

West Bengal Prohibition Of Audio-Video Piracy Act, 2013

23 of 2013

[10 January 2014]

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PREAMBLE

An Act to prohibit audio-video piracy of the original work relating to cinematograph film and sound recording over which the copyright of the author subsists and for certain matters connected therewith and incidental thereto;

Whereas it is considered necessary and expedient to prohibit audio-video piracy of the original work relating to cinematograph film and sound recording over which the copyright of the author subsists and the matters connected therewith and incidental thereto;

And whereas it is further considered necessary and expedient to prohibit the mushroom growth of illegal trading, selling or hiring of duplicate copies of cinematograph film and sound recording, in the public interest and to provide an effective penal provision in order to prohibit such illegal activities of audio-video piracy;

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

1. Short title and commencement :-

(1) This Act may be called the West Bengal Prohibition of Audio-Video Piracy Act, 2013.

(2) It shall be deemed to have come into force on the 6th November, 2013.

2. Definitions :-

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

(a) "author" means in relation to a cinematograph film or sound recording, the producer;

(b) "original work" means the work over which copyright of the author subsists;

(c) "Audio-Video Piracy" means duplicating the original work without authorisation of the author in respect of cinematograph film and sound recording, with a view to trading, selling or hiring of those duplicate copies and includes any form of storage, distribution of such duplicate copies for the purpose of trading, selling or hiring;

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

(e) "State Government" means the Government of West Bengal.

3. Prohibition of audio-video piracy, search and seizure of articles etc. :-

(1) Audio-Video Piracy in any form is prohibited and commission of the same shall be an offence and punishable under this Act.

(2) An officer not below the rank of sub-inspector of police shall have the power to enter any land or premises to search and seize the duplicate copies of original work relating to cinematograph film and sound recording and other equipments, instruments, machineries used for the purpose of audio-video piracy.

(3) The provisions relating to search and seizure contained in the Code of Criminal Procedure, 1973 (2 of 1974), shall, mutatis mutandis, apply.

4. Offences and Penalties :-

(1) Any person who commits audio-video piracy or abets the offence relating to audio-video piracy, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years, and with fine which shall not

be less than rupees twenty-five thousand but which may extend to rupees one lakh.

(2) Every such offence shall be cognizable and non-bailable.

5. Enhanced penalties :-

Whoever having already been convicted of an offence under this Act, shall be punishable for the second and for every subsequent offence, with imprisonment which shall not be less than five years but which may extend to ten years, and with fine which shall not be less than rupees one lakh but which may extend to rupees two lakh.

6. Offences by companies :-

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.

7. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against any officials of State Government or any officer or employee thereof for anything, or any damage caused or likely to be caused by anything, which is in good faith done or intended to be done under this Act or rules made thereunder.

8. Power to make rules :-

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

(2) In particular and without prejudice to the generality of the foregoing power, such rule may provide for any matter which is required to be, or may be, prescribed.

(3) Every rule and notification made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature, while it is in session, for a total period

of fifteen days which may be comprised in one session or two or more successive sessions, and if, before the expiry of session immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modification in such rule or notification or the State Legislature agrees that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however that such modification or amendment shall be without prejudice to the validity anything previously done under that rule or notification.

9. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders not inconsistent with this Act as may be necessary for the removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

10. Repeal and saving :-

(1) The West Bengal Prohibition of Audio-Video Piracy Ordinance, 2013 (West Ben. Ord. III of 2013) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the West Bengal Prohibition of Audio-Video Piracy Ordinance, 2013 shall be deemed to have been validly done or taken under this Act.