

West Bengal Prohibition Of Unlawful Possession Of Property Of Electrical Undertakings Act, 1994

51 of 1994

[08 May 1995]

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An Act to prohibit unlawful possession of property of electrical undertaking in West Bengal. Whereas it is expedient to prohibit unlawful possession of property of electrical undertakings in West Bengal; It is hereby enacted as follows:- * Assent of the President of India first published in the Calcutta Gazette, Extraordinary, dated the 8th May, 1995.

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the West Bengal Prohibition of Unlawful Possession of Property of Electrical Undertakings Act, 1994.
- (2) It extends to the whole of West Bengal.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "electrical undertaking" means-

(i) a Generating Company, by whatever name called, formed by the State Government and registered under the Companies Act, 1956, or

(ii) the West Bengal State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948,

and includes a licensee as defined in clause (h) of section 2 of the Indian Electricity Act, 1910;

(b) "property" includes-

(i) distributing main, electric supply-line, main overhead line, public lamp, service-line, or works, as defined in section 2 of the Indian Electricity Act. 1910, or

(ii) main transmission lines, or tie-line, as defined in section 2 of the Electricity (Supply) Act, 1948.

3. Penalty For Unlawful Possession Of Property Of Electrical Undertakings :-

Whoever is found, or is proved to have been, in possession of any property of any electrical undertaking reasonably suspected of having been stolen or unlawfully obtained shall, unless he proves that such property came into his possession lawfully, be punishable-

(a) for the first offence, with imprisonment for a term which may extend to five years, and shall also be liable to fine and in the absence of special and adequate reasons to be mentioned in the judgement of the court, such imprisonment shall not be less than two years and such fine shall not be less than two thousand rupees;

(b) for the second or a subsequent offence, with imprisonment for a term which may extend to seven years and also with fine and in the absence of special and adequate reasons to be mentioned in the judgement of the court, such imprisonment shall not be less than three years and such fine shall not be less than three thousand rupees.

4. Punishment For Connivance At Offences :-

Any owner or occupier of land or building or any agent of such owner or occupier in-charge of the management of that land or

building, who wilfully connives at an offence against the provisions of this Act, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

5. Power To Arrest Without Warrant :-

Any police officer not below the rank of Inspector may, without an order from a Magistrate and without a warrant, arrest any person who has been concerned in an offence punishable under this Act or against whom a reasonable suspicion exists of his having been so concerned.

6. Issue Of Search Warrant :-

(1) If a police officer has reason to believe that any place is used for the deposit or sale of any property of any electrical undertaking which had been stolen or unlawfully obtained, he shall make an application to the Magistrate having jurisdiction over the area in which that place is situate, for issue of a search warrant.

(2) The Magistrate to whom an application is made under subsection (1), may, after such inquiry as he thinks necessary, by his warrant authorise any police officer-

(a) to enter, with such assistance as may be required, such place;

(b) to search the same in the manner specified in the warrant;

(c) to take possession of any property of the electrical undertaking therein found which he reasonably suspects to be stolen or unlawfully obtained; and

(d) to convey such property of the electrical undertaking before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety.

7. Searches And Arrests How To Be Made :-

All searches and arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating respectively to searches and arrests made under that Code.

8. Assistance To Police Officer :-

All officers of the State Government and all members of Gram Panchayats, Panchayat Samitis and Zilla Parishads and also of Mahakuma Parishad, constituted under the West Bengal Panchayat

Act, 1973, are hereby empowered and required to assist the police officers in the enforcement of this Act.

9. Power To Try Offences :-

No Court inferior to that of a Judicial Magistrate of the first class or, in any metropolitan area, a Metropolitan Magistrate shall try any offence punishable under this Act.

10. Power Of Court To Order Forfeiture Of Property Etc. :-

(1) Any court trying an offence punishable under this Act may order the forfeiture to the State Government of any property of any electrical undertaking in respect of which the court is satisfied that an offence under this Act has been committed and may also order the forfeiture of any receptacles, packages or coverings in which such property is contained, and the animals, vehicles, or other conveyances used in carrying the property.

(2) Upon the forfeiture of any property of any electrical undertaking to the State Government under sub-section (1) the State Government shall, after consultation with such electrical undertaking, dispose of such property in such manner as it deems fit.

11. Act To Override Other Laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.