds or fails to furnish to the State Government any document relating to the Hospital which may be in his possession, custody or control,

shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees, or with both:

Provided that the court trying any offence under this section may, at the time of convicting the accused person, order him to deliver up or refund, within a time to be fixed by the court, any property wrongfully withheld or obtained or any document wilfully withheld or not furnished.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the State Government or of an officer authorised by the State Government in this behalf.

11. Delegation of powers :-

The State Government may, by notification, direct that all or any of the powers exercisable by it under this Act (except the power to make rules) may also be exercised by such other person or authority as may be specified in the notification.

12. Power to make rules :-

(1) The State Government may, by notification, make rules (not inconsistent with the provisions of this Act) 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 are required to be, prescribed or made by rules.

13. Repeal and saving :-

(1) The Upendra Nath Mukherjee Memorial Hospital Acquisition Ordinance, 1982 (West Ben. Ord. XXIII of 1982.), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been validly done or taken under this Act.